

FBAnewsletter^{Fall 2020}

Federal Bar Association - Eastern District of Michigan Chapter - 62 years of service to our Federal Bench and Bar

2020 Rom/Rakow and Historical Society Luncheon (Virtual of Course)

On November 12, in conjunction with the Chapter's Historical Society Luncheon, the Chapter held its annual Edward H. Rakow and Barbara Rom Award presentations. As with all recent Chapter events, the Luncheon was a virtual event. The event began at 11:30 a.m., and participants were placed in small Zoom breakout rooms. This format allowed those in attendance to meet and become better acquainted with the federal judges.

Chapter President Fred Hermann began by highlighting the 245th birthday of the Marine Corps and thanking all of the veterans in attendance. He also welcomed the University of Detroit Black Law Students Association and the members of Wolverine Bar Association. He acknowledged the presence of Chief Judge Denise Page Hood, Judges Judith E. Levy, Terrence G. Berg, Arthur J. Tarnow, Mark A. Goldsmith, and Laurie J. Michelson, Magistrate Judges Elizabeth A. Stafford and Anthony P. Patti, and Bankruptcy Judge Thomas J. Tucker. Hermann concluded by thanking retiring Court Administrator and Clerk of the Court, David Weaver, for his many years of service to the Court and assistance to the Chapter. David Weaver was presented with a commemorative FBA coin to thank him for his service.

The Rakow Award is an annual award for excellence in securities, corporations, or business law scholarship given (continued on page 2)

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President's Column

Fred Hermann

Most of us became involved in our Chapter because someone invited us. Years ago my friend and retired partner (and past Chapter

President) Bob Forrest invited me to attend an event and become involved. I quickly learned what we all know: our Chapter is a nationally recognized hub for civility, camaraderie, networking and learning. We can further advance our mission if everyone simply reaches out and invites a colleague to join us: partners, associates, law students, members of affiliate bar associations, vendors—all a mere invitation away. Please reach out today and invite someone to join you at an upcoming meeting or event. We succeed because we stand on each other's shoulders.

As always, there is a lot to share with others when it comes to our Chapter's activities. Thanks to the tireless dedication of our Newsletter Committee, the Chapter again received the national FBA's Outstanding Newsletter Award (for those counting, that's 18 years of recognition). Our Chapter also received the FBA's Chapter Activity Presidential Excellence Award for superior outreach and programming. Our 39 Committees under the guidance of our 21-member Executive Board work hard every year to host timely, informative, and social events that keep our bar association thriving. While COVID has presented unique challenges, it has not stopped our forward motion or dimmed our spirits.

On October 14 we hosted our first event in our traditional Luncheon Series, the State of the Court Luncheon. Chief

Newsletter Award

National FBA Outstanding

(continued on page 2)

President's Column (continued)

Judge Denise Page Hood delivered her report on the status of the Court's operations and renovations, we did some COVID catch-up by formally bestowing our 2019-2020 Gilman award for excellence in the practice of criminal law on Valerie Newman, and our 2019-2020 Cook-Friedman Civility Award on Reginald Turner.

While we could not convene face to face, we converted our traditional pre-luncheon social gathering into seven Zoom breakout rooms where our members, attendees, and judges could catch up on an informal, small-group basis. The Court's IT staff led by Josh Matta was instrumental in making this possible, and we are grateful. We utilized this same format for our next event in the Luncheon Series, the Rom/Rakow/Court Historical Society Luncheon, on November 12, and it proved to be a success.

Our Officers Dan Sharkey, Jennifer Newby, George Donnini and Andrew Lievense continue to lead from the front. And we have the distinct fortune of being quarterbacked by our Executive Director Mindy Herrmann whose Marine Corps "get it done" drive fuels all we do (and who-trust me on this one—would swim to the bottom of a well to retrieve a penny). Our Chapter owes a particular debt to Immediate Past President Matt Lund, whose wise, calm leadership guided us through the most difficult phases of the pandemic. In a prescient outreach effort, Matt implemented a series of videoconferences with our Northern Division Members before COVID. When quarantine hit we were already comfortable connecting through alternate means. That's leadership. Thank you, Matt.

