

March/April 2007

BARBEAT

Genesee County Bar Association



Butterflies
Frederik Meijer Gardens
Grand Rapids
By LindaLee Massoud

Introducing Your New
Bar Beat Editor

Lanny and Me

Pensions in Divorce



Michael Johnson and Lynnmarie Johnson



Ann Lossing Ruwart and Tim Ruwart aka "Santa"



Chris Christenson, K.C. Baran, Mark Newman, and Shari Baran



Alan Penskar, Michael Winterfield, and Paul Goyette



"The Gang"



Linda Pohly, Brian Barkey, Doris Barkey, Shelie Robinson, and Trina Stroope

"Lunch With Larry"

Thanks to all who braved the bitter cold to join us on this occasion to thank the Battiste family for all that they do for the GCBA. "Lunch With Larry" was a great success, with more than 50 attendees: K.C. Baran, Shari Baran, Brian Barkey, Doris Barkey, Richard Barron, Carl Bekofske, George Brueck, Tina Burroughs, Jeff Chimovitz, Chris Christenson, Steve Connolly, Tom Connolly, Richard Cooley, Jim Draper, Star Estep, Paul Goyette, Sue Gregory, Ron Haldy, Clifford Hart, Jonathan Hartman, Edward Henneke, Tammy Horton, Michael Johnson, Lynnmarie Johnson, Bill Khouri, Don Kuebler, Ann Lossing Ruwart, Amy Magee, Steve Moulton, Mark Newman, Tom Pabst, Alan Penskar, Joan Pierson, Randolph Piper, Linda Pohly, Shelie Robinson, Timothy Ruwart, Ramona Sain, David Shook, Sean Siebigteroth, John Siler, Glenn Simmington, Alan Smith, John Streby, Trina Stroope, Richard Szymczak, Lynne Taft, Paul Vance, Tony Vance, Timothy Winship, Mike Winterfield, and Judge Thomas Yeotis.

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- ❖ **Publications**—"Private Mediation," *Bar Beat*, July 1995; "Facilitative Mediation," April 1996 and "Michigan Mediation Update," June 2004, *Michigan Lawyers Weekly*

The State of the Genesee County Bar Association

By Kraig S. Sippell, President

Just when you thought it was safe to go outside—wham—winter finally arrives. But who wants it now? During the holidays would have been nice, but for heaven's sake, not NOW. Oh well, it is Michigan, after all. Anyway, as the middle of the fiscal year has come, I thought I would take some time first to say thank you to all of those attorneys, their spouses and families, their staffs, the GCBA staff, and the entire legal community for their ongoing service and commitment, not only to the GCBA, but more importantly to this community.

Attorneys and the entire legal system are in a very difficult time due to recent unfortunate instances in which the actions of one attorney have negatively impacted the whole system. But, I have the utmost faith that 99.9 percent of our local practitioners are individuals of whom we can be proud and who strongly believe in maintaining the honesty and integrity of the profession.

One example of our local practitioners stepping up to the plate is the initiative developed by the Inns of Court and endorsed by the GCBA to assist Shannon Pitcher's clients. Volunteer attorneys have agreed to consult with those needing assistance, at no charge, and to help steer them in the right direction. (See announcement on page 10.) The GCBA serves as a clearinghouse for those people, most of whom are without resources or knowledge of where to go for assistance. GCBA staff has fielded telephone calls from individuals across the state, but primarily in the Genesee County and thumb areas. A heartfelt thank you to those attorneys who more often than not go unrecognized and underappreciated for their contributions. I, for one, know who you are and appreciate your efforts.

As we move swiftly through the beginning of the new year, I would also like to take a few moments to reflect on the many other things that the bar has accomplished these past six months. Sometimes, as we maneuver in and out of our own schedules, we forget to take stock of what we have actually done. This is just a partial list:

