

# Michigan Lawyers in History

## Judge Avern Cohn

By John R. Runyan and Carrie Sharlow



*The state of Michigan was built by the lumber and auto industries, agriculture, and the lawyers who lived, studied, and practiced here. The articles in this occasional series highlight some of those lawyers and judges and their continuing influence on this great state.*

Chances are good that if your P number begins with a seven or even a high six, Avern Levin Cohn has always been known to you as a federal court judge. However, although he is probably most often associated with his work since 1979 on the U.S. District Court for the Eastern District of Michigan, Judge Cohn was, and always has been, first and foremost a lawyer.

Judge Cohn has been known to say that his path to the federal bench began with his selection of Irwin Isadore Cohn and Sadie Levin as his parents.<sup>1</sup> Both were children of immigrants. The Cohns and Levins were Eastern Europeans who emigrated to the United States before the turn of the twentieth century. The Cohns settled in Detroit; the Levins in Chicago.<sup>2</sup>

Irwin Cohn attended the University of Michigan, obtaining a law degree in 1917. He joined the firm of Selling & Brand and practiced there until opening his own law firm in the mid-1920s.<sup>3</sup> In later years, he attributed much of his success to luck and guts, and that's essentially how he met Sadie Levin.<sup>4</sup> He happened to be at a Lake Michigan resort at the same time she was, and jumped into the lake to rescue her when she started to drown; it was particularly gutsy because Irwin couldn't swim.<sup>5</sup> A second rescuer dove in after Irwin, and



Avern L. Cohn portrait, HS12848, University of Michigan Alumni files, Bentley Historical Library, University of Michigan

everyone survived. Irwin and Sadie were married on January 14, 1923.<sup>6</sup>

Avern Cohn was born July 23, 1924. His was “a typical middle-class Jewish upbringing”<sup>7</sup> in Detroit’s “golden ghetto.”<sup>8</sup> His parents were involved in Jewish community affairs, sometimes at the forefront, sometimes behind the scenes. Irwin Cohn would write “a check for a school or a hospital or a church, [and] few people ever hear[d] of it.”<sup>9</sup> The family believed that

with privilege came a responsibility to help those less fortunate.

The “golden ghetto” was a tight-knit community; Judge Cohn recalled that he “had almost no non-Jewish friends or associations” growing up.<sup>10</sup> Much of his early life can be traced in the *Detroit Jewish News* and *Detroit Jewish Chronicle*. The Cohns were frequently mentioned, with “Mr. and Mrs. Irwin I. Cohn and son Avern” wishing friends and family a happy new year, or Irwin donating trees to be planted in Palestine in honor of Avern and his sister, Rita. When the family celebrated Avern’s bar mitzvah in 1937, the paper included an announcement and an extensive invitation.<sup>11</sup>

The Cohns were a close-knit family. Avern walked to his grandparents’ home regularly and often attended Saturday services with his grandfather at the Congregation Shaarey Zedek. But Irwin and Sadie Cohn were by no means “helicopter parents”; as Judge Cohn describes it, “there was more freedom and independence than today.”<sup>12</sup> He rode his bike all over northwest Detroit and played ball on vacant lots with friends. He spent summers at sleepaway camps beginning at the tender age of six, or at the family cottage on Pine Lake in Oakland County.<sup>13</sup> He recalled one summer on Pine Lake in the



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mid-1930s when he and his future law partner’s older brother tied Alan Schwartz to a tree in an effort to rid themselves of an annoying younger sibling.<sup>14</sup>

Of course, to the surprise of no one who knows him now (or knew him then), Avern was an excellent student. He read everything he could get his hands on and was particularly interested in history.<sup>15</sup> He also had an early interest in politics, listening on the radio to the nomination of Franklin D. Roosevelt at the 1936 Democratic National Convention (which he later regularly attended as a delegate). He attended Winterhalter Elementary School, Tappan and Durfee intermediate schools, and finally, Detroit Central High School, where he graduated with honors in January 1942.<sup>16</sup> Immediately after graduation, Avern started college. He knew from an early age that he would follow in his father’s footsteps and attend the University of Michigan—“I didn’t know there was any other university in the United States”<sup>17</sup>—and then join him in the Cohn law firm.

The world intervened with such designs that Judge Cohn very nearly became Dr. Cohn instead. The attack at Pearl Harbor had brought the United States into World War II, and each week, another U-M fraternity brother would receive his draft notice, put his civilian clothes up for sale, and report for duty.

