

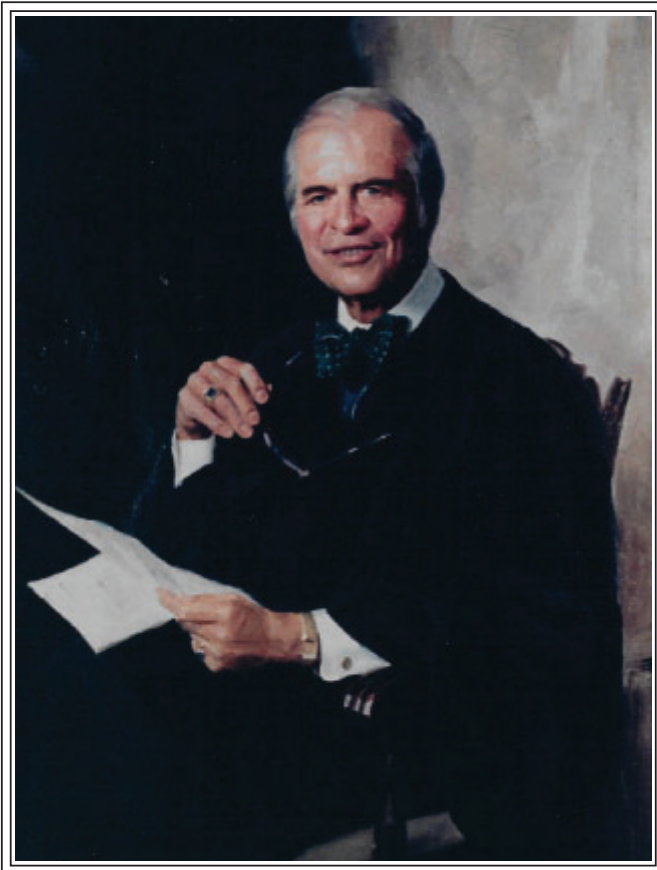


Society Update

The Official Publication of the Michigan Supreme Court Historical Society

Summer 2024

The Late Great Soapy Williams: Memories & Reflections of a Former Michigan Supreme Court Law Clerk



Chief Justice G. Mennen “Soapy” Williams’ official Court portrait was dedicated in 1990, two years after his death.

By Gregory J. DeMars¹

As a board member of the Michigan Supreme Court Historical Society (“Society”) and as a former law clerk to the late, great Chief Justice Gerhard Mennen Williams² (a/k/a G. Mennen Williams, Mennen, or Soapy), the Society has asked me to pen my remembered, and hopefully accurate, experiences as his law clerk.³ I was a law clerk from June of 1981 to June of 1983 for Chief Justice Williams. Obviously, I have done my best to share my reflections on events that occurred over 43

years ago—quite a daunting task when dealing with the vagaries of one’s memory.

Chief Justice Williams was born on February 23, 1911, in Detroit, Michigan and died on February 2, 1988, in the city he loved. He was 76 years old at the time of his death. The mother of Chief Justice Williams was an heir to the fortune of the Mennen Company that manufactured soap and shaving products and located out East. He was born into an affluent family. This ancestry was important to Chief Justice Williams. I recall that he and his wife, Nancy Quirk Williams, often referred to him as “Mennen” or “Soapy.”

Prior to sharing my law clerk memories, I would like to discuss the important highlights of his life and career before he was elected to the Michigan Supreme Court. Chief Justice Williams was educated at Princeton University (AB), graduating in 1933 and earned his law degree at the University of Michigan in 1936. After completing his formal education, he was a Lieutenant Commander in the United States Navy from 1942 to 1946, fighting in World War II.

Chief Justice Williams was one of the most decorated, influential, and prominent Michigan politicians in its history. For example, he was elected as the 41st Democratic governor of Michigan, serving six two-year terms from January 1, 1949, to January 1, 1961. No other Michigan governor has been elected that many times.⁴

After his governorship, Chief Justice Williams continued his public service with the federal government. He was appointed Second Assistant Secretary of State for African Affairs from February 1, 1961, to March 23, 1966, during the Kennedy Administration.⁵ After the death of President Kennedy, he was appointed United States Ambassador to the Philippines, serving from

June 17, 1968, to April 7, 1969, primarily under the Johnson Administration.⁶

After he left his ambassadorship, he ran for the United States Senate, which resulted in the only political loss of his career.⁷ After this election loss, he was elected as Justice of the Michigan Supreme Court, serving over a 16-year period (January 1, 1971, to January 1, 1987). During that tenure, he was then elected to Chief Justice in 1983 by his fellow Justices. His career on the Court ended in 1987. He was constitutionally age limited since he was over 70 years of age. As such he could not start a new judicial term after the age of 70.⁸

In discussing my recollections as a judicial law clerk, it is important to discuss Chief Justice Williams' personality and the judicial philosophies that guided his interactions with his law clerks so that a broader foundation can be established regarding my law clerk experiences with him. Part of that personality was his hallmark wearing of his famous green and white polka dot bow tie and his writing of personal notes in green ink. These were his signature calling cards.

Surprisingly, on the outside, Chief Justice Williams was generally a shy and introspective person. He was careful in his dealings with people, but he could light up a room or audience when a microphone was placed in front of him or when he began to speak on a topic he felt strongly about. He was a religious man; he treated everyone with respect; and he was a thoughtful, kind, and generous person.

For example, when I began my clerkship, my wife Phyllis was pregnant with our first child. At the same time, my fellow law clerk and Wayne State law school classmate, Beth Lowery was also pregnant. Chief Justice and Mrs. Williams threw a joint baby shower for Phyllis and Beth at their home. It was a great event that we always remembered.

Chief Justice Williams had a principled and disciplined intellect buttressed by his intellectual curiosity and broad life experiences. Even though he was a longtime liberal Democratic politician, generally he was not overly partisan in his Court dealings and had an open mind on legal issues. He would consider all aspects and subtleties of legal issues. He could change his mind once his digestion of the facts and law were complete,



Clerks Greg DeMars and Beth Lowery are admitted to the State Bar of Michigan with Chief Justice Williams as their sponsor.

and would advocate for any changes once his mind was finally made up.

His stated judicial philosophy was simple and Biblical as he was a person of faith. In a speech to the Economic Club of Detroit in 1970, for example, he declared the following:

My judicial philosophy is simple; 'What doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God.'⁹

Chief Justice Williams would rely on his belief system in rendering his opinions, but he generally followed legal precedent. He supported civil rights, racial equality, and justice for the poor.¹⁰ However, it should be noted that in my opinion his general liberal leanings in criminal decisions became more conservative after his

famous “mugging” in Detroit, which occurred while he was on the Court.¹¹

While historical accounts of Chief Justice Williams’ career, on and off the bench, are mixed as to historical interests and impact,¹² his personality, values, and characteristics resulted in the combining of Christian and liberal political values as one of his core principles. Ironically and conversely, I believe such an amalgamation of political theories is seen in the conservative/evangelical/Christian political movement of today.



This discussion of the persona of Chief Justice Williams provides insight into the discussion of my responsibilities as a law clerk. During his tenure as Justice and then Chief Justice, his law clerks were assigned certain tasks and responsibilities. Such responsibilities could vary among law clerks generally, depending on the goals and organizational skills of a particular Justice. For example, during my time at the Court, Chief Justice Williams had an administrative law clerk and two law clerks who performed more general legal tasks. I was a law clerk who was given more general legal tasks to perform rather than administrative tasks.

