



Federal Bar Association - Eastern District of Michigan Chapter - 61 years of service to our Federal Bench and Bar

Sen. Stabenow Keynotes McCree Award; Kary Moss Awarded

On March 14, the Chapter presented the Wade Hampton McCree, Jr. Award for the Advancement of Social Justice to Kary L. Moss of the ACLU. The McCree Award luncheon was held at the Westin Book Cadillac Hotel.

Chapter President Saura Sahu began the program by welcoming the attendees and recognizing the Chapter's luncheon sponsors. Chief Judge Denise Page Hood then introduced the keynote speaker, U.S. Senator Debbie Stabenow. Senator Stabenow is Michigan's senior senator. In 2000, she was the first woman elected to the Senate from Michigan. She serves on the Senate Agriculture Committee, Energy Committee, Finance Committee, and Budget Committee. She spoke about her work in the Senate and acknowledged the recent nominations to the District Courts in Michigan, including Magistrate Judge Stephanie Dawkins Davis to the Eastern District and Michael S. Bogren to the Western District.

Following lunch, Susan DeClercq, Co-Chair of the Chapter's Civil Rights Committee, and Hannah Treppa and Shanika Owens, McCree Award Committee members, explained how the award in Judge McCree's name was established to honor individuals or organizations who have made significant contributions to the advancement of social justice.

They then introduced Peter Alter, an attorney at Jaffe Raitt, to introduce the award recipient, Kary Moss.

Moss has had many roles with the ACLU during her career. Currently she serves as the Director, Affiliate
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President's Column

Saura Sahu



With Spring finally arriving in Michigan, the Chapter has a number of great events planned – from the Annual Dinner to the Golf Outing, with panels and programs in between.

Please check the calendar in this issue for more information.

For this column, I want to briefly call your attention to three especially exciting developments. First, we are proud and pleased that Magistrate Judge Stephanie Dawkins Davis – one of our Executive Board Members – has been nominated for appointment as a District Judge in the Eastern District. Her exceptional record speaks for itself. Congratulations, Judge Davis! We eagerly anticipate the next steps in the nomination process.

Second, we are excited that US Attorney Matthew Schneider – one of our former Committee Co-Chairs – will deliver the keynote speech at our Leonard Gilman Luncheon on May 23. Distinguished criminal defense attorney Ken Mogill will be receiving the Gilman Award.

Schneider has served in key roles in the White House, Michigan Attorney General's Office, and the office of the Michigan Supreme Court. Mogill is an experienced Supreme Court and trial court advocate on cutting-edge criminal law issues. Both of them are heroes to us in the Eastern District, and we look forward to their remarks.

Finally, we are privileged to welcome Sixth Circuit Judge Bernice Donald and Prof. Sarah Redfield to deliver their nationally acclaimed program on bias-disruption. The Chapter has invested substantially in this event. As a natural part of the way we operate as humans, each of us brings a variety of judgments and biases to our interpretations of the world. It's how we function.

These biases impact everything we do, including how we practice law. Many

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President's Column (continued)

are fine, but some are not. Inequities are particularly pronounced in the legal profession, even compared to the other professions.

This is troublesome and problematic because lawyers and judges deal so directly with issues of justice. Every time we lose a different perspective, we have another blind spot and lose a chance to improve our analysis.

Judge Donald and Professor Redfield will lead a half-day working group for a limited audience of 100 people to discuss solutions to the natural problem of implicit bias. They will help us explore our own individual decision-making processes and discover how a little self-awareness can substantially improve the practice.

Firms and organizations often spend considerable funds to hold similar programs. I am proud that we can sponsor this program for free to a lucky group of lawyers as an extra part of the value the Chapter delivers to its Members.

As always, thank you for your continued engagement and support. The Chapter's members are the strength of the organization. I look forward to seeing you all at an event soon.

After accepting the award, Moss spoke about her work in Michigan, including on the Flint water crisis, and about her new role with the national ACLU, where she works to support all affiliate organizations.

Sahu provided closing remarks.

The McCree 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 and a list of past award recipients can be found on the Chapter website, <http://www.fbamich.org>.

Feeling Down? Try Standing Up!

By Hanna E. Klein*

After graduating from law school, I began my first, full-time job as a judicial law clerk in the Eastern District. Like many lawyers, the majority of my work requires an internet connection. I spend most days reviewing documents on the court's electronic docket and reading cases on Westlaw, which means I spend most of my workday in front of a computer. After just a few weeks, I gained a pronounced appreciation for the intricacies of the federal legal system. Unfortunately, I also gained pronounced back and hip pain from the hours I spent sitting at my desk. The physical toll of sitting for the majority of the day also began to wear on me mentally. I felt tired most days and often had difficulty concentrating. I recognized that the sedentary nature of my work was not likely to change, but I knew that I needed to do something to improve my physical and mental wellbeing.

So, I decided to order a standing desk.

The popularity of standing desks has drastically increased in recent years. A quick internet search for "standing desk" reveals hundreds of different models from

McCree (from page 1)

Support and Nationwide Initiatives in New York, a role she was promoted to in 2018. Her department focuses on building state capacity and strengthening and maintaining the connections between the ACLU and its network of 54 state affiliates and the 1,500 staff who work out of the state offices.

