

January/February 2021

BARBEAT

Genesee County Bar Association



Photo by Shelley R. Spivack

Humanity is Our Business

Just Us? Or Justice?: An Analysis of Systemic Racism
in the Genesee County Legal System

2020 Holiday Dinner

Black History in the GCBA

Law is the Family Business: Local Attorney Families

2020 Amy Harris Criminal Law Seminar

Welcome New Members

New Rental Assistance

In Memoriam 2020

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Humanity is Our Business

By Michael A. Tesner, President



Michael A. Tesner

The Christmas season being upon me as I write, the story of Ebenezer Scrooge is at the fore of my thoughts. Although it is set at Christmas, the story is actually quite secular and the message is not religious but rather a moralistic tale of redemption and repentance. The moral is set forth near the beginning of the story where Scrooge is confronted by the ghost of his deceased business partner, Jacob Marley. Scrooge is taken aback that Marley would be doomed to walk the Earth as a spirit after being such a success in life, being a shrewd and wealthy businessman.

"But you were always a good man of business, Jacob," faltered Scrooge, who now began to apply this to himself.

"Business!" cried the Ghost, wringing its hands again. "Mankind was my business. The common welfare was my business; charity, mercy, forbearance, benevolence, were all my business. The dealings of my trade were but a drop of water in the comprehensive ocean of my business!"

—Charles Dickens, *A Christmas Carol*

It is a timeless message, and one that we as lawyers should take to heart. It is far too easy to fall into the routines of our profession, representing parties, arguing the facts and law,

seeking a positive result focused on the interests of the client before us. But it has never been more true that proficiency and success at our profession, and obtaining just results for our particular clients, is not our only business. As Dickens might say, personal industry is not our only business. We too are human and should also consider our greater role in society.

As lawyers, there are many ways to give back to our community, as many of us do through pro bono representation, charity, volunteerism, and through our associations with worthy causes. I am proud that the GCBA facilitates many of these opportunities while at the same time promoting legal education for our members and the public. In spite of the current pandemic, our members generously doubled our goal with \$17,000 in donations toward the Community Holiday Giving Project, providing a holiday meal, gifts, and resources to the residents at several Flint homeless shelters. Each month we send volunteers to the South Flint Soup Kitchen to pass out meals to those in need. We have had clothing drives, diaper drives, food drives, water drives, and provide an annual charitable donation from our Barrister's Ball. Additionally, we provide attorney presence to the community through "Ask the Lawyer," Law Day activities, the Lawyer Referral Service, and we recently live-streamed a well-attended candidate forum to

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provide community access to the judicial candidates' views. Additionally, through our committees and the Bar Foundation, we present legal seminars and mentoring opportunities for our members to discuss pertinent issues and keep abreast of changes in the law.

These are all significant ways we assist our members to extend their reach beyond legal representation to promote the common good and support our community. While we strive to continue these practices, however, we also must grow into the future. As my pastor recently said, through this pandemic we have shown great resilience. But we should not be content to go back to the way things were, we should

strive to create our world as things ought to be. That, in part, involves carrying throughout the year the charity and care for our neighbors that we feel and celebrate during the holiday season.

In the end, Scrooge is directed to this very realization:

"I will honour Christmas in my heart, and try to keep it all the year. I will live in the Past, the Present, and the Future. The Spirits of all Three shall strive within me. I will not shut out the lessons that they teach."

As humanity is our business, we too should strive to keep this spirit throughout the year. I can think of no reason not to.

Just Us? Or Justice?: An Analysis of Systemic Racism in the Genesee County Legal System

By Torchio W. Feaster, Esq.

Systemic Racism is defined by the Cambridge Dictionary as "policies and practices that exist throughout a whole society or organization, and that result in and support a continued unfair advantage to some people and unfair or harmful treatment of others based on race." Our legal profession was not created with inclusion in mind. At its creation Blacks were "property." Based on this fact it is clear why Blacks and people of color were not considered for membership or leadership in this system for decades. While gains have been made, a glass ceiling still exists. People of color are allowed in the "club" but only on a very limited basis.

There are policies and practices in this field that support a continued unfair advantage to some, and unfair or harmful treatment of others based on race. Let us focus on the office of judge, for example; it demonstrates the systemic racism in Genesee County. Judges are people who make decisions on incarceration, family institutions, and employment. That level of leadership has been largely reserved for White people. In fact, preference goes towards "elite" White people. These are the people who have great financial or political influence. That influence often comes through familial relations. People whose father or grandfather were judges or political influencers get first consideration over any other White candidates.

