



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

State of the Court Luncheon

Chief Judge Denise Page Hood and new Chapter President Matthew Lund launched a new Chapter program year at the State of the Court Luncheon on October 23 at the Atheneum Suite Hotel in Detroit.

The luncheon commenced with welcoming remarks from Lund, who briefly reviewed Chapter business, acknowledged the luncheon's sponsors, and noted that the Chapter's membership has reached an all-time high. Lund then introduced Chief Judge Hood, who gave the State of the Court Address.

In her remarks, Chief Judge Hood thanked her staff and paid special tribute to current and former law clerks, noting that this year marks the 100th year anniversary for paid federal clerkships. Chief Judge Hood emphasized the vital role law clerks play in the judicial process.

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Fred Herrmann, George Donnini, Melinda Herrmann, Chief Judge Denise Page Hood, Dan Sharkey, Matthew Lund, and Saura Sahu at the State of the Court Luncheon.

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

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President's Column

Matthew J. Lund

"I'm 60 years of age.
That's 16 Celsius."

--George Carlin



Sixty years. What an impressive milestone for our Chapter! When we began this journey in 1959, Hawaii had

just become a state. Motown Records was in its infancy and had just started to sell the artifacts known at the time as "records." And phones, which still had dials, actually "rang."

While times have certainly changed, our Chapter's commitment to the Bench and Bar in the Eastern District has remained consistently strong. While I was not around in 1959, I very well remember being a nervous young lawyer in the early 1990s, learning about federal practice in the Chapter's New Lawyers Seminar. From that point to today, I have grown up through the Chapter, made friends through the Chapter, and enhanced my practice through the many programs the Chapter has offered. I am not only honored, but also humbled to be the 60th president of this great organization.

As I contemplated my upcoming term as Chapter President, I had lunch with a friend who served in that role several years ago. The advice I left with: do one thing that matters. As I spent time thinking about what that "one thing" might be, it hit me just by looking at the Chapter's logo. Our Chapter has always had a strong presence and great participation in southeast Michigan. We are now stronger than ever.

But as you see from our logo (just above and to the left of my column here), the Eastern District extends far north, to the top of the lower peninsula. And while the District extends up north, court is held up north, and lawyers with federal practices make their careers in the north, the Chapter has traditionally had no presence in the Northern Division. That has changed this year.

I am excited to report that one of our Board's principal goals – building a Northern Division presence for the Chapter – is off to a successful start. We have new members, we are establishing new programs, and we are forging an expansion of the Chapter that will be a strong part of

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President's Column (continued)

our organization for the next 60 years.

The lawyers and judges in the Northern Division are fully integrated into our Board and Co-Chair meetings through videoconferencing. Due, in part, to the great attendance in Bay City, our September meeting was the best attended meeting in the history of the Chapter, with over 52 lawyers and judges participating.

We ran the September meeting from Bankruptcy Judge Daniel Opperman's courtroom in Bay City, and while the upcoming meetings will be run from Detroit, one of our Executive Officers will be present in Bay City for each of them. The Chapter is well on its way to having a solid footprint that matches the footprint of the whole Eastern District of Michigan.

And that is just the "one thing." Beyond that, our committees are already hard at work, planning programs for the upcoming year. Our officers, Fred Hermann, Dan Sharkey, Jennifer Newby, and George Donnini are energetic, enthused, and fully engaged.

We also have the benefit of guidance from our Immediate Past President, Saura Sahu.

And I cannot overstate the Chapter's good fortune in having the creativity, drive, and enthusiasm of Executive Director Mindy Herrmann. Mindy has been, and continues to be, a force that has made the Chapter stronger every year.

And it is certainly not just the officers who make the Chapter what it is. What makes this organization so great is the energy of the 21-member Executive Board, our many active Committee Co-Chairs, and all of you who participate in our events.

In September, the National FBA once again highlighted the Chapter's accomplishments. Our sincere congratulations to our newsletter editors Andrew Lievense and James Gerometta and their committee for earning the Outstanding Newsletter Award, and our congratulations to the Chapter as a whole, which earned the Presidential Excellence Award for Chapter Activity.

At 16 Celsius, we are off to a great start, and we are looking forward to a great year. So thank you, and let's keep active.

State of the Court (from page 1)



Among the crowd of attendees at the State of the Court Luncheon were District Judge Gershwin A. Drain, Miriam Siefer, and former Michigan Supreme Court Justice Kurtis T. Wilder.

