



Federal Bar Association - Eastern District of Michigan Chapter - 60 years of service to our Federal Bench and Bar

Gilman Luncheon: Chutkow Awarded; McQuade Keynotes

On Tuesday, April 24, the Chapter held this year's Leonard R. Gilman Award Luncheon at the Atheneum Suite Hotel International Banquet and Conference Center. Barbara L. McQuade, U.S. Attorney for the Eastern District of Michigan from 2010-2017, was the keynote speaker at the event.

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

This year's award recipient was Mark Chutkow, the Chief of the Criminal Division at the U.S. Attorney's Office. Chapter President Jeff Appel provided introductory remarks and introduced Daniel Lemisch. Lemisch is a prior Gilman Award winner who previously held numerous positions at the U.S. Attorney's Office, including most recently Acting U.S. Attorney. Lemisch provided warm personal remarks about Chutkow while introducing him.

Chutkow was then called to the stage to accept the Gilman Award. In accepting the award, Chutkow spoke about his career, which ultimately led him to his adopted home in Southeast Michigan, and his passion for public service. Among other

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President's Column

*Jeffrey Appel
and Incoming
President
Saura Sahu*

Spring is always a great time for renewal in the weather and in the Chapter. By April, we begin to look to a new Presidency to continue the successes and grow the initiatives of past presidents and leaders. As your current President (Jeff Appel) and President-Elect (Saura Sahu), we have been meeting regularly for months to work on our current goals and to develop new ones.

Amid a history of programming excellence and judicial involvement, for the last decade our FBA Chapter has been working to increase our internet and electronic presence, grow membership, diversify our leadership, strengthen the financial base, and provide terrific opportunities for networking and career development.

This past year has built upon the strengths of the organization. As an example of our stellar programming, the Chapter recently joined with other organizations to host a panel with Judge Judith E. Levy and Professor Alex Reinert. Professor Reinert litigated the *Iqbal v. Ashcroft* case from the trial court to the Supreme Court. In bringing life to civil procedure, he and Judge Levy gave nuanced insights into open questions of federal pleading to a large crowd. Similar programs throughout the year regularly featured our federal judges and leading practitioners. These augment our

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President's Column (continued)

quarterly Luncheon Speaker series, which is a key benefit of membership.

Our financial strength enables us to host such great speakers and to hold our events in desirable venues. Your support in the Sustaining Membership drive championed by the late Past President Michael K. Lee and continued by the Membership Committee has been fantastic. We now have nearly 100 sustaining members. This, together with strong efforts by several of our past Presidents and the new Executive Director Mindy Herrmann to update our membership and financial systems, has kept us on track for a bright future.

As for our electronic presence, Computing Source has helped us to update the website, the programs, and our growing library of "Fed Talks" and program videos. In the future, we hope that these will become a valuable benefit of membership and an engaging way to educate and strengthen the bar.

The deep involvement of our federal bench continues to be the backbone of our organization. Chief Judge Denise Page Hood has worked closely with us to develop and host the programs. Through her leadership and the work of Past President Susan Fairchild, this year has also seen the formation of an effective pro bono legal support system for the Court and the public. Nearly every judge on the bench has helped to shape and host some project or event to strengthen the bar.

As we look toward the future, we are excited about the opportunities to serve and support the federal judiciary and bar. Many judges and legal leaders have come from the Chapter's ranks, and we look forward supporting the growth and development of the next generation of leaders.

In the coming months, we will be announcing additional initiatives and new committees, which we are confident will add to the value of membership. Until then, we wish you a prosperous Spring and hope to see you at the Annual Dinner.

Gilman *(from page 1)*

notable cases, Chutkow was a leader of the prosecution team that prosecuted and convicted former Detroit Mayor Kwame Kilpatrick.

Before arriving in Detroit, Chutkow worked as an Assistant U.S. Attorney in Seattle, Washington, and at a private law firm. Chutkow earned his bachelor's degree from Yale University and his law degree from the University of Chicago Law School.

Barbara McQuade then spoke about the ongoing investigation by special counsel Robert Mueller. She was appointed by President Barack Obama in 2010, and became the first woman to serve as the U.S. Attorney for the Eastern District of Michigan.

During her tenure, McQuade oversaw cases involving public corruption, terrorism, corporate fraud, theft of trade secrets, civil rights, and health care fraud. She also served as vice chair of the Attorney General's Advisory Committee and co-chaired its Terrorism and National Security Subcommittee. Since 2017, McQuade has served as a Professor from Practice at the University of Michigan Law School, as well as a legal analyst for NBC News and MSNBC. She attended the University of Michigan for her undergraduate and law degrees.