Cohn waited for his draft notice (he might have enlisted if his eyesight had not been so poor). When the notice finally arrived in 1943, he reported for infantry training at Fort Custer near Battle Creek. He aced the Army’s General Classification

Test that was administered to all new inductees and was selected for the Army Specialized Training Program. He was sent to Stephenville, Texas, for pre-engineering training at John Carlton Agricultural College.<sup>18</sup> The training program was soon suspended in anticipation of the need for reserves to replace casualties expected in Europe, but Cohn was one of a fortunate few who were instead sent to Stanford University for pre-medical training.<sup>19</sup>

After fetching bed pans for eight months as a ward boy while waiting for a spot to open,<sup>20</sup> Cohn started Loyola School for Medicine in 1945 but dropped out in the spring of 1946 after deciding that he was better suited for the law.<sup>21</sup> He entered the University of Michigan Law School that fall, graduated in 1949, and immediately joined his father’s practice.<sup>22</sup>

Irwin Cohn’s law firm was in the Hammond Building. It was a general civil practice firm with an emphasis on bankruptcy, real estate, business transactions, and labor relations; clients included Federated Department Stores, Wrigley’s Supermarkets, Sinai Hospital, and the Michigan Hospital Association. Avern did debt collection, evictions, and labor arbitrations; examined abstracts; and took criminal assignments. In 1962, Irwin Cohn’s practice combined with the law offices of Honigman, Miller & Schwartz to form Honigman, Miller, Schwartz & Cohn.<sup>23</sup>

In 1954, Avern met his future wife, Joyce Ann Hochman, who was, by her own account, “such a good Democrat when she met her husband at the young and idealistic age of 21, that ‘if [Avern] had been a

Republican, [she] would not have gone out with him a second time.”<sup>24</sup> The couple married in December 1954<sup>25</sup> and would eventually have three children. After Joyce passed away in 1989, Avern married Lois Pincus, an art dealer, in 1992.<sup>26</sup>

The Cohns were politically active. Avern worked with Volunteers for Stevenson as a precinct delegate and then ran Citizens for Kennedy and Johnson.<sup>27</sup> In the 1960s, he managed the reelection campaigns of Justice Paul Adams and Justice Otis Smith—both appointees to the Supreme Court by Gov. John Swainson—and later served as treasurer for the Senate campaigns of G. Mennen Williams and Frank Kelley.<sup>28</sup> He was also involved in the campaigns of his cousins Sander and Carl Levin.<sup>29</sup>

Avern also volunteered to serve on several State Bar of Michigan committees, including the Character & Fitness Committee,<sup>30</sup> Civil Liberties Committee,<sup>31</sup> Committee on Legal Aid, and the Committee on Judicial Selection & Tenure.<sup>32</sup> In 1978, he was appointed chair of a committee that authored a controversial “Report of the Special State Bar Committee on Court Congestion,” which recommended that the Michigan Supreme Court become more transparent in its operations and fulfill the promise of “one court of justice” under the 1963 constitution, requiring greater uniformity and the exercise of greater supervisory authority over the lower courts in Michigan.<sup>33</sup> The recommendations were quite revolutionary at the time and caused a firestorm.

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In between law practice, political activities, State Bar activities, and personal relationships, Cohn served on several commissions, including the Michigan Social Welfare Commission,<sup>34</sup> the Michigan Civil Rights Commission, and the Detroit Board of Police Commissioners.<sup>35</sup> He was also active in Jewish organizations like the Jewish Community Council.<sup>36</sup> And through it all, he sent scores of thought-provoking letters over the years to editors of legal journals and various newspapers.

But Cohn was always a lawyer first, and during his 30 years in private practice, he often used his skills to further the public interest. When the Automobile Club of Michigan moved its headquarters and 1,200 jobs from downtown Detroit to Dearborn in 1974, there was an uproar. While others were attacking this discrimination directly, Cohn tried a more subtle approach. In *Dozier v Automobile Club of Michigan*,<sup>37</sup> he challenged the legality of the club's bylaws, which allowed for nomination and election of the club's directors (in a self-perpetuating fashion) by the directors themselves rather than by the membership.<sup>38</sup> Despite being opposed by former Michigan Supreme Court Justice Theodore Souris, Cohn successfully persuaded the Court of Appeals to reverse a decision by then Wayne Circuit Judge James L. Ryan. Although the club amended its bylaws in response to the lawsuit, Cohn was unsuccessful in his attempts to persuade the club to add an African American to its board.<sup>39</sup>

Later, he "stirred the pot" again when he questioned the applicability of the state's Open Meetings Act to Michigan Supreme Court meetings on administrative matters.<sup>40</sup> His letter to the Court asking when it was next scheduled to meet prompted the Court's sua sponte opinion, *In re "Sunshine Law"*, declaring unconstitutional that portion of the act applicable "to a court while exercising rule-making authority and while deliberating or deciding upon the issuance of administrative orders."<sup>41</sup>

It's no wonder that his name came to the forefront when there were vacancies on the federal bench in the late 1970s. For 30 years, Cohn had groomed himself for such an appointment. He was a senior

partner in an established, well-regarded law firm; active in the general, political, and religious communities; and supported by both organized labor and the African-American community.<sup>42</sup> To top it off, there was a Democratic president and congressional majorities. To no one's surprise, his investiture to the federal court was a highly attended event.