My duties generally included the following:

- (1) reviewing Commissioner Reports then known as “CRs”¹³ and providing recommendations for action by the Court as to those CRs;
- (2) conducting legal research;
- (3) writing legal memoranda;
- (4) working on the Chief Justice’s assigned legal opinions;¹⁴
- (5) attending Supreme Court sessions and hearings and taking notes;
- (6) participating in daily staff meetings when the Chief Justice was in town;
- (7) interfacing with the general public and specifically with incarcerated prisoners;
- (8) attending public and private events on his behalf and the Court’s behalf; and
- (9) acting as his chauffeur.

The most salient duty that I want to discuss was assisting the Chief Justice in his preparation of legal opinions. This was one of the most important tasks that a law clerk could perform. Each Justice of the Court handled such assistance in his or her fashion.

Chief Justice Williams and Nancy often hosted staff events at their residence. Here, the Justice hosts Clerk James Walle’s retirement party. From left to right, the attendees are James Walle, Mary Jo Campbell, Greg DeMars, Beth Lowery, and Chief Justice Williams with his trademark bowtie.

After a case was heard by the Court or a dispositive opinion was to be issued by the Court, some form of vote would be taken by the Justices in secrecy. A decision of the majority would be assigned to a Justice in the majority. If a Justice was electing to write a dissenting or concurring opinion, such election would be communicated to the other Justices. After an opinion was issued by a Justice for consideration by the other Justices, but before being published by the Court, the Justices could change their vote. As such a putative assigned majority opinion could become a dissenting or concurring opinion before being published by the Court, and, after being first circulated, a dissenting or concurring opinion could become a majority opinion before being published by the Court.

With this background in mind, Chief Justice Williams would meet with the law clerk to whom he was assigning an opinion for assistance in order to discuss more fully his legal and policy views that would shape the opinion. He would share the vote, any notes on the vote, and his direction and thoughts that he would take in writing or preparing the opinion. The law clerk would re-read the briefs and hearing transcripts. Regardless of whether or not the Chief Justice would prepare the first draft or the law clerk would prepare the initial draft,¹⁵ legal research would be undertaken by the law clerk to ensure the accuracy, correctness, and completeness of the legal opinion. Obviously, the law clerk would

CHIEF JUSTICE G. MENNEN WILLIAMS MICHIGAN SUPREME COURT LAW CLERKS & STAFF 1971 - 1986



Albert C. Williams
1971 - 1973



Lawrence A. Young
1971



Patrick E. McCauley
1972 - 1974



John Gulioff
1973 - 1975



Barbara A. Lane
1973 - 1974



Bruce I. Denslow
1974 - 1978



Lynn Sheeler
1974 - 1977



Lawrence Joseph
1975 - 1979



Karen Colby Walmer
1977 - 1979



Susan F. Reed
1977 - 1979



Pamela Lloyd
1971 - 1980



Chief Justice G. Mennen Williams



Barbara Peterson
1971 - 1980



Peter Waldner
1979 - 1980



Edward Houtz
1979 - 1981



James P. Walle
1981 - 1982



Adrienne G. Southgate
1979 - 1981



Elizabeth A. Lowry
1981 - 1982



Gregory J. Demars
1981 - 1982



Mary Jo Campbell
1982 - 1984



R. Owen Richards
1985 - 1985



Marilyn Friedman
1982 - 1982



Gretchen Miller
1981 - 1988



Janet Van Chive
1983 - 1988



Joan Hudson
1985 - 1988



Claude Rees
1986

Not Pictured:

Thomas Mueler
1971

Richard Witts
1971 - 1973

Lawrence A.G. McInroy
1976 - 1977

shepherd the legal opinion through any modifications or changes to the legal opinion made by the Chief Justice until published under his guidance and supervision.

During my career as a law clerk, I worked with Chief Justice Williams on 15 of his published opinions.¹⁶ It was a great learning experience and really honed my analytical, writing, and research skills.

I believe my clerkship was a major reason why I was hired by a prominent Detroit law firm.¹⁷ It was a life changing experience for my family and me and its positive impact has never left me.

In summary, Chief Justice Williams and his wife, Nancy, were very generous and considerate, not only to the law clerks,¹⁸ but to all people they interacted with. In working with Chief Justice Williams, I learned to appreciate his discipline; his legal philosophies; how he approached his legal opinions; and how he addressed the legal issues at hand. He was very methodical.

It is safe to conclude that he influenced and had an impact on many Michiganders in the past and present. Such influence will also stretch into the future, especially because of his accomplishments as a Michigan governor and Chief Justice of the Michigan Supreme Court.¹⁹

ENDNOTES

1. Gregory J. DeMars attended Wayne State University, graduating with a BS (High Distinction) in 1977, a Master's in Public Administration in 1979, and a Juris Doctorate (Magna Cum Laude) in 1981. He is a retired senior partner from Honigman Miller Schwartz and Cohn, practicing law there as a commercial real estate lawyer from June of 1983 until December 31, 2016.

He would like to thank Dr. Constance Smith for her assistance in preparing this manuscript.

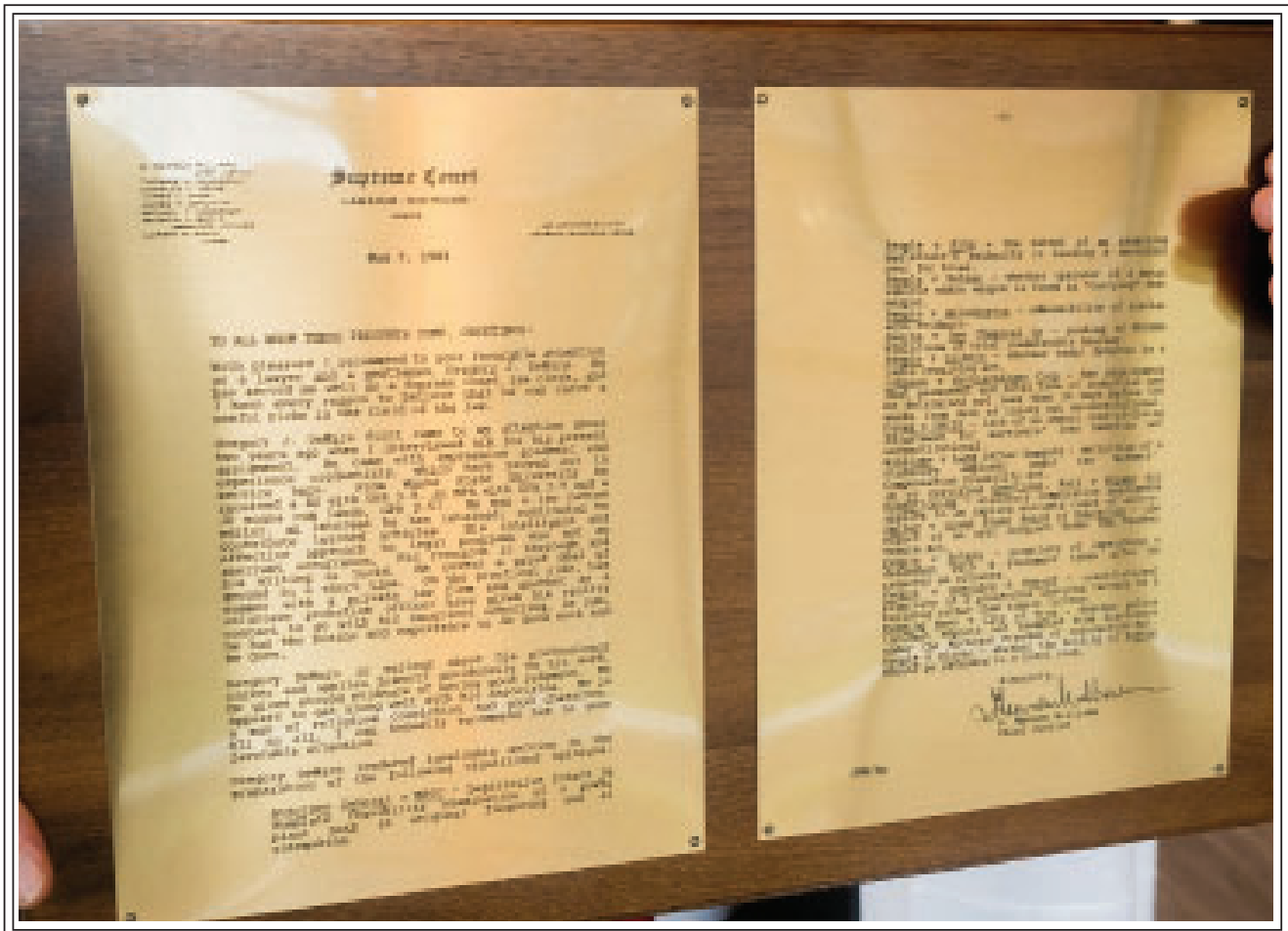
2. Chief Justice Williams did not mind his law clerks calling him "Gov." His nickname to the public was "Soapy." His brother, Richard, was nicknamed "Sudsy" and his older brother, Henry, "Lather." Urban legend has it the brothers succeeded in shucking those nicknames. McNaughton, *Mennen Williams of Michigan: Fighter for Progress* (New York: Oceana Publications, Inc., 1960), p 5.