Previously, Moss served for 20 years as the Executive Director of the ACLU of Michigan, where she built the organization into one of the strongest and most impactful ACLU affiliates.

Moss is a Michigan native, where she graduated from Michigan State University's James Madison College. She also received a Masters in International Affairs from Columbia University and her law degree from CUNY Law School at Queen's College. She clerked for the Second Circuit and served as a staff attorney with the ACLU's Women's Rights Project. She has taught as an adjunct lecturer at the University of Michigan's Ford School for Public Policy. Among other awards, she was recognized as Michiganiaan of the Year by the Detroit News in 2017.



Attendees at the McCree Luncheon included Fred Herrmann, Chief Judge Denise Page Hood, Jennifer Newby, James McCree, Dan Sharkey, Senator Debbie Stabenow, Saura Sahu, and Susan Fairchild.

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

sellers all over the world. The amount of published research linking prolonged sitting and sedentary office work to a plethora of health conditions, such as obesity, high blood pressure, and cardiovascular disease, has also increased in the past few years. See, e.g., Audrey Bergouignan et al., *Effect of frequent interruptions of prolonged sitting on self-perceived levels of energy, mood, food cravings and cognitive function*, 13 Int'l J. of Behav. Nutrition & Physical Activity (2016); Julie Corliss, *Too much sitting linked to heart disease, diabetes, premature death*, Harv. Med. Sch. (Jan. 22, 2015), <https://www.health.harvard.edu/blog/much-sitting-linked-heart-disease-diabetes-premature-death-201501227618>.

I cannot say whether switching to a standing desk is enough to combat the health risks associated with a sedentary lifestyle—I'm a lawyer, not a doctor. But I can say that switching to a standing desk was a great decision for me. Since switching to a standing desk, my back and hip pain have decreased, and my energy level has improved. I also feel more alert and find it easier to concentrate for longer periods of time. Additionally, I have noticed an improvement in my posture.

Thinking of buying a standing desk? Here are a few things to consider before making a purchase:

- Decide what model is best for you. Do you want to stand all day or have the option to switch between sitting and standing? There are many convertible models of standing desks that easily adjust from a seated position to standing.
- Be mindful of the limitations of your space. Make sure to measure your work area before ordering a desk to ensure that your standing desk will fit. Most workspaces can be adapted to accommodate a convertible, tabletop standing desk that rests on your existing work surface.
- Consider purchasing a standing mat along with your desk. Standing can put added pressure on your joints and may cause knee and lower back pain. However, standing on an ergonomic mat will help relieve pressure and make standing more comfortable.
- Understand that it will take time for your body to adjust to standing for long periods of time, especially if you have worked sitting down for many years. Try to gradually increase the amount of time you stand each day.

If you have ever considered getting a standing desk, I encourage you to do so. Some employers even offer standing desk options at a discount or free of charge. A standing desk may not eliminate all workplace stresses, but for lawyers who spend most of their day at a computer, a standing desk is a great way to incorporate more physical activity into the workday.

Do not underestimate the positive impact a little movement can have on your mood and overall wellbeing. And if you are still on the fence about whether a standing desk is right for you, order a model from a seller with a generous return policy!



Dave Weaver Court Administrator/ Clerk of Court

I have been receiving many inquiries regarding the Levin Courthouse renovation and when it will be completed. We are in year four of the renovation, which

will be substantially complete by the end of the calendar year. Full completion is expected approximately one year from now.

There is also news regarding our two other building projects here in Detroit. If you have been in the Courthouse recently, you may have noticed that the first-floor lobby is now covered by extensive scaffolding. This will be in place until at least January 2020 for a historic ceiling restoration. A section of the 7th floor is also being restored.

The General Services Administration was able to secure almost \$2 million in historic preservation funding that is designated for restoration work on National Register Listed Historic Properties. The ceilings will be restored to their original state when the Levin Courthouse was first opened. If you are in the Courthouse, there are information posters explaining the work, which will be quite impressive.

The Levin Courthouse has also been designated to participate in the Judicial Capital Security Program. Since 2012, Congress has been appropriating approximately \$20 million per year to improve security conditions in older Court facilities. This project will include a redesign of the security screening capabilities at the public entrances, among many other improvements. Unfortunately, in the rush to finalize the federal Fiscal Year 2019 appropriations, the funding seems to have been overlooked. We now expect the funding to be approved in the Fiscal Year 2020 budget.

One last item is a change in date. The Court's Federal Pro Se Legal Clinic, operating in conjunction with and staffed by the University of Detroit Mercy School of Law and supported by other community partners, is celebrating its one-year anniversary. The University will celebrate the anniversary with the Pro Se Clinic Soiree. The benefit event, originally scheduled in February has been rescheduled to June 18, 2019 at the Miller Canfield offices. Additional information and tickets can be obtained at <http://www.law.udmercy.edu>.