Society would have you believe that these positions were based on a meritocracy. This is in fact a fallacy and further disadvantages people of color. The policies and practices in this field exclude Blacks since most do not have ancestors who meet these artificial requirements and thus limit our career trajectories.



Torchio W. Feaster

Looking across the state, it is obvious that Genesee County is choosing to continue its ancestry-based system of inequity. Genesee County is the only county in Michigan with a large minority population (20+%) that still only "allows" one Black on its Circuit Court at a time. Over the last 50 years, it has replaced one Black judge with another while the remaining seats are restricted to non-Black Judges. Wayne, Oakland, Ingham, and Saginaw counties are all doing a much better job of diversifying their courts. While these counties offer opportunities, Genesee limits them. Only one court in this county has ever lost any judicial positions. Flint's District Court has lost two. Coincidentally that is the only court that seats multiple Black judges, thus further limiting ways for Blacks to hold judicial positions.

Genesee County fails in many other areas as well. Our Family Court, since its creation in the 1990's, has never had a Black judge. All of the decisions in the family unit including child support, custody, and juvenile justice lack the perspective of a Black judge in the courtroom or in judges' meetings. The same is also true of our Probate Court. While there are two probate judge seats in Genesee County, there has never been a Black person elected or appointed to sit on its bench. Furthermore, there are zero Black magistrates. There are only three Black attorneys in the prosecutor's office (0 in significant leadership roles since 2004 -- Brenda Williams). Finally, there is and has only ever been one Black Family Court referee here. This lack of inclusion gives the appearance of impropriety in

Continued on the next page

the legal system. Black litigants lack trust and justifiably believe the system is stacked against them. This is why many citizens enter our system feeling “railroaded” from the outset.

All of this information suggests that the people who make these decisions, who “bend” the Governor’s ear when appointments are made, and who do the hiring do not seem to care about diversity, equity or inclusion. Instead, it appears, they seem to care more about preserving a system that intentionally or subconsciously promotes White privilege and upholds systemic racism.

When I enter our ornate Circuit Courtrooms with pictures of Native Americans trading with White traders or murals of revered past White judges, I do not see myself or my ancestors reflected in our past; and unfortunately, when I look at the bench I do not see us included in its future either! We can do better. I encourage the readers of this article to adopt a theme from Dr. Ibram X. Kendi’s book, *How to be an Antiracist* – that is, you are either supporting racism or you’re actively fighting against it. There is no in between.

2020 Holiday Dinner

By Brian Barkey

Like the rest of the world, our traditional GCBA December was completely disrupted by the COVID-19 pandemic. For the first time in nearly 30 years, the annual Holiday Dinner was impossible. The Temple Dining room was closed and the personal contact necessary to perform our work threatened all involved. The Holiday Dinner Committee was presented with the task of finding something that would address this charitable need (which had grown immeasurably greater) without increased risk to people already facing hardship and our membership and friends.

And the need had grown enormously. We frequently were told that more people were homeless during the pandemic, area shelters were at capacity and, ironically, in the event testing showed a high risk of infection, people were turned away without a prospect of even temporary housing. Hungry families were facing the holidays with less. Everyone we traditionally worked with was desperately looking for ways to address the increased need but the resources had shrunk and almost anything done to react to the need increased the chance for additional disease and hardship. In this context, the Committee searched for ways to spread holiday cheer involving minimal risk to all those involved.

Local restaurants had been shut down and were facing hardship, so we decided that catering a holiday meal from a local restaurant would benefit everyone involved. Three area shelters were excited to host these events at their facilities. One shelter’s kitchen was closed for repairs and I had this mental image of a Holiday meal there in the form of peanut butter sandwiches. We funded 262 meals to shelters for four holiday area parties for their staff and residents.

In addition, we decided to fund a Christmas wish list for each of the resident families at three area shelters and to order a gift for each family member. Though the person

delivering them was not in a Santa outfit and the packages were not wrapped, they were anticipated and received with great excitement. A total of 170 gifts and gift cards were delivered to those three area shelters. Pictured is a single day of delivery at Carriage Town Mission.

We heard from the shelters that the parties were very festive and that the gifts were much appreciated. In addition, children got to pick the gift they were to receive and the whole process did not increase the risk of exposure to the participants or the sponsors.

Significantly to me, our members were as supportive as ever. We got calls from GCBA members asking what could be done to support these projects and, like every other year, it was completely funded by your generous donations. In spite of this challenging time, your generosity was recognized and appreciated. Thank you.