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

Chief Judge Hood then discussed the Court's Pro Se Mediation Program. The program, which was introduced by Judge Victoria A. Roberts, permits pro se inmates who file prisoner civil rights lawsuits to participate in mediation. The program was approved for a pilot period of two years and, since March 2019, 18 cases have been mediated. The program currently has 40 volunteer mediators who serve without compensation.

Chief Judge Hood also touched upon the Bench's efforts to give back to the surrounding community and youth by actively participating in organizations such as Big Brothers Big Sisters (Metro Detroit and Flint), the Detroit Academy of Arts and Sciences, Gleaners Community Food Bank, and the Pope Francis Center in Detroit.

Chief Judge Hood reported that seven senior judges continue to contribute substantially to the work of the Court, and all receive case assignments at the same rate as judges in active service. Among the seven senior judges is Judge Avern Cohn, who is celebrating his 40th year on the bench. Chief Judge Hood advised of Magistrate Judge Mona K. Majzoub's impending retirement in January 2020 and the pending elevation of Magistrate Judge Stephanie Dawkins Davis to district judge.

Chief Judge Hood acknowledged that Bankruptcy Judge Phillip J. Shefferly continues to serve as Chief Judge of the Bankruptcy Court.

Chief Judge Hood noted the unfortunate passing of several judges: retired District Judge Barbara K. Hackett, Sixth Circuit Judge Damon J. Keith, retired District Judge James Harvey, and retired Magistrate Judge Paul J. Komives. She also spoke about each of the judges who died since the last State of the Court Luncheon.

Chief Judge Hood also provided an update on the renovation of the Levin Courthouse in Detroit, which has been underway for over three years. The four-year project is one of the largest projects the General Services Administration has undertaken in Detroit in many years.



Chapter President Matthew Lund (foreground) conducted the September Board Meeting from Bay City via video conferencing.

The renovation is in phase 6 of the project—which includes restoring the historic ceiling in the first-floor lobby area—and has a completion target date of December 31, 2019.

Chief Judge Hood concluded by providing statistical information about the Court. A report containing full information may be found online at www.mied.uscourts.gov under Court News, 2019 Annual Report.

As always, the Chapter thanks Chief Judge Hood for her update regarding the Court.



Dave Weaver Court Administrator/ Clerk of Court

Better late than never, Executive Magistrate Judge R. Steven Whalen inaugurated the new arraignment courtroom on the first floor of the Levin Courthouse on September 30, 2019. The courtroom is about the same size as it was previously, however, the layout in the well is much better. Improvements include greater separation of the counsel tables, larger lecterns, and direct access to the U.S. Marshals holding area. Audio/visual upgrades have been included to allow for electronic presentation of any exhibits.

Overall, the renovation of the Levin Courthouse is in its final phase. Currently, all magistrate judges have been relocated off the sixth floor to various chambers throughout the courthouse. Check with our case managers for any updates on courtroom locations for court events with the magistrate judges, which will be in flux until the end of the year. The entire project will be substantially complete by the end of the calendar year.

We have begun the early phases of implementing NextGen CM/ECF, our electronic filing system. One important capability that will be introduced is central sign-on. This will allow attorneys to sign in once to access all the courts in which they have permission to file. There will also be a new, streamlined attorney admission process built in. Additional information and training will be forthcoming, and we anticipate a live date in early February 2020.

The Court has been accepted to participate in a Juror Utilization Pilot program being sponsored by the U.S. Judicial Conference Committee on Court Administration and Case Management. The goal of the program is to evaluate an alternative approach to measuring juror utilization through the use of panel-size benchmarks based on case type. The pilot program will allow courts to explain why more jurors are summoned than the program benchmark called for based on case type. The pilot program will last for two years.

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



Supreme Court Preview

by M Bryan Schneider

The Supreme Court's October 2019 Term opened on October 7, with the Court having granted certiorari in 56 cases as of this writing, including a case set for re-argument this term. While hot button issues like the rescission

of DACA, funding of the Affordable Care Act and religious schools, the scope of the Second Amendment, and abortion are sure to dominate the headlines, the Term once again promises to provide plenty for federal practitioners.