3. I would like to dedicate this article to all former, ex-

isting, and future law clerks. Law clerks provide a great service to the administration of justice by the Michigan Supreme Court. See also Footnote 15. I would also like to acknowledge the law clerks that I had the pleasure to work with during my clerkship: Jim Walle, Beth Lowery, and MaryJo Campbell.

A list of Justice Williams' clerks is found below and many of them are in the photograph on the previous page:

Bruce I. Bertelsen	Barbara Peterson
John Burkoff	Jean Rankin
Mary Jo Campbell	Claudia Rast
Gregory J. DeMars	Susan F. Reed
Marilyn Friedman	R. Owen Richards
Lawrence Joseph	Lynn Shecter
Barbara A. Lane	Adrienne G. Southgate
Patricia Lloyd	Janet Van Cleve
Elizabeth A. Lowery	Peter Waldmeir
Patrick B. McCauley	James P. Walle
Gretchen Miller	Karen Colby Weiner
Lawrence A.G. Moloney	Robert C. Williams
Thomas Mulder	Richard Witte



When Greg departed the Court, Justice Williams gave him the above recommendation letter, bronzed and on a plaque. (he also provided a paper copy for resumes). The full case names referenced are in Footnote 16.

4. Much of the historical references and information on the life and career of Chief Justice Williams were gleaned from online references such as “Wikipedia” and two biographies written about Chief Justice Williams: McNaughton’s book cited in Footnote 2, and Thomas J. Noer’s 2005 publication, *Soapy: A Biography of G. Mennen Williams*.

Unlike today, Chief Justice Williams served two-year terms (rather than four-year terms), which accounted for the frequency of being elected six times. The Michigan Constitution of 1963 changed the governor’s term to 4 years starting in 1967. A 1992 amendment to the then Michigan Constitution imposed a lifetime term of two four-year terms for the office of governor.

5. See Noer, *Soapy: A Biography of G. Mennen Williams* (Ann Arbor: University of Michigan Press, 2005), pp 223-270 discussing his African years of service. I would like to note the extensive African art collection that the Chief Justice and his wife assembled in their home, office, and in some museums. I remember some very interesting pieces.

6. *Id.*, pp 271-311 discussing his Philippine years of service.

7. Chief Justice Williams ran for the office of U.S. Senate in Michigan. He won the Democratic party nomination from Jerome Cavanaugh (who was the mayor of the City of Detroit) after a bruising primary election. Thereafter, he ran against his Republican opponent, Robert Griffin, in the 1966 Michigan U.S. Senate election. At the time, Chief Justice Williams was in ill health, and he was not able to run an effective campaign. He was soundly defeated by Griffin in a 61 to 39 percent landslide. Erroneously, at that time, many predicted that his political career was over. *Id.*, pp 301-305 (discussing this election generally).

8. The current Michigan Constitution at Article VI, Section 19 provides in part as follows: “No person shall be elected or appointed to a judicial office after reaching the age of 70 years.”

9. This was a quote taken from a speech made by Chief Justice Williams in 1970 before the Economic Club of Detroit. *Id.*, p 313.

10. McNaughton, p 7.

11. Chief Justice was a victim of two widely reported crimes. The first crime occurred in 1950 when he was

governor and visiting the fortress-like Marquette Branch prison. He was briefly held hostage at knifepoint by a convicted murderer as part of a plan to escape hatched by several inmates of that prison. He was rescued from the assault without injury. Witsil & Marini, *Michigan Governor Survived Abduction in 1950*, Detroit Free Press (October 11, 2020), p 8A.

Later, Justice Williams was visiting the apartment of an administrative assistant who was out of town. The apartment was located near downtown Detroit. On June 2, 1976, he was attacked from behind by three men. He was beaten and thrown to the ground. He was then taken into the apartment, tied up with an electrical cord, and a panty hose was put over his head. He was robbed of his possessions and suffered a bruised and cut lip. Noer, pp 331-332.

12. Noer, p 350.

13. As I remember them, CRs were reports written by Law Commissioners of the Court who made recommendations on legal issues presented to the Court. Chief Justice Williams expected his law clerks to review and research CRs and then make legal recommendations to him with respect to a possible legal disposition of the issues presented in those reports.

14. This process is discussed more fully as provided below.

15. The individual role of a law clerk’s assistance in preparing legal opinions depended on the expectations and requirements of the assigning Justice. Over the years, I have heard criticisms of the practice of using a law clerk who is primarily responsible for the initial drafting of a legal opinion rather than his or her Justice. This was not my experience with Chief Justice Williams.

For an example of a possible criticism, Thomas J. Noer in his biography *Soapy* wrote the following:

Like most justices, Williams depended heavily on his clerks to outline cases, conduct research, and draft opinions. Most of his clerks had degrees from Michigan law schools, and in appointing them he was less concerned with their grades than their enthusiasm and commitment to hard work, traits he had exhibited throughout his own career. He preferred those who were married over single applications. *Id.*, p 322.

16. The list of the legal opinions that I assisted Chief Jus-

tice Williams is outlined in the letter of recommendation that he wrote for me upon my leaving the Court. A copy of the letter is attached hereto. He wrote a similar letter for each of his law clerks upon their departures. Chief Justice Williams wrote 402 opinions in his 16 years on the Court. *Id.*, p 323.

Attorney General v Michigan Public Service Commission, 412 Mich 385; 316 NW2d 187 (1982).

People v King, 412 Mich 145; 312 NW2d 629 (1981).

People v Butler, 413 Mich 377; 319 NW2d 540 (1982).

People v Golochowicz, 413 Mich 298; 319 NW2d 518 (1982).

Swartz v Dow Chemical Company, 414 Mich 433; 326 NW2d 804 (1982).

People v Gilbert, 414 Mich 191; 324 NW2d 834 (1982).

Johnson v Harnischfeger Corporation, 414 Mich 102; 323 NW2d 912 (1982).

Davey v Detroit Automobile Inter-Insurance Exchange, 414 Mich 1; 322 NW2d 541 (1982).

Williams v Lang, 415 Mich 179; 327 NW2d 240 (1982).

Karl v Bryant Air Conditioning, 416 Mich 558; 331 NW2d 456 (1982).

Smiley v Grand Blanc Board of Education, 416 Mich 316; 330 NW2d 416 (1982).

People v Esters, 417 Mich 34; 331 NW2d 211 (1982).