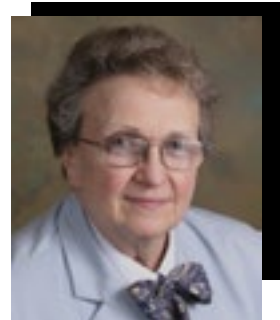


Brian Barkey



Black History in the GCBA

From material compiled by the late Jean Neithercut, written by Jack Minore, and updated and condensed by Ramona Sain and Roberta J.F. Wray



Roberta J.F. Wray

Claude W. Haywood appears to have been the first person of color admitted to the bar in Genesee County. He came to Flint from Raleigh, NC, and was admitted to the bar in 1919: in spite of some extensive research efforts, little more is known of him.

The Mallory, VanDyne, & Scott Bar Association was formed in 1989 and takes its name from three of the earliest Black attorneys in the county.

Dudley Mallory became a member of the bar in 1926, coming here from Virginia. He continued in practice for several years. **R.M. VanDyne** became a member in 1927, coming to the Flint area from Oklahoma. He was a popular trial attorney. VanDyne's nephew, **Elisha Scott**, came here from Kansas in 1946 to practice with his uncle and became very involved in civic organizations along with his successful practice. Scott was Flint's first administrative law judge, serving the Michigan Department of Labor.

There is little background on these early pioneers. It is perhaps noteworthy, and a sign of the times in which they practiced, that information is so sparse.

While individuals of color still represent a rather small proportion of the practicing attorneys in Genesee County, there are several among the members of the bench. **Judge Archie Hayman** sat on the Circuit Court and currently **Judge Celeste Bell** sits on the Circuit Court bench and **Judges Nathaniel C. Perry III, Ramona M. Roberts, William H. Crawford, II and Herman Marable, Jr.**, the late **Judge Tracey Collier-Nix, Judge G. David Guinn**, and **Judge Tabitha A. Marsh** have served on the 68th District Court (now the 67th District Court). Among their predecessors on the bench were **Ollie Bivens and William Price**.

William Price III was the first person of color to head the Genesee County Bar Association in 1970-1971. He came to Flint in 1951 and served as an assistant prosecutor. He was in private practice prior to his appointment to the bench in 1972. Judge Price had been a veteran of the Tuskegee Fighter Squadron, serving as a flight commander during World War II. He was active in a variety of community activities. He was only the second African-American judge in the county. The Honorable **Ollie B. Bivens** was the first.

Valdemar L. Washington, past president of the GCBA, also served on the Circuit Court bench for ten years before retiring in 1996. He became only the second person of color

to lead the Association, serving as President in 1996-1997.

One of the most prominent of the area's African American attorneys was the late **Otis M. Smith** who came to Flint to join the firm of Dudley Mallory. He served as assistant prosecutor for Genesee County, then chairman of the Michigan Public Service Commission and, in 1959, Auditor General of the State. In 1961 Smith was sworn in as a Justice of the Michigan Supreme Court. He was the first Black to serve in that role, and the only Genesee County attorney to achieve that position. He left the bench for General Motors, rising to the position of Vice President and General Counsel of GM, a position he held until his retirement in 1984.

Other African-American attorneys were prominent in the Civil Rights struggles of the '60's and '70's including **C. Frederick Robinson** and **A. Glenn Epps**. After an extended service as an administrative law judge, Epps entered into private practice. Epps also served on the GCBA Board of Directors.

Edwyna Goodwin Anderson served double-duty as a pioneer being both a woman and an African-American. In 1974, Edwyna became the first black woman member of the GCBA. At the time there were about five women and fewer than ten black attorneys in the County. She noted that it says something about our society that no one had preceded her in categories that could have been filled by capable women and/or Blacks for a century ahead of her. She worked in the Prosecutor's office but is perhaps better known for accomplishments outside the practice of law as a member of the Mott Community College Board of Trustees and member of the state Public Service Commission.

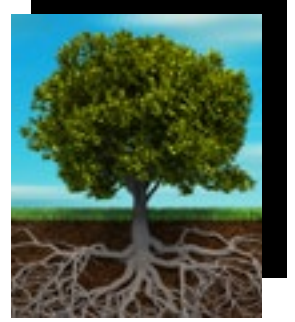
Former GCBA Board member, **Karen McDonald Lopez** was named the first woman, and the first African-American, to serve as the Flint City Attorney. GCBA Board Member **Angela Wheeler** is currently the Flint City Attorney.

