

# BARBEAT

Genesee County Bar Association



2014 Law Day Coloring Contest Winners

Powers of Attorney—When Authority Exists After Death

Law Day 2014: American Democracy and the Rule of Law: Why Every Vote Matters

Mallory, VanDyne, Scott Serves

2014 Probate Seminar

Are More Whistleblower Lawsuits Good or Bad For Us?

Brenda Swann Selected as the Judge Marable Student of the Year

Who We Are: José Brown

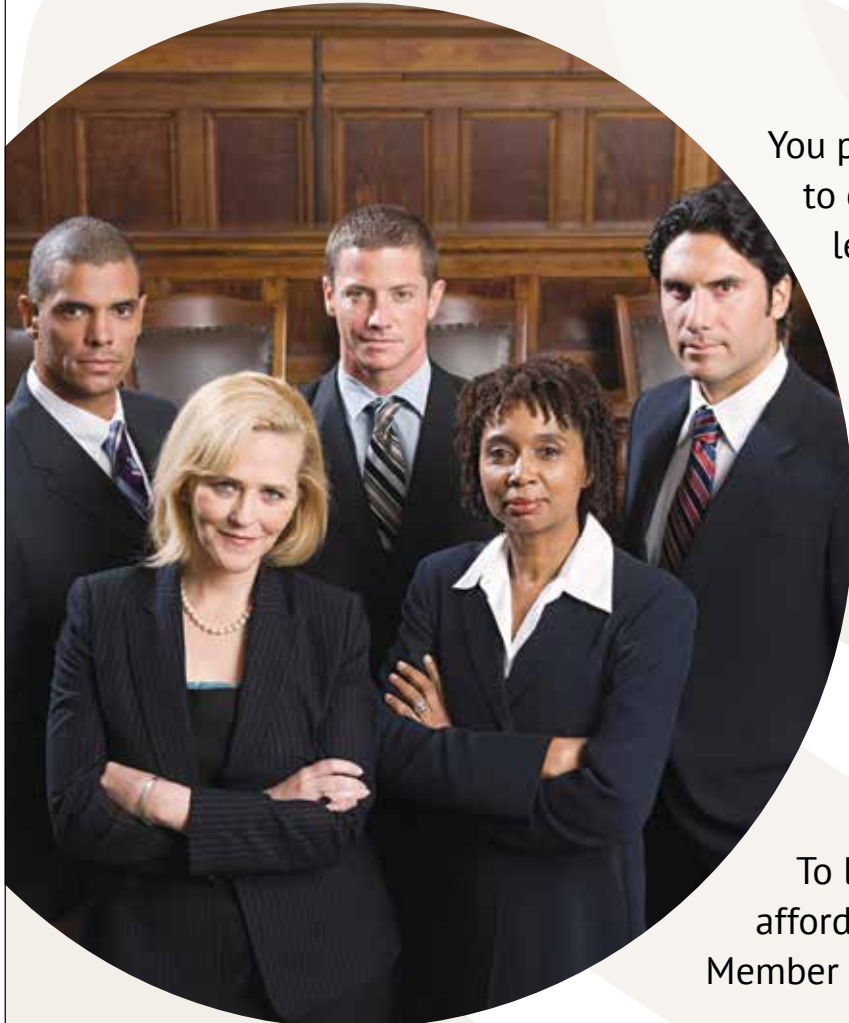
“Writing is Me”: Gender-Based Arts Programming for Youth in Detention

Who’s on the Bench? Hon. John A. Gadola

Bar Foundation Receives Neithercut Gift

Criminal Law Seminar Summary

# Protecting your health. Today.



You plan every detail of your practice to ensure its success. Nothing is left to chance.

Don't take chances with your health insurance. You and your staff deserve a quality Blue Cross® Blue Shield® of Michigan health plan.

- Group plans
- Individual plans
- Recognized worldwide
- Solutions tailored to your needs

To learn more about the affordable BCBSM plans, contact Member Insurance Solutions.

Call **800.878.6765** or visit [memberinsurancesolutions.com](http://memberinsurancesolutions.com) today.