I look forward to standing on Matt's shoulders as we move forward this year, and I look forward to meeting new faces at our upcoming events. Above all this year, please remember the power of an invitation!

Rom/Rakow and Historical

(from page 1)

to one student at each of the state's five law schools. The award was not presented because of a change in the administration of the Chapter's Federal Bar Foundation's Rakow endowment. While the Chapter plans to resume the award in 2021, it was suspended this year while plans are underway to expand the reach of Rakow endowment funds.

Julie Telcher introduced the Barbara Rom for Excellency in Bankruptcy Practice Award. The Award attempts to capture all the elements of bankruptcy practice, including legal ability, ethics, civility, service to the community and bar, and pro bono activity. Stuart Gold was introduced as the recipient of the Award by David Ruskin and Ricardo Kilpatrick. They commented on Gold's 40+ years of practice and the example of civility and patience he has provided to the Bar.

Stuart Gold thanked his family and the many attorneys who mentored him and helped him excel at his practice. Gold was humble about his abilities as an attorney, and noted that he believes his greatest asset that allowed him to succeed and standout as an attorney was his desire and ability to be kind to others.

After Gold accepted his award, Matt Lund provided an update on the activities of the Eastern District of Michigan Historical Society, including an overview of the progress of a documentary on the Court that will air on PBS when completed.

Lund introduced Anna Clark, author of *The Poison City:* Flint's Water and the American Urban Tragedy. Clark discussed the background and reasons behind the Flint water crisis. She traced the origin of the water crisis to Flint's population and economic decline, which caused Flint citizens to pay extremely high water rates in order to support an aging and oversized infrastructure and the poor decisions made in response to this burden. After her presentation, the meeting was formally adjourned, but Clark stayed online to take questions and a discussion ensued with audience members.



Dave Weaver, Court Administrator/ Clerk of Court

I have let the Chapter know that this will be my last article for the newsletter as my retirement date is quickly approaching. You will never know how truly grateful I am for having had this opportunity to serve the Eastern District of Michigan.

I was a bit intimidated coming in back in 1998, not knowing too many people in the Court or members of the Bar. I remember attending my first Chapter luncheon, barely knowing the members of the Bench let alone any of you practicing in the Court. I wish I could remember who I sat with! Along the

way, it has been such an honor getting to know so many of you and the good work you do in the Court and for the community.

I can't thank the members of the Bench and Bar enough for all the support you have provided me over the years. I also cannot speak highly enough of all the Eastern District of Michigan staff I have had the privilege of working with for the past twenty-two plus years. I would also like to thank everyone in the Northern District of Ohio, where I spent my first 11 years in the Federal Judiciary. In both courts, I was able to work with exceptional and dedicated people, many who have been good friends as well.

This is certainly not how I imagined spending my last year with the Court as I have missed the in-person interaction with everyone in the legal community. My successor should be named around the time this newsletter comes out. I can only tell you the Court is considering several extremely well qualified people and I know you will be in good hands after I retire.*

On a final note, the pandemic continues to be relentless and any significant restoration of Court proceedings will still take some time. Please know the Court is doing everything it can moving forward to ensure the safety of the judges, staff, members of the Bar and the public. Please continue to review the Court's website for information as we forge on.

Good luck to you all. So long, farewell and please stay safe.

* Editor's Note: The Court has named Kinkikia Essix to succeed David Weaver.



Kinikia Essix, Court Administrator/ Clerk of Court*

It is with great honor that I introduce myself to you as the new Court Administrator / Clerk of Court for the U.S. District Court for the Eastern District of Michigan. I am extremely grateful to the

Judicial Officers at our Court for entrusting me with this great responsibility.

I am a native Detroiter and graduated from Cass Technical High School. I received undergraduate degrees in management and accounting from Davenport University. I received a graduate degree in public administration from the University of Michigan-Dearborn.

I have worked at the Court for nearly fourteen years. My previous experience includes working in procurement and supervising the financial department. For the past eight years, I have served as the Court's financial manager, operating all budget related activities and overseeing the day-to-day financial and administrative operations of the

Court. In conjunction with the Administrative Office, I advise on policy changes and strategies for internal control compliance and provide training and audit services to court units throughout the judiciary.

I look forward to meeting with members of the Bar and having a successful working relationship in the future.

