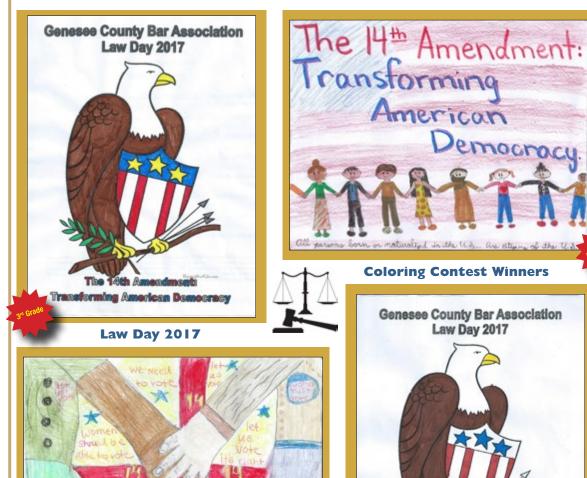
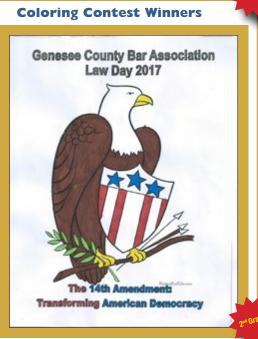
Genesee County Bar Association





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Published bimonthly by the State Bar of Michigan, 306 Townsend St., Lansing, MI 48933, for the Genesee County Bar Association. For advertising,

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□ "Here comes the sun, and I say, 'It's all right'..."

- George Harrison

By Michael A. Kowalko, President

As I write this column, it's February 20, 2017, and we've had several days of record high temperatures for this time of year in Michigan. Normally, February was that time of year when extreme cold and darkness seem to envelop the earth – or, as George Harrison sang, "...a long, cold, lonely winter." However, our warm stretch brings on the unmistakable feeling of spring.

And, just like my favorite Beatles¹ song, "Here Comes the Sun," spring is about a new beginning. Soon there will be a new beginning for the GCBA with the election of officers and additions to the Board of Directors. The current Vice President, Treasurer and Secretary on the Executive Committee have been fantastic, and I want to personally thank them. Vice President Hon. Mark Latchana lined up our guest speakers months in advance. Treasurer Jessica Hammon has, among other things, organized the "Barristers' Ball," which took place on February 25, 2017; and Secretary Sherri Belknap is unbelievably dedicated and hardworking. She chairs three committees, one of which is the Law Day Committee, and has been lobbying hard for local members and the GCBA itself to receive State Bar of Michigan awards. Further, she has somehow found time to work on putting together a history of the GCBA with photos, celebrating our 125th anniversary in 2022. Additionally, the GCBA Board of Directors, the GCBA staff and the Foundation have been extremely supportive throughout this year.

For those of you considering becoming members of the Executive Committee or the GCBA Board, I want to share my experience. One of my concerns before I became a Board

Member and a member of the Executive Committee, as I'm sure it was with many of you, is finding the time to serve with a busy practice and wanting to spend as



Michael A. Kowalko

much quality time with family as we can. As I've said and written many times before, however, the GCBA is as good or better than any other local Bar Association because we help each other. Recently, when I was in Circuit Court with an opposing attorney from, shall we say, south of here, whose oral argument strategy was to turn it into a "filibuster," all I had to do was contact GCBA Executive Director, Tatilia Burroughs, and she was able to get the Executive Committee members to run our monthly meeting. When I was unable to get out of court in Livingston County in time to make a presentation to the Foundation, Past President Shayla Blankenship stepped up and was great. It is good to know that our members and staff "have your back" whenever needed.

Finally, I'm now looking outside. I see the sun is shining and my phone rings. My ring tone is, you guessed it, "Here Comes the Sun." It's a beautiful Michigan day!

Endnotes

I For the younger members of the Bar Association, the Beatles were a very popular Rock 'n Roll Band once upon a time...

The Davidek Legacy at Courthouse Square

By Barbara A. Menear

The Genesee County Courthouse Square Project (1997-2003) included construction of a 60,000 square feet addition and the restoration of the historic 1926 Genesee County Courthouse.

The three original circuit courtrooms were on the 3rd floor and have so remained. Each of them was originally adorned with a monumental size mural depicting legal and local history. The original mural in the 3rd floor south courtroom had been removed in the late 1960's and little was known about its content.