- Successful Board Retreat and Strategic Planning Initiative with the ABA
- Collaboration with *The Flint Journal*, including the "Attorney Guide," Ask the Attorney, and the new GCBA logo
- ADR seminar on Case Evaluation
- Planning for an improved Annual Meeting program
- Reorganization of Law Day activities and luncheon
- Annual Holiday Dinner, with special thanks to Brian Barkey and the committee—a well-oiled machine
- Social gatherings, including the NUTS theatrical production and the very successful Greater Flint Arts Council cocktail party
- Planning for the Annual Bar Outing scheduled for June 4, 2007, at Flushing Valley Golf and Country Club
- Planning for the 3rd 5K Road Race scheduled for June 15, 2007
- Updating the GCBA website, gathering member input through various surveys, offering Notes'N News via e-mail, and implementing a member listserv
- Disney on Ice, March 2007 with the Young Lawyers
- Federal Practice Committee Seminar scheduled for March 13, 2007
- Family Law Seminar—coming soon
- Purchase of new office computers

A fairly impressive list, especially



Kraig S. Sippell

amidst ongoing strategic planning efforts. These are the types of accomplishments that set this bar apart from any other. You only need look at this list (partial one at that) if you question why or how you should be involved in the GCBA. I didn't even mention the ongoing efforts of our numerous committees and their chairs. This list provides a fairly good snapshot of who we are and what we do as an association, and why we can be proud to play a small part in the GCBA.

As we move toward the last few months of my presidency, we can surely be proud of the many things accomplished, and enthusiastically look forward to future endeavors and programs. As a well-respected friend of ours loves to say,

THE BEST IS YET TO COME !

Regards, Kraig Sippell



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A Little of This, a Little of That

By Ramona L. Sain



Ramona L. Sain

I recently called Brian Barkey in a huff.

"What are we going to do with these people?" I exclaimed.

"With whom?" Brian asked, calm as usual. (I suspect this is a sign of a good attorney. As the voice level of the client goes up, the attorney's goes down.)

"The Battiste family!" I continued.

Even more calmly, Brian asked, "What happened?"

"Well, I opened today's mail, which had a bill from the Masonic Temple for the January membership meeting!" I breathed and continued, "Included with the bill was a \$400 donation from the Battistes to the Bar Foundation for the Annual Holiday Dinner! What's wrong with these people?"

Brian paused, then chuckled. "I don't know, Mona," he responded, but quickly began to paraphrase the thoughts that ran through my mind when I opened the mail. The Battiste family gives and gives, and gives some more. They volunteer their time toward the holiday dinner, undercharge us for the cost of the food, refuse to allow us the opportunity to give them the accolades they deserve, and then turn around and make a significant financial donation back to us. (Remember TV 12's profile of the Battistes as their Person of the Week a few years ago? Larry refused to be interviewed. Brian did it instead.)

By the time you read this exchange, the Holiday Dinner will long be over, and "Lunch with Larry," which we use as an opportunity to give something back to the Battistes by encouraging GCBA members to frequent the Temple Dining, will have passed. But the good will, good nature, and generosity of people like the Battistes is a constant. Included

in this group are our members, whose combined donations toward the dinner exceeded \$10,000—enough to pay for all of our expenses and provide seed money for next year. This is very much needed since Kurt Brown's wife, Marlena, has already started to buy gifts for the year.

Attorney Guide and Ask the Attorney

By now, every member should have received a communication in the mail from the GCBA and *The Flint Journal*. As President Sippell mentioned in the last issue of *Bar Beat*, this collaboration is a way to raise the profile of our members and the GCBA. The deadline to complete the form for your free member listing is March 30, 2007. Extra copies of the registration form can be found on our website at www.gcbalaw.org.

Law Day—Celebrate Your Freedom

The 2007 theme for Law Day is "Liberty Under Law: Empowering Youth, Assuring Democracy." Plans are in the works to streamline our various Law Day activities and events. This includes condensing the event to one day of the week, and moving the date of the 5K Road Race.

Nominations and Awards

The GCBA Nominating Committee is accepting names for consideration to the Board of Directors. Forms were sent in February with a response deadline of March 16, 2007. Additionally, names are being considered by the GCBA Professional Practice Committee for the Herbert A. Milliken, Jr. Civility Award and the Centennial Inn of Court for the Jerome F. O'Rourke Advocacy

Award. Once again, you should have already received these applications. Copies can be found on the GCBA website at www.gcbalaw.org. Those two awards, in addition to the Pro Bono Attorney of the Year Award given by Legal Services of Eastern Michigan, and the Distinguished Case Evaluator given by Circuit Court, will be bestowed at the Annual Meeting and Election of Officers scheduled for Monday, May 21, 2007, noon, at the Masonic Temple.