In her remarks, McQuade provided an objective overview of the Mueller investigation. Her presentation focused on who has been charged and with what crimes, the tools at a prosecutor's disposal and how Mueller might use them, and where the investigation may go in the future.



Dave Weaver Court Administrator/ Clerk of Court

The renovation of the Theodore Levin U.S. Courthouse is now approximately half complete. The next phase of the renovation will create some unique challenges. In May 2018, the residents on the 2nd floor of the

Levin Courthouse will be relocated to temporary office space for approximately six months. This relocation will affect seven district judges' chambers, one circuit judge's chambers, and eight courtrooms. Losing the availability of eight courtrooms for up to six months will indeed present some challenges. The Clerk's Office is working closely with all members of the Bench to ensure that the courtrooms that are available are utilized as efficiently as possible.

Practitioners in the Court will be required to pay special attention to courtroom assignments for all matters, as affected judges may be assigned to multiple courtrooms throughout this six-month phase of the renovation. Though this will be an extremely hectic time, I believe we have a solid plan in place

to keep court proceedings moving in a timely manner.

At the Chapter's recent McCree Luncheon, Judge Victoria A. Roberts reported on a project she has been working on known as the Inmate Early Mediation Program. At the time of her presentation, the program was still under development and had not been approved by the Bench for implementation. The judges, at their regular monthly meeting on March 5, 2018, heard Judge Roberts' proposal and the program was approved for a two-year pilot period beginning June 4, 2018.

The purpose of the program is to focus on the merits of pro se prisoner civil rights cases sooner rather than later. It is designed to alleviate administrative burdens on the Court and its resources and those of the State of Michigan. Prisoners will benefit from an earlier review of the merits of their claims and will have the ability to be heard and confidentially discuss their case with neutral attorneys. The U.S. District Court for the Western District has also expressed strong interest in participating in the program.

If you are interested in additional information regarding the program in volunteering as a mediator, please send me an email at the address below.

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

The Story of Unsung Hero Attorney Godfrey Dillard

By Julie Owens*

On March 28, the Diversity Committee for the Eastern District of Michigan hosted an event entitled, "Pushing the Ball Up the Court: Basketball and Diversity," featuring guest speaker attorney Godfrey Dillard. The Chapter and numerous other bar associations supported the event.

Dillard's story, which until recently had remained untold for almost 50 years, is a reminder that there are unsung heroes in our midst.

Dillard is a civil rights attorney who has practiced for over 25 years. He is most well-known for his work along with another attorney, Milton Henry, for successfully suing the University of Detroit Law School to end its discriminatory practices against African American students (*Smith v. The University of Detroit*) and defending race-based admissions to the University of Michigan (*Gratz, et al v. Bollinger, et al*).

However, while Judge Sean F. Cox and I were working in Nashville not long ago, he told me about the Godfrey Dillard who in 1966 was an All-State basketball player from Detroit, and the second of two African American players (the first was Perry Wallace) signed by Coach Roy Skinner to integrate Vanderbilt University's basketball team and the Southeastern Conference. Our conversation was the catalyst to invite Dillard to share his story with the Court family and legal community and talk about his experiences during this turbulent time of the Civil Rights Movement.

Imagine you are an 18 year old, leaving an environment of diversity in the north, and going to surround yourself with the stark realities of segregation in the south. Imagine being one of eight African American students on a campus of 6,500 students. Imagine your teammates not socializing with you off the court. Imagine having the Mississippi State Police

surround the basketball court so that you could play. Imagine being demoted from varsity to the "B-team" because you were advocating for fairness and equality.

Despite the racial discrimination he endured at Vanderbilt, Dillard was an activist for diversity. He published the first Afro-American newsletter, "Rap from the 11th Floor," and advocated for the hiring of African American faculty and for better wages for non-faculty staff of Vanderbilt.

But also imagine feeling humiliated and broken despite your efforts to be a good student, player, and activist for what is right. What might be unimaginable for the average person is Godfrey Dillard's story.

As a result of the discrimination he endured, Dillard eventually left Vanderbilt to complete his education at Eastern Michigan University. His experiences at Vanderbilt motivated him to pursue a career in law. He earned a law



Notable attendees at the Court's diversity event included: (front row) Judge Terrence G. Berg, Judge Sean F. Cox, Judge Victoria A. Roberts, Godfrey Dillard, Chief Judge Denise Page Hood, and Judge Gershwin A. Drain. Back row: Judge Stephen J. Murphy, III, Julie Owens, Kelly Clark, Patricia Gallagher, and Judge Paul D. Borman.