People v Ford, *People v George Gonzales*, *People v Howard*, 417 Mich 66; 331 NW2d 878 (1982).

The Evening News Association v City of Troy, 417 Mich 481; 339 NW2d 421 (1983).

People v. Oliver, 417 Mich 366; 338 NW2d 167 (1983).

17. The law firm of Honigman Miller Schwartz & Cohn. I worked there from June of 1983 to December 31, 2016, practicing primarily commercial real estate law for clients.

18. Chief Justice and Nancy Williams were very gracious to their law clerks, often inviting them to their social events. I will always fondly remember their kindness.



The bronzed recommendation letter remains a cherished artifact of article author Gregory DeMars' time as "Soapy" Williams' clerk.

19. For example, as governor, Chief Justice Williams established the creation of Wayne State University from a city college to a public university by his signing of Act 183 of Michigan Public Acts of 1956. Also, in 1959 Wayne State University became a constitutionally established university by a popularly adopted amendment to the then Michigan Constitution. See, Online Published History of Wayne State University. During his tenure as governor, the Mackinac Bridge (a/k/a "Big Mac") commenced to operate on November 1, 1957. See, McNaughton, *Mennen Williams of Michigan*, p 122 (discussing Governor Williams' commitment to build the bridge). The bridge connected the Lower Peninsula and the Upper Peninsula by extending an existing interstate highway.

As the Chief Justice, he started and pursued the use of technology as a way to improve and make more efficient the overall Michigan court system. See, Noer, *Soapy*, p 327. This legacy has laid the groundwork of today of using current technology to improve Michigan courts.

Society Archives Related to G. Mennen Williams

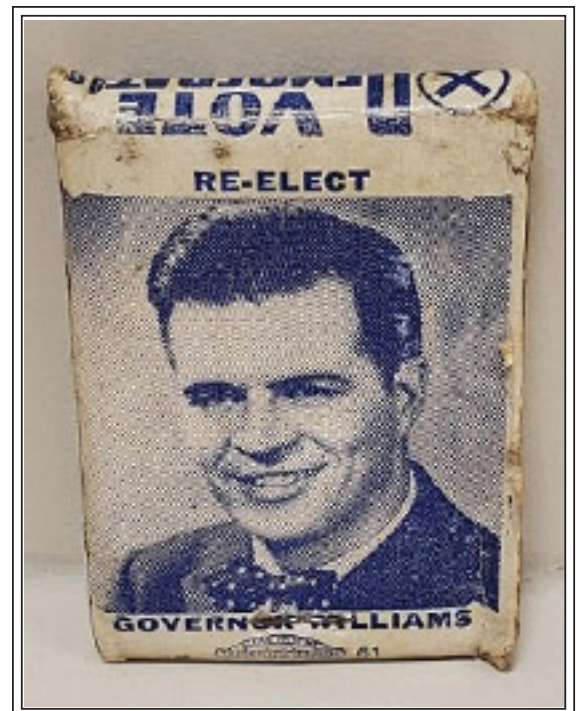
With G. Mennen Williams' lengthy public service over two branches of state government, it's no surprise that the Historical Society has a number of artifacts related to his involvement in Michigan's history. A couple items are pictured.

Additionally, the Society recently received a number of Williams' Christmas Cards from Don & Aline Smith of Western Michigan. The series begins with "Justice-elect" and Mrs. Williams with their youngest daughter, Wendy, still living at home and each holding a small dog; there are side-photos of both Gerry Williams and Nancy Ketterer née Williams and their growing families. It's evident from the photographs that (1) the Williams extended family remained close despite being in different geographical locations; (2) Nancy, Jr. and Wendy look just like their mother; (3) everyone loves dogs; and (4) plaid was fashionable during that time period.

Many thanks to the Smiths for donating these!



A cartoon autographed with the infamous green pen.



A matchbox from the 1960s campaign to re-elected Governor Williams.



The Invisible Scribes: Law Clerk Directory

Your name:

Justice served:

Term as judicial law clerk:

If you served as a law clerk to more than one Michigan Supreme Court Justice, please add them below with years served.

Other clerkships (if applicable):

Law School:

College or university:

Home address:

Current work address or employment plans:

E-mail address:

Phone number:

Why did you decide to apply for your clerkship?

What did you learn in the application and interview process?

What is one thing you learned from your justice that you would not have learned elsewhere?

What was the relationship like with the clerks in the other justices' offices during your term?

How do you remember your justice?

Do you recall others who clerked for the Court at the same time? Please name them.

A link to this questionnaire can be found on our website at www.micourthistory.org or you may submit your reply to MSCHS, 3rd Fl Hall of Justice, 925 W. Ottawa St, Lansing, MI 48915 or via e-mail lynnseaks@micourthistory.com.

Law Clerks – January 2024

Chief Justice Elizabeth T. Clement's Office

Elizabeth Kingston, Sr. Clerk – MSU College of Law
Alicia McCaffrey – University of Michigan Law School
Maria Ruggirello – University of Notre Dame Law School
John McAllister – Indiana University Maurer School of Law

Justice Brian K. Zahra's Office

Brian Balow, Sr. Clerk – University of Detroit Mercy
Samantha Cook – MSU College of Law
Robert Kuhn – University of Michigan Law School
Brian Weber – University of Michigan Law School
Daniel Ziegler – University of Notre Dame Law School

Justice David F. Viviano's Office

Nathan Inks – Wayne State University Law School
Nathaniel Haynes – Lewis & Clark Law School
Matthew Preston – University of Michigan Law School
David Eberle – MSU College of Law

Justice Richard H. Bernstein's Office

Vivian Chang, Sr. Clerk – University of Michigan Law School
Michelle Goyke – Northwestern University Pritzker School of Law
Vonica Sallan – Wayne State University Law School
Amy Ciardiello – University of Michigan Law School
Meghan Patero – University of Michigan Law School

Justice Megan K. Cavanagh's Office

Kirsten Perry, Sr. Clerk – MSU College of Law
David Loudon – MSU College of Law
Zachary Walker – MSU College of Law
Dana Ziegler – University of Michigan Law School

Justice Elizabeth M. Welch's Office

David Sheaffer, Sr. Clerk – MSU College of Law
Amal Shukr – MSU College of Law
Jocelyn Groll – The Ohio State University Moritz College of Law
Nick Kilstein – Yale Law School

Justice Kyra H. Bolden's Office

Philip Stadler, Sr. Clerk – University of Michigan Law School
Alexis Ringman – Wayne State University Law School
Danielle Smart – George Washington University Law School
Rihan Issa – University of Michigan Law School

60 Years of Legal Research & Recommendations: A History of the Supreme Court Commissioners' Office

by Chief Commissioner Daniel C. Brubaker



Clerk Hugh Carpenter, whose “window matters” started the entire thing.

The Commissioners' Office of the Michigan Supreme Court was born as a consequence of what, in the mid-1950s, were called “window matters.”¹ The Court of Appeals was still a decade away from its own creation, and the Supreme Court Clerk at the time, Hugh Carpenter,² had the practice of placing motions and applications addressed to the discretion of the Court “on the windowsills in his office so that that individual Justices might pick them up at random for their consideration.”³ By 1956, there were double the number of “window matters” as there were cases docketed for formal appeal.⁴

The Justices, who understandably preferred focusing their time and efforts on the formal appeals, began researching methods of lessening their time devoted to discretionary matters. Following on the heels of several other states – “Idaho, Kentucky, Minnesota, Missouri, Oklahoma, and Texas”⁵ – that had created the office of the Supreme Court Commissioner, the Court opted to create such an office in Michigan. The first posting for the position, containing a job description that remains largely accurate today, appeared in the April 1964 edition of the Michigan State Bar Journal. It read:

The Supreme Court expects to appoint a Commissioner on or about July 1, 1964. The established salary will range from \$17,500 to \$21,000.