History is still being made in the Genesee County Bar Association. In 2004, **Kendall B. Williams** was honored with the Herbert A. Milliken, Jr. Civility Award. Kendall is the first African-American to ever receive this distinguished award.

African American membership in the GCBA has grown to just under 5.25% of the total membership. Fully one quarter are now or have recently been members of the judiciary.

Law is the Family Business: Local Attorney Families

By William J. Brickley



The GCBA has a rich history of members who come from a family of lawyers. Many of our attorney families accomplish as much as the “big name” attorneys, but they do not receive the same public recognition. In each edition we will highlight a couple of our local attorney families who work hard to serve the Genesee County community.

The Bell Family

The Bell legal family started in Muskegon, Michigan. Although he died very young William McKinley Bell had a son named **Edward** Bell who left his hometown to attend law school at Detroit College of Law. Edward stayed in Detroit and initially practiced criminal law. He was appointed by Governor George Romney as a Wayne County Circuit Court Judge. He left the judiciary and returned to private practice and started representing local sports stars of the Lions and Pistons. His stable of clients expanded to include such notables as PGA star Calvin Peete, former World Heavy Weight Boxing Champion Leon Spinks, and a young and up and coming tennis star named Venus Williams. His practice expanded to include other entertainment clients.

Despite her father being one of her heroes, Judge **Celeste** Bell initially resisted the call to the legal profession. After graduation from the University of Michigan she took time to experiment with other occupations. While living in

the Bay Area of Northern California she listened to a voice telling her to go to law school and attended Golden Gate University School of Law, graduating in 1986. She passed both the California and Michigan Bar exams, worked a variety of jobs including with the 9th Circuit Court of Appeals and the City of San Francisco legal department and then decided to come home to Michigan. At this point in her career she took another path and became a pastry chef before returning to the law.

Judge Bell was intrigued by an ad for a position with the Genesee County Corporation Counsel and was offered the position in 2005. Soon thereafter Genesee County became her home. In 2011 she took on the role of interim Corporation Council and then worked closely with David Leyton after the office was reorganized in 2015 and she was named Chief of the Civil Division. In 2018 Judge Bell was appointed by Governor Snyder to the Circuit Court in Genesee County and was retained by the voters that fall.



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She will serve until her term expires in 2024 and then likely retire to a life of attending to her dogs, performing mediation services, and perhaps rekindling her passion for pastries.

Judge Bell has a sister, **Whitney** Bell, thirteen years younger, who also attended law school, Wayne State University in 1991. She practices in a variety of different areas of civil law and is quite proud of her older sister's accomplishments.

The Behm Family

When **Clarence** Behm started his law practice in the Guardian Building in Detroit, partnering with the father of Federal Judge John Fiekens, little did this Detroit College of Law graduate know that he would spawn such a rich history of lawyers. His practice primarily centered on the defense of civil litigation, a much easier task in the days of full comparative negligence.

Clarence's son, **Richard**, went on to the University of Michigan for both his undergraduate and legal studies and then landed a job in the legal department at Ford. The corporate life was not to Richard's liking and he moved his family to Flint to start a long and successful legal career. He was a true general practitioner and a valuable mentor to many young lawyers. He also had the good fortune to partner with many wonderful legal minds: John Beagle, John Nickola, Bob Beltz, Mike Pelavin, and of course Ed Powers, among others.

Richard's son **Tom** also attended U of M for undergrad before going to DCL for his legal degree. Tom settled in Grand Rapids focusing his legal career on plaintiff personal injury work. Son **Mike** continued the family tradition by going to U of M for his first degree and then attending Wayne State University Law School.

When Mike left school his first stop was with a civil defense firm in Grand Rapids. After about 6 months the call to come home was heard and he had the honor of working with his father. Out of his father's general practice background he developed his passion for helping those injured by others and now specializes in plaintiff personal injury work as well.

Mike met **Kay** and in 1996 the two were married. Kay, having grown up on a dairy and cattle farm in Alma, understood what working hard meant and became a lawyer, and yes there was schooling at U of M also. She originally started her career in Saginaw, moved to Flint and in 2009 had the honor of joining the judiciary in Genesee County.

Mike's devotion to his alma mater led him to run and successfully win a seat as a Regent at the University of Michigan in 2014. While unpaid, he truly enjoys the responsibility that comes with being a regent. By the way if you want to know more about Jim Harbaugh's future at U of M, he won't tell you!