On the civil side of the docket, the Court will address a few procedural and jurisdictional matters. In *Lucky Brand Dungarees v. Marcel Fashions Group*, the Court will return to the field of preclusion, deciding whether federal claim preclusion can be invoked to bar a defendant from raising defenses that were not raised in a prior litigation between the parties. In *Opati v. Sudan*, the Court will address whether a provision of the Foreign Sovereign Immunities Act allowing for punitive damages can be applied retroactively.

Breaking with the recent past, the Court has yet to take a case this Term addressing the Federal Arbitration Act, but fans of alternative dispute resolution need not despair, as the Court will decide whether the Convention on the Recognition and Enforcement of Arbitral Awards permits a third-party to an arbitration agreement to nevertheless compel arbitration in *GE Energy Power Conversion France v. Outokumpu Stainless USA*.

In substantive civil matters, the Court has granted certiorari in a number of cases raising issues of discrimination and civil rights. In what will be the most closely watched cases of this group, the Court will determine whether Title VII's prohibition on sex discrimination applies to discrimination based on sexual orientation (*Altitude Express v. Zarda* and *Bostok v. Clayton County, Ga.*) or transgender status (*R.G. v. G.R. Harris Funeral Homes*).

Turning to the Age Discrimination in Employment Act, in *Babb v. Wilkie* the Court will decide whether a public-sector employee bringing suit under the Act must show that age was a but-for cause of the challenged personnel action. Similarly, in *Comcast Corp. v. Association of African American Owned Media*, the Court will decide whether but-for causation is an element of a race discrimination claim under § 1981.

In *Hernandez v. Mesa*, the Court will decide whether a damages remedy should be recognized for federal officials' violations of the Fourth and Fifth Amendments under the Bivens doctrine. And in *Lomax v. Ortiz-Marquez* the Court will address whether a dismissal without prejudice for failure to state a claim constitutes a "strike" under the three strikes provision of the Prison Litigation Reform Act.

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Supreme Court Preview (from page 3)

Turning to intellectual property issues, the Court will decide two patent cases in the upcoming Term. In *Peter v. Nantkwest, Inc.*, the Court will determine whether personnel expenses of Patent and Trademark Office employees, including attorneys, are part of the “expenses of the proceedings” which must be borne by an applicant challenging the denial of a patent through a civil action filed in a district court. In *Thryv, Inc. v. Click-To-Call Technologies*, the Court will decide whether the Patent Trial Appeal Board’s decision that the one-year time bar to inter partes review does not bar a proceeding is subject to appellate review. In two copyright cases the Court will decide whether the government edicts doctrine, which prevents copyright of judicial opinions and statutes, applies to works that lack the force of law, such as annotations in an official statutory compilation (*Georgia v. Public.Resource.org, Inc.*), and whether Congress validly abrogated state sovereign immunity from copyright claims (*Allen v. Cooper*). And in one trademark case, the Court will decide whether willful infringement is a prerequisite for an award of profits under the Lanham Act (*Romag Fasteners v. Fossil, Inc.*).

The Court will return in force to the ERISA arena this Term, having granted certiorari in three cases raising ERISA issues. In *Thole v. U.S. Bank*, the Court will determine whether a plan participant or beneficiary who cannot show individual financial loss has standing to seek injunctive relief or restoration of plan losses for breach of fiduciary duty, and if so whether the statute affords such relief to

plaintiffs who have not suffered an individual loss. Five years ago in *Fifth Third Bancorp v. Dudenhoffer*, the Court held that an ERISA plaintiff alleging breach of the duty of prudence must plausibly allege that a prudent fiduciary could not have concluded that a proposed alternative action would do “more harm than good” to state an ERISA claim. The Court will further expound on that standard this Term in *Retirement Plans Committee of IBM v. Jander*. And in *Intel Corp. Investment v. Sulyma*, the Court will decide whether the ERISA three-year statute of limitations, which begins to run when the plaintiff has actual knowledge of the breach, begins to run when all relevant information is disclosed to the plaintiff regardless of whether the plaintiff actually read the information.

In environmental matters, the Court will consider whether CERCLA preempts state common law claims for restoration (*Atlantic Richfield Co. v. Christian*), and whether the Clean Water Act requires a permit for discharge of pollutants that originate from a “point source” but are conveyed to covered navigable waters by a nonpoint source (*County of Maui v. Hawaii Wildlife Fund*).