SBM Pilot Project

The Board of Directors recently approved collaborating with the State Bar of Michigan on a pilot program developed by Wayne Bentley of the Michigan Center for Civic Education Through Law. The program aims to inform high school students about the purpose of jury service and democracy through local intermediate school districts. One component involves showing the locally produced video by Judge Farah, titled "Jury Duty: It's Not Fair if You're Not There." Approximately four-to-five attorneys and two-to-three judges are needed to implement this program. This commitment involves attending an in-service training day with high school teachers and volunteering a few hours each month through the school year to teach the program in area high schools. Benchmarks have been put in place to measure the program and, if successful, implement throughout the state. The SBM plans to launch the program in May. If you are interested or would like additional information, please contact me at (810) 232-6012.

Introducing Your New Bar Beat Editor

By LindaLee Massoud, Editor



LindaLee Massoud

When I saw Francine's parting article in the Nov./Dec. issue of *Bar Beat*, I had this sinking feeling that I would be asked to prepare an introductory article for my first issue. Sure 'nuf. That was the next request. (Gulp 1). Furthermore, Francine just sent me numerous attachments by e-mail containing rules and instructions. (Gulp 2). Will I be able to stand in the very long shadow of my two predecessors, Francine Cullari and Randy Piper? I will do my best! (Gulp 3).

It is a great honor to be asked to fill this prestigious position. Our bar is one of the largest and most active in the state, and our *Bar Beat* magazine exemplifies the best of our members and their activities. My goal as editor will be to preserve the fine tradition of promoting our members' outstanding achievements.

To that end, I have decided to shorten my article in favor of including some extra pictures of our recent activities. Hearing no complaints, this being January and you not reading it until March, let me offer to you my e-mail address and ask for your ideas for articles, topics, or features, all of which will be considered for submission to our outstanding publication. With a subject line that includes BB (for Bar Beat), please send your ideas to law@massoud.org and I will offer you my gratitude in advance for helping me in this honorable endeavor.

Photography Contest

Actually, in the spirit of the recent Greater Flint Arts Council display, how about if we have a little photography contest open to the membership? If you have a lovely picture to share, please send it to BarBeat@gcbalaw.org in digital form. Include a short description of the picture, including

who took it, who is in the picture (if it includes people), and when and where you took it. Perhaps you would want to include why you took it. Please do not submit any pictures that would require a copyright waiver. Winning pictures will be featured in future issues, some of which have a theme. The June/July issue promotes our golf outing, the September/October issue kicks off the fall, and the November/December issue celebrates the holiday seasons. If you have photos suitable to these themes, submit them as well. Since *Bar Beat* goes to print 30 days before the publication date, earlier submission is better than later!

Bar Beat plans to write future stories involving GCBA members who also own and operate non-law-related businesses. If you would like to share your non-law business activities, contact the GCBA at (810) 232-6012.

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THRIVE.

Lanny and Me

By John Streby

Rabbit Stew, a Flint-based novel depicting the converging spheres of law and politics, has been warmly received by local readers, many of whom have inquired about a sequel. I'm pleased to report to my loyal customers that your wishes will be fulfilled! With publication expected in May 2007, *Lanny & Me* delves into the life of one Lanny Lessner, an eccentric, iconoclastic, larger-than-life documentary filmmaker who rockets to overnight fame and wealth with a hard-hitting documentary

"The filmmaker's saga is retold by a friend and colleague, Warren Hill, whose first-person narrative chronicles his long-term relationship with Lessner. As the story evolves, Hill confronts a growing body of evidence that Lessner, apparently intoxicated by his celebrity status, is a crass, deceptive, manipulative phony, whose own excesses mimic those of the targets of his pungent wit."

about the decline of Flint after a spate of factory closings. Revered by millions, Lessner seems poised to become the Ralph Nader of his generation.

But there are skeletons in Lessner's closet, such as shady dealings, antisocial behavior, and random acts of mean-spirited hypocrisy. The filmmaker's saga is retold by a friend and colleague, Warren Hill, whose first-person narrative chronicles his long-term relationship with Lessner. As the story evolves, Hill confronts a growing body of evidence that Lessner, apparently intoxicated by his celebrity status, is a crass, deceptive, manipulative phony, whose own excesses mimic those of the targets of his pungent wit.