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

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Godfrey Dillard *(from page 3)*

degree from the University of Michigan Law School and became a civil rights attorney. Dillard also received a Masters of International Affairs from George Washington University.

In 2017, after almost 50 years, Dillard was recognized by the Southeastern Conference with the Michael L. Slive Distinguished Service Award. That Award is presented on special occasions to former student-athletes and others “who have exhibited superior leadership qualities and made a significant impact to the betterment of the mission of the Southeastern Conference.”

In a March 8 interview on the Paul Finebaum Show, Dillard said: “When I come to games like these now and I see the racial and gender and ethnic diversity I see in the Southeast Conference, Perry [Wallace] and I are very proud of that...”

To learn more about the integration of the Vanderbilt Commodores and the Southeastern Conference, please read *Strong Inside: Perry Wallace and the Collision of Race and Sports in the South*, by Andrew Maraniss.

The Court’s Diversity Committee thanks Dillard for sharing his story. It is a reminder that someone with whom we may interact during the course of ordinary business can be someone who has made long lasting differences in the lives of many.

The Court’s Diversity Committee also thanks Judge Cox for his support and the various local bar associations for their assistance in promoting this event.

**Julie Owens currently is a Case Manager Generalist/ EDM Case Coordinator at the U.S. District Court for the Eastern District of Michigan. She is a member of the Court’s Diversity Committee. She previously served as Case Manager to Chief Judge Gerald E. Rosen and Judge Avern Cohn.*

Sustaining Member Reception

By Melinda Herrmann*

Last year, the Chapter’s Officers took a close look at the financial picture of our organization. Chapter dues had not increased in years and, as a result, the Chapter was losing money.

Since then, the Chapter’s financial outlook has improved dramatically after adopting a modest dues increase. This improvement allows the Chapter to bring more quality programming, educational opportunities,

outreach events, and networking possibilities to the legal community at large.

Our members have responded to these changes: law students, junior members, and other members continue to recognize the benefits of joining our organization. Regular members continue to be the mainstay of the Chapter, joining, renewing, and supporting us in many ways.

The Sustaining Members and Executive Affiliate

Members, however, have especially expedited the Chapter’s path to financial stability through their generosity.

When the Chapter embarked last March on a concerted effort to recruit Sustaining Members, we had a starting pool of only nine. Since then, we have experienced almost 900% growth in that category, as 75 more have joined their ranks.

This growth makes the Sustaining Membership category our fastest growing, and we hope that by this time next year we will have at least 150 Sustaining Members.

Sustaining Members come from virtually all areas of our legal community – private practice in both large and small firms, solo practice, former Chapter Presidents, judges, Assistant U.S. Attorneys and former U.S. Attorneys, retirees, etc.

In an attempt to thank our Sustaining Members and our four Executive Affiliate Members, on Thursday, March 1 the Chapter hosted our first ever Sustaining and Executive Affiliate Member Reception event.



Among those enjoying the Sustaining Member Reception were: Melinda Herrmann, Matt Allen, Charlie Rutherford, Fred Herrmann, Thomas Cranmer, Jeffrey Appel, Thomas Porter, Dennis Clark, Rick Grauer, Dory Schmidt, Leigh Taggart, and Ian Lyngklip.

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

Grateful appreciation for this event goes to Miller Canfield, which generously donated a conference room, parking, a bartender, and various adult beverages to make the event a success.

Local singing talent Dory Schmidt, some wonderful ladies at Miller Canfield, and I prepared a beautiful and Costco-inspired spread of heavy hors d'oeuvres for these special members.

Unfortunately, the worst snowstorm of the season hit with some fury that day. Many Detroit law firms closed early (including Miller Canfield), but a good number of Sustaining and Executive Affiliate Members made their way downtown to attend and shared great camaraderie, stories, food, and fun.

Our Chapter has a number of important objectives and missions, but one of our most fundamental goals is simply to educate. We are constantly looking for ways to offer attorneys educational opportunities in the form of programs and seminars so that, collectively and individually, we can improve our practices.

With the added funds the Sustaining Members provide, we proudly offer more enhanced programming (such as The Art of Pleading, where we flew in Professor Alexander Reinert to speak with Judge Judith E. Levy on the implications of *Twombly* and *Iqbal*) and more free programming.

Some of the funds generated by Sustaining Members also allow the Chapter to provide discounted memberships for federal law clerks, Junior Members, retired lawyers, and government employees, and free memberships for all law students!