And in other civil matters, the Court will decide: whether ownership of a tax refund paid to affiliated corporate groups is determined by federal common law or state law (*Rodriguez v. Federal Deposit Insurance Corp.*); whether the discovery rule tolls the statute of limitations for actions under the Fair Debt Collection Practices Act (*Rotkiske v. Klemm*); and the standard for establishing habitual residence of an infant under the Hague Convention (*Monasky v. Taglieri*).



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Unsurprisingly, the Court will consider a number of immigration cases this term. In addition to three cases challenging the rescission of the DACA program (*McAleenan v. Vidal*, *Trump v. NAACP*, and *Dep't of Homeland Security v. Regents of the Univ. of California*), the Court will also address whether the Immigration Reform and Control Act preempts a state prosecution for making false statements based on information contained both in immigration and non-immigration documents (*Kansas v. Garcia*). In *Barton v. Barr*, the Court will decide whether a lawful permanent resident can be "rendered inadmissible" for purposes of the stop-time rule. *Nasrallah v. Barr* raises the issue of whether courts of appeals have jurisdiction to review the factual findings underlying agency denials of requests to withhold or defer removal.

The Court will address two statute of limitations related issues in immigration cases, deciding whether the application of equitable tolling to a motion to reopen is reviewable as a question of law (*Guerrero-Lasprilla v. Barr*) and whether the criminal alien bar prohibits review of a decision denying equitable tolling (*Ovalles v. Barr*). Finally, in *Department of Homeland Security v. Thuraissigiam*, the Court will decide whether a statute limiting habeas corpus review of an immigration judge's expedited order of removal following rejection of an asylum claim unconstitutionally suspends the writ of habeas corpus.

To date the Court has granted far fewer cases on the criminal side of its docket. Nevertheless, the Court will consider significant issues of constitutional criminal procedure. Most significantly, perhaps, in *Ramos v. Louisiana*, the Court will decide whether the Sixth Amendment jury unanimity requirement is fully applicable to the states under the Fourteenth Amendment. In another compelling case, the Court will decide whether the Eighth and Fourteenth Amendments permit a state to abolish the insanity defense (*Kahler v. Kansas*).

In the only Fourth Amendment case currently on the docket, the Court will decide whether it is reasonable for an officer to suspect, absent any information to the contrary, that the registered owner of a vehicle is the driver for purposes of making an investigative stop (*Kansas v. Glover*). And in *United States v. Sineneng-Smith* the Court will assess the facial constitutionality of the statute that prohibits encouraging illegal immigration for commercial advantage.

Turning to statutory matters, in *Kelly v. United States* the Court will consider whether a public official can defraud the government of property by advancing a public reason for an official action that differs from the actual subjective motivation of the official. *Shular v. United States* will address whether courts should use the "categorical approach" to determine whether an offense is a "serious drug offense" under the Armed Career Criminal Act.

Finally, the Court will address three sentencing issues. In *Mathena v. Malvo*, the Court will once again consider the scope and retroactivity of its decision in *Miller v. Alabama*, which held unconstitutional the imposition of mandatory

life without parole sentences on juveniles. *McKinney v. Arizona* presents the question whether a reviewing court must apply current law, as opposed to the law in effect at the time of sentencing, when deciding whether a death sentence is appropriate. Finally, in *Holguin-Hernandez v. United States*, the Court will decide whether a formal objection after pronouncement of sentence is required to preserve an appellate claim challenging the reasonableness of the defendant's sentence.

Focus on an FBA Member

By David Ashenfelter
Public Information Officer
U.S. District Court for Eastern Michigan

When it comes to giving, few public servants can match the generosity of retired Oakland County Circuit Judge Fred Mester.

During a 52-year legal career – 26 years of it on the Oakland Circuit Court bench and the past four years as ombudsman of the Eastern District – Mester contributed his time, energy and leadership skills to worthy causes.

He served on the boards of the Boys and Girls Club of Royal Oak, the South Oakland YMCA, Common Ground and many other charities.

He was president and founder of crime prevention groups, such as the Pontiac Alumni Foundation, an organization of influential Pontiac natives who mentor and tutor disadvantaged Pontiac youngsters to steer them away from crime toward a more positive, full life.

He served as president and board member of the Salvation Army-William Booth Legal Aid Clinic, which provides legal assistance to veterans, former prisoners and others in need.

And he is a former president of the Chapter (1979-80) and served as a longtime board member and president of the Central Michigan University Alumni Association.