**Protecting tomorrows. Today.**



A nonprofit corporation and independent licensee of the Blue Cross and Blue Shield Association



*Member Insurance Solutions is a marketing name of MDA Insurance & Financial Group.  
Blue Cross Blue Shield of Michigan is a nonprofit corporation and independent licensee of the Blue Cross Blue Shield Association.*

## Genesee County Bar Association

### 2013-2014 Board of Directors

PRESIDENT – Erwin F. Meiers III  
 VICE PRESIDENT – Jeffrey J. Himelhoch  
 TREASURER – Michael A. Kowalko  
 SECRETARY – Shayla D. Blankenship  
 IMMEDIATE PAST PRESIDENT – James J. Wascha

### Specialty Bar Board Members

Young Lawyers Delegate – Jessica J. Hammon  
 Women Lawyers Delegate – Vacant  
 Mallory, VanDyne, Scott Bar – Torchio W. Feaster  
 Flint Trial Lawyers Representative – Michael P. Parillo

### Board Members

Leo P. Carey '14	Morgan R. Cherry '14
Craig L. McAra '14	Jonathon Poulos '14
Jade J. Edwards '15	Richard S. Harris '15
Lynne A. Taft '15	Hon. Joseph J. Farah '15
James N. Bauer '16	Sherri L. Belknap '16
Kyle R. Riem '16	Angela Watkins '16

### Staff

Tatilia Y. Burroughs, Executive Director  
 Eileen M. Harris, Office Manager  
 Starlynn J. Estep, LRIS Specialist

### Bar Beat Editor

LindaLee Massoud  
 BarBeat@gcbalaw.org

### Genesee County Bar Association

315 E. Court St., Flint, Michigan 48502-1611  
 (810) 232-6012

For editorial information, call (810) 232-6000.

Published bimonthly by the State Bar of Michigan,  
 306 Townsend St., Lansing, MI 48933, for the  
 Genesee County Bar Association. For advertising,  
 call (517) 346-6315.

No material in *Bar Beat* reflects the opinion or endorsement of the  
 Genesee County Bar Association, unless otherwise stated.

# Table of Contents

- |   |                        |
|---|------------------------|
| <b>4 Powers of Attorney—When Authority Exists After Death</b>                         | by Michael J. Kotarski |
| <b>5 Law Day 2014: American Democracy and the Rule of Law: Why Every Vote Matters</b> | by Sherri L. Belknap   |
| <b>5 Mallory, VanDyne, Scott Serves</b>   | by Torchio W. Feaster  |
| <b>6 2014 Probate Seminar</b>   | by Craig L. Wright     |
| <b>7 Are More Whistleblower Lawsuits Good or Bad For Us?</b>                          | by Tom R. Pabst        |
| <b>8 Brenda Swann Selected as the Judge Marable Student of the Year</b>               |                        |
| <b>9 Who We Are: José Brown</b>   |                        |
| <b>10 “Writing is Me”: Gender-Based Arts Programming for Youth in Detention</b>       | by Shelley R. Spivack  |
| <b>10 Who’s on the Bench? Hon. John A. Gadola</b>                                     | by Roberta J.F. Wray   |
| <b>11 Bar Foundation Receives Neithercut Gift</b>                                     | by Randolph P. Piper   |
| <b>11 Criminal Law Seminar Summary</b>  | by Amy K. Harris       |

## Advertisers

Blue Cross Blue Shield of Michigan  
 inside cover

Larry Day  
 Mediation, Arbitration & Umpire Services 3

Jakeway, Jakeway & Jakeway, PC 6

Dale R. Ellery, CPA 7

Robert M. Ransom, Private Judging 8



**Larry Day**

ATTORNEY & MEDIATOR

**(810) 853-1159**

[www.mediationday.com](http://www.mediationday.com)

e-mail: [larry@mediationday.com](mailto:larry@mediationday.com)

# MEDIATION, ARBITRATION & UMPIRE SERVICES

- **Mediation Training** – Harvard, Nova, State Bar and ICLE
- **Experience** – Practicing lawyer more than 30 years; practicing mediator 18 years. Chair Genesee County ADR Committee 2004 and 2012. Selected Mediator/ Arbitrator/Umpire on hundreds of disputes involving:

Employment	No-Fault First Party	Medical Malpractice	Business Break-ups
Elliott Larsen	No-Fault Third Party	Intellectual Property	Internet
Whistle Blower	Wrongful Death	Real Property	Inheritance
Consumer Law	Personal Injuries	Insurance	Will Contests
Lemon Law	Premises Liability	Water Damage	Many Others
Patents	Airplane Crash	Fire Losses	
Nuisance	Defamation/Slander	Hail Damage	

- **All Inclusive Flat Rate Mediation Fee** - includes hearings up to 5 hours; reading and preparation time; phone calls; driving up to 65 miles each way and filing Status Report with Court.



