

# OBITER DICTA

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## PHOENIX EDITION

Muskegon County Bar Association  
September 27, 2004

### A MESSAGE FROM YOUR PRESIDENT

It has been quite some time since the Obiter Dicta has been