Without question, Sustaining Members and our Executive Affiliate Members give selflessly to our Chapter by joining at this level. They do it quietly, but we try to recognize their important contributions by including their names on our website, in the occasional newsletter or luncheon program, on our Sponsor Boards at each luncheon, and with an engraved name tag that they can wear proudly at our luncheons and various other Chapter events.

Thank you to our Sustaining Members (by employer):

Miller Canfield PLC

Frederick Acomb
Matthew Allen
Thomas Cranmer
Elisa Angeli Palizzi
A. Michael Palizzi
Stefani Reagan
Kimberly Scott
Mary Wassel

Hickey Hauck Bishoff & Jeffers, PLLC

Thomas Bishoff
Mark Hauck
Patrick Hickey

Angela Jackson
Benjamin Jeffers
Rebecca Waisanen

Honigman Miller Schwartz & Cohn LLP

J. Michael Huget
Jeffrey Lamb
Mark Stern
Deborah Swedlow
Leigh Taggart
I.W. Winsten

Dykema Gossett PLLC

Michael Blalock
Grant Gilezan
Thomas Schehr

Sommers Schwartz, PC

Arvin Pearlman
Kevin Stoops
Matthew Turner

Ogletree, Deakins, Nash, Smoak & Stewart, PC

Martin Brook
Thomas Paxton

O'Reilly Rancilio PC

Craig Schoenherr
James Thomas

The Murray Law Group

William Altman
Gregory Murray

Rodney Glusac – Bernardi, Ronayne & Glusac, PC

Steven J. Fishman – Bodman PLC

Kathleen Bogas – Bogas & Koncius PC

Frank Angileri – Brooks Kushman PC

Daniel Sharkey – Brooks Wilkins Sharkey &
Turco PLLC

Patrick Seyferth – Bush Seyferth and Paige Law PLLC

Saura Sahu – Clancy PLC

Dennis Clark – Clark Law Firm PLLC

Reginald Turner – Clark Hill PLC

Jeffrey Clark – Cummings, McClorey, Davis &
Acho PLC

Christopher Darrow – Darrow Mustafa PC

Deborah Gordon – Deborah L. Gordon, PLC

Douglas Mullkoff – Douglas R. Mullkoff PLLC

Adam Forman – Epstein, Becker & Green, PC

Miriam Siefer – Federal Defenders Office

David Fink – Fink + Associates Law

Courtney Krause – Garan Lucow Miller, PC

Christopher Andreoff – Jaffe Raitt Heuer & Weiss

Steven W. Rhodes – JAMS

Joseph Dillon – Joseph F. Dillon & Associates, PLLC

Abraham Singer – The Kitch Firm

Gene Kohut – Kohut Law Group

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Sustaining Members *(from page 7)*

Ronald Nixon – Kemp Klein Law Firm
Fred Herrmann – Kerr Russell & Weber PLC
Jesse Young – Kreis Enderle Hudgins & Borsos PC
Kimberly Altman – Law Clerk to Hon. Avern Cohn
Annie Malayang-Daley – Law Clerk to
Hon. Denise Page Hood
Christine Dowhan-Bailey – Law Office of
Christine M. Dowhan-Bailey
Jeffrey Appel – Law Office of
Jeffrey S. Appel
Jorin Rubin – Law Office of Jorin G. Rubin
Lisa Dwyer – Law Office of Lisa Dwyer PC
Carole Stanyar – Law Offices of
Carole Stanyar
Charles Rutherford – Law Offices of
Charles Rutherford
Fred Mester – Law Office of Fred Mester
Richard Grauer –
Law Offices of Richard Grauer
Nicholas Andrews –
Liss, Seder and Andrews, PC
Marcy Hahn – Lotus Legal Solutions
Ian Lyngklip – Lyngklip & Associates
Consumer Law Center
Victor Mansour – Mansour Law PC
Jack Mazzara –
The Mazzara Law Firm, PLLC
Alexander Ayar –
McDonald Hopkins PLC
Michael Cox – The Mike Cox Law Firm
Michael Rataj – Michael A. Rataj, PC
Lynn Helland – Michigan Judicial Tenure
Commission
E. Powell Miller – The Miller Law Firm PC
Susan Koval – Nemeth Law PC
Paul Johnson – Patrick Johnson & Mott P.C.
Matthew Lund – Pepper Hamilton LLP
Megan McKnight – Plunkett Cooney
Tammy Lundstrom – Premier Health
Catherine Dobrowitsky – Reivenoak Law Group, PLC
Richard Hurford – Richard Hurford Dispute
Resolution Services
Frederick Damm – Scopelitis, Garvin, Light, Hanson
& Feary PC
Charles Bullock – Stevenson & Bullock, PLC
Del Szura – Szura & Delonis, PLC
Thomas Porter – Tom Porter Services, LLC
Vanessa Miree Mays – U.S. Attorney's Office
Susan Fairchild – U.S. Attorney's Office
Jennifer Newby – U.S. Attorney's Office
Barbara McQuade – University of Michigan Law School