# *Powers of Attorney—When Authority Exists After Death*

By Attorney Michael J. Kotarski of The Guardianship & Probate Help Center, with assistance from Melissa Crown and Hannah Crown, in collaboration with Daniel P. Marsh Attorney at Law, Troy, Michigan

It is Black Letter Law that the principal's death terminates an agent's power under a power of attorney, but there are statutory rules even in this event that may assist those involved in a transaction that has not been completed which is now complicated by a death.

## **700.5505 Proof of continuance of durable and other powers of attorney by affidavit.**

Sec. 5505.

(1) If an attorney in fact acts in good-faith reliance on a power of attorney, durable or otherwise, and executes a sworn statement stating that, at the time of the action, the attorney in fact did not have actual knowledge of the principal's death, disability, or incapacity or of the power's termination by revocation, the sworn statement is, in the absence of fraud, conclusive proof of the power's non-termination or non-revocation.

(2) If the exercise of the power of attorney requires execution and delivery of an instrument that is recordable, the sworn statement when authenticated for record is also recordable.

(3) This section does not affect a provision in a power of attorney for its termination by expiration of time or occurrence of an event other than express revocation or a change in the principal's capacity.

The principal and her successor-in-interest will be bound by the actions of the agent if the agent or other person, without actual knowledge of the principal's death, acts in good faith under the power-of-attorney. MCL 700.5501, *Presinger v Hoist* 248 Mich App 499; 639 NW2d 594 (2001).

Note that an agent may not complete a transaction after he has notice of the principal's death. 2A CJS, Agency, §122, pp 394–395.

But see *In re Capuzzi*, 470 Mich 399, 684 NW2d 677 (2004), where the issue presented was whether the death of the principal revokes his agent's order to transfer limited partnership shares when all necessary actions by the agent were completed before the principal's death but the

transfer was not completed by a third party. The court held that an agent's actions are not revoked by the death of the principal when the agent has completed all actions necessary for the transaction before the principal's death.

## **Practice Point:**

### **A. Recording Requirements.**

To evidence the agent's authority with respect to a particular transaction involving real estate the DPOA may need to be recorded with the Register of Deeds. In such case, the instrument should be formatted in recordable form.

1. Requirements for recording with Register of Deeds are found in MCLA 565.201.
2. The Register of Deeds will require an original of the power for recording, and so you will want to have the principal execute several originals of the power.

### **B. Proof of Continuance of POA by Affidavit. MCL700.5505**

1. A sworn statement by the agent that at the time of action the agent had no actual knowledge of the principal's death or incapacity is, in the absence of fraud, conclusive proof of the power's non-termination or non-revocation. MCL 700.5505(1).
2. If the exercise of the power-of-attorney requires execution and delivery of an instrument that is recordable, the sworn statement when authenticated for record is also recordable. MCL 700.5505(2).
3. This proof cannot provide authority beyond a termination event or time period provided in the POA. MCL 700.5505



# Law Day 2014: American Democracy and the Rule of Law: Why Every Vote Matters

By Sherri L. Belknap



Sherri L. Belknap

In 2014, we will celebrate the 50<sup>th</sup> anniversary of the Civil Rights Act of 1964 and next year will mark the 50<sup>th</sup> anniversary of the Voting Rights Act of 1965. This year's Law Day theme, *American Democracy and the Rule of Law: Why Every Vote Matters*, focuses on the right to vote that ensures that Americans can participate in government and the importance of our participation.

The Annual Coloring Contest depicts a patriotic theme with a gentleman wearing a top hat and carrying a flag. The top ten pictures from each grade were displayed at one of the Genesee County Bar Association monthly meetings where GCBA members picked the winners for each grade. They will receive gift certificates. The top ten pictures will hang in the Flint Public Library for the month of May.