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

* Hanna Klein is a graduate of the Ohio State University and the Pennsylvania State University Dickinson School of Law. She is currently serving as a judicial clerk in the Eastern District and can be reached at hannaeklein@gmail.com

Five Things That Practitioners Need To Know About Crisis Management

By Kelly Kussmaul*

On April 1, the Chapter, the Business and Securities Law Institute at MSU College of Law, Tiberian Advisers, and Dizik PC sponsored a panel “The LifeCycle of a Crisis: Strategy, Response, and Management,” at the Business and Securities Law Institute event, where panelists discussed institutional responses to a wide range of scandals.

The participants were David Jaffe, a former executive at Guardian Industries Corp. who currently operates Jaffe Counsel; Barbara McQuade, former U.S. Attorney for the Eastern District of Michigan; and moderator Bradley Dizik, president and founder of Tiberian Advisers LLC/Dizik PC. A video of the event can be viewed here: http://media.law.msu.edu/vod/Lifecycle4_1.mp4.

From Larry Nasser’s crimes, to automakers defrauding environmental regulators, to corruption in Detroit’s government, the participants talked through what lawyers need to know about ethical crisis management. Their discussion led to the following recommendations,

#1. Stop.

Don’t Make Decisions Without Facts.

Pause and ask yourself: is the crisis an isolated problem, an accident, or deliberate misconduct?

Lawyers are seldom the first to know about an institutional crisis, yet they’re under pressure to make fast decisions. It’s critical to launch a thorough internal investigation. Learn what happened and who is involved. This will inform institutional decisions moving forward, and provide decision-makers with vital information about the scale (and possible consequences) of the problem.

During the investigation, do NOT take employees’ explanations at face value. Insiders are often inclined to make assumptions that will help the institution, and they may present those assumptions as facts. Their information is likely tainted by wishful thinking. Start by determining who is believable and who isn’t by tracking down the evidence to back employees’ claims.

When you complete the investigation, make a high-stakes decision. Determine whether your organization should voluntarily disclose a potentially criminal problem.

“If you voluntarily disclose a criminal problem, you can get a lot of credit for that – up to and including no criminal prosecution,” said McQuade. “It’s not a guarantee, but voluntary disclosure is one of the most important factors that prosecutors look at when considering criminal charges against corporations who engage in misconduct.”

#2. Be Realistic.

Separate what you know to be true from what you hope to be true. While leadership is motivated to minimize financial and reputational damages, there are certain sunk costs associated with institutional crises. It’s best to think ahead and accept those costs in a forthright manner.

“There’s going to be a narrative, and what you want desperately is to control the narrative,” said Jaffe. “And you probably can’t.”

Denying information that’s demonstrably true will gain you nothing – and will cause you to lose public credibility. Institutions often try desperately to protect facts that will inevitably leak. Such organizations fail to realize they could exert more influence over the case’s resolution by cooperating with investigators or by developing good relationships with the plaintiffs.

Don’t assume that all internal information is privileged; or that privilege is a protection from public outcry. Even if your claims of privilege are legitimate, if the privileged information gets out from another source, you will have expended a lot of social capital with the public and prosecutors for no benefit.

There are limits to your control, and overplaying your hand will ultimately compound your woes.

#3. Consider Cooperation.

When an institution cooperates with prosecution, it demonstrates proactive investment in the prevention of future crises.

The nature of the interaction between the institution and the prosecutor can have far-reaching implications on the resolution of the case. Remember: prosecutors have a spectrum of remedies at their disposal (from fines to loss of licensure to criminal prosecution), and opting to cooperate can influence prosecutorial decisions.

It’s not a requirement, but companies can also elect to waive attorney-client privilege, and according to McQuade, waiving privilege is meaningful to prosecutors when determining whether or not an institution was cooperative. If you don’t elect to waive, she cautions that the over-aggressive assertion of privilege can count against an institution; again, not every document and email is privileged.

If your institution decides that they are not going to cooperate with prosecutors, above all, don’t lie about choosing not to cooperate. Don’t hold secret meetings, and don’t destroy documents. There’s no need to compound potential penalties with an obstruction of justice charge.

#4. Think Beyond The Law.

When asked to consider the role of lawyers in public relations work, Jaffe was quick to point out that “they’re usually really bad at it.” Thinking about a crisis only through the lens of the legal case can blind lawyers to the public implications. What goes on in the world reverberates in the courtroom – and can have bigger real-world consequences for the institution than the actual outcome of the case.

Rather than taking a short-term view and letting the case dictate PR decisions, partner with an experienced communicator and think three steps down the road. The standard PR approach to crisis includes:

- 1) Admitting what you did wrong
(all at once, rather than in installments);
- 2) Apologizing fully; and
- 3) Explaining how you’re going to make it right.

Because PR rules don't always work in an active legal situation, it's critical for the legal team and public relations professionals to make collaborative decisions.

"Don't let a litigator run your communications strategy – period," advised Jaffe.

#5. Look Out For Yourself.

It's easier to find a professional environment that values ethical actions than it is to extricate yourself from an unethical environment mid-crisis – or mid-career. During your job search, pay attention to the culture: is it bottom-line focused? Is there an emphasis on delivering – even if the desired outcome is impossible? Are employees encouraged to question their leaders? If that's not the case, those can be warning signs.