Mester also found time to teach at Oakland Community College, Oakland University and Madonna University.

"He's kind, thoughtful, considerate, and absolutely passionate about serving others, particularly those who are less fortunate and experiencing life's struggles," Kevin Oeffner, Oakland County Circuit Court Administrator, said upon Mester's retirement from the circuit court bench in 2008.

"It's as true today as it was then," Oeffner said recently.

Added prominent Troy criminal defense lawyer Thomas Cranmer: "Fred Mester is the epitome of someone who is passionate about the concept of giving back to the community. My conversations with Fred often start with him saying, 'Hey Tom, I was working on this project and I could really use your help.'"

"But whatever the project might be, it is always about helping out someone else," Cranmer added.

Mester, 82, credits his parents, family, and Presbyterian faith for imparting the gifts of leadership and charity.

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Judge Mester *(from page 5)*

“Everything I engaged in involved a lot of people coming together for the common good,” Mester said in a recent interview.

Mester was born in Pontiac in 1937, and grew up in Royal Oak, the second of four brothers. His father was a tool and die maker; his mother an elementary school teacher.

“My parents believed in giving,” he said. “If anyone needed any help, my parents would go out of their way to assist.”

An early lesson in giving and leadership happened when he was 11 and captain of his school baseball team. At the urging of his parents, Mester said he reluctantly decided to yield the pitcher’s position to a more talented player, enabling the team to win a local baseball championship.

“Sometimes a leader has to step aside and make sure someone else gets the attention,” Mester said in recounting the episode to the Oakland Press in 2008. “That’s how you get to excellence.”

Mester was class president at Royal Oak High School, where he graduated in 1955, and student body president at Central Michigan University, where he received a bachelor’s degree in 1959.

Upon graduation, Mester, a member of CMU’s Reserve Officer Training Corps (ROTC), was commissioned as a second lieutenant in the Army and attended officer candidate school in Fort Knox, Kentucky. He eventually was promoted to the rank of captain and adjutant of a tank battalion in Germany. His wife, Lynne Curtiss Mester, whom he met in college and married, joined him in Europe. She was an elementary teacher.

Though he had considered a military career, Mester returned home after his tour of duty to study law at Wayne State University. After getting his degree in 1967, he worked for Chrysler Corp.’s real estate division (1967-69), as an assistant U.S. Attorney in Detroit (1969-75) and chief of the civil division of the U.S. Attorney’s Office (1973-75).

In 1975, Oakland County circuit judges recruited Mester to become administrator/judicial assistant of the court. He led the effort to make Oakland Circuit one of the first computerized courts in the nation.

In 1982, Republican Gov. William Milliken appointed Mester to the Oakland Circuit Court bench, where Mester won four six-year terms. He retired in December 2008.

The next year, Mester was called back as a visiting judge to clear a backlog of requests for personal protection

orders. He also worked as a mediator, arbitrator and facilitator on intergovernmental disputes.

In March 2015, Mester replaced the late George Bedrosian as the second ombudsman for U.S. District Court for Eastern Michigan, where he served as a pro bono problem-solver between lawyers, the public and federal court judges and their staffs.

He stepped down in January.

“He has fulfilled his role respecting the roles of litigants, lawyers, and judges in the legal system, he effectively handled all matters that came to him,” Chief U.S. District Judge Denise Page Hood said of Mester’s service. “Judge Mester was a pleasure to work with and the court will miss him.”



Among those catching up at the Judicial Family Reunion were (left to right) William Crawford, Chief Judge Denise Page Hood, Kim Altman, Sarah Cohen, Destiny Dike, Lauren Mandel, and District Judge Linda V. Parker.

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

During his career, Mester won several prestigious honors including the Michigan Bar Association’s Champion of Justice Award, CMU’s Centennial Award, and the national Earl W. Kinter Award for leadership and service to the Federal Bar Association.

Mester is committed to diversity, especially racial diversity. In the mid-1990s, he persuaded CMU to create a scholarship program in the memory of his friend and fellow student body president, Lem Tucker, a trailblazing black Emmy Award-winning network news reporter who died in 1991.

After retiring from the circuit court, CMU created the Fred M. and Lynne Mester Scholarship Endowment Fund for CMU students who demonstrate leadership, volunteerism and community service skills.

Mester’s wife passed away 2015 at age 77. They had three children, David, Karen, and the late Katherine Mester Luzzi. Mester has three grandchildren.