And also thank you to our Executive Affiliate Members:

David Jones – Van Conway & Partners
Scott Bailey – N1 Discovery
Troy Richard – D4
Mark St. Peter – Computing Source

**Melinda Herrmann is the Executive Director of the
Federal Bar Association – Eastern District of Michigan
Chapter.*



*Attendees at the 9th Annual Michael K. Lee Celebrating Our Diverse Bar:
(l-r) Wayne County Circuit Court Judge Craig Strong, Wayne County 36th
District Court Judge B. Pennie Millender, Michigan Court of Appeals Judge
Karen Fort Hood, retired Judge William Giovan, Michigan Court of Appeals
Judge Kirsten Frank Kelly, Wayne County 20th District Court Judge Mark
Plawecki, Richard Paul, Wayne County 24th District Court Judge Richard Page,
Jeffrey Appel, Elisa Angeli-Palizzi, Lisa Tehlirian, Kenneth M. Essad, and
Richard T. Graham.*

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

Eighth Annual Michael K. Lee “Celebrating our Diverse Bar” Mixer

On March 22, the Chapter's Diversity Committee joined with the Detroit Metropolitan Bar Association and Wolverine Bar Association to host the 8th Annual Michael K. Lee “Celebrating our Diverse Bar” Mixer. This annual event formally recognizes the importance of diversity in our profession while giving attorneys and judges an opportunity to network and encourage each other in a relaxed and fun atmosphere. Twenty-nine affinity bar associations from the metro area joined to co-host this one-of-a-kind mixer. The event was renamed in 2016 in honor of former Chapter President Michael K. Lee.

Attendees enjoyed a wonderful evening at the Cost Plus Wine Shoppe in Eastern Market with a beautifully diverse

crowd. Over thirty judges attended. The Chapter also showed up in force, including Magistrate Judge Elizabeth A. Stafford, Chapter President Jeff Appel, the Chapter's Diversity Committee, and a large group of federal judicial law clerks and Assistant U.S. Attorneys.

The committee for the event, which is comprised of representatives from various affinity bar associations, was once again able to keep the ticket price low at \$20. Proceeds from the event will be donated to this year's designated charity, the Veterans Outreach Project of Southeast Michigan.

The Veterans Outreach Project works to provide treatment and compassion to veterans struggling through the criminal justice system, specifically in the 17th District Veteran's Court. Veteran representative Richard Graham gave a powerful description of the program and its impressive results. For more information about the Veterans Outreach Project or to find out how you can contribute, please contact Ken Essad at 313-965-9383.

The Diversity Committee thanks all participants for another wonderful event!

Diversity Committee Hosts "From Classroom to Courtroom" Event

Going from law student to lawyer can be challenging. To ease the transition, the Chapter's Diversity Committee hosted "From Classroom to Courtroom," a one-day event for law students in Michigan that was held on March 27 at the Levin Courthouse.

More than thirty law students from Wayne State University Law School, University of Detroit-Mercy School of Law, and Western Michigan University Cooley Law School enjoyed an opportunity to meet federal judges, observe court proceedings, learn tips for their summer externships, and network with practicing attorneys.

The event began with a panel of federal judges discussing their career paths. Chief Judge Denise Page Hood, Judge Gershwin A. Drain, and Magistrate Judge Elizabeth A. Stafford each shared about their first post-law school jobs and how they ascended to the federal bench. All the judges highlighted the importance of legal research and writing, while Magistrate Judge Stafford emphasized the virtues of civility and perseverance in building a legal career.

From there, students went to court. They had a choice between observing a sentencing in front of Judge Avern Cohn or watching lawyers argue pre-trial motions before Judge Laurie J. Michelson. Each judge then spoke with the students, and Judge Michelson invited the students to ask questions of the lawyers arguing the motions.

At lunch, courtesy of Mi Pueblo Taqueria, Wayne County Circuit Judge Patricia P. Fresard moderated a panel featuring Assistant U.S. Attorney Dawn Ison, Assistant Federal Defender Natasha Webster, and Bush Seyferth Partner Roger Meyers. Over carne asada, the lawyers dished out practice tips and reflected on the importance of diversity to the legal profession.

The day's events concluded with more court observations. Students had the opportunity to watch arraignments in duty court followed by a suppression hearing in Judge Arthur J. Tarnow's courtroom. Judge Tarnow also spoke with the students.