"You need to find this out on the front end," said McQuade, "because when you're in the midst of it, the shades of gray could overwhelm your ability to see black and white."

Your career goals and financial security are common (and powerful) disincentives to taking a decisive moral stance during an institutional crisis. Both McQuade and Jaffe have seen employees struggle to be honest with themselves once the professional stakes are high. "After many years in a company, people begin to tell themselves lies," said McQuade.

Jaffe concurred: "People tell themselves a lot of things to justify not leaving." He encourages lawyers to determine if their actions can improve the situation, or if it's so bad that they need to leave to legally protect themselves.

If the crisis your institution faces is sufficiently serious, you need to take protective actions on your own behalf, and understand the personal costs of doing the right thing.

**Kelly Kussmaul is the Director of Marketing and Communications for the Michigan State University College of Law.*

Detroit Mercy Law Hosts Motion Day

In an effort to bridge the gap between the law school classroom and courtroom, the Chapter's RISE Committee hosted a Motion Day at the University of Detroit-Mercy School of Law in coordination with the UD Mercy Moot Court Executive Board.

On February 13, students had the opportunity to observe oral arguments on a Federal Rule of Civil Procedure 12(b)(6) motion to dismiss in front of Judge Terrence G. Berg. Brian J. Farrar of Sterling Attorneys at Law, PC argued for the plaintiff and Kathleen M. Keller of Bredhoff & Kaiser PLLC argued for the defendant. This opportunity provided students with practical tips on preparing for hearings and courtroom procedure.

The hearing began with both sides offering a detailed factual background of the case. After arguments, Judge Berg, along with the attorneys, answered student questions.

This event offered students practical insights to the federal rules of civil procedure and advice to future

litigators. The Chapter's RISE Committee is grateful to all participants, and to Professor Karen Henning at Detroit Mercy for helping to coordinate this event.

Legal Ethics in Social Media Brownbag

The Chapter's Legal Ethics Committee recently hosted a "Legal Ethics & Social Media" brown bag lunch. The purpose of the seminar was to open a dialog between the bench and bar about the ethical considerations that are arising as social media becomes a larger part of our relationships, daily communications, and law practices.

Chief Judge Denise Page Hood, Magistrate Judge Anthony P. Patti, and legal ethics expert Kenneth M. Mogill spoke as panelists to the group of assembled lawyers and judges. Oakland County Circuit Court Judge Hala Jarbou moderated the discussion.

The topics discussed were varied, as the panel posed hypothetical scenarios to the audience. The scenarios discussed included:

- a. In the course of preparing for trial, may a lawyer examine opposing witnesses' social media accounts?
- b. May a lawyer ethically view the public portions of a prospective juror's social media account(s) in order to learn more about the individual's qualifications or biases?
- c. May a lawyer attempt to "friend" a prospective juror?
- d. May a lawyer Facebook "friend" a judge before whom the lawyer practices on a regular basis?
- e. May a lawyer, as a marketing strategy, post thoughts on Facebook about how a trial is going, the credibility of witnesses, etc.?
- f. May a lawyer respond to online criticisms by current/former clients?

The responses to these questions were quite varied, and the attendees learned that application of the Rules of Professional Conduct to social media is still in flux on many of these matters.

The panelists and audience members engaged in a lively discussion as judges and attorneys shared personal experiences and perspectives on the ethical implications of social media use to advocate for clients and market their law practices.

On one topic, though, there was uniform consensus. Everyone agreed that it is important to continue these discussions as the rules around social media use by lawyers and judges evolve and social media continues to become a significant part of peoples' lives.

The Chapter's Legal Ethics Committee plans to host additional seminars on social media use as well as other topics and is open to suggestions. Please send seminar ideas to anyone on the Committee: Lynn Helland, Hon. Hala Jarbou, Jennifer McManus, and Kenneth Mogill.

Book Club

The Chapter Book Club met on February 5 to discuss *Evicted: Poverty and Profit in the American City*, a Pulitzer Prize winner by Matthew Desmond.

Desmond, a Princeton sociologist, was embedded in one of the rental properties profiled in the book, which focused on eight families who were either landlords or tenants in Milwaukee. While the book did not concentrate on legal issues, it raised thought-provoking questions for the judges and lawyers in attendance about the role of housing insecurity in landlord-tenant court or in any other state or federal courtroom.

The group discussed whether housing is a right and possible solutions to this challenge, including free or low-cost legal representation for tenants and other forms of advocacy and activism. The book was eye-opening, widely praised, and highly recommended.

The book club will meet next on Tuesday, May 14, to discuss *Dreamland: The True Tale of America's Opiate Epidemic* by Sam Quinones. The meeting will be in Training Room A on the fifth floor of the Theodore Levin courthouse.

Shapero Sixth Circuit Moot Court Competition

This year, the Shapero Symposium, honoring the legacy of Bankruptcy Court Judge Walter Shapero, in conjunction with the American Bankruptcy Institute, inaugurated its First Annual Shapero Cup Moot Court Competition.

This event, held on February 18, was a regional moot court competition for the Sixth Circuit, and a practice competition for the National Duberstein Moot Court Competition. For 27 years, the American Bankruptcy Institute has sponsored a National Moot Court Competition in honor of the late Judge Conrad Duberstein, with the National Competition held in New York.