* Beginning January 1, 2021

Civil Rights Etouffee

On January 28-29, 2021, the Chapter's Civil Rights Committee is co-sponsoring a nationwide virtual event, the 2021 Civil Rights Etouffee. Important issues addressed will be: (1) LGBTQ Rights and 1st Amendment Religion Exemptions; (2) Artificial Intelligence and Civil Rights; (3) Implicit Race Bias in Policing and the Courts; (4) The Ethics of Employing Social Media When Your Case is Headline News; (5) Vulnerable Kids and COVID-19 — Rights and Remedies; (6) Climate Justice; (7) Title IX and the Me-Too Movement; and (8) The US Postal Service and Voting Rights. Registration and more information is available at: etouffeelaw.com.

2020 State of the Court Luncheon

Chief Judge Denise Page Hood and new Chapter President Elect Dan Sharkey launched a new Chapter program year on October 14 during a virtual State of the Court luncheon. The Chapter also recognized Reginald Turner as the winner of the 2020 Cook-Friedman Civility Award, and Valerie Newman as the winner of the 2020 Gilman Award.

Unlike in past years, the annual luncheon was held virtually due to the COVID pandemic. To account for the new, virtual format, the luncheon was preceded by "Small Group Socials" (SGCs). These SGCs began thirty minutes prior to the start of the luncheon. The SCGs randomly paired individual ticket holders, firm partners, and judges into smaller, virtual groups to allow for an opportunity to mix and mingle at the outset of the event.

During her 2020 Annual Report, Chief Judge Hood discussed annual highlights, initiatives and accomplishments of the District Court, as well as challenges that the Court faces as the COVID pandemic continues.

Judge Hood acknowledged the unfortunate passing of Retired Judges Patrick J. Duggan and James P. Churchill.

Judge Patrick J. Duggan passed away on March 18, 2020 at the age of 86. Judge Duggan was appointed by President Ronald Reagan on October 14, 1984. He took senior status on September 29, 2000 and maintained a full caseload until he shut down his chambers in September

(continued on page 4)

State of the Court (from page 3)

2015. Prior to taking the federal bench, Judge Duggan served the Wayne County Circuit Court for 10 years.

Judge James P. Churchill passed away on June 29, 2020 at the age of 96. Judge Churchill was appointed by President Gerald Ford on December 20, 1974. He served as Chief Judge of the Eastern District of Michigan from February 7, 1989 until he took senior status with a reduced caseload on December 30, 1989. He went on inactive status in late 1995.

Chief Judge Hood also acknowledged the reappointment of Magistrate Judge David R. Grand, and the retirement of Magistrate Judge Mona K. Majzoub. Judge Hood further noted that Court Administrator/Clerk David J. Weaver has announced his intention to retire at the end of 2020 after 33 years of service to the federal court system.

With respect to COVID-19, Judge Hood detailed the measures set forth by the Court in response to the pandemic. As a result of Governor Whitmer's March 24, 2020 Executive Order, the Court immediately developed a new way of working and conducting its business in a safe, and largely remote, manner. Although socially distant grand jury proceedings are taking place at the courthouse, Zoom has become the medium for conducting all other judicial proceedings. Court meetings continue to be conducted by Skype and other interactive methods. Judge Hood also detailed how this significant shift in Court operations has affected pro se litigants and members of the public wishing to access judicial proceedings. While Judge Hood acknowledged that the Court's Reconstitution Committee is developing protocols for the safe resumption of jury trials and other in-person court hearings, she also noted that COVID-19 trends are still not in an acceptable downward trajectory. So the Court and its staff will continue to work remotely until it is safe to do so in-person. Judge Hood thanked the Bench, the Bar, and the public for their patience during this unprecedented health crisis.

Chief Judge Hood concluded her annual report by providing statistical information about the Court. A report containing full information may be found online at www. mied.uscourts.gov under Court News, 2020 Annual Report.