On April 25, 2014, Genesee County area high school students will begin juror orientation at the Masonic Temple where Genesee County Bar Association members will demonstrate how to pick a jury. Students will complete juror questionnaires and be picked randomly to participate. After the jury orientation, the students will have lunch at the Masonic Temple before presenting their cases before the Genesee County Circuit Court Judges.

This year's case finds Taylor Griffin accused of fabricating material evidence during a grand jury hearing. Additional charges include failing to perform his/her duties by hiring an immediate family member of a candidate to collect absentee ballot applications, not allowing the public to inspect the applications and lists, and forging two absentee ballot applications.

## Mallory, VanDyne, Scott Serves

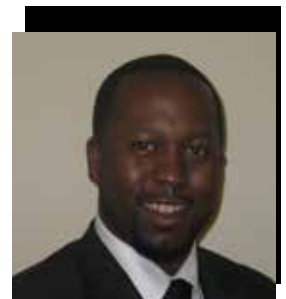
By Torchio W. Feaster, President

The Mallory Van Dyne Scott (MVS) Bar Association has been extremely busy this winter. The bar association has picked up where it left off last spring and has begun to prepare for its annual C. Fredrick Robinson Golf Outing. This 18-hole golf outing celebrates the legacy of slain attorney C. Frederick Robinson. Attorney Robinson was an instrumental leader in Flint/Genesee County for more than 40 years. The MVS Bar Association is proud to celebrate his life. More information about the timing of the event will be announced later.

The MVS also will continue its work with local city and county students as part of the Genesee County Bar Association's annual Law Day. The MVS and its members have coached many of the local schools' teams. This year attorney Jade Edwards will coach Northwestern

High School. Attorneys l'lanta Robbins and Crystal Olmstead are coaching Hamady High School. This is an important event for our membership as it furthers our twin missions: *to enrich the community by zealously advocating on behalf of the under-represented, and to educate the public and enhance the justice system through scholarship, public service, and education.*

Lastly, the MVS will give out its annual scholarship to the high school senior who prepares the most thoughtful essay on the topic: "Are 'stand your ground' laws good public policy. If so, why? If not, then why not? This countywide contest will help to provide some students the opportunity to follow their dream of attending a college.



Torchio W. Feaster

# 2014 Probate Seminar

By Craig L. Wright

On February 13, 2014 the Probate and Estate Planning Section of the Genesee County Bar Association presented its annual seminar. This year's seminar featured five speakers: Linda Pohly, Craig Wright, Brett Howell, David Lawson and James Bauer. These speakers shared a wealth of information and experience that took a combined 120 years to accumulate.

Linda Pohly provided an excellent in-depth summary of income tax considerations involved in administering decedents' estates and trusts. Linda addressed the nuts and bolts concerns of when, why and how to file these returns.

I, Craig, discussed the concerns attorneys encounter with the eventual destruction of their client files. My analysis included opinions issued by the State Bar of Michigan and practical concerns that we should implement in our practices to avoid potential problems.

Bret Howell was kind enough to substitute for Sherry Fraim, who was ill. Brett fielded questions and concerns relative to Medicaid policy, procedures and recent updates.

David Lawson's presentation was very informative and applicable to real estate concerns frequently encountered



by the probate practitioner. His insight in this area highlighted several potential pitfall areas and suggestions on how to avoid them.

James Bauer, Genesee County Probate Register, provided an informative update on noteworthy policies and procedures that help us all be more efficient.

You may still purchase the materials presented at the seminar for \$12.50 by contacting the Genesee County Bar Association at (810) 232-6012.



## Jakeway, Jakeway & Jakeway, PC



- ☞ Your Genesee County Personal Injury Referral Connection
- ☞ Accepting Referrals in All Injury Matters
- ☞ Millions Paid Out in Referral Fees

G-8161 S. Saginaw, Grand Blanc, MI 48439  
(810) 694-1211 ☞ [www.Jakewaylaw.com](http://www.Jakewaylaw.com)

# Are More Whistleblower Lawsuits Good or Bad For Us?

By Tom R. Pabst, Michael A. Kowalko, and Jarrett M. Pabst



Tom R. Pabst

In the 1970s, Polybrominated Biphenyl (PBB) chemicals inadvertently got mixed with cattle feed. The cattle ate it, and we all got doses of harmful chemicals when we ate the meat products from the contaminated cattle. Many workers knew about the contamination but failed to report this unsafe situation until many of us were contaminated. When asked why, the workers/employees said they were afraid for their jobs and retaliation from the employer.