Eight law schools in the Sixth Circuit, from Michigan, Ohio, and Tennessee, participated in the day-long

competition, which was held at the Bankruptcy Court and the Levin Courthouse. A number of practitioners and judges served as the judges for the competition.

The competition was followed by a demonstration by skilled attorneys on how they would approach the national question and a reception for the participants. The National Duberstein question was written by Bankruptcy Judge John Gregg from the Western District of Michigan as well as Paul Hage, a partner at Jaffee Raitt Heuer & Weiss.

The program was well attended by 80 participants. The law school teams went on to compete at the national level in New York. The program was well organized, led by Chief Bankruptcy Judge Phillip J. Shefferly and Lisa Gretchko, a partner at the law firm of Howard & Howard and a member of the American Bankruptcy Institute Editorial Board.

The Shapero Symposium looks forward to many years of sponsoring this regional competition and engaging law students throughout the Sixth Circuit in a lively educational moot court competition, honing the law students' advocacy skills and having a deeper understanding of complex bankruptcy issues.

The Chapter's Bankruptcy Committee thanks all of the attorneys and judges that participated in the moot court competition and looks forward to years of future programming.

Bankruptcy State Of The Court

On March 28, the Chapter's Bankruptcy Committee hosted the Bankruptcy Court State of the Court Luncheon address by Chief Judge Phillip J. Shefferly.

The event was held at the DoubleTree Hotel in Detroit.

District Judge Stephen J. Murphy, III opened the program, speaking about the bankruptcy appellate process.

Next, Chris Lambert of Life Remodeled presented on his organization's programming in Detroit, which includes rebuilding the city center at the Durfee School. He also encouraged everyone to participate in community service, not only to fulfill our responsibilities as attorneys to participate in pro bono activities, but also to better our community.



On hand for the Book Club discussion at the Levin Courthouse were (seated, left to right) Tim Devine, Andy Doctoroff, Rebecca Wiseman, and District Judge Avern Cohn; along with (standing, left to right) David Fink, J.R. Drabic, Erica Fitzgerald, Hank Moon, John Sier, Lindsey DeMoss Long, District Judge Marianne Battani, and David Atallah.

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



One moot court participant presenting his argument before a panel of judges.

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

Finally, Chief Judge Shefferly provided insight and information on the operations of the bankruptcy court, including information on filing statistics and developments within our district that led to the creation of a new bankruptcy judge position in Flint. That position will be filled by Joel Applebaum.

Judge Shefferly also discussed the robust programs instituted by the Bankruptcy Court, including the Access to Bankruptcy Court, the mediation program, and the pro-bono program. Certificates were presented to the attorneys that had participated in the pro bono program in the last year.

The State of the Court luncheon was well attended by approximately 100 practitioners, judges, and court staff. Chris Lambert's presentation was well received by all.

The Chapter's Bankruptcy Committee thanks Chief Judge Shefferly for his time as well as thanks Judge Murphy for his time with the bankruptcy community and for his talk at the lunch.

Chapter Hosts Appellate Panel

On April 16, the Chapter's Appellate Practice Committee hosted its Appeals Practice Panel. The panel, sponsored by Jones Day and Bush Seyferth, and Paige, was moderated by Meghan Sweeney Bean and Derek Linkous, and featured Sixth Circuit Judge Joan L. Larsen, Michigan Supreme Court Justice David F. Viviano, and Paul Hudson, chair of Miller Canfield's appeals section.

The panelists began by discussing the difference between federal and state court practice in Michigan. Judge Larsen, with the benefit of experience on the Sixth Circuit and Michigan Supreme Court, noted that while Michigan appellate judges are familiar with nuances in Michigan law, practitioners should not assume the same in diversity cases before the Sixth Circuit. She noted that Sixth Circuit judges are responsible for deciding disputes involving the laws of several states, and that lawyers should be prepared to educate the panel on issues of state law.

Judge Larsen also emphasized the importance of citing to the record in both forums, but noted

that such citations are particularly important in Michigan courts, where electronic records are not always available to judges.

Justice Viviano noted the wide array of issues that Michigan Supreme Court justices face, including small-dollar matters, tax cases, and family disputes.

From a practitioner's perspective, Hudson advised advocates before the Sixth Circuit to be prepared for a "hot bench." He noted that practicing before the Michigan Supreme Court has its own challenges, the first being the need to convince the court – with its discretionary docket – to actually hear the case. If that threshold is met, attorneys need to prepare for the unpredictability of taking questions from seven justices.

Hudson noted that attorneys are granted some measure of relief before the Michigan Supreme Court, with a two to five minute "no fire" (continued on page 8)



District Judge Steven J. Murphy, III, Chris Lambert, and Chief Bankruptcy Judge Phillip J. Shefferly paused for a photograph during the Bankruptcy State of the Court Luncheon.