The day achieved its twin goals of offering pro tips for federal court practice and providing a valuable networking opportunity for aspiring federal practitioners. The Chapter's Diversity Committee offers a heartfelt thanks to all the panel participants and the administrators at the participating law schools.

Judge Levy and Cardozo Law Professor Share Insights on the Art of Pleading

Professor Alexander A. Reinert of the Benjamin N. Cardozo School of Law in New York joined District Judge Judith E. Levy at the Levin Courthouse on March 23 to share insights on the impact several Supreme Court decisions from the past ten years have had on civil pleading standards in employment discrimination and civil rights cases. One of these cases, *Iqbal v. Ashcroft* (2009), was argued by Professor Reinert, who represented Javaid Iqbal from the trial court to the Supreme Court.

The speakers' bottom line to the group of over thirty practitioners gathered in the Detroit Room was that the principles of "notice pleading" established over fifty years have not changed and that notice remains the overriding purpose of a pleading. That said, there are structural and substantive considerations spelled out by the Supreme Court in *Iqbal* and other cases that require attention when filing a lawsuit and considering a motion to dismiss.

"Use a thesaurus" was one simple, but often-overlooked piece of advice from the speakers. Professor Reinert suggested, and Judge Levy confirmed, that sometimes avoiding having an allegation labeled as "conclusory" is as simple as alleging that a defendant knew about a situation and nonetheless ignored it, rather than alleging that the defendant was "deliberately indifferent" to the situation.

While both Judge Levy and Professor Reinert expressed their concern that "judicial experience and common sense" should not play a decisive role in evaluating a complaint, they acknowledged that the Supreme Court opened the door to it. Their advice was that if there are commonly understood phenomena in the world that either amplify

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Insights *(from page 7)*

or cast doubt on the plausibility of the allegations, by all means incorporate them into your brief.

Informational asymmetry—particularly where plaintiffs lack knowledge of key facts to support their claims and that knowledge is held by the defendants—is often a hallmark of employment and civil rights cases. Professor Reinert shared a statistical study he conducted, in which it was shown that employment and civil rights cases have experienced far higher rates of dismissal through Rule 12(b)(6) motions than other types of lawsuits in the post *Iqbal* world.

The speakers addressed this issue at length, noting that informational asymmetry is at its height in claims that include a state-of-mind element, such as discrimination. Professor Reinert drew the audience's attention to *Mills v. Barnard*, 869 F.3d 473 (6th Cir. 2017), as an example of how to structure allegations of intent or state of mind. The *Mills* court held that intent had been sufficiently alleged because one could infer the intent through the other allegations.

Judge Levy specifically advised attorneys to brief their arguments regarding whether their allegations are conclusory and plausible separately—ideally in distinct sections. She observed that attorneys have tended to conflate these two concepts and brief them passingly, often in one paragraph. Professor Reinert further explained that it is common to see court opinions confuse plausibility with probability, even though the latter is only applicable to super-heightened pleading requirements under specific statutes. Judge Levy suggested that separating and expanding on each concept in its own subsection can more effectively guide the reader through your argument for or against the sufficiency of the complaint.

Professor Reinert generously provided a substantial survey and summary of relevant Sixth Circuit and Eastern District case law addressing pleading standards as a takeaway for attendees. If you wish to receive a copy, please contact Robin Wagner (rwagner@pittlawpc.com).

This program was organized as part of Civil Rights Étouffée, a Continuing Legal Education initiative of the Civil Rights Law Section of the Federal Bar Association, and co-sponsored by the Chapter and the Labor and Employment Law Section of the State Bar of Michigan.

Cooperation in Federal Criminal Cases

On March 21, the Criminal Practice Committee held a seminar entitled, “Cooperation: What Do I Have To Do To Get a 5k?” The lunchtime event was held in the Detroit Room of the Levin Courthouse.

The event consisted of a panel discussion moderated by Judge Terrence G. Berg. Criminal Practice Committee member Saima Mohsin introduced Judge Berg as well as the panel, which included prosecutors from the U.S. Attorney's Office and attorneys from the defense bar. The panelists were: Assistant U.S. Attorney and Criminal Division Chief Mark Chutkow, Assistant U.S. Attorney Eric Straus, criminal defense attorney Jim Thomas, Federal Defender Jim Gerometta, and Federal Defender Andrew Densmo.

The discussion was organized around a hypothetical criminal case involving three defendants, each “represented” by one of the defense attorneys on the panel. The organizers provided a detailed summary of each hypothetical defendant's situation, and Judge Berg led the discussion by posing questions to the defense attorneys regarding how each would handle their “client”



Judge Levy and Professor Reinert presenting at the “Art of Pleading” seminar.