GENERAL DESCRIPTION

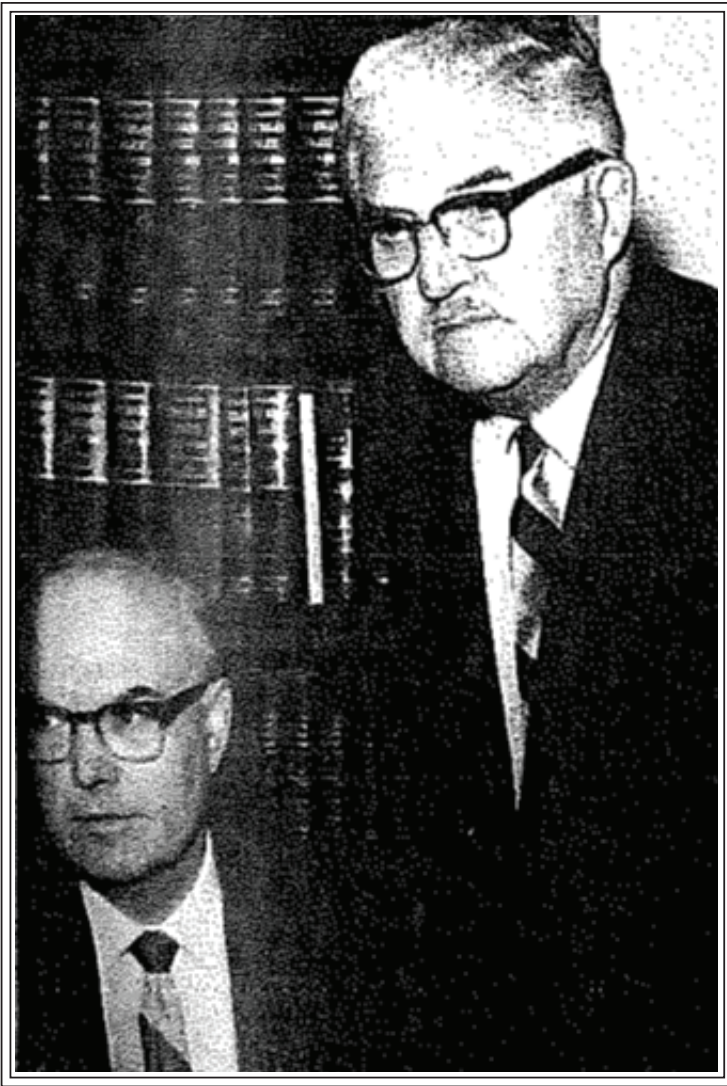
This employee will perform professional legal work in the nature of study, review, analysis and recommendation in highly specialized and complex fields of substantive and procedural law as referred to him by the Supreme Court.

Examples of Work:

- (1) Study, review, analyze, report upon and make recommendations concerning the following:
 - (a) Applications for leave to appeal, including ancillary motions for stay, continuance, leave to file partial transcripts, extensions of time and other miscellaneous motions.
 - (b) Original writs (mandamus, prohibition, quo warranto, habeas corpus, superintending control) including ancillary motions.
- (2) Extended research in the preparation of briefs on complex legal matters as required from time to time in the Supreme Court.
- (3) Such other duties as the Supreme Court may prescribe.⁶

Applicants were required to be a member of the State Bar with a minimum of six years as a practicing attorney and have “the talent and ability necessary to perform the job.”⁷ They were also required “to withdraw from the private practice of law.”⁸

After interviewing over 20 applicants,⁹ the Justices appointed two individuals: Howard L. Ellis and Joseph W. Planck, effective July 9, 1964: “Both were sponsored for appointment by Republican justices—Planck by Justice John R. Dethmers and Ellis by Justice Harry F. Kelly.”¹⁰ It is an important footnote in the Court’s history that Planck and Ellis were sponsored by Justices who were not in the majority at the time, as an important aspect of the Commissioner’s Office then as well as now is that commissioners work for all seven Justices and are tasked with maintaining impartial and nonparti-



The first two commissioners, Howard Ellis (seated), and Joseph Planck. (January 1968 *Michigan State Bar Journal*, p. 19, reprinted with permission).

san viewpoints in their reports.

Planck was a well-known attorney in the Lansing area. Born in 1897, he graduated from the University of Michigan Law School in 1921 and immediately started a law practice in Lansing. Legend has it that in the fall of 1921 in the courthouse attorneys' room, the county sheriff offered a five-dollar gold piece to any lawyer who could put him on his back. Planck, who was a champion heavyweight wrestler in college accepted the challenge.¹¹ "The bout was a draw, but as a result every lawyer in Ingham County immediately knew Joe Planck."¹² During his legal career, Planck served six years as Lansing city attorney and two terms as Ingham County prosecuting attorney,¹³ arguing 29 appeals before the Michigan Supreme Court between 1925 and 1964. He was elected the State Bar president in 1950.¹⁴ In the early 1960s his hearing quickly began deteriorat-

ing, reaching "the point that he could no longer represent clients in court."¹⁵ It was Justice Eugene Black who "encouraged him to apply for the newly created position of commissioner."¹⁶

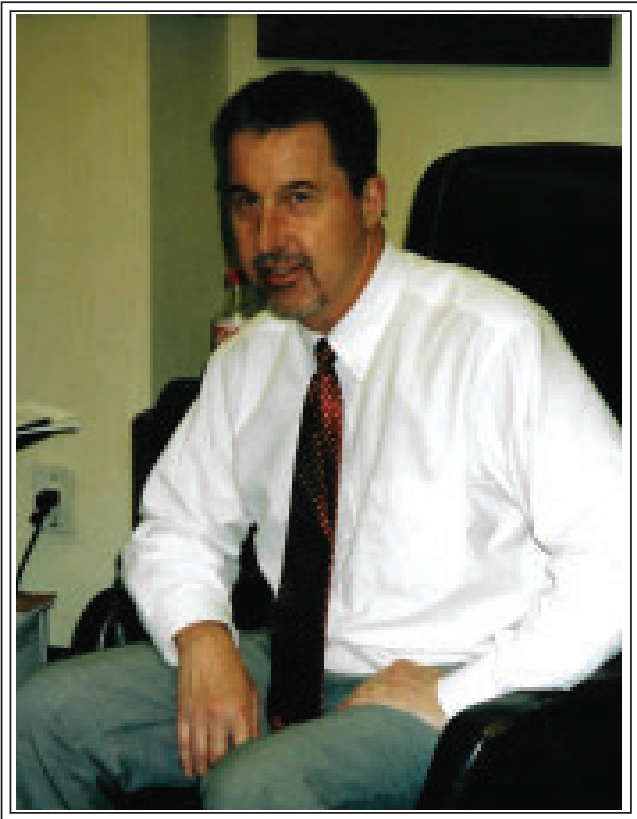
Howard Ellis was about ten years Planck's junior and graduated from the Detroit College of Law in 1930. Before his appointment to the Commissioners' Office, Ellis worked with Justice Harry Kelly's old family firm "established by [the justice's] father and two brothers" where he himself practiced in between statewide political service.¹⁷

Planck and Ellis' names appear at the front of the 373 Mich Report, just under the Justices, where commissioners' names continue to appear today.

For the next several years the office remained fairly small, with between two to four commissioners – Casimir W. "Russ" Ruskowski joined in 1968. Howard Ellis eventually shifted his focus and became the Supreme Court Reporter on May 1, 1970, with his name first appearing on the spine of 383 Mich, and Joseph Planck retired in 1972 and was replaced by Dennis Donohue.