One of the goals of the project was to restore the murals, which included a total re-creation of the aforementioned. It was done from one black and white photograph, located at *The Flint Journal* and a small strip of the original mural that was discovered above a suspended ceiling that had been installed.



Barbara A. Menear

The project selected a team of artists headed by the late Stefan Davidek, a prominent local artist, to restore the murals. Davidek's team included many family members. Members of the Genesee County Bar Association contributed to the private funds raised to re-create the mural. Mr. Davidek researched the time period depicted in the original mural and made only minor revisions to its content, all approved by the court.

The murals in the other two third floor courtrooms were in good shape and only required cleaning and minor touching up.

The original probate courtroom on the 5th floor (south), was also a Davidek production. To see the dramatic change from former to present, take a look at the before and after photographs outside of the courtroom. The "blue sky" ceiling was added by Mr. Davidek as a bow to the traditions of the 1926 time period.

The last mural that was undertaken by Mr. Davidek was the one located on the fifth floor in the courtroom of Judge Duncan M. Beagle. It is the only mural in the courthouse that is a "total Davidek" piece of creativity. The mural depicts the development of Genesee County through its small cities, townships and locales. It also includes historical figures from many generations and backgrounds.

Again, the Genesee County Bar Foundation, Genesee County Bar Association members and others were patrons for the work. A fitting tribute to Mr. Davidek and his family was held in the courtroom.

Stefan Davidek passed away on December 14, 2016. Although he had many deserved accolades lifted up, the



Stefan Davidek

Photo by Vincent Patsy

Genesee County Courthouse will stand as the apex of his artistic pyramid for generations.

The other artistic contributor to the Genesee County Courthouse Square Project was Steve Heddy. This article would not be complete without reference and appreciation to Mr. Heddy. He was the perfect artistic partner for Stefan Davidek. There were many other aspects to the restoration, such as paint selection, paint finishes and a sense of history that Steve Heddy infused into the project.

Stefan Davidek was gifted and humble. He was a pleasure to talk to and be around. The Davidek family continues the fine tradition in his enduring shadow. Buckham Gallery, located at 134 ½ W. Second St in Flint, will feature a retrospective of Davidek's work in October of 2017. Stefan Davidek was a founding member of the Gallery and an active artist-member for many years.





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Money, Money, Money

By Francine Cullari



ow often are you offered free money other than in a lottery scam or some equivalent? "Never," you say? We have an offer that is 100 percent legitimate!

The Genesee County Bar Foundation is soliciting applications for grants from its various funds. The foundation has an obligation to spend so much from each fund annually and welcomes your applications.

The table below lists each GCBF fund with its purposes and examples of past uses. If you are interested in applying for funds in 2017, contact Tina Burroughs at the GCBF office at 810-232-6000.

Fund	Purpose			
Earl Cline Trust	Social events for young lawyers			
John S. Beagle Trust	Scholarships for junior/senior law students*			
McGregor Trust	Continuing legal education of lawyers			
Neithercut Trust	Continuing legal education of lawyers			
Bar Foundation Trust	Expenses consistent with the Foundation's mission**			
	Law Day activities, community legal seminars, interpretation services ***			

- * Law students whose permanent residence is in Genesee County. Preference is given to Michigan law schools. The scholarships are a minimum of \$5,000 each.
- To support worthy projects which improve the administration of justice, promote the study of law and the continuing education of lawyers, educate the public about its legal rights and obligations, and maintain the honor and integrity of the profession.
- *** The Foundation has additional funds for specific purposes such as the Annual Dinner, Bar Association support, etc.



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Immigration Law 101

By Roberta J.F.Wray



Roberta J.F. Wray

Demand for attorneys with experience in Immigration Law is suddenly stronger than

ever. The GCBA Young Lawyers section got a crash course in Immigration Law recently during a Lunch N' Learn session. Two local attorneys, Muna Jondy and Eman Hammoud, met with the Young Lawyers to help them understand some of the pitfalls immigrants face.

It is an especially timely topic in light of President Trump's executive orders banning immigrants, first from seven and now six majority Muslim nations from entering the United States. The enforcement of border protections along with unprecedented tactics in discovering and detaining undocumented individuals have also increased.