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



On January 16, the Court and the University of Detroit-Mercy Law School held an open house in advance of the opening of the new Pro Se Legal Assistance Clinic that the Court and law school are operating. The Pro Se Legal Assistance Clinic provides legal advice to low-income citizens who seek to represent themselves in federal civil lawsuits. The program is aimed at helping those who have legitimate claims, but who cannot afford to hire a lawyer. Attending the open house were (l-r): Judge Victoria A. Roberts; Magistrate Judge R. Steven Whalen; Ann Yantus, Director Clinical Programs for University of Detroit-Mercy; Kevin Carlson, Clinic Director; Chief Judge Denise Page Hood, Court Administrator David Weaver; Judge Laurie J. Michelson, Judge Terrence G. Berg, and Dean Phyllis L. Crocker.

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

in terms of possible cooperation. Judge Berg also posed questions to the prosecutors about how the government would assess each “defendant,” their prospects for cooperation credit, and the type of credit for which they might be eligible.

The topics discussed included:

- When to consider cooperation;
- How to successfully cooperate;
- Factors to be considered by the defendant, defense counsel, and the prosecutor when considering cooperation; and
- When proactive cooperation can be beneficial.

The discussion was well attended, and is expected to spawn future events. The Criminal Practice Committee thanks Judge Berg and each of the panelists for their contribution to the event.

Chapter Co-Hosts Immigration Rights Event

On March 9, the ACLU of Michigan along with the Chapter, the Michigan Immigrant Rights Center, and the Michigan chapter of the American Immigration Lawyers Association, sponsored a habeas corpus training session at the Levin Courthouse.

The training was designed for attorneys willing to take on habeas corpus cases to free immigrants being held in detention – possibly unjustly. Chief Judge Denise Page Hood gave a warm welcome to the participants and emphasized the need for pro bono work in Michigan. The panel of trainers consisted of Michael Tan of the ACLU Immigrant Rights Project; Russell Abrutyn, a local immigration attorney; and Ruby Robinson, supervising attorney for the Michigan Immigrant Rights Center. Their expertise guided attorneys through the immigration detention process and the critical need for attorneys to volunteer to help release individuals from immigration detention. More than 60 attorneys from different parts of the state and from various practice areas attended the training.

The training highlighted the fact that the government is detaining an unprecedented number of immigrants without any determination that they pose a flight risk or a danger to the community. Due to the increased backlog in immigration court and the already lengthy legal processes,

thousands of immigrants are being warehoused for years in detention centers at a tremendous human and financial cost. The attorneys who attended the training learned the mechanics of filing habeas corpus petitions to address the detentions and reunite immigrants with their families while their cases are adjudicated in immigration court.

The ACLU of Michigan, through its addition of Abril Valdes as its Immigration Rights attorney, is committed to advocating for all immigrants who have been victims of unjust detention. The next training, scheduled for this fall, will focus on training volunteer attorneys in bond proceedings in immigration court. To join these efforts, please contact Abril Valdes at avaldes@aclumich.org.



McCree Award recipient Rev. Faith Fowler (center) accompanied by Genet Barthwell, Wade Harper McCree, Chief Judge Denise Page Hood, James McCree, Judge David M. Lawson, Cynthia Haffey, Dan Sharkey, and Jeffery Appel.

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

Rev. Faith Fowler Honored With McCree Award

On February 27, the Chapter presented the Wade Hampton McCree, Jr. Award for the Advancement of Social Justice to the Reverend Faith Fowler. The McCree Award luncheon was held at the Westin Book Cadillac Hotel.

The award honors the memory of Judge McCree, the Iowa native who went on to excel at Harvard Law School and join trail-blazing Detroit attorney Harold E. Bledsoe’s law firm in 1948. He went on to serve as member of the Workman’s Compensation Commission (1952), Wayne County Circuit Judge (1954), U.S. District Judge (1961), U.S. Circuit Judge (1966), and Solicitor General of the United States (1977). In 1981, he was appointed Lewis M. Simes Professor of Law at the University of Michigan where he taught until his death in 1987. During his teaching years, he was appointed by the U.S. Supreme Court to hear three cases as a Special Master.

Judge McCree’s numerous educational and community contributions can be found where the Luncheon program is posted on the Chapter’s website, <http://www.fbamich.org>.

Chapter President Jeff Appel began the program by welcoming attendees. Cynthia Haffey, co-chair of the Chapter’s Social Justice Committee, explained how the award in Judge McCree’s name was established in 1990 to honor individuals who or organizations that have made significant contributions to the advancement of social justice. A list of award recipients can be found on the Chapter’s website.