Mester said he plans to continue his community service, including an initiative to give juveniles convicted of murder and sentenced to life in prison an opportunity for eventual parole.

“I’m very thankful for being born into a caring and giving family, and I’ve gotten to know so many good people who enabled me to contribute to a more fair and just society,” he said.

Law Clerk Event

The Law Clerk Committee hosted its fifth Judicial Family Reunion event on October 17 at Honigman’s Detroit Office, and it was the largest reunion yet. More than seventy-five current or former law clerks from the

federal courts in the Eastern District joined a number of the courts' judges to reunite and forge new connections among the law clerk family.

Chief Judge Denise Page Hood welcomed the crowd and recognized the judges in attendance. She noted how the event provided a wonderful opportunity for her to reconnect with her former law clerks, as well as clerks for other judges who she became acquainted with during their clerkships. Also in attendance with Chief Judge Hood were Magistrate Judge Mona K. Majzoub and Judges Terrence G. Berg, Sean F. Cox, Paul D. Borman, Robert H. Cleland, Linda V. Parker, Judith E. Levy, Laurie J. Michelson, and Stephen F. Murphy.

In addition to enjoying the delicious food and beverages, the attendees participated in a few "minute-to-win-it" games. Mohamed Awan, a former law clerk to the late-Honorable Lawrence Zatkoff, demonstrated his skill with chopsticks, moving more M&M's in sixty seconds than Judge Levy, Judge Berg, and several current and former law clerks.

Diversity Committee Event

For several years running, Just the Beginning – A Pipeline Organization (JTB) has been working to help students – particularly those of color and from low-income backgrounds – to explore the path to law school and a successful legal career. One of the ways the organization does this is through the Summer Legal Institute, a five-day program for students to gain exposure to a variety of legal careers while honing their public speaking, critical thinking, and networking skills.

One day of the Summer Legal Institute is spent at the Levin Courthouse to give the students exposure to the federal courts and their employees. The Chapter's Diversity Committee proudly organizes this day for the students, providing a variety of programming throughout the Courthouse.

This year in July, students were able to attend hearings before Judge David M. Lawson, after which Judge Lawson generously dedicated extra time to explain the hearings to the students and answer some of their questions about being a federal judge. They were then welcomed to the Courthouse officially by Chief Judge Denise Page Hood, who introduced the students to some of the concepts she deals with not only in the courtroom but in her additional role as chief judge as well.

Students were next able to hear from an esteemed panel of jurists including Judge Gershwin A. Drain, Judge Linda V. Parker, Judge Terrence G. Berg, and Assistant

U.S. Attorney Dawn Ison, who is also a co-chair of the Diversity Committee. The students learned about the various backgrounds of the panelists and were given invaluable advice about succeeding throughout high school and college and the pursuit of a legal career.

David Mellem, co-chair of the Diversity Committee and an organizer of the event noted that each year the students' questions are much more insightful than what the organizers had scripted, and this year was no different!

Finally, our guests received a presentation by the U.S. Marshals detailing the important work they do to keep the courthouse and other federal interests safe. Despite the seriousness of their work, their presentation was very fun and captivating to the students, who were later able to try on

some of the gear and equipment that Deputy Marshals use in their daily work.

The Diversity Committee is very proud of the work it does with JTB and through its many other initiatives to increase diversity throughout the federal bar and within the Chapter. For this event, special thanks goes out to co-event organizer Bri'An Davis, all of the individuals who contributed to this wonderful day, everyone with JTB who make this event possible every year, and of course, the Summer Legal Institute students! Their enthusiasm and voracious

appetites for knowledge were crucial to the event, as always.

Please contact David.Mellem@gmail.com if you are interested in joining the Diversity Committee or just finding out what else we're up to throughout the year.

Ethics Committee

The Chapter's Legal Ethics Committee recently hosted "Conflicts, IOLTA Accounts & Discovery," a brown bag lunch with the bench and bar. The program focused on identifying client conflicts, proper and improper IOLTA account practices, and potential ethical pitfalls of discovery. Wayne State University Law Professor Peter Henning and Attorney Grievance Commission Staff Attorney Sarah Lindsey spoke as panelists to the assembled group of lawyers and judges. Judicial Tenure Commission Executive Director Lynn Helland moderated the discussion.