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

New Magistrate Judge Kimberly G. Altman

On September 16, Kimberly G. Altman, Judge Avern Cohn's longtime career law clerk, was sworn in as a United States Magistrate Judge for the Eastern District of Michigan. Chief Judge Denise Page Hood opened the special session of the Court, welcoming Magistrate Judge Altman to her new role with the Court. In her opening remarks, Chief Judge Hood also introduced the other Eastern District of Michigan judges that had been in attendance both physically and virtually. Judge Cohn then offered remarks, reflecting on their many years spent working together, and administered the oath of office to Magistrate Judge Altman. Magistrate Judge Altman's husband, William, assisted the judge in donning her judicial robes for the first time.



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Along with William, Magistrate Judge Altman's parents and two children were present at the ceremony. Dozens of other family members, friends, colleagues, and judicial officers attended via Zoom. Magistrate Judge Altman spoke at the ceremony, thanking her family for their love and support and Judge Cohn for the experience of serving as his law clerk for twenty years. Judge Bernard Friedman, Executive Magistrate Judge Steven Whalen, and Magistrate Judge Elizabeth Stafford offered brief remarks expressing confidence and good wishes towards Magistrate Judge Altman as she embarks on this new journey.

New Magistrate Judge Curtis Ivy, Jr.

On Friday, October 2, Magistrate Judge Curtis Ivy, Jr., was sworn in as the Court's newest magistrate judge. The swearing in took place at the Theodore Levin Courthouse in Detroit. Chief Judge Denise Page Hood introduced Magistrate Judge Ivy and administered the oath. Several District and Magistrate Judges, as well as Magistrate Judge Ivy's two brothers, were in attendance. Chief Judge Hood read aloud a letter from

United States Senator Doug Jones, who congratulated Magistrate Judge Ivy on his appointment and spoke of Magistrate Judge Ivy's dedication and commitment to equal justice and the rule of law.

Magistrate Judge Ivy was born and raised in Kalamazoo, Michigan. He earned his undergraduate degree from Eastern Michigan University and his Juris Doctor from the University of Mississippi School of Law. After law school, Magistrate Judge Ivy clerked in the 4th Judicial Circuit in Mississippi, and then became an Assistant District Attorney in the same circuit. In 1998, he joined the United States Attorney's Office in the Northern District of Mississippi. He then moved to the USAO in the Middle District of Alabama in 2013, where he worked in the narcotics unit and

as Senior Litigation Counsel. His swearing-in marks his return home to Michigan, where he will be closer to family and friends. Magistrate Judge Ivy will sit in the Flint divisional office of the Eastern District.

It is safe to say that Milt Zussman is one of our Chapter's most veteran members. Also a WWII veteran, distinguished attorney, celebrated community leader, and dedicated father, grandfather and great-grandfather, Zussman's accolade-filled lifetime speaks for itself. The

Focus on an FBA Member:

Milton Zussman

Chapter has had the great fortune of his membership for decades.

After serving our country from 1942 to 1946 in the U.S. Navy Air Corps—where he flew CASU 22 blimps in Brazil—Zussman returned to his hometown, Detroit,

to attend college. "I used to argue with my English

teacher," Zussman remembers, and one night after class, "he made me walk over to the law school." Zussman earned his law degree from Wayne State University in 1949.

Not stopping at law school, Zussman went on to graduate from Harvard Business School's Owner, President, Management program. "I'm not a trial lawyer," Zussman acknowledges, "but I'm a damn good business lawyer." He quickly became a dynamic force in Detroit's legal community, establishing his own private practice and often traveling

overseas to represent business clients. More recently, he has served as a skilled mediator and arbitrator. Although Zussman was given numerous opportunities over the years to transition to the judiciary, he valued and enjoyed his career as an attorney too much to shift gears. "I liked what I was doing. I liked the business world. And I was good at it." Now 99 years old, Zussman has been practicing law for an incredible seventy years.

Zussman is a true advocate. Within the first decade of his legal career, he began teaching at a legal clinic that served low-income and minority clients, ensuring they received fair treatment in local courtrooms and building trust between them and the bench. Zussman was joined in this work by Martin Doctoroff, who went on to serve

as Chief Judge of the Michigan Court of Appeals. "I've always believed in honesty," Zussman says, matter-offactly. "I've always believed in being straight."

Zussman's contributions to the broader community are as stand-out as his legal contributions. He is an Eagle Scout, dating back to the 1930s, after all. Zussman and (continued on page 6)



The swearing in of Magistrate Judge Curtis Ivy, Jr.