In 1977, the office jumped from three to eight commissioners. This increase necessitated the creation of a new position: Chief Commissioner. Donald P. Ubell, who joined the office in 1974, served as the first Chief Commissioner. Ubell had served as assistant clerk in the fairly new Michigan Court of Appeals¹⁸ and was in the inaugural group of the first four professors at the Thomas M. Cooley Law School in Lansing.¹⁹ He had also been the director of the "Prosecuting Attorneys Appellate Service," a function of the Attorney General's Office that assists local communities by providing prosecutorial appellate assistance.

Although the core function of the Commissioners' Office is reviewing and reporting on applications for leave to appeal, the office also handles numerous special projects to assist the Court with its many functions. In Ubell's case, that meant working on criminal jury instructions. Administrative Order 1978-5, which was adopted to consider whether criminal jury instructions should be made obligatory, required all trial judges in the state to report on whether they used standard criminal jury instructions for trials between August 1 and December 1 of that year, if not, what instructions were given, and to prepare a report containing this relevant



Father Michael Murray during the first year of his term as Chief Commissioner.

information to be forwarded to Ubell within two weeks

of the trial. Ubell gathered this information to report back to the Justices.

Among the new commissioners hired in 1977 was the first woman commissioner, Linda Ojala. Her tenure was short lived, as she was with the office for less than a year, eventually moving to Minnesota. The next woman hired to the office is a name known to many in Michigan: Janet Neff. Neff had been the city attorney for Grand Rapids and also had experience in private practice. She would be a commissioner from 1978 – 1980, at which point she left to join the U.S. Attorney’s Office in Grand Rapids. She became a Court of Appeals judge in 1989, and a Federal District Court judge in 2007.²⁰ For many years Neff would remain the only commissioner to become a judge, but that would change in 2018, when then-commissioner Aaron Gauthier was appointed as the circuit court judge of the 53rd Circuit Court, serving Cheboygan and Presque Isle Counties.²¹ Three years later, in 2021, Commissioner Molly Hennessey Greenwalt was appointed to fill a vacancy on the 54B

District Court bench in East Lansing,²² bringing the total number of judges who have served in the office to three. The Commissioner who wins the award for highest post-commissioner calling, however, is Michael Murray, who joined the Commissioners’ Office in 1980, and was the Chief Commissioner from 2002 to 2004. He went on to become the General Counsel for the Catholic Diocese of Lansing and was ultimately ordained as a priest!²³

With respect to Chief Commissioners, the person with the greatest impact on the office was Aloysius J. Lynch, better known as “Al.” He became the Chief Commissioner on September 1, 1979, only 2 years after the position was created, and served for 23 years, eventually retiring in September 2002. He remains the longest serving Chief Commissioner in the history of the office, having occupied the position for more than twice as long as the next longest serving Chief, yours truly. Al was a great friend of Justice Michael Cavanagh, who thanked Lynch for his counsel, support, and friendship at Cavanagh’s portrait ceremony in 2016.

The Commissioners’ Office has seen many changes over the years, including a period when commissioners were housed in a separate building than the Justices, requiring paper files to be transported back and forth between the buildings. For more than 20 years, however, the office has been on the 4th floor of the Hall of Justice. In some respects, the job looks vastly different



The legendary Chief Commissioner “Al” Lynch, apparently replicating Clerk Hugh Carpenter’s “window matters.”

now than it did in 1964, with the advent of e-mail, electronic records, and e-filing, but the core function of the office remains the same: “studying, reviewing, analyzing, reporting upon, and making recommendations concerning applications for leave to appeal”²⁴ while providing legal research and advice to other offices within the Court.

ENDNOTES

1. Troff, *The Supreme Court Commissioner*, 47 Mich St B J (January 1968), p 17.
2. Hugh H. Carpenter retired from the Court on September 1, 1957, after over forty years of service including positions of the Assistant Court Reporter, Deputy Clerk, and Clerk of the Court.
3. Troff, p 17.
4. Recommendations and Report of the Joint Committee on Michigan Procedure, Revision November 22, 1956. Troff, p 17.
5. Troff, p 17.
6. *Supreme Court Commissioner*, 43 Mich St B J (April 1964), p 23.
7. Troff, p 18.
8. *Id.*
9. *Capitol Watchtower*, Lansing State Journal (August 9, 1964), p A3.
10. *Id.* Commissioners are no longer sponsored by Justices as candidates for employment.
11. *Joseph W. Planck: President of the State Bar of Michigan*, 29 Mich St B J (November 1950), p 26.
12. *Id.*
13. *Id.*
14. *Id.*
15. Stockmeyer, *Profiles in Leadership: Six Lansing-Area Lawyers Head State Bar of Michigan*, The Mentor (Winter 2017), p 3.
16. *Id.*
17. *Capitol Watchtower*.
18. *The 1979-2980 Judicial Fellows*, The Judicial Fellows Program, 1980-1981, p 9.
19. Baird, *Privately Financed, Located At Lansing: State’s Newest Law School Ready To Open*, The Times Herald (January 13, 1973), p 12A.
The other “part-time” professors were Judge John W. Fitzgerald, Judge Donald L. Reisig, and George V. Warren.
20. Wikipedia: Janet T. Neff <https://en.wikipedia.org/wiki/Janet_T._Neff> (accessed March 10, 2024).
21. Hahn, *New Judge Introduces Self, Appoints Prosecuting Attorney*, Cheboygan Daily Tribune (January 4, 2019).
22. Elliott, *New District 54B Judge Introduces Herself to*

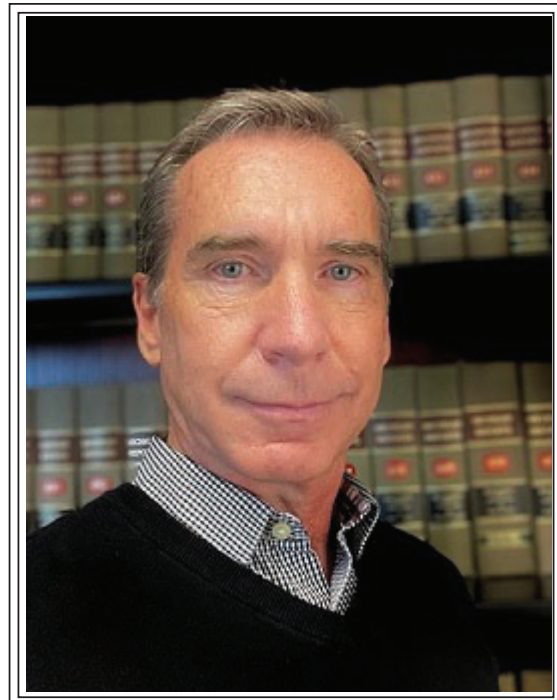
- the Community*, East Lansing Info (September 13, 2021).
23. *From the Hall of Justice to the Pulpit: Fromer MSC Chief Commissioner Becomes Priest*, Michigan Supreme Court Historical Newsletter, Summer 2016.
 24. *Supreme Court Commissioner*.

Chief Commissioners

It would be impossible to list all the Commissioners who’ve served over the past 60 years, though the Society is working on a database containing the Commissioner information. For now, readers can find regular lists in the Michigan Reports.

We will, however, list the Chief Commissioners who’ve served the Court.

Donald P. Udell (1977 – 1979)
Aloysius J. Lynch (1979 – 2002)
Michael Murray (Sept. 2002 – Jan. 2004)
Frank J. Greco (Jan. 2004 – Dec. 2004)
Glen M. Bis (Dec. 2004 - Feb. 2005)
Michael J. Schmedlen (Mar. 2005 – Mar. 2012)
Daniel C. Brubaker (2012 – Current)



Current Chief Commissioner and article author
Daniel C. Brubaker.