While the Muslim immigrant ban is being contested in the courts nation-wide, attorneys have been pressed into service to try to protect all immigrants, both legal and undocumented, from improper and unjustified treatment. A number of events have been held locally trying to reach as many immigrants as possible to inform them of their rights and give them tools to deal with possible threats to themselves and their families.

The Young Lawyers watched a presentation entitled Immigration Law 101. They learned that it is complex and divided into several sub-sections, among them family-based and employment-based immigration, asylum seekers, and refugees. Besides the inability of immigrants to gain entry, even though they have been vetted and granted entry visas, the threat of the possible detention and removal for individuals who have already entered is of considerable concern.

In addition, the Young Lawyers learned there is a possibility of expedited removal for anyone within 100 miles of any border. That means virtually every immigrant within the state of Michigan might be subject to removal by virtue of our proximity to the border with Canada. Furthermore, there is no right to a free appointed attorney in Immigration Court, even for children. The nearest Immigration Courts for this area are Detroit and Chicago, depending on the type of immigration issue.

Bankruptcy Basics

By Sherri L. Belknap

The Genesee County Bar Association Bankruptcy Committee started a new series to help mentor new or new-to-bankruptcy attorneys. Bankruptcy Basics is a monthly meeting designed to tackle a single subject. Further, it is an opportunity for discussion between the attorneys on other issues affecting bankruptcy.

In 2011, I had an opportunity to learn bankruptcy while working at the UAW-GM Legal Services Plan. At that time, I had a few attorneys in my office who helped teach me the basics. During one of the bankruptcy committee meetings, I was reminded how fortunate I was because not all attorneys, new or old, have those other attorneys to draw from.

Bankruptcy Basics brings together attorneys, experienced and new, to discuss topics relating to bankruptcy. The meetings are held at the Genesee County Bar Association during the lunch hour, and each features a single subject.

Topics range from completing the bankruptcy petitions to getting paid.

The series started in November 2016 with "Meet the Court Clerks." Judge Opperman and the court staff introduced themselves



Sherri L. Belknap

and explained their positions at the bankruptcy court. On March 28, 2017, Bankruptcy Basics covered Adversary Proceedings. Future meeting dates include:

April 25, 2017, Resolving Chapter 13 Objections to Confirmation/Motions,

June 7, 2017, Getting Paid.

If you are interested in learning the basics of bankruptcy or discussing issues/cases with other bankruptcy attorneys, please stop in at one of our hour-long meetings.

Cyber Security – who should practice it?

By Christine Smith, Systems Manager and Carl Bekofske - Standing Chapter 13 Trustee

Technical Specifications

Articles are published every day to urge us how to protect ourselves from the often silent but potentially crippling cyber-attacks. We are told to make sure we protect our networks using firewalls, security software, and installing the endless updates for every form of software used. We need to protect every entry into our network, from our desktops, laptops, cell phones and yes, even printers.

There is the familiar mantra of "backups are a must." We often forget about the physical control that should be implemented as well. Locking computers when walking away and shutting down or logging out at the end of the day are musts. Only give employees access to what they need to get their work done as opposed to the entire network. Make sure passwords are used, kept private, and changed at regular intervals. If you choose to use Wi-Fi, you are opening yourself up to a broader, harder to protect home base and must secure it with a complex password.

Team Effort

All of the above can be implemented in theory, but if not practiced on a daily basis, your systems will not be safe. In our current atmosphere, it is no longer a question of "if it happens." It is more like "when it happens," will you be ready? Will you have a plan that will bring your network back after an attack such as ransomware or a Zero day exploit?

Don't have any idea what these are? Sites like https://www.fireeye.com/current-threats.html can help educate you and give you an idea of what you need to be particularly careful with. The next step is realize that every click of the mouse,



Christine Smith

whether it be in an email, a word document or a zipped folder, has the potential to bring your network down. Office staff and attorneys alike must be continuously thinking of these possibilities. They should be saying to themselves, "Am I expecting this email? Should it have a zipped folder attached?" Do you allow your staff to check their own email on your computers? Do you allow internet browsing? Are your end users aware of the dangers of doing these things on work equipment?

In the End...