The Barkey Family

While **Walter** J. Barkey had many relatives who chose the law as their career, he spawned his own lineage. The son of the former President of General Motors Institute was working as a claims adjuster when he decided that he should be the one going into the courtroom. After graduating from both University of Michigan undergraduate and law school he returned to Flint and associated with Bill Morrissey. Although a large part of his practice was devoted to defending personal injury claims he developed a very successful general practice, first in Flint, and then in Flint Township. The father of seven sent all of his offspring to college and graduate school.

Brian Barkey graduated law school in 1970 and decided to work away from home for a few years, mentoring in Kalamazoo, also defending personal injury cases. He returned to Flint for a short stint at the City of Flint attorney's office and then moved over to work with his father. Brian has since developed an expertise in Social Security law. While he possesses excellent legal skills Brian is also known for his passion for running. Brian is most passionate about his service to those in need. The GCBA annual Holiday Dinner which feeds as many as 1,000 people in one single night would never be as impactful without Brian's drive and dedication. To honor Brian's work the GCBA has named its annual community service award after him.

The Honorable **Jennie** Barkey is another of Walter's children and Brian's younger sister. After graduation from Thomas Cooley Law School in 1979 she also returned to Flint to work with Walter and Brian for a short time. Her work included time as a Friend of the Court Referee and then in 1989 as the Friend of Court. She was appointed Genesee County Probate Judge by Governor Granholm and continues to serve to this day. She relishes her time on the bench and mostly cherishes the Veterans and Mental Health Courts.

The legal reach of the Barkeys does not stop there. Nephew **Jonathon** is practicing international law in Hong Kong and niece **Amanda** is also practicing law after graduating #1 in her class at Wayne State. It did not stop there. Brian's grandson, **Jordan**, also went on to Wayne State and now practices plaintiff personal injury work in the Metropolitan Detroit area.

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2020 Amy Harris Criminal Law Seminar

By Jessica Mainprize-Hajek



Jessica Mainprize-Hajek

2020 has provided a ridiculous number of challenges, and Amy's Seminar was not spared. As we all know, Amy's seminar is normally presented in the spring, and was originally scheduled for May 2020. This year, due to COVID, we had to cancel the May seminar but were able to hold our first ever Virtual Amy Harris Seminar spread out through the months of November and December. Though attendance this year seemed to be at an all-time low, I still believe that the Seminar was a success! Exceptional educational material was still presented to those in attendance.

We began Amy's conference on November 21st, with teachings from the Honorable Joseph J. Farah who remains such a dynamic speaker – even virtually. He presented to us, with the help of his ever-brilliant law clerk – Samantha Weinstein – Around the World of Evidence in 80 minutes, Electronic Evidence Revisited, and *Thorpe & Harbison*.

November 23rd was an education filled day with presentations by:

- Attorney Bernard Jocus on Daubert & Frye;
- Deputy Administrator of the Attorney Grievance Commission, Cynthia Bullington, on the Attorney Discipline System and fee agreements and IOLTA accounts;
- our very own Attorney Richard Hetherington on Marijuana and Driving Under the Influence; and
- SADO Attorney Jessica Zimbleman on preserving the record and avoiding Ineffective Assistance of Counsel claims.

On December 2, Attorney Anne Yantus updated us all on sentencing issues. Most recently, on December 18th, Former Judge and Prosecutor now Defense Attorney Jodi Switalski, gave a dynamic presentation on the wellness epidemic we are all currently facing (e.g., illicit drugs, prescriptions, mental health and trauma) and its impacts on our clients.

As all Genesee County public defenders know, every year we are required to have continuing legal education credits to remain active on the public defender list. Public Defender Administrator Barbara Menear has been kind enough to allow Amy's Seminar to fulfill 10 of the 12 hours of required continuing legal education. The Michigan Indigent Defense Commission's Standard 1 also mandates attorneys to complete at least 12 hours of continuing legal education courses. See <http://michiganidc.gov/standards/>.

Last but certainly not least, a very special thank you must go out to the Genesee County Bar Foundation Neithercut Fund for their continued financial support of Amy's Seminar. These grants allow us to sponsor this yearly seminar by providing the funding necessary for high-quality continuing legal education.

Topics for Amy's 2021 seminar are already being hashed out but suggestions are always welcome. See you at the Amy K. Harris Criminal Law Seminar in 2021 – hopefully in person!