The legislative response to keep us all safe from such hazards was to pass the Whistleblower Protection Act (WPA), being MCLA 15.361. Henceforth, it was made *unlawful* for an employer to *threaten* discharge and/or otherwise discriminate or retaliate against an employee who *reports or is about to report* a violation or suspected violation of not just a law, but also an important rule or regulation. Such *important rules and regulations* include not only the PBB situation, but also MIO-SHA safety regulations whose violation now come within the scope of protection afforded under the Whistleblower Protection Act.<sup>1</sup> Employees who report and/or are about to report violations or suspected violations are known as Type I Whistleblowers.

The law also protects employees who participate and/or testify in protected proceedings at the request of a public body. For example, if the state is conducting an investigation into food contamination, and requests that an employee testify as part of the proceedings, it is now unlawful for the employer of that employee to retaliate or fire the employee because of his participation or his testimony. Similarly, if a state investigator simply makes a spot inspection of a factory and asks a couple questions of an employee, it is unlawful for an employer to fire an

employee because he answers those questions.<sup>2</sup> This type of *participating or testifying* employee is known as a Type II Whistleblower and is protected to the same extent as a Type I Whistleblower.

Many people nowadays perceive an increase in the filing of whistleblower lawsuits and ask why? In my judgment, there are two reasons. First, the Michigan Supreme Court has insisted that the WPA be interpreted and applied as written, without “judicial gloss” embossed onto it that narrows its actual scope of protection. For example, in *Whitman v City of Burton*, a panel of the Michigan Court of Appeals reversed the jury verdict of \$232,500 rendered in favor of the Chief of Police, who clearly reported a violation and/or suspected violation of the law, all because the Chief of Police stood to gain some monies himself, in the form of vacation pay, by his reporting. According to the Court of Appeals, this “private motive” disqualified Chief Whitman from being a whistleblower. The Michigan Supreme Court reversed the Michigan Court of Appeals, however, refusing to allow the statute to be judicially rewritten to include a “private motivation” disqualifier for would-be whistleblowers. Instead, the Michigan Supreme Court ruling made it very clear that the motive of a whistleblower is irrelevant to his status as a whistleblower. Additionally, it made very clear that nothing is to be read into, or out of, the WPA.<sup>3</sup>

Secondly, judges and attorneys are starting to realize how broad the scope of protection is for Type II Whistleblowers. For example, employees who testify at a deposition in a civil rights lawsuit are considered to be Type II Whistleblowers, and it is *unlawful* for the employer to discharge and/or retaliate against them because the employer did not like the way the employee testified at the deposition, or the fact that they gave a deposition at all.<sup>4</sup> Additionally, in *Anzaldua, supra*, an employee was fired because she simply answered a few inquiries and/or questions from a state investigator who showed up unannounced at a plant facility and wanted some information. She was also a Type II Whistleblower, and protected from being discharged and/or retaliated against for answering such questions. It doesn't take a lot of imagination to figure out how broad the protection of the WPA is for Type II Whistleblowers. They are considered *engaged in protected*

Continued on next page



## Dale R. Ellery, CPA

Masters degree in Taxation

- Audits/Taxes
- IRS Issues
- Expert Witness
- Prepaid Funeral Exams

**CALL TODAY (810) 653-7979**

Member American Institute of Certified Public Accountants and Michigan Association of Certified Public Accountants



5577 Horseshoe Lane  
Lapeer, MI 48446  
www.drellerycpa.com

# PRIVATE JUDGING

Facilitation/Mediation/Arbitration

36 Years Judicial Experience



**Robert M. Ransom**

810-659-6221

Cell 810-813-8090

Ransom05@comcast.net

**Whistle Blower Cases** Continued from page 7

activity whenever they answer a few questions and/or inquiries from a public body and/or one of its officers, even if a formal investigation hearing has not been convened. This new-found realization of the broad applicability of the WPA is one of the reasons for the increase in WPA lawsuits.