The panel posed hypotheticals on varied topics to the audience, including:

- In what instances may an attorney's termination of an attorney/client relationship allow for later representation of a new potentially conflicting client?

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District Judge Judith E. Levy (far right) showed off her chopstick skills in a "minute-to-win-it" game against some former law clerks.

Ethics *(from page 7)*

- Where a law firm has multiple lawyers, must an attorney practicing at that firm avoid conflicts with clients that he/she does not personally represent?
- Can a potential client waive a conflict?
- Should a nonrefundable attorney fee be deposited into an IOLTA account?
- When is it appropriate to transfer money paid to an attorney for ongoing work from an IOLTA account to an operating account?
- When must an attorney transfer fees from his IOLTA account to an operating account?
- Must disputed fees be retained in an IOLTA account?

The panelists and audience members engaged in a lively discussion as they shared their personal experiences and perspectives, as well as raised additional questions for discussion.

The Chapter's Legal Ethics Committee plans to host additional seminars on legal ethics and is open to suggestions. Please send seminar ideas to anyone on the Committee: Hon. Hala Jarbou, Lynn Helland, Kenneth Mogill, or Jennifer McManus.

Officers and Directors 2019-2020

These officers and directors started their terms at the Annual Meeting in June 2019.

Officers

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Executive Board

Term Ending June 2020

Hon. Thomas J. Tucker
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Officers and Directors *(from page 8)*

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Term Ending June 2021

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Hon. Mark A. Randon
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Term Ending June 2022

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Executive Director

Melinda Herrmann
PO Box 5249
Northville, MI 48167-1544
Phone: 313-408-2857
fbamich@fbamich.org

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

Judge Clay

Jonathan Ossip-New York University School of Law
Hannah Beard-Washington University School of
Law in St. Louis
Michael Abrams-Stanford Law School
Brady Bender-Harvard Law School

Judge Kethledge

David Leapheart-New York University School of Law
Cody Barnett-University of Kentucky College of Law
Devynne Andrews-University of Chicago Law School
Michael Grega-University of Michigan Law School

Judge White

Kevin Eaton-Stanford Law School
Lauren Latterell Powell-University of Michigan Law School
Matthew Garcia-Stanford Law School

Judge Larsen

Emerson Bursis-University of Michigan Law School
Ryan Proctor-Harvard Law School
Karl Worsham-Harvard Law School

Chief Judge Hood

William Crawford-Duke University School of Law

Judge Cohn

Sarah Thomas-Wayne State University Law School

Judge Cleland

Robert Kuhn-University of Michigan Law School

Judge Borman

Maura Allen-Vanderbilt Law School
Jennifer Eble-University of Houston Law School

Judge Tarnow

Gail Engmann-University of Michigan Law School

Judge Roberts

Michael Fakhoury-Georgetown University Law Center

Judge Lawson

Amir El-Aswad-University of Chicago Law School

Judge Ludington

Maria Critchlow-University of Iowa College of Law

Judge Murphy

Dane Lepola-Wayne State University Law School
Emily Taft-Duke University School of Law

Judge Goldsmith

Adrienne Becker-Loyola University Chicago
School of Law
Marguerite Bodem-University of Michigan
Law School
Benjamin Bennett-Columbia University
School of Law

Judge Drain

Marina Pino-University of Michigan Law
School
Alyssa Wright-Stanford Law School

Judge Berg

Nicolas Maricic-University of California
Berkeley School of Law
Maria Savarese-Boston University School of Law

Judge Levy

Julie Aust-University of Michigan Law
School
Eric Baudry-Yale Law School
Abigail DeHart-University of Michigan Law
School

Judge Michelson

Allena Martin-Harvard Law School
Seth Motel-Harvard Law School

Judge Leitman

Stephen Rees-University of Michigan Law
School

Judge Parker

Destiny Dike-New York University School of Law

Magistrate Judge Grand

Charlotte Carne-Pepperdine School of Law

Magistrate Judge Morris

Rebekah Stevenson-Notre Dame Law School

Magistrate Judge Stafford

Nathan Cole-Brooklyn Law School

Magistrate Judge Patti

Megan Lord-University of Michigan Law
School

Magistrate Judge Davis

Daniel Glick-Georgetown University Law
Center

**Includes law clerks previously with the
Eastern District or Sixth Circuit, but new to
their chambers.*

Calendar of Events**Nov. 19**

Book Club
Levin Courthouse, Room 722
Noon – 1:00 PM
The Case Against the Supreme Court, by Erwin Chemerinsky
Members: Free | Non-Members: \$10
Bring your own lunch, or lunch is available for \$10.