Welcome New Members

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Attorney: John Thomas Brown

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Employer: The Law Offices of
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Employer: The Glab Law Firm, PLLC
Law School: Western Michigan University
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Attorney: Kara Moore

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Employer: Tyler Law Firm, PLLC
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Juris Doctorate: Michigan State University
College of Law

Attorney: Samantha Weinstein

Employer: 7th Judicial Circuit Court,
Hon. Joseph J. Farah
Law School: Michigan State University
College of Law
Undergrad: University of California, Davis

Affiliate member: Kristie Stanfill

Employer: CF Legal, PC

New Rental Assistance

By Sherri L. Belknap



Sherri L. Belknap

On December 21, 2020, the United States House and Senate passed the Consolidated Appropriations Act, 2021 with overwhelming bipartisan support. On December 27, 2020, President Donald Trump signed it into law. The Consolidated Appropriations Act, 2021 provides for additional rental assistance and an extension of the CDC Temporary Halt in Residential Eviction to Prevent the Further Spread of COVID-19.

Landlords and/or tenants are able to seek monetary assistance for rent, rental arrears, utilities or home energy costs, including arrearages; and other household expenses either directly or indirectly related to the COVID-19 outbreak. Rental assistance may not exceed 12 months except the State may provide for an additional three months only if necessary to ensure housing stability for an eligible household. The additional three months is subject to available funds. Any rental assistance provided to a tenant cannot be duplicative of any other Federally funded rental assistance.

The landlord or utility provider may apply for assistance, but the tenant must sign the application and be provided a copy of it. When the landlord or utility provider applies, the payment will then be made directly to the landlord or utility provider. However, if the landlord or utility provider does not apply for the funds, then the tenant may apply and will receive the funds to pay the rental amounts owed.

Eligible households are those that have one or more individuals in the household who qualify for unemployment benefits or have experienced a reduction in household income due, directly or indirectly, to COVID-19. Further, the tenant must be at risk of experiencing homelessness or housing instability as well as have household income of 80% or less of the area median income ("AMI") for the household.

Priority will be given to eligible households where the income does not exceed 50% of AMI for the household as well as when one or more individuals within the household has been unemployed for 90 days prior to the application. The State of Michigan can add further processing priorities.

In addition to the rental assistance, the law provides an extension of the CDC Temporary Halt in Residential Eviction to Prevent the Further Spread of COVID-19 until January 31, 2021. The CDC Moratorium requires the tenant to complete under the penalty of perjury a Declaration which must be provided to the landlord.

Even though the CDC Declaration is served on the landlord, the landlord can still obtain a Judgment of Possession. However, an Order of Eviction cannot be granted until after the moratorium is lifted.

Genesee County has the highest eviction rate in the state and the rental assistance is greatly needed. In the first round of COVID Relief Funds, Catholic Charities assisted tenants in the amount of \$5.3 million. Despite this amount, Catholic Charities had to turn residents away as the money was depleted. With this second round of rental assistance, more residents will be able to stay in their homes during this pandemic.

In Memoriam 2020

Howard Cline

David Grant

Sten (Olof) Karlstrom

Hon. Allen J. Nelson

Frederick L. Schmoll III



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The Law Office of Glenn M. Simmington, PLLC, is entering its eighth year of delivering dedicated and highly skilled trial and appellate services to the community. Located in Flint's Mott Foundation Building, where he has practiced for decades, Glenn concentrates in criminal defense, in both State and Federal Courts, where he has a proven record as a "Trial Lawyer" who zealously advocates for, and defends, accused persons in need of a "fighter for justice."

Larger Than Life: A Tribute to Tom Yeotis

By John Streby

In an era of rampant narcissism, the term “larger than life” means someone who cuts a wide swath, often with a trendy, brazen, immodest, and flamboyant lifestyle. The piano virtuoso Liberace was larger than life, as were Coach Woody Hayes and entertainer Michael Jackson. While much better known, they lacked the character of the man depicted here.

Judge Thomas C. Yeotis, retired for more than 20 years, exemplifies such largeness, but only in the best sense. A growing number of GCBA members are too young to have known him professionally, so let’s elaborate on the aspects of his life that are worthy of emulation.

No one living in Genesee County has positively touched more lives than Tom Yeotis. In Municipal, Probate, and Circuit Court, he represented the human face of justice for troubled people facing legal problems. Many found him to be a calm, reassuring, compassionate man with a rare ability to cut to the essence of a situation in a way that showed much empathy.

The courthouse is a soap opera, with the gamut of human tribulation on display. Tom stood above the fray, content to not be the center of attention. He never craved adulation, nor aspired to be known as a legal scholar. He never allowed his head to swell.

Yet he has unerring common sense and instinct for the right result without obscuring it in legal jargon. Great men are often plagued by monumental flaws. Although Tom never has taken himself too seriously, his work as a trial court judge and a life force for community betterment was taken with utmost seriousness (lest I be accused of plagiarism, this distinction is borrowed from director-actor John Huston’s poignant eulogy to Humphrey Bogart).