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

Please join us for a

Pro Se Clinic Soiree

JUNE 18, 2019 | 5:30 PM

Celebrating the 1st Anniversary of the

FEDERAL PRO SE LEGAL ASSISTANCE CLINIC

PRESENTING SPONSOR:

CCBA OAKLAND COUNTY BAR ASSOCIATION

ABOUT THE CLINIC

The Federal Pro Se Legal Assistance Clinic began in January 2018, and offers limited scope legal assistance to litigants representing themselves in the United States District Court for the Eastern District of Michigan. The Clinic is staffed by University of Detroit Mercy School of Law, and operates with the support of the District Court as well as multiple community partners. The Clinic is open three afternoons each week at the federal courthouse in downtown Detroit.

TICKETS: \$75 | Please RSVP @ www.pro-se-clinic-soiree.eventbrite.com

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PROCEEDS SUPPORT THE FEDERAL PRO SE LEGAL ASSISTANCE CLINIC OPERATED BY THE UNIVERSITY OF DETROIT MERCY SCHOOL OF LAW

Appellate *(from page 7)*

zone” at the beginning of each oral argument, in which the arguing lawyer is entitled to present her case without interruption. Both Judge Larsen and Justice Viviano recommended that advocates waive this time in order to allow the justices to ask about the key issues in the case.

In order to prepare for argument in any appellate court, Hudson stated that there is no better preparation than mooting your case, noting that taking live questions will ready an advocate for the actual argument. If mooting is not an option, Hudson recommended “self-mooting” by writing out the most difficult five to ten questions that could arise, and rehearsing responses.

Once the argument arrives, Judge Larsen advised the audience to carefully listen to what questions are motivating the bench, rather than blindly sticking to an outline or reciting what was submitted in the brief. She noted that the argument should be akin to a conversation with the panel, and that advocates should make sure to “catch the softball,” when a judge offers a sympathetic question or comment.

With regard to brief writing, Justice Viviano advised advocates to consider the audience that will ultimately read the brief. He noted that in the Michigan Supreme Court the individuals reviewing the arguments are not limited to the justices themselves; attorneys should take into account the court’s law clerks and commissioners, all of whom play an important role in the decision-making process. He advised giving a focused, faithful recitation of the facts of the case, leaving out extraneous events.

Both Justice Viviano and Judge Larsen cautioned against misstating the record or case law, noting that doing so will cost the offending lawyer credibility, not only in the case before the court, but in all future cases.

Judge Larsen noted that if the Michigan Supreme Court agrees to hear a case, it is because an important issue of state law has to be settled. Thus, briefs should focus not on the

outcome for the client, but what rule the court should announce. She noted that this is often not the case in the Sixth Circuit, where the judges often apply settled law to the facts of the case.



Paul Hudson, Sixth Circuit Judge Joan L. Larsen, Derek Linkous, Michigan Supreme Court Justice David F. Viviano, Meghan Sweeney Bean, and Saura Sahu at the Appellate Practice Seminar.

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

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Finally, the panel addressed the difficulty of overcoming difficult standards of review, such as proving an abuse of discretion. Judge Larsen advised focusing on one or two compelling arguments, rather than taking a scattershot approach by arguing against each conclusion made by the trial judge. As an advocate, Hudson recommended embracing a tough standard of review, and explaining to the court why you can clear that standard.

Following their discussion, the panel took questions and met with attendees.

The Chapter greatly appreciates Justice Viviano, Judge Larson, and Hudson's participation in this event.

Sustaining Member Reception

Last year, we held our first ever Sustaining and Executive Affiliate member reception on March 1 amidst an impressive and relentless snow storm. This year, a little smarter, we moved the date to one where the weather was apt to be slightly more predictable – Wednesday, March 20 – and we were rewarded with better attendance, great food and wine, and the chance to catch up with colleagues.

First a little bit of history. In March of 2017 our Chapter had 7 Sustaining Members, and the price of Sustaining Membership was four times that of regular membership.

We know from our members' involvement in our committees and projects that they are committed to making our Chapter one of the best in the country. But, at four times the cost of Regular Membership, Sustaining Membership turned out to be understandably unattractive.

We found that by making the cost of Sustaining Membership much closer (1.6 times more) to the cost of Regular Membership, many of our most active members decided that making the leap to this level was a lot more attractive.

Now, quite proudly, our Chapter boasts nearly 125 Sustaining Members (a whopping 1686% increase in just two years)!

As just a small way to say thank you to our Sustaining and Executive Affiliate members, we now host a soiree each Spring. Once again, we thank Miller Canfield for hosting this event in their lovely multi-purpose room, which has a beautiful view overlooking downtown Detroit. We also thank them for sponsoring this event. Guests enjoyed desserts, heavy appetizers, great music, and assortment of beer and wine at this well-attended event.

The mission of the Federal Bar Association is to strengthen the federal legal system and administration of justice by serving the interests and the needs of the federal practitioner (both public and private), the federal judiciary, and the public they serve. Within the Eastern District, we take that mission very seriously and, to accomplish it, we are constantly providing various opportunities (through the work of our many committees, our Executive Board, and our Officers) to our general membership.

Whether the nature of these opportunities is educational, informational, social, or philanthropic, our Chapter excels in our delivery of services to the bench, bar, and public we serve. However, because the great majority of services we provide take considerable financial resources, the contributions of all our members, especially through membership dues, is more important than ever.