Nov. 20

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 Annual Barbara J. Rom Award for Excellence in
Bankruptcy Practice, coupled with the Annual
Meeting of the Court Historical Society.
Location: Atheneum Hotel, 100 Brush Street, Detroit
11:30 a.m. to 1:00 p.m.
Members: \$45 | Non-Members: \$60 |
Law Clerks/Students: \$35
Tickets available online and through organizations
that sponsor the luncheon series.
Speakers: To be announced.

Dec. 3-4

44th Annual New Lawyers Seminar
Levin Courthouse, Detroit Room
8:30 AM Registration
9:00 AM – 4:00 PM
Cost: \$140, includes two-day seminar, presentation
materials, luncheon, and one year of Chapter
membership.
ATTENTION PRIOR BAR PASSERS Space Limited . . .
REGISTER NOW
<https://fbamich.org/event/2018-new-lawYER-seminar/>

Dec. 11

Holiday Party
Detroit Club, 712 Cass Avenue
5:00 PM – 7:00 PM
Hors d'oeuvres available
Musical entertainment by The Cat's Pajamas
Valet parking available for \$10
Tickets: Members: \$65 | Non-Members: \$85 |
Law Clerks/Students: \$50
Contact Mindy Herrmann at fbamich@fbamich.org
Register by November 27 at
<https://membersnew.fbamich.org/events.php>

Jan. 30

Retirement Reception Honoring Bankruptcy
Judge Marci B. McIvor
Rattlesnake Club, 300 River Place Drive, Detroit
5:00-8:00 PM
Sponsorships and ticket prices vary.
Contact David Lerner for additional information and
tickets at dlerner@plunkettcooney.com

Feb. 26

Wade H. McCree Jr. Award Luncheon
The Westin Book Cadillac Detroit,
1114 Washington Boulevard, Detroit
11:30 AM Reception
12:00 PM Luncheon
Members: \$45 | Non-Members: \$60 | Clerks: \$35
Keynote Speaker: To Be Announced
Nominations due: February 20

**Federal Bar Association
E. D. Michigan Chapter**
P.O. Box 5249
Northville, MI 48167-1544

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Executive Director

Melinda Herrmann
Phone: (248) 231-7887
fbamich@fbamich.org

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Newsletter Committee:

James Gerometta
Co-Editor in Chief
Federal Community Defender
(313) 967-5839

Andrew J. Lievense
Co-Editor in Chief
Assistant United States Attorney
(313) 226-9665

Christina L. Farinola
Career Law Clerk to Hon. Anthony P. Patti
(313) 234-5200

Judge Michael J. Riordan
Michigan Court of Appeals
(313) 972-5662

John P. Mayer
(734) 558-5593

Lauren N. Mandel
Career Law Clerk to Hon. Linda V. Parker
(313) 234-5148

Zainab Hazimi
Warner Norcross & Judd
(248) 784-5169

Erin Lange Ramamurthy
Assistant United States Attorney
(313) 226-9788

Joshua L. Zeman
Pepper Hamilton
(248) 359-7309

Susan Pinkowski
Case Manager to Hon. David M. Lawson
(313) 234-2662

**Judge Applebaum Joins
Bankruptcy Court**

Effective May 31, 2019, the Sixth Circuit Court of Appeals appointed Joel D. Applebaum as a U.S. Bankruptcy Judge for the Eastern District. Judge Applebaum is located in the Court's divisional unit in Flint.

Judge Applebaum received a bachelor of arts degree from Michigan State University in 1979, and a juris doctor from Wayne State University Law School in 1983.

After graduation, Judge Applebaum worked in private practice as an associate attorney for Hertzberg, Jacob & Weingarten, P.C., as a partner at Pepper Hamilton LLP, and then as a member at Clark Hill PLC.

Judge Applebaum has extensive experience in bankruptcy law, commercial law, and debtor-creditor law. Judge Applebaum is a member of the State Bar of Michigan, the State Bar of New York, and the Federal Bar Association. In 2014, Judge Applebaum was inducted as a fellow in the American College of Bankruptcy.

The Chapter welcomes Judge Applebaum to the bench!