It is difficult to describe the depth of Tom’s life in anything less than a book-length work. Among his accomplishments is being recognized in the *Michigan Lawyers Weekly* as one of Michigan’s ten most-respected judges. During the course of his career, he was given at least 30 awards from professional, non-profit and community organizations. He was the founder of the Bruin Club, and did much fundraising for athletic scholarships, baseball fields and electronic basketball scoreboards. Yeotis and other members of the club founded the Greater Flint Sports Hall of Fame. Tom was one of the founders of the Liberty Bell Award. He has served on the boards of dozens of non-profit entities. These merely scratch the surface.



John Streby



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Tom Yeotis has never sought self-aggrandizement. As described by MCC basketball coach Steve Schmidt, whom he helped bring to Mott in 1991, "Judge Yeotis' unselfishness and generosity are second to none, and he has done more behind the scenes than we will ever know. He is one-of-a-kind and there will never be another like him." That opinion is shared by those who truly knew him.

Tom and his wife Meg are the proud parents of Dean, Stephanie and Georgianne, and five grandchildren. Dean has carved his niche in Flint as a successful employment lawyer and owner of three retail stores. When Tom commented to me about his first-born, his focus was on Dean's efforts at helping the underdog.

It takes character to be responsible with other peoples' money. Many years ago, a local attorney succeeded in an appeal based only on the exclusion of evidence. For his efforts, Tom authorized a fee of \$10,000. In the storied Forrest Henley case, Tom authorized a greater fee to Terrence Sheehan for the fourth trial than the prior judge had allowed for all of the first three

that resulted in hung juries. In 1979, his willingness to participate resulted in the formation of a GCBA committee to address attorney fees paid to assigned counsel.

We are a divided nation. The legitimacy of our institutions is under relentless attack, and scandalous rhetoric has become the new normal. It is easy to become cynical over these trends, but steady people like Tom Yeotis provide a benchmark of class, a demonstration of how unselfishness, compassion and dedication can serve as a paean to civility and reason. There is no better role model than Tom.

Thank you, Judge Tom, for all that you have given to our community. All of us have benefitted by your example, your community spirit, your wisdom, and your character. You are a giant among men who has done us all proud.

View complete article at http://www.gcbalaw.org/file/barbeat/TomYeotisTribute_LongVersion.pdf

Access to Mediation During a Pandemic and Beyond

By Dayna Harper

Prior to March of 2020, the Michigan Supreme Court was already making great strides in the field of online court services. The MI-Resolve pilot program launched in 2019 and planned to be available to all counties by the fall of 2020. "Making court services more accessible means opening both real and virtual courtroom doors," said Chief Justice Bridget M. McCormack. "With the help of groundbreaking services such as MI-Resolve, Michigan is a national leader in boosting access to justice online."

The pandemic not only accelerated the statewide availability of the MI Resolve Program to the early summer of 2020 but many other types of mediation cases were available online.

The initial obstacle for the CRC to conducting mediations online was the preliminary setup of technology and training staff and mediators to mediate online. As everyone has discovered, technology is wonderful, until it is not. There is still a learning curve for the participants to connect online. Not all bandwidth is created equal; the strength of the mediators' and the participants' Internet signals sometimes makes for difficult communication. For the most part, mediators and participants are patient with the online format and the benefit of online mediation, outweighs the difficulties.

The advantages of the quick conversion to online mediations have been many. The immediate need was to offer our courts a source to settle cases from a backlog after the pandemic safety guidelines were put into place. This call to duty was not only executed by the Community Dispute Resolution Programs (CDRP), but also the Genesee County Bar Association (GCBA) ADR Committee who early in the year offered an introduction to mediating on Zoom.

The CRC mediators find that contentious parties do well mediating on Zoom. Once they get over the anxiety of seeing the other person on camera, parties seem to be able to settle

in and have good conversations.

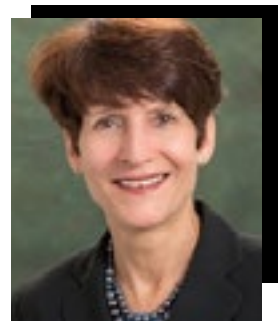
Mediators, parties and their counsel all seem to appreciate the short commute to the meeting. With the CRC service area of nine counties, we are able to provide quality mediators to all of the courts we serve.