Photo by Steve English.



Milton Zussman FBA Focus Member

Zussman (from page 5)

his family are renowned for their generosity and service to Temple Emanu-El and Kadima Mental Health Services, which opened the Lois and Milton Y. Zussman Activity Center in 2005. Zussman himself is a former chair of United Community Services and vice chair of United Way. Now, he watches proudly as his children and grandchildren continue his legacy of leadership and service, here in Detroit and around the country.

UofD Mercy School of Law Awarded Public Service Award

On September 8, University of Detroit Mercy School of Law's Federal Pro Se Legal Assistance Clinic was awarded the 2020 Ilene and Michael Shaw Public Service Award from the National Federal Bar Association. This national award recognizes the work that recipients do in and for their community.

The award was presented via Zoom during the Court's judges' meeting. Chapter President Fred Hermann presented the plaque commemorating the award. Chief Judge Denise Page Hood invited Dean Phyllis L. Crocker, Associate Dean of Experiential Education Nicholas Schroeck, Federal Pro Se Clinic Director Barb Patek, and Director of Clinical Operations and Outreach Rebecca Simkins Nowak, to each remark about the receipt of this award.

"We are honored to receive this prestigious national award in recognition of the service that the Federal Pro Se Legal Assistance Clinic provides for our community," commented Schroeck. "Professor Patek and the students work hard to provide the best legal assistance possible to litigants in need of help and guidance."

Detroit Mercy Law's Federal Pro Se Legal Assistance Clinic began in 2018. The Clinic operates out of the Court's Southern Division. A part-time staff attorney and up to eight students provide limited scope legal assistance to indigent and low-income non-prisoner *pro se* litigants at no cost.

IP Section Hosts Legal Update Webinar

On Thursday, August 13, the Chapter's Intellectual Property Section held a Zoom webinar on "Recent Developments in IP Law." The hour-long, lunchtime presentation featured Attorneys Joe Barber of Howard & Howard and Section Co-Chair Brian Wassom of Warner Norcross + Judd LLP.

Mr. Barber summarized developments in patent law, including court decisions regarding FRAND (Fair Reasonable and Non-Discriminatory) license terms in both the United States and Europe. He also addressed developments in how courts evaluate patent eligibility,

and the continuing dispute over the constitutionality of the Patent Trial and Appeal Board. Mr. Wassom discussed recent U.S. Supreme Court decisions involving state governments and copyrights, prerequisites for copyright infringement lawsuits, and the Music Modernization Act. He also summarized the Court's recent trademark-related decisions involving the standards for awarding profits in trademark infringement actions and when internet URLs can be eligible for trademark protection.

This Zoom presentation was recorded, and is among the first video resources that the Chapter has archived for the use of its members. As of this writing, the presentation remains available in full at https://vimeo.com/447938607.

Executory Contracts, Bankruptcy, and Covid-19

On August 6, the Bankruptcy Committee, along with the Debtor/Creditor Rights Committee of the Business Law Section of the State Bar of Michigan and the Business Bankruptcy Committee of the Business Law Section of the American Bar Association and its Executory Contracts Sub-Committee, hosted a nationwide webinar on the treatment of executory contracts and unexpired leases in the new COVID environment. The presenters were Rozanne Giunta of Warner, Norcross; Ivan Gold of Allen Natkins in San Francisco; Chief Bankruptcy Judge Daniel S. Opperman of the Eastern District of Michigan; Judge Vincent Papalia, United States Bankruptcy Judge for the District of New Jersey; and Natasha Songonuga of Gibbons, PC in Delaware.

Over 190 people attended this webinar. The webinar focused on the emerging bankruptcy cases on suspension of bankruptcy proceedings and rent abatements of major retailers in bankruptcy given the dynamics of COVID shutdown orders. A number of major retailers have already filed for bankruptcy and it is expected that more major retailers, unable to pay their rent obligations as required under the Bankruptcy Code, will soon file for bankruptcy. As required under the Bankruptcy Code, the bankruptcy courts have been fashioning equitable relief for the debtors while seeking to protect the landlords as a result of nonpayment of rent obligations. Judge Papalia handled one of the first cases in the Modell's Sporting Goods case. Ivan Gold represents landlords in many of these high profile cases. The panel discussion was lively and extremely informative on thi issue that will repeat itself in current cases as well as in the expected future cases to be filed by major retailers.