As an organization we want to thank all our members – student, junior, regular, sustaining, retired, government, etc. – for your continued support! It is because of each of you that as an organization we are able to do what we do!

Should you have any interest in upgrading your membership to that of a Sustaining Member, please email Mindy Herrmann at fbamich@fbamich.org.

And once again, thank you to our Sustaining Members (by firm):

Butzel Long

George Donnini
David DuMouchel

Clark Hill

Robin Ferriby
Cynthia Filipovich
Reginald Turner

Dykema Gossett PLLC

Michael Blalock
Grant Gilezan
Thomas Schehr

Fink + Associates Law

Darryl Bressack
David Fink
Nathan Fink

Hickey Hauck Bishoff & Jeffers, PLLC

Thomas Bishoff
Mark Hauck
Patrick Hickey
Benjamin Jeffers
Stefanie Reagan

Honigman Miller Schwartz & Cohn LLP

J. Michael Huget
Jeffrey Lamb



The well-attended Sustaining Member reception included Fred Herrmann, Dennis Clark, Dan Sharkey, Jeff Appel, and Jennifer Newby.

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

(continued on page 10)

Sustaining Members *(from page 9)*

Khalilah Spencer
Mark Stern
Leigh Taggart
I.W. Winsten

Jaffe Law

Christopher Andreoff
Jonathan Myers
Arthur Siegal

JAMS

Steven W. Rhodes
Mary Beth Kelly

Kienbaum Hardy Viviano Pelton & Forrest, P.L.C.

Ryan Bohannon
Eric Pelton

Miller Canfield PLC

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

Ogletree, Deakins, Nash, Smoak & Stewart, PC

Martin Brook
Thomas Paxton

O'Reilly Rancilio PC

Craig Schoenherr
James Thomas

Plunkett Cooney

Patrick Lannen
Megan McKnight

Sommers Schwartz, PC

Arvin Pearlman
Jason Thompson
Kevin Stoops
Matthew Turner

The Murray Law Group

William Altman
Gregory Murray

James Amberg – Amberg & Amberg, PLLC
Andrew J. McGuinness – Andrew J. McGuinness, Esq.
Michael Behm – Behm Law
Marcy Thomas – Bendure & Thomas
Rodney Glusac – Bernardi, Ronayne & Glusac, P.C.
Steven J. Fishman – Bodman PLC
Kathleen Bogas – Bogas & Koncius PC
Frank Angileri – Brooks Kushman PC
Daniel Sharkey – Brooks Wilkins Sharkey & Turco PLLC
James Burdick – Burdick Law, P.C.
Patrick Seyferth – Bush Seyferth and Paige Law PLLC
Melissa Schwartz – City of Hazel Park
Saura Sahu – Clancy PLC
Dennis Clark – Clark Law Firm PLLC
Jeffrey Clark – Cummings, McClorey, Davis & Acho PLC
Christopher Darrow – Darrow Mustafa PC
Karen Ludden – Dean & Fulkerson
Deborah Gordon – Deborah L. Gordon, PLC
Douglas Mullkoff – Douglas R. Mullkoff PLLC

Adam Forman – Epstein, Becker & Green, PC
Miriam Siefer – Federal Defenders Office
Walter Piszczatowski – Hertz Schram PC
Angela Jackson – Hooper Hathaway, PC
Joseph Barber – Howard & Howard
Ven Johnson – Johnson Law, PLC
Joseph Dillon – Joseph F. Dillon & Associates, PLLC
Ronald S. Nixon – Kemp Klein
Fred Herrmann – Kerr Russell & Weber PLC
Rebecca Waisanen – The Kitch Firm
Gene Kohut – Kohut Law Group
Kimberly Altman – Law Clerk to Hon. Avern Cohn
Annie Malayang-Daley – Law Clerk to Hon. Denise Page Hood
Brian Legghio – Law Office of Brian Legghio
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
Charles Rutherford – Law Offices of Charles Rutherford
John Freeman – Law Offices of John Freeman, PLLC
Fred Mester – Law Offices of Fred Mester
Abraham Singer – Law Offices of Abraham Singer
Nicholas Andrews – Liss, Seder and Andrews, PC
Marcy Hahn – Lotus Legal Solutions
Ian Lyngklip – Lyngklip & Associates Consumer Law Center
Consumer Law Center
Earle Erman – Maddin Hauser
Victor Mansour – Mansour Law PC
Amy Marino – Marino Law PLLC
Jack Mazzara – Mazzara Law Firm, PLLC
David Zack – McAlpine & Associates
Alexander Ayar – McDonald Hopkins PLC
Michael Rataj – Michael A. Rataj, PC
Lynn Helland – Michigan Judicial Tenure Commission
Kenneth Mogill – Mogill Posner & Cohen
Mayer Morganroth – Morganroth & Morganroth PLLC
Susan Koval – Nemeth Law PC
Paul Johnson – Patrick Johnson & Mott PC
Matthew Lund – Pepper Hamilton LLP
Michael Pitt – Pitt McGhee
Tammy Lundstrom – Premier Health
Catherine Dobrowitsky – Rivenoak Law Group, PLC
Robert Colombo, Jr. – Retired judge
Frederick Damm – Scopelitis, Garvin, Light, Hanson & Feary PC
Sherry D. O'Neal – Shiloh Industries
Tracy Clark – Steinberg Shapiro & Clark
Raymond Sterling – Sterling Law
Charles Bullock – Stevenson & Bullock, PLC
Jaqueline Kelly – Sullivan, Ward, Asher & Patton, PC
Michael Cox – The Mike Cox Law Firm
E. Powell Miller – The Miller Law Firm PC
Thomas Porter – Tom Porter Services, LLC
Susan Fairchild – U.S. Attorney's Office
Carl Gilmer-Hill – U.S. Attorney's Office
Vanessa Miree Mays – U.S. Attorney's Office
Jennifer Newby – U.S. Attorney's Office
Barbara McQuade – University of Michigan Law School
Brendan Best – Varnum
Paul Novak – Weitz & Luxenberg