2024 Annual Luncheon Photographs

On Thursday, April 11, 2024, the Michigan Supreme Court Historical Society held its Annual Membership Luncheon at The Inn at St. Johns in Plymouth. The John W. Reed Lecture was given by Justin Simard, MSU College of Law Associate Professor and Director of the Frank J. Kelley Institute of Ethics & the Legal Profession, on his ongoing “Citing Slavery Project.”



Society President Carl W. Herstein welcomed attendees to the new location.



State Bar of Michigan President Daniel D. Quick reminisced on last year’s successful Michigan Legal Milestone honoring Percy J. Langster, the United States’ first African American elected prosecutor, and the importance of the acknowledgement of history.



Chief Justice Elizabeth T. Clement offered greetings from the Court and remarked on the Court’s ongoing leadership in data collection and electronic resources.

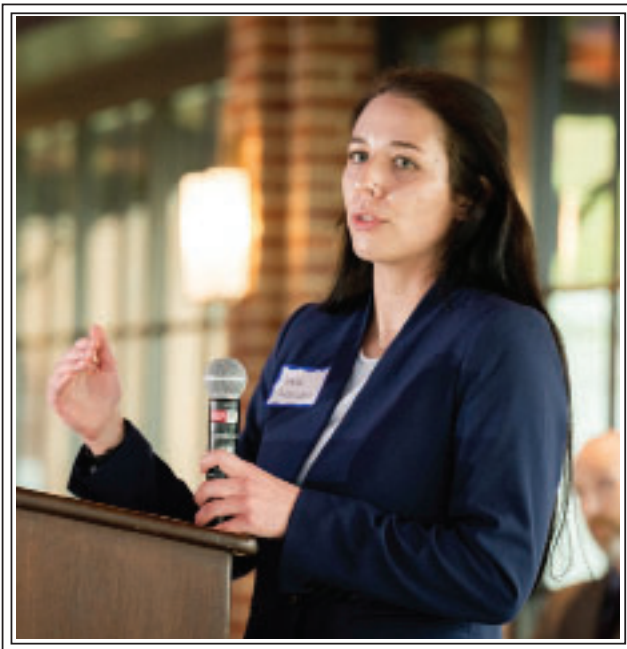




Professor Justin Simard spoke on “Slavery’s Legal Legacy and Its Meaning for Michigan Lawyers. He “started the Citing Slavery Project to reveal the legacy of the law of slavery in American law and to make that research accessible to others.” His online database includes over 12,000 cases covering 49 states. A number of Professor Simard’s students assist him with this ongoing project and two attended the luncheon.



Luncheon attendees learned, for example, of *Johnson v. Perry*, a 1841 case involving the recovery of damages for the broken leg of an enslaved person, has been cited in cases as recent as 2016, without consideration of the issue of slavery in that original case.



Anna Maxwell is currently in her second year at MSU College of Law and serves as Editor-in-Chief of the Michigan State Law Review. Anna spoke of her work with the project and its unexpected use as a genealogical resource for individuals researching their family history.



Torence Witherspoon is also in his second year at MSU College of Law and serves as editor of the “Citing Slavery Project.” Torence spoke of the ongoing educational outreach of the Project and its importance to him personally as a biracial American.



State Bar of Michigan (SBM) Executive Director and Society Board Member Peter Cunningham with SBM Director of Governmental Relations Nathan A. Triplett and newly-elected Society President Joseph J. Gavin.



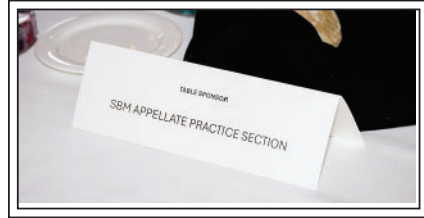
The Plunkett Cooney-sponsored table included Advocates Guild Chair Mary Massaron, Justice Elizabeth M. Welch, and Briana L. Combs (seated, left to right); Hilary A. Balentine and Jeffery Gerish (standing, left to right).



The Dickinson Wright-sponsored table included Matthew Schneider, John McSorley, Judge (former Justice) Mary Beth Kelly, K. Scott Hamilton (seated, left to right); Jeff Stuckey, Justice Brian K. Zahra, Philip DeRosier, Brandon C. Hubbard (standing, left to right).



The Kienbaum Hardy Viviano Pelton Forrest-sponsored table included Eric Pelton, Marge Bossenbery, Judge Clinton Canady, and Marianne Grano (standing, left to right); Lauren Walas, David Porter, Justice Richard H. Bernstein, and Gaetan Gerville-Reache (seated, left to right).



Representative Andrew Fink with Brian Wassom, Robert Kamenech, Jason Long, and Jeremy Orenstein



The Butzel-sponsored table with three current Justices and two former Justices. Seated, left to right: Barrett Young, Deion A. Kathawa, Steven R. Eatherly, Former Justice Maura D. Corrigan, and Daniel J. McCarthy. Standing, left to right: Paul M. Mersino, Justice Richard Bernstein, Justice David F. Viviano, Justice Kyra Harris Bolden, Former Justice Kurtis T. Wilder, and Eric Restuccia.





Joseph J. Gavin, Peter Cunningham, Chief Justice Clement, Torence Witherspoon, Anna Maxwell (seated); Daniel D. Quick, Professor Justice Simard, and Carl W. Herstein (standing).



The Jacobs Diemer-sponsored table included Thamara Sordo-Vieira, Charles Kennedy, Bill Cook, Timothy Diemer, Kate Beres (seated, left to right); Nate Peplinski, Rob Kamanec, Charlynn Turner, Samantha McLeod, and Stephanie Arndt (standing, left to right)

2024-2025 Board of the Historical Society*



Left to Right - Vice President Matthew C. Herstein, Mark Cooney, Former Chief Justice Maura D. Corrigan, Treasurer John G. Fedynsky, Judge Mary Beth Kelly, Society Executive Director Lynn Seaks, President Emeritus Carl W. Herstein, President Joseph J. Gavin, Frederick M. Baker, Jr., Peter Cunningham, and Assistant Executive Director Carrie Sharlow.

*Not pictured - Mark Bendure, Gregory J. DeMars, Deborah Gordon, Mary Massaron, Denise Langford Morris, Lawrence P. Nolan, John D. Pirich, Robert F. Riley, Judge Angela Kay Sherigan, and Secretary Janet K. Welch

Request for Membership Input - What Would You Like to Read About?

The Society is interested to know what you, the members of the Society, would like to read about in this quarterly newsletter. The Society is in the process of creating an index of the past issues to gather more insight into what has yet to be covered. In the meantime, if you have an idea or a subject of interest that would fall under the purview of the Society, please e-mail us at carriesharlow@micourthistory.com or lynnseaks@micourthistory.com.

Upcoming articles include Professor Justin Simard's remarks at the April 11, 2024 annual luncheon, a themed newsletter on Michigan's Tribal Courts, and Runners-Up in Michigan Supreme Court elections.

Michigan Supreme Court Historical Society Elects New Officers



Joseph J. Gavin is the 4th President of the Society



Matthew C. Herstein is the new Vice President



John G. Fedynsky serves as the new Treasurer



Janet K. Welch is the new Secretary

On April 11, 2024, the Michigan Supreme Court Historical Society Board of Directors elected new officers of the Society. These include Joseph J. Gavin as president, Matthew C. Herstein as vice president, John G. Fedynsky as treasurer, and Janet K. Welch as secretary.

“The Historical Society plays such an integral part in preserving the Court’s rich history,” said Chief Justice Elizabeth Clement. “We look forward to collaborating with the new officers of the Historical Society as they continue to promote the study of the history of Michigan’s courts and raise awareness of the Court’s heritage.”