Just as *Rabbit Stew* provided an insider's look at the legal system, *Lanny & Me* will afford readers a window into the bizarre world of mass entertain-



John Streby

ment, where celebrity worship is the order of the day and fortunes can be made and lost overnight. A poignant tale of friendship, trust, betrayal, and retribution, it is sure to attract a large following.



John's first book, *Rabbit Stew* is available at book-sellers now. *Lanny and Me* is due to be released May, 2007.

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Pensions in Divorce

By Alan R. Rohde, CPA, PFS

For many married couples, one of the largest assets they have is the pension of one or both of the parties. Disposition of the pension then becomes a litigated item when one of them files for divorce. Many pensions in today's world are defined contribution plans and by their very nature are easily valued. The monthly statement shows the participant the total value of the pension. In many cases, the pension is fully vested, and the total value is what is available to the participant. When that is the case, it simply becomes a matter of determining how much of the pension was earned during marriage. This is most often determined by the number of months the participant was married while earning the pension versus the total number of months that the participant either worked for the company or contributed to the plan if it was a 401(k) plan.

The real controversial issue in a divorce is when one or both of the parties participate in a defined benefit plan. In this case, it becomes a matter of determining the present value of the future cash flow of the pension annuity

payments. The process used to make the computation depends on a number of factors and assumptions.

The starting point is to determine the birth date of the participant. Once the age of the participant is known, his or her life expectancy is calculated and a discount rate is used. The government-provided life expectancy tables are used to determine how long the individual is expected to live after retirement. Insurance industry tables are also used to determine the likelihood of the individual actually reaching retirement age. The chance of making it to retirement age is called the Boyd factor and is a factor often overlooked in valuations prepared by persons not familiar with computing present values of annuities.

Once the age, life expectancy, rate of return, Boyd factor, and length of marriage during the working career have been determined, the calculation can be made. In many cases, this is the starting point for negotiations because most plans allow for a qualified domestic relations order (QDRO). Most people consider their pensions their own and don't want to give up any of the future

annuity payments to an ex-spouse. The value arrived at as a present value figure then becomes the negotiating figure to determine what it will cost to pay off the ex-spouse and be able to retain the entire future pension for himself or herself.

The following chart indicates what happens when just one variable is changed. In the first three columns, the only variable is the present value factor. As the present value increases, the value of the pension decreases. This is because it would take a lesser amount invested today to reach the point of having enough funds to pay the full retirement benefit if the participant is assured of realizing a greater rate of return on the investments over the balance of the years until and during retirement.

In the last three columns of the chart, the age of retirement has been changed to an immediate benefit. When this occurs, two things change. First, there is no longer a waiting period until the benefit is to be paid, and therefore there is no time for the fund to increase in value. Instead it must be enough to provide the benefit starting immediately.

Calculation of Pension Values

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Age of Participant	55	55	55	55	55	55
Time Married During Working Career	100%	100%	100%	100%	100%	100%
Present Value Factor	4.80%	5.80%	6.80%	4.80%	5.80%	6.80%
Amount of Pension Benefit	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500
Date Pension Starts	12/1/2016	12/1/2016	12/1/2016	12/1/2006	12/1/2006	12/1/2006
Value of Pension	\$114,515	\$95,866	\$80,580	\$279,603	\$250,932	\$226,556

The second factor is the elimination of the Boyd factor. With an immediate annuity, there is no longer any doubt as to whether the individual will reach retirement age. Since that is the case, no reduction in value takes place based on the probability of reaching retirement age.

When making or changing assumptions, one must be careful to use assumptions that are reasonable, so although a valuation expert can use a number of different assumptions, he must use assumptions that he feels he can support if called to court to testify.

As accountants, we are involved in not only determining what would be a fair payoff, but also in advising the client about the tax aspects of making the payoff versus giving up the future pension. For nearly every working participant with a future pension benefit, the services provided by a certified public accountant can be instrumental in arriving at an acceptable resolution.

Editor's Note: Alan R. Rohde, CPA, is the Managing Principal of the Flint office of Yeo & Yeo, the accounting firm for the Genesee County Bar Association and Genesee County Bar Foundation.