In the end, after all the firewalls, security software, physical security and end user procedures, your network is only as good as your biggest risk to your network. So educate, practice and demonstrate through personal practices to your staff how to create the safest network possible. Here are some tips as well: https://apps.fcc.gov/edocs_public/attachmatch/DOC-306595AI.pdf

By Jessica R. Mainprize-Hajek, Defense Attorney and LeAnne Dao, Special Assistant Attorney General

In July of 2016, the GCBA held a seminar on "the Meth Mess" with the help of Fred Meiers, Patrick McCombs, LeAnne Dao, Troopers Dan Richter, John Faucette and Sgt. Patrick Moore. The purpose of this seminar was to give an overview of the particular issues that arise in methamphetamine cases. If you have ever dealt with a meth case, you know that there are numerous charges that can arise with just one lab. These include the following: Operating/Maintaining a Laboratory involving Methamphetamine contrary to MCL 333.7401c(2)(f); Operating/Maintaining a Laboratory Near a Specified Place contrary to MCL 333.7401c(2)(d); Operating/Maintaining a Laboratory involving Hazardous Waste, contrary to MCL 333.7401c(2)(c).

As a precursor, you may find the presence of pseudo-ephedrine and/or ephedrine with cases alleging the manufacture of methamphetamine. Although not currently considered controlled substances, pseudoephedrine and ephedrine are heavily tracked through the National Precursor Log Exchange ("NPLEx"), a real-time electronic logging system. Further, a client may be charged with unlawful purchase or possession including: Possession More Than 12 Grams contrary to MCL 333.17766c(1);⁴ Purchase More Than 3.6 Grams a Day contrary to MCL 333.17766c(1)(a);⁵ Purchase More Than 9 Grams Within a 30 Day Period contrary to MCL 333.17766c(1)(b).⁶

Double jeopardy issues may arise in these cases and the argument should be explored by the defense. In 2005, the Michigan Court of Appeals held in *People v Meshell*, 265 Mich App 616 (2005), that convictions under both MCL

333.7401c(2)(a) and (d), violate double jeopardy under the "same elements" *Blockburger*⁷ test. Subsequent cases have held that convictions under MCL



Jessica R. Mainprize-Hajek

333.7401(2)(d) and (f) do not violate double jeopardy. See People v Routley, 485 Mich 1075 (2010) and People v Farrsiar, 2015 WL 2329071.

These cases also pose substantial difficulties due to the hazardous nature and potential mobile production of methamphetamine. Evidence may be destroyed prior to trial and a client may have no recourse when protocols for destruction are followed. See *People v Blaha*, 2014WL 6962140 and *United States v Garza*, 435 F3d 73, 76 (CA I 2006).

Endnotes

- I 20 years and/or \$25,000.00 potential consecutive sentence. Class B felony.
- 2 20 years and/or \$100,000.00 potential consecutive sentence. Class B felony.
- 3 20 years and/or \$100,000.00 potential consecutive sentence. Class B felony.
- 4 2 Years and/or \$2,000.00. Class G felony.
- 5 93 Days and/or \$500.00 misdemeanor.
- 6 93 Days and/or \$500.00 misdemeanor.
- 7 Blockburger v United States, 284 US 299, 304l 52 S Ct 180; 76 LEd 306 (1932)

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A Law Day Remembrance

By Andrea Rossi

r. Cheston Downs is a first year Mott student who played the role of prosecuting attorney in Law Day 2016. He calls his Law Day experience "very eye opening," and influential as he pursues interests in politics, law, business, and marketing.

As Mr. Downs recounts his experience, he has many laudatory comments about his advising attorneys. He was particularly impressed with Attorney Rex Anderson's welcoming approach. Rex invited the students to his firm, openly shared his wealth of knowledge about the realities of practicing law, and had deep conversations about ethics in practicing law. Mr. Downs' group was also given a historical tour of Flint, including the Masonic Temple, the host location for the Law Day awards luncheon.

Faith High School's prosecution team was on the losing end of the Law Day 2016 legal battle, but Mr. Downs was not deflated by the loss. Instead he reveled in the experience, calling it "so much fun." He was intrigued by the conversations the group was afforded with the judge before and after the mock trial. The judge shared personal stories and the history of the courtroom down to its artwork.

With a broad grin, Mr. Downs recounts that the cross-examination was "passionate," while navigating objections

and laying a foundation for exhibits was challenging. He received complements on his presentation of the case from the judge and the jury. In retrospect, and in light of



Cheston Downs

the challenges faced by his team, he wonders what keeps attorneys motivated to persist in doing what they do.