Another aspect of moving our ADR work to an online format has been the Office of Dispute Resolution, State Court Administrative Office, Michigan Supreme Court updated the guidelines for the 40-hour General Civil and 48-hour Domestic Relations Mediator Trainings. The interim standard and guidelines for mediator training so far will extend until December 31, 2022. The CRC will co-host the General Civil in April 2021, the Domestic Mediator Training in July 2021 and several Advanced Mediator Trainings, the first being Domestic Violence (Intimate Partner) Training for Domestic Mediators early in the new year. Registration for all trainings will begin soon!

The importance of in person mediation will always hold the valuable human connection, but the CRC will continue to offer an online mediation option for cases that would benefit from this format, long after the pandemic has ended.

Reference: News Release, *Michigan Supreme Court, Michigan Supreme Court Announces Groundbreaking MI-Resolve Online Mediation Program* (Aug. 7, 2019)(available online at <https://bit.ly/3p4tOfa>).

Dayna Harper, Ed.D. is the Executive Director of The Community Resolution Center



Dayna Harper

Neithercut Legal Educational Fund Scholarship

The Neithercut Fund of the Genesee County Bar Foundation is committed to the continuing legal education of our members who are either sole practitioners or members of law firms. This year the Foundation has increased the scholarship benefits for our members. The Foundation Board's policy is to encourage seminar participation. Beginning December 1, 2020 and until further notice, the Neithercut Fund of the Genesee County Bar Foundation will now pay for 60% of the cost of tuition per attorney per year, not to exceed \$500 per attorney per year, to any attorney that meets the following criteria:

1. Recipients must be current full members of the Genesee County Bar Association.
2. Applicants must prove paid attendance at any Institute of Continuing Legal Education Seminar of the Michigan State Bar Association; American Bankruptcy Institute; Federal Bar Association Bankruptcy Section; and Criminal Defense Attorneys of Michigan.
3. The Foundation will reimburse the Attorney 60% the cost of seminar tuition.
4. The Scholarship Grant could not exceed \$500.00 per Attorney per year.
5. The Funds will be allocated from the Neithercut Fund up to a maximum of \$10,000.00 in the first year.
6. Applicants must be in the private practice of law.
7. This grant shall be administered by the Genesee County Bar Association which shall be reimbursed for actual time and expenses, but no more than \$1,000.00 in a year.

To take advantage of this opportunity please contact GCBA/GCBF Executive Director Tatilia "Tina" Burroughs at 810-232-6000. This grant program can be discontinued at such time as the Foundation Board determines.

For Seniors (and all those who will be seniors)

By Francine Cullari



Francine Cullari

How many times have you heard older persons say, "Time is flying by?" Are they referring to the theory of special relativity? Are they approaching the speed of light? Thinking about the relative nearness of passing to the other side?

The explanation of the perception of time speeding up is indeed based on a principle of physics but has nothing to do with Einstein's theory or nearness to death. "Clock time" is a steady, measurable phenomenon, the same for all of us, except for traveling astronauts. Clock time is *not* flying by for any senior.

The *perception* of time, "mind time," however, is what leads seniors to think time is passing faster. Renowned Duke University professor Adrian Bejan, Ph. D., explains why the years seem to fly as we get older. Having reviewed numerous studies on time, vision, cognition, and mental processing, Bejan concluded that time as we experience it represents perceived changes in mental stimuli. The time each senior perceives is not necessarily the same as the time perceived by others.

Mind time is affected by the number of mental images the brain encounters and organizes, and the state of the brain. As seniors age, the rate at which changes in mental images perceived *decreases* as a result of transforming physical features such as vision, saccadic eye movement, brain complexity, fatigue and degradation of neural pathways that transmit information to the brain.

Bejan states that there is an inversely proportional relationship between stimuli processing and the sense of time speeding. When young and experiencing lots of new stimuli, persons perceive time to be passing more slowly. For seniors, the production of mental images slows, giving the sense that time passes more rapidly.

What can seniors do to keep their Mind Time in line with Clock Time? "Slower" days are full of productivity, events, and memories of what happened. The hint is that productive days happen when the body and mind are rested, after periods of regular sleep. Live a healthy lifestyle. Keep the mind active. Nothing seniors have not been told before but reducing Mind Time is another good reason to follow the advice.

Arian Bejan, *Why the Days Seem Shorter as We Get Older*, *European Rev.*, May 2019, 187 (available online at <http://bit.ly/3919GFb>).

Ephrat Livni, *Physics Explains Why Time Passes Faster as You Age*, *Quartz* (Jan. 8, 2019)(available online at <http://bit.ly/39PS7ap>).



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