(continued on page 10)

Judge David M. Lawson, presenting the award, spoke with respect and admiration for Rev. Fowler. Rev. Fowler is the Senior Pastor of Cass Community United Methodist Church and Executive Director of Cass Community Social Services, a Detroit nonprofit agency that responds to poverty with programs for food, health care, housing, and employment.

Beyond her work at CCSS, Rev. Fowler has served as a Board Member for the Cass Corridor Neighborhood Development Corporation. She is also an advisory Board member of the Detroit Area Agency on Aging and a Board Member and Trustee for the General Board of Church and Society. She currently is a Trustee of Albion College. She has received many awards and accolades for her work.

Unfortunately, the expected keynote speaker, Christopher Ilitch, was unable to attend due to a family emergency. As a result, the luncheon program included a “Fed Talk” on working with Court personnel presented by LaShawn Saulsberry and Julie Owens. The program also included an overview of the Levin Courthouse renovation project, presented by architect/engineer Steve English and Seth LaRoque, the project manager from the General Services Administration.



Simon Weallons, Brian Wassom, and Christopher Darrow demonstrating augmented reality technology at the IP Committee event.

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

Augmented and Virtual Reality Event

On February 16, the Intellectual Property Committee put on a luncheon seminar in the Detroit Room at the Levin Courthouse. The program was entitled, “Intellectual

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Property Issues in Augmented and Virtual Reality.” Speaker Brian Wassom, an attorney at Warner Norcross & Judd, LLP, spoke about the amazing potential of augmented and virtual reality technologies, and the intellectual property issues that arise from use of the technologies.

Simon Weallans of DAQRI, an augmented reality company based in Los Angeles, attended the event and gave attendees an opportunity to try the technology for themselves by using DAQRI augmented reality googles.

A special thank you to Darrow Mustafa PC for sponsoring the event.

Law Clerk Resume Workshop

On January 24, the Law Clerk Committee hosted a resume workshop at the Levin Courthouse for current federal law clerks who may be seeking employment in the near future. Participating law clerks attended an informational session on applying for jobs post-clerkship. Law Clerk Committee members shared their experiences in searching for employment and entering practice after clerking. Following the informal discussion, members of the Law Clerk Committee, including District Judge Laurie J. Michelson, met individually with law clerks to review their resumes. The event was well attended and well received by the participants.

Calendar of Events

May 1 Law Day 2018: “Separation of Powers - Framework for Freedom”

11:00 AM – 2:00 PM

Detroit Room, Levin U.S. Courthouse

Welcoming your staff, clients, and downtown neighbors to visit the Levin Courthouse and the Judges. Events include live demonstrations and information from more than a dozen federal agencies, tours of the Courthouse, the “Ask the Lawyer” pro bono program, and free hot dogs, chips and cookies. Don’t miss it this year.

May 2 The False Claims Act Today

Presented by the FBA Qui Tam Section with support from the Chapter

Theodore Levin Courthouse, Detroit Room, Room 115

11:30 AM – 2:00 PM

This seminar will provide a general overview of the False Claims Act, a discussion of relevant Supreme Court cases, practice tips, recent developments in the Sixth Circuit, and a panel discussion regarding False Claims Act practice. Featuring: District Judge David M. Lawson, Assistant United States Attorney Peter Caplan, Abraham Singer, Jacqueline A. Kelly, David Haron, and R. Scott Oswald

May 22 Book Club

Theodore Levin U.S. Courthouse, Room 722

Noon – 1:00 PM

The Book Club will discuss *Killers of the Flower Moon: The Osage Murders and the Birth of the FBI*. All are welcome!

June 21 39TH ANNUAL DINNER featuring:

- Election and installation of Officers and Board Members
- The Ninth Annual Julian Abele Cook, Jr. - Bernard A. Friedman Civility Award to be presented in recognition of a civil practitioner who is an outstanding example of professional excellence and civility.

Nominations for Civility Award open.

5:30 PM cocktails

6:30 PM dinner

Atheneum Suites Hotel International Banquet & Conference

Center, 400 Monroe St, Detroit, MI 48226

Members: \$100 | Non-Members: \$120 | Clerks/Junior Members: \$80

Table Sponsorships available: \$1,200

Nominations for Cook-Friedman Award due: May 25

June 25 Chapter Golf & Tennis Outing And Dinner

Venue: Lochmoor Club

To register a foursome, email lemanski@butzel.com

Updates and further developments at www.fbamich.org

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