Is this good or bad? Whistleblowers often *report* or *testify* and/or *participate* knowing that the employer will fire and/or retaliate against them, but do so anyhow because it is the right thing to do to protect all of us. What individual is more worthy of our protection than a whistleblower who is trying to protect all of us? Or, put another way, do we want to go back to the days when diseased animals were processed for our consumption and/or e-coli-tainted vegetables were packaged for us to buy, by employees who knew the food products were unsafe but were afraid to say anything because their employer would fire them?

## Endnotes

- 1 *Tyrma v Adamo, Inc.*, 159 Mich App 592; 407 NW2d 47 (1987).
- 2 *Anzaldua v Band*, 216 Mich App 561, 580 (1996), *result aff'd* 257 Mich 530 (1998).
- 3 *Whitman v City of Burton*, 493 Mich 303 (2013), with Tom R. Pabst, P.C. being the "prevailing attorneys".
- 4 *Henry v City of Detroit*, 234 Mich App 405 (1999) and *Shaw v City of Ecorse*, 283 Mich App 1, 15 (2009).

## *Brenda Swann Selected as the Judge Marable Student of the Year*

Flint 68<sup>th</sup> District Judge Herman Marable, Jr. and his Citizens Advisory Committee announced that Brenda Swann, of Flint, has been selected as the Judge Marable Student of the Year for the 2012-2013 school year. Brenda, 16, is currently in the 11<sup>th</sup> grade at Mott Middle College High School in Flint. She was selected from among nine Students of the Month.

Brenda is looking forward to a career as an anesthesiologist. Her extra-curricular activities at school include participating with Young Women Leaders of Tomorrow. She is an avid reader and tutors elementary students.

As a Judge Marable Student of the Year, Brenda receives a \$500 award, trophy, and certificate. Brenda's name has been engraved on a plaque on permanent display at the 68<sup>th</sup> District Courthouse.

Other Judge Marable Students of the Month for the 2012-2013 school year were: Aaron Fisher, Aquisha Wilson, Brandon Whiteside, and Micah Powell from Flint Northwestern High School; Kylee Jamison, Lauren Holloway, and Emmanuel Solis from Mott Middle College High School; and Adriana McKinley from International Academy of Flint.

The Judge Marable Student of the Month/Year program was established in 2004 to encourage Genesee County high school students to focus on academic achievement and career goals.

Tenth grade students who are City of Flint or Genesee County residents, or who attend public, charter, or private schools located in Genesee County, are eligible to apply.

Applications are available on line from [www.judgemarable.net](http://www.judgemarable.net) or from high school guidance counselors, principals, or from the office of Judge Herman Marable, Jr., Courtroom 1, 68<sup>th</sup> District Court, 630 S. Saginaw Street, Flint, Michigan 48502, Phone (810) 597-7795.



Brenda Swann





# Who We Are: José Brown



José Brown

## Why did you decide to become an attorney?

I had the benefit of growing up in a household where my dad was a circuit judge for 40+ years, and my uncle was a probate judge for 30+ years. I also had several cousins that were attorneys and each of them loved the law and their jobs and had a desire to give back to their community. I didn't need to be pushed by my father, but could witness firsthand why he was my best mentor.

## In what area(s) of law do you practice?

Medical malpractice defense, healthcare law, and a variety of charitable institutions including medical free clinics, SafeCenter, and Judicial Qualifications Committee. I have also received my advanced certificate under MCR 2.411 to handle all the "-tions" in your life (case evaluation, facilitation, arbitration, mediation).

## Which area of the law do you like the best and why?

Healthcare: it is an ever changing field with the new Affordable Healthcare Act. There are very few lawyers and institutions that fully understand the impact.

## What do you like best about being an attorney?

Guiding and advising my clients about getting through the morass called the legal system. I also work with the greatest bunch of people at Cline, Cline & Griffin.

## What part of being an attorney can you do without?

The lack of civility, and the "win at all costs" attitude.

## What words of advice could you offer to new lawyers?

Read Siddhartha, and get involved in giving back to your community. There is a right way to do the right thing. It is not by filing motions in the "dog-eat-dog" mentality.