Future monthly membership meetings are March 19, 2007, featuring Kimberly M. Cahill, State Bar of Michigan president; April 16, 2007; and May 21, 2007, which will be the annual meeting/election of officers and awards luncheon. Awards will be presented to the Pro Bono Award Attorney of the Year from Legal Services of Eastern Michigan, Distinguished Case Evaluator of the Year Award from Genesee County Circuit Court, Jerome F. O'Rourke Advocacy Award from the Chapter of the American Inns of Court (2006 and 2007 recipients), and the Herbert A. Milliken, Jr. Civility Award presented by the Genesee County Bar Association.

Membership meetings are free to all sustaining members. GCBA would like to thank them for their support:

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ANNOUNCEMENT

The Centennial Chapter of the American Inns of Court and the Genesee County Bar Association have organized a panel of volunteer lawyers for the purpose of assisting the clients of Shannon Pitcher. All panel members have agreed to participate on a pro bono basis. All panel members are members of the Genesee County Bar Association.

Clients of Ms. Pitcher who have pending uncompleted legal matters may call (810) 232-6000 to be referred to a volunteer lawyer for assistance in determining the status of their matter, obtaining a copy of their file, and, if appropriate, a referral to a lawyer to complete their matter. Volunteer lawyers will meet with the client, secure and review the clients' file if appropriate, and counsel the clients concerning the status of their legal matter and the steps that might be taken to advance their legitimate legal interests. Panel attorneys will not charge for this work.

The volunteer panel attorneys have all agreed that they will not accept fee-generating legal work from any client referred under this program. If additional legal work is required, the volunteer attorney will use his or her best efforts to locate a suitable replacement attorney to complete the work.

The national American Inns of Court and the local Centennial Chapter remain committed to their primary mission: to improve the skills, professionalism, and ethics of the bench and bar. The Genesee County Bar Association remains committed to its primary mission: to serve the professional needs of our members, improve the justice system, and educate the public about the law and role of lawyers. This volunteer panel does not reflect a change in the mission or the future operations of either organization. It is, instead, a response to an unusual situation and need.

RESOLUTION

A meeting of the Board of Directors of the Genesee County Bar Association was held on the 18th day of January, 2007, and upon a Motion which was duly seconded, the Board of Directors passed the following resolution:

Whereas, the Genesee County Bar Association Board of Directors has reviewed the proposal of the Genesee County Circuit Court judges regarding revisions to the juror personal history questionnaire; and

Whereas, concerns were raised about the proposed removal of jurors' names from the personal history questionnaire, among others; and

Whereas, it is believed that the proposed changes are not in the interests of justice and effective trial advocacy;

Now, Therefore, Be It Resolved, the Genesee County Bar Association Board of Directors believes the juror personal history questionnaire should not be revised and should continue to include jurors' names.

Signed by:

Kraig S. Sippell, President

Timothy H. Knecht, Secretary

January 18, 2007

Transitions



John Tosto, Eric McCormick, Pete Bade, and Mike Joliat

Moved to Oregon

Colleagues of Eric McCormick hosted a going-away party for him on January 11, 2007, at Bar Louie in Flint Township. Eric moved to Oregon shortly after and is currently studying for the bar. We wish him all the best.

Moving to Wyoming

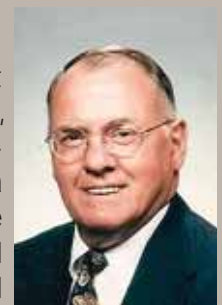
John Prokos recently announced his relocation to Wyoming. John, a member since he passed the bar in 2002, was employed as an assistant prosecutor for Genesee County. He joined friends at the GCBA's January membership meeting as his last official association gathering. John will be the chief deputy county and prosecuting attorney of Sweetwater County, Wyoming.



John Prokos

Member Retires

After 44 years of practice, Robert L. Shegos retired effective January 1, 2007. Robert graduated from the Detroit College of Law in 1963 and was a longstanding member of the Genesee County Bar Association. Family and friends paid him tribute and celebrated his retirement and birthday November 17, 2006, at Spring Meadows Golf and Country Club. When asked what he will do now, he responded, "Anything I want." Congratulations, Bob!



Bob Shegos



Attorney presents case



Defendant and attorney consult



Opposing attorney presents case



Hon. David J. Newblatt



A witness takes the oath



Hon. Archie Hayman



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