Joseph Gavin, formerly the Historical Society treasurer, succeeds Carl W. Herstein, who served as president for the past seven years. Gavin, a 2005 graduate of Michigan State University College of Law, is a member of the Miller Johnson firm located in Grand Rapids.

Matthew Herstein succeeds Lawrence P. Nolan as vice president of the Historical Society. Nolan served as vice president for many years. Herstein has been a member of the Historical Society since 2008 and is a partner at the law firm of Deneweth, Vittiglio & Sassak, P.C. in Troy.

Treasurer John Fedynsky has been a board member since 2012. He is an assistant attorney general for the State of Michigan and, as befitting an officer of the Historical Society, is the author of *Michigan’s County Courthouses: An Encyclopedic Tour of Michigan Courthouses* (The University of Michigan Press, 2010).

Secretary Janet Welch is a former executive director of the State Bar of Michigan. Welch previously clerked for Justice Robert Griffin and was the first woman executive director of the State Bar of Michigan. Welch has been a member of the Historical Society for over 30 years.

The Michigan Supreme Court Historical Society is a charitable organization under Internal Revenue Service code 501(c)(3). It produces publications, special events, and other projects consistent with its mission of promoting the study of the history of Michigan’s courts and increasing public awareness of the state’s legal heritage.

Happy 100th Birthday, Judge Avern Cohn!

by Carrie Sharlow

July 23, 2024, would have been the 100th birthday of United States Federal District Court Judge Avern L. Cohn. He passed away on February 4, 2022; I can still point out the location in Meijer's frozen food section where I found out the news via a colleague's text. I don't know how I made it home, I was crying that hard.

Judge Cohn was incredibly intelligent and well-read and had a memory like a steel trap. He once corrected me on the exact date of his bar mitzvah.

He was appointed to the United States District Court for the Eastern District of Michigan in 1979. He only started limiting his caseload after he turned 95.

Judge Cohn was a firm friend of the Michigan Supreme Court Historical Society (as well as other numerous organizations both historical and not) and served on the Board for years.

On a more personal note, Judge Cohn taught me about Michigan's legal history and writing and research. To borrow a phrase one of the Society Board members used in reference to Justice Voelker, Judge Cohn did not suffer fools lightly, but he was always kind to me. Many of the judges and lawyers I wrote about were people he knew; if he hadn't known them personally, he had insight into their character and suggestions of research avenues. Even as I research now, I wish I could ask him a question.

Happy Birthday, Judge Cohn.



Some More of the Newest Members of the Guild

We've had some new advocates join the Advocates Guild:



Alena M. Clark

Alena Clark works for the State of Michigan in the Department of the Attorney General and will celebrate fifteen years as an attorney this year. She studied law at the Uni-

versity of Detroit Mercy School of Law.

Alena joined the Advocates Guild to network with and get to know other appellate attorneys. As an individual with an undergraduate degree in history, she's also fascinated in both Michigan's history and being a part of making new history.

Alena argued *People v Donald W. Davis, Jr* (Docket Number 161396) before the Court on November 10, 2021, during the height of the pandemic.

Lynn A. Gandhi

Lynn Gandhi has been in practice for more than thirty-five years. She received her J.D. from Wayne State University Law School and an LLM in Taxation from New York University School of Law. She is a partner at Foley & Lard-



ner, LLP Detroit.

Lynn most recently argued *Vectren Infrastructure*

Services Corp v Dep't of Treasury (Docket Number 163742) before the Court on April 5, 2023.

Lynn joined the Advocates Guild to support the mission of the Michigan Supreme Court Historical Society and promote the rule of law in this state.

Lynn further notes:

I am fortunate to have practiced law both in-house and at firms. There is no greener pasture. You must love the area of the law you work in and remember that everyone has a family to feed. I am fortunately to have a likeminded State and Local Tax community across the U.S. which allows me to age gracefully and with knowledge, and a desire to teach the next generation. Tax is the intersection of public policy and fiscal need and influences much in our daily lives.



Amy E. Murphy

Amy Murphy has practiced law for twelve years and is with Miller Johnson. She graduated from the University of Michigan Law School with honors.

Amy joined the Advocates Guild to connect with members of the bench and appellate lawyers.

Michael A. Tesner

Michael Tesner serves at the Genesee County Prosecutor's Office. He's an alumnus of the Boston College Law School and has practiced for thirty-three years.

Michael notes that



I have been an Assistant Prosecutor with Genesee County for 24 years, for the past 13 in our

Appellate Division where I have been the Bureau Chief since 2018. It has been a privilege to represent the People of the State of Michigan before the Court on several occasions since 2015, most recently in October 2023, in *People v Kevin Thompson* (Docket No. 163224). I am fortunate to have argued before so many brilliant jurists, and while I have not always prevailed, I am always impressed by and appreciative of the hard work and keen intellect of our state's Justices. I feel truly privileged to have played a role in the process of seeking justice.

Brian D. Wassom

Brian Wassom is a partner with Warner Norcross + Judd LLP and an alumnus of Case Western Reserve School of Law. He's practiced law for a quarter of a century.



Brian joined the Advocates Guild to meet and learn from our state's best practitioners and jurists.

Brian's first case before the Michigan Supreme Court was on behalf of rap mogul Dr. Dre.

For Questions or Comments Contact

If you've any questions about the Society in general, membership or events, please contact

Executive Director

Lynn Seaks at

lynnseaks@micourthistory.com.

For questions regarding the newsletter or article publication, please contact

Assistant Executive

Director

Carrie Sharlow at

carriesharlow@micourthistory.com.

Save the Date -

Wednesday,

June 12, 2024

Justice Alton Davis portrait unveiling*

Thursday,

June 13, 2024

The Legacy of Women on the Michigan Supreme Court: A Conversation with current Justice Elizabeth M. Welch and former Justice Maura D. Corrigan+

Wednesday,

October 9, 2024

Opening Session for the 2024-2025 Court Year

Wednesday,

April 16, 2025

Annual Luncheon

* Invitation only

+ Registration required



3rd Floor, Hall of Justice
925 W. Ottawa Street
Lansing, MI 48915

Mission Statement

The Michigan Supreme Court Historical Society, a non-profit 501(c)(3) corporation, collects, preserves, and displays documents, records, and memorabilia relating to the Michigan Supreme Court and the other Courts of Michigan, promotes the study of the history of Michigan's courts, and seeks to increase public awareness of Michigan's legal heritage. The Society sponsors and conducts historical research, provides speakers and educational materials for students, and sponsors and provides publications, portraits and memorials, special events, and projects consistent with its mission.

Founder:

Dorothy Comstock Riley

Officers:

Joseph J. Gavin, *President*

Matthew C. Herstein, *Vice President*

Janet K. Welch, *Secretary*

John G. Fedynsky, *Treasurer*

Directors:

Frederick M. Baker, Jr.	Judge Mary Beth Kelly
Mark R. Bendure	Mary Massaron
Mark Cooney	Denise Langford Morris
Justice Maura D. Corrigan (Retired)	Lawrence P. Nolan
Peter Cunningham	John D. Pirich
Gregory J. DeMars	Robert F. Riley
Deborah L. Gordon	Judge Angela Kay Sherigan
Carl W. Herstein	

Executive Director: Lynn Seaks

Assistant Executive Director: Carrie Sharlow

Society Update is published quarterly by the Michigan Supreme Court Historical Society. Writing submissions, article ideas, news, and announcements are encouraged. Contact the Society at: 3rd Floor Hall of Justice, 925 W. Ottawa Street, Lansing, MI 48915 Phone: (517) 373-7589 Fax: (517) 373-7592