## What suggestions do you have to improve the legal system?

Quit messing with the jury system. Allow access to the courts through jury trials. The outcome of a jury verdict has never let me down in my career. There is too much political tinkering with the jury system via Tort Reform denying access to the courts.

## Offer one suggestion for improving our local Bar.

Provide a mentoring program for the community. Examples would include: youth sport programs, educational tutors for kids who don't have mothers or fathers, or kids whose

parents are in jail. The mentoring program should focus upon those children who have little chance.

## Tell us about your life outside the law.

I hope to run my 10<sup>th</sup> Crim at the end of August, and will ride my bike on my 6<sup>th</sup> DALMAC at the beginning of September. I am starting to cross out a few bucket list items which include: skydiving, rim-to-rim in the Grand Canyon, and slowly reading my top 100 books. I started fly fishing because the cold water feels good on my legs. My back cast sucks, but my roll cast is excellent.

## If you had not become an attorney what career would you have chosen?

Without out a doubt a DVM (Doctor of Veterinary Medicine).

## Is there anything else you would like us to know about you?

My mother, Maria Mercedes Mejia, was born in Managua, Nicaragua. She was one of 22 children. Her father, my Abuelito, sent her to the United States to be educated. She met my Anglo-Saxon father, Thomas L. Brown, and the mixture resulted in José Brown.

## Want to know what is happening in your practice area?

Sign up for a GCBA committee by filling out a form at [www.gcbalaw.org](http://www.gcbalaw.org). Committees include:

- ADR
- Bankruptcy
- Bar Beat
- Bench and Bar
- Business Law
- Criminal Law & Defender
- District Court
- Family Court
- Federal Practice
- Golf Outing
- Law Day
- Lawyer Referral
- Legal Aid
- Membership and Marketing
- Probate Committee
- Professional Practice & Ethics

# “Writing is Me”: Gender-Based Arts Programming for Youth in Detention

By Shelley R. Spivack

“Writing is like my emotions pouring out of my soul on paper... Writing expresses that soft sad side people rarely get to see. To watch my words soak in is like music to my ears.”

(Participant in Buckham/  
GVRC Spoken Word Poetry Workshop)

One of the most promising types of programming for girls in the juvenile justice system involves the arts. Over the last two years, members of the Buckham Fine Arts Project have worked with girls at Genesee Valley Regional Center (GVRC), to develop a Spoken Word Poetry program that addresses the unique and unmet needs of young female offenders.

These workshops allow the young women to discover the healing power of language as they find their own voices and become the tellers of their own stories.

*Implementing a Gender-Based Arts Program for Juvenile Offenders* is a book I co-wrote with Jill Rosenbaum from

California State University. It tells the story of the development of the project and the fundamentals of gender-based programming for juvenile offenders. The book and the project were recently featured in several area presentations, including the Flint Public Library and UM-Flint. We also have been invited to do a presentation on the program at the 2014 American Professional Society on the Abuse of Children Colloquium in New Orleans. The book is available at Pages Bookstore or on Amazon.com.



Shelley R. Spivack



---

## Who's on the Bench? Hon. John A. Gadola

By Roberta J.F. Wray

“Ironman,” Judge John A. Gadola has participated in hundreds of triathlons and three Ironman triathlons. The Ironman triathlon includes swimming 2.4 miles, biking 112 miles and running a full marathon, 26.2 miles. According to the *Flint Journal*, he finished a 2009 Ironman in Louisville, KY, in 13 hours 56 minutes.

“I absolutely plan on doing another Ironman distance triathlon. I have not yet chosen a race, as the training takes a year long commitment to a daily training plan. It will be in the next two years though.”

He didn't intend to be the third generation Gadola to serve on Genesee County courts. When the most recent Judge Gadola was in college, he intended to become a psychiatrist, not a lawyer, and certainly not a judge. What changed his mind? He says it was the length of time it was going to take to get his M.D.

So he followed in the footsteps of his father, Thomas A., uncle, Paul V., Jr., and grandfather, Paul V., Sr., first to law school, then to the bench. He did not exactly follow in his

father's footsteps. Thomas was Maize and Blue to the bone. Instead, John chose Michigan State and the University of Toledo Law School. The smaller size of the law school was an important consideration.