The Bankruptcy Committee is planning another webinar in Spring 2021 on the effects of the expected relaxation of the moratorium on mortgage foreclosures, rent evictions and the expiration of the higher eligibility limits for small business reorganization cases expiring March 2021.

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

Judge Guy

Devin Adams – University of Richmond Law School

Judge Clay

Yaacov (Jake) Meiseles – Harvard Law School Jacob Gelman – Yale Law School Sophia Gonzalez – University of Michigan Law School Bryan Payton – Harvard Law School

Judge Kethledge

Christian Dibblee – Georgetown Law Isabelle Hanna – Yale Law School Rachel Rothberg – Yale Law School Daniel Strunk – Yale Law School

Judge White

Kendall Collins – Columbia Law School
Nicholas Maricic – University of California, Berkeley
School of Law

Justin Berg – University of Pennsylvania Law School

Judge Larsen

Natalie Komrovsky – *Vanderbilt Law School* Brian Kulp – *Harvard Law School* Tommy Zaino – *University of Michigan Law School*

Chief Judge Hood

Devron Brown – George Washington University Law School (starting 12/7)

Judge Cohn

Michael Jernukian – Wayne State University Law School

Judge Friedman

Rachel Davidson Raycraft – *University of Virginia* School of Law

Judge Cleland

Alexander Belica - University of Michigan Law School

Judge Borman

Timothy Nevins – Vanderbilt Law School

Judge Tarnow

Theodore Jack – New York University School of Law

Judge Roberts

Leighton Watson – *Harvard Law School* Essence Patterson – *Wayne State University Law School*

Judge Ludington

Zakary Drabczyk – *Wayne State University Law School*

Judge Cox

Amanda McSween - Wayne State University Law School

Judge Murphy

Megan Ball – Notre Dame Law School Nicolas Merrill – Boston College Law School

Judge Berg

Laurel A. Hattix — University of Chicago Law School Hetali Lodaya — University of Michigan Law School Bonifacio Sison — University of California, Berkeley School of Law

Judge Levy

Cassandra (Casey) Thomas – *University of Michigan Law School*

Leslie Calhoun – Wayne State University Law School

Judge Michelson

Danielle Young – *Harvard Law School*

Judge Leitman

Donya Khadem – University of Michigan Law School

Judge Davis

Bri'An Davis – *University of Iowa College of Law* Brent Winslow – *University of Michigan Law School*

Magistrate Judge Morris

Nicholas Madaj – *Michigan State University College of Law* Michelle Shember – *Detroit Mercy Law*

Magistrate Judge Altman

David Mellem – *University of Michigan Law School* Kristina Gregerson – *Wayne State University Law School*

Magistrate Judge Ivy

Nadia Maraachli – *University of Detroit Mercy School of Law* Jessica Laguerre – *Cornell Law School*

Officers and Directors 2020-2021

These officers and directors started their terms at the Annual Meeting in June 2020.

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

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Special Thank You to Our 2020 Luncheon Sposors

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Officers and Directors (from page 7)

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Term Ending June 2021

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Katherine B. Gullo Clerk of the Court United States Bankruptcy Court

Hon. Fred M. Mester District Court Ombudsman

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Calendar of Events

Dec. 9 **Book Club**

Virtual

Noon - I:00 PM

The Second Founding, by Eric Foner Members and Guest: Free

Dec. 16 **Chapter Holiday Party**

Virtual

4:30-5:00 PM Pre-Party

5:00 – 6:00 PM Holiday Party including Presentation of the Cohn Award Look for additional information in an e-Blast.

Jan. 12-13 45th Annual New Lawyers Seminar

Virtual

8:30 AM - 1:00 PM

Cost: \$75, includes two-day seminar, presentation materials, and one year of Chapter membership.

REGISTER NOW

Jan. 28-29 Civil Rights Etouffee

Co-Sponsored by the Chapter's Civil Rights Committee Virtual

Cost: Free to Chapter Members More info at: etouffeelaw.com **REGISTER NOW**

Updates and further developments at

www.fbamich.org

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