When describing his career before he ascended to the federal bench, Judge Cohn said: "I was fortunate in that I had both the time and resources so I could devote myself to public service, including activities relating to the bar."<sup>43</sup> Michigan is also fortunate that a man who could easily have devoted himself to other pursuits chose instead to put his considerable intellectual gifts to work to benefit those around him. When Justice Charles Levin retired from the Michigan Supreme Court in 1996, Judge Cohn noted that Levin might not have had a perfect heart, but he surely did not have an imperfect one. About Judge Cohn, it can be said that while he might not have had a perfect heart, any imperfection is not reflected in the generosity of his spirit nor in his compassion for others. ■

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#### ENDNOTES

1. Judge Avern Cohn Oral History with Judy Christie (July 18, 2005), housed in the U.S. Courthouse in Detroit, p 2.
2. Judge Avern Cohn Oral History with Charlotte Dubin (August 4, 2004), housed in the Leonard M. Simons Jewish Community Archives, pp 1-2.
3. Judge Avern Cohn Oral History with Judy Christie, p 3.
4. Cook, *In a Quiet Way, He's a Detroit Power*, Detroit Free Press (June 8, 1958), p 2-C.
5. Sachs, *Strength of Commitment*, Detroit Jewish News (April 14, 2000), p 178.

6. *Id.*
7. Judge Avern Cohn Oral History with Judy Christie, p 5.
8. *Id.* at 4.
9. *In a Quiet Way, He's a Detroit Power*.
10. Judge Avern Cohn Oral History with Judy Christie, p 5.
11. *Social and Personal*, The Detroit Jewish Chronicle & The Legal Chronicle (June 18, 1937), p 6.
12. Judge Avern Cohn Oral History with Charlotte Dubin, p 8.
13. *Id.* at 4.
14. *Id.* at 5.
15. Judge Avern Cohn Oral History with Judy Christie, p 7.
16. *Id.* at 4.
17. Judge Avern Cohn Oral History with Charlotte Dubin, p 7.
18. *In the Realm of Local Society*, The Detroit Jewish Chronicle & The Legal Chronicle (October 29, 1943), p 10.
19. *Pvt Cohn Sent to Stanford U*, The Jewish News (June 16, 1944), p 24.
20. Judge Avern Cohn Oral History with Judy Christie, p 10.
21. *In the Realm of Local Society*.
22. Judge Avern Cohn Oral History with Judy Christie, pp 11-14.
23. *News About Lawyers*, 41 Mich State B J 45 (1962).
24. Welch, *Avocation on the Bench*, The Detroit Jewish News (February 14, 1986), p 15.
25. *Honeymoon in Jamaica After Dec. 30 Wedding*, The Detroit Jewish News (January 21, 1955), p 12.
26. Ghannam & Dozier, *Joyce Cohn Loved Grandkids, Civic Work*, The Detroit Free Press (December 13, 1989), p 7B and *Party Line*, The Detroit Free Press (October 7, 1992), p 2G.
27. Judge Avern Cohn Oral History with Judy Christie, p 16.
28. *Id.* at 17.
29. *Id.*
30. *Committees on Character & Fitness*, 34 Mich St B J 52 (1955).
31. *Committees for 1957-1958*, 36 Mich St B J 37 (1957).
32. *Committees for 1959-1960*, 38 Mich St B J 42 (1959).
33. See *Assert Greater Authority, Supreme Court Urged: Court Congestion Committee Reports*, 57 Mich St B J 826-827 (1978).
34. Judge Avern Cohn Oral History with Charlotte Dubin, p 13.
35. Mitchell, *Cohn Replaces Fraser: Lawyer Named to Police Panel*, Detroit Free Press (September 24, 1975), p A3.
36. *Outdoor Rally*, The Detroit Jewish News (April 25, 1969), p 6.
37. *Dozier v Automobile Club of Michigan*, 69 Mich App 114 (1976); 224 NW2d 376.
38. *Id.*
39. Judge Avern Cohn Oral History with Judy Christie, pp 20-21.
40. *In re "Sunshine Law"*, 1976 PA 267, 400 Mich 660, 662 (1977); 255 NW 2d 635.
41. *Id.* at 662.
42. Judge Avern Cohn Oral History with Charlotte Dubin, p 12.
43. Interview with authors (March 7, 2019).