And thank you to our Executive Affiliate Members:
David Jones – Van Conway & Partners
Scott Bailey – N1 Discovery
J. Stott Matthew – Spectrum Computer Forensics & Risk Management
Troy Richard – D4
Mark St. Peter – Certified Service Professionals



Among those who attended the diversity celebration were (l-r) Michigan Court of Appeals Judge Kirsten Frank Kelly, Lisa Tehlirian, Manpreet Gill, Wayne County 31st District Judge Alexis Krot, retired Judge William Giovan, Michigan Court of Appeals Judge Karen Fort Hood, Oakland County Circuit Judge Denise Langford Morris, Elisa Angeli Palizzi, Wayne County Circuit Judge Prentis Edwards Jr., Dawn Ison, Susan DeClercq, and Terrence Haugabook.

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

Tenth Annual Michael K. Lee Celebrating our Diverse Bar Mixer

On March 28, the Chapter's Diversity Committee joined with the Detroit Bar Association and the Wolverine Bar Association to host the tenth 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. Over twenty affinity bar associations from the Detroit metropolitan area co-hosted this one-of-a-kind mixer.

Attendees enjoyed a wonderful evening at the Cost Plus Wine Shoppe in Eastern Market with a beautifully diverse crowd. Assistant U.S. Attorney Dawn Ison opened a short program that included remarks from State Bar of Michigan President Jennifer Grieco concerning the state bar's diversity efforts.

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 Detroit Boxing Gym, which is a free, after-school academic program for Detroit students. Its purpose is to provide safe haven from the streets, knock out inequality in an imperfect educational system, level the playing field, and give students a fighting chance at a winning future.

Development Director Carolyn Geck described the gym's wonderful work to attendees. Since 2007, the gym has been providing mentorship, tutoring, transportation, and food for its students to create a lasting impact that ripples out across the community.

For more information, see downtownboxinggym.org or contact Carolyn Geck at cgeck@downtownyouthboxing.org.

Calendar of Events

May 14 Book Club

Theodore Levin U.S. Courthouse, Training Room A, 5th Floor
Noon – 1:00 PM
Dreamland: The True Tale of America's Opiate Epidemic, by Sam Quinones.

May 23 Leonard R. Gilman Award Luncheon

Atheneum Suites Hotel
11:30 AM Reception
12:00 PM Luncheon
Members: \$45 | Non-Members: \$60 | Clerks: \$35
Keynote Speaker: U.S. Attorney Matthew Schneider

May 28 Become a Bias Disruptor

Presented by Professor Sarah E. Redfield and Sixth Circuit Judge Bernice Donald.
Levin Courthouse, Detroit Room
1:30-4:30 PM
Registration required due to space limitations! Luncheon Sponsors will receive a guaranteed number of tickets provided they claim them by April 30 (to do so email becomeabiasdisruptor@gmail.com).
On May 1, registration will open to general membership and the public.
Contact fbamich@fbamich.org about sponsorship of the event and other details.

June 19 40TH ANNUAL DINNER featuring:

- Election of Officers and Board Members
- Presentation of the Ninth Annual Julian Abele Cook, Jr. Bernard A. Friedman Civility Award.

5:30 PM cocktails
6:30 PM dinner
Atheneum Suites Hotel
Members: \$99 | Non-Members: \$121 | Clerks/Junior Members: \$80
Table Sponsorships available:
Firms with 6 or fewer attorneys: 3 tickets for \$400
Firms with 4-14 attorneys: 6 tickets for \$800
Firms with more than 15 attorneys: 9 tickets for \$1,200
Nominations for Cook-Friedman Award due: May 29

June 24 Chapter Golf & Tennis Outing And Dinner

Lochmoor Club, Grosse Pointe Woods
Golf: 12:00 PM
Dinner: 5:30 PM
Golf and dinner – Member: \$225 | Nonmember/guests: \$250.
\$850 per foursome (includes dinner)
Dinner only – Member: \$75 | Nonmember/guests: \$100.
*Federal clerks and law student members eligible for reduced pricing.
To register email lemanski@butzel.com.
Event sponsorships available at the \$500 and \$750 levels by contacting fbamich@fbamich.org

Updates and further developments at www.fbamich.org

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E. D. Michigan Chapter**
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