The excitement, knowledge, and enthusiasm that this experience instilled in Mr. Downs is evident as we talk. His team was dedicated to making the most of their Law Day experience. Time management challenges created execution roadblocks, but the team had plans to create a 3D model of a spine for use as an exhibit to show trajectory and impact. He speaks of Law Day with a joy that exposes the value this experience carries in him.

Thanks to engaged and passionate attorney sponsors, Mr. Downs graduated from Faith High School with an enriching and enlightening Law Day experience. The Law Day Committee agrees with Mr. Downs that Law Day is a "really good program, [and] love that it's a part of the City of Flint."

We hope that you will join the Law Day Committee in making Law Day 2017 a wonderful experience for a new group of young students.

Connect with the GCBA



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On Facebook

https://www.facebook.com/pages/ Genesee-County-Bar-Association/142757561178

My African Adventure

By Barbara C. Dawes

In May 2016, I went on an eight-day safari in Tanzania, Africa with my sister Mary Anne and college friends, Jim and Terry. Tanzania is the home of several national parks; we visited the Arusha National Park, Tarangire National Park, Serengeti National Park and the Ngorongoro Crater.

Most of our nights were spent in beautiful lodges with wonderful accommodations; two nights were spent in tents. Every lodge had breakfast buffets and dinner buffets with a variety of foods. Lunch was a packed lunch that we ate during our day trips. We were usually on the road by 7:00 a.m. and returned between 6:00 and 7:00 each evening. Every time we arrived at a lodge, the staff greeted us with a glass of cold juice and a warm wash cloth.

We spent the first day in the Arusha National Park. One of our goals on the safari was to see the "Africa Big Five: lion, elephant, cape buffalo, leopard and rhinoceros." We saw a variety of animals on our first day including cape

buffalo, giraffe, zebras, baboons (including an all-white baboon!), monkeys, including the Colobus Monkey, and various birds. The scenery in the park is beautiful!



Barbara C. Dawes

After our safari through Arusha National Park, we traveled to Tarangire National Park for two days and stayed at the Tarangire Safari Lodge in canvas tents. Animals roamed freely throughout the grounds of this lodge. Impalas and gazelles ran through on either side of my tent; dik diks (small, deer-like animals) were by the veranda; and baboons roamed freely down the sidewalk. One young baboon snuck into the lodge and stole a bun; he then sat down and ate the bun on the cement pad of my tent. A river flowed through the land in front of the lodge; we could see giraffes and elephants in the distance. In this park we saw zebras, gazelles, impalas, water bucks, giraffes, topis, mongooses,

✓ Elephants Cape Buffalo ✓



Dik Dik

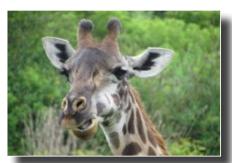
Scarlet Breasted Roller

Hippos

jackals, hartebeests, elephants, lizards, baboons, monkeys and warthogs. A herd of elephants with a one-monthold baby crossed the road in front of our vehicle.

On May $17 - 19^{th}$ we were in the Serengeti National Park. One of the highlights of our trip was seeing the wildebeest migration. The migration involves 1.4 million wildebeest, 250,000 zebra, and gazelles that travel a 1,200mile circle pattern that follows the seasons. The sight of the migration was unbelievable: animals in every direction as far as you could see! We were also able to see the hippo pool, which is located at a point where three rivers come together. We continued to see a variety of animals throughout these three days, including leopards, hyenas, jackals and elands for the first time. While returning to Arusha, we visited the Ngorongoro Crater. We were finally able to see a rhinoceros, which completed our list of the big five animals to see in Africa. To see all these the animals in their natural setting is unbelievable. Vehicles travel throughout the parks and the animals do not bother the vehicles. Animals wandered freely in front of us and alongside our vehicle.

The African people were also interesting to me. Some wore western clothes, while others wore traditional African clothing. The colors were beautiful! We were able to see members of the nomadic Maasai tribe. While the lodges had excellent accommodations, we saw areas where bathrooms were a hole in the ground with no running water – you learned to bring your own items like soap and toilet paper! Several people have asked me if I would go again – absolutely, without hesitation!



Courthouse Murals







March/April 2017

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