Judge Gadola presides over the juvenile drug court, one of the ten specialty courts in Genesee County. He says when he first took the bench eleven years ago, his psychiatric social worker mentality would not allow him to give up on anyone. Today, he admits there are some people it's too late to help. He says, “The reality is you can't help someone who doesn't want to be helped,” but they can absolutely decide to do something, and “it's rewarding to see them flip the switch and make a decision to change their lives.”

The judge and his wife, Jill, are raising four daughters, ranging in age from 9 to 19.



Hon. John A. Gadola

# Bar Foundation Receives Neithercut Gift

By Randolph P. Piper

The Neithercut family has made no secret of its respect for the Genesee County Bar and the legal profession.

In line with that respect has come financial support for the Genesee County Bar Foundation.

The President of the Bar Foundation, Walter P. Griffin, announced the most recent gift of Mr. and Mrs. Edward Neithercut. President Griffin acknowledged the substantial gift by saying, "This gift to our Foundation demonstrates the Neithercut family's dedication to continuing legal education of our profession in general and our Bar Association members in particular."

The gift has been designated to the Foundation endowment fund for the support of continuing legal education for attorneys. Ed Neithercut has been a member of the Genesee County Bar Association and the State Bar of Michigan for more than 63 years. He was instrumental in the creation of the Foundation many years ago as a qualified charitable entity. Since that time, the Foundation has grown to have assets in excess of eight hundred thousand dollars. All the while it has been providing financial sponsorships of seminars for lawyers, scholarships for law students and various law related events for the benefit of the Genesee County Community.

Walt Griffin said, "This significant gift by Mr. and Mrs. Neithercut will allow us to get closer to our fund raising goal of one million dollars. But even more important, the income from the gift will allow us to support better, more frequent programs."

Judge Geoffrey Neithercut, before he became 68th District Judge and now Genesee County Circuit Judge, practiced law with Ed Neithercut. Judge Neithercut said, "Edward loves the law and he is a lawyer's lawyer. He is proud of Flint and the Genesee County Bar Association. He is proud of his family's three generations in the law."

The Genesee County Bar Foundation is a 501(c)(3) qualified charitable corporation with headquarters at 315 East Court Street Flint, Michigan 48502. It accepts contributions from not only attorneys and their families but also from community members who are interested in advancing general legal knowledge. For more information about giving opportunities, contact the Foundation at 810-232-6000.



Ed and Libby Neithercut with their grandchildren at their Northern Michigan home.

# Criminal Law Seminar Summary

By Amy K. Harris

Thanks to funding provided by the Genesee County Bar Foundation, the annual Criminal Law Seminar was held this year on February 27<sup>th</sup>-28<sup>th</sup> at the Mott Community College Event Center. With over 80 registered attendees, this was one of the most successful criminal seminars the Genesee County Bar Association has put on to date. Our attendees provided overwhelmingly positive feedback about their experience and the continued desire to see this seminar grow and expand.



Amy K. Harris

The seminar was planned with a theme towards addressing frequent problems that occur in everyday cases. The presentations traversed the life span of a case. It included discussions on motion practice and evidence issues, new legal updates, the sentencing guidelines, and specific collateral consequences of a conviction. With our enhanced attention towards improving the business of law, a segment was also presented on how to increase revenue and decrease expenses for a law practice.

This year we were honored that Mr. David Leyton and members of the Genesee County Prosecutor's Office attended the seminar and supported our continuing effort to present legal information that crosses both sides of a case.

Our speakers and panelists included Honorable Joseph J. Farah, Dr. Brian Hunter, Honorable Geoffrey Neithercut, Honorable Mark Latchana, Vikki Bayeh Haley, Charles Grossman, Cheryl Carpenter, Daniel Larin, Gregory Nowakowski, Glenn Simmington, Michael Ewing, Amy K. Harris, Michael Tesner, Anne Yantus, and Michael Mittlestat.

These presenters brought the enthusiasm and knowledge that made our seminar a success again this year. We are already looking forward to 2015.

Genesee County Bar Association  
315 East Court Street  
Flint, Michigan 48502-1611

PRSR STD  
U.S. Postage  
PAID  
Flint, MI  
Permit No. 125

RETURN SERVICE REQUESTED

**SAVE THE DATE**

**Friday, April 25**

**Law Day**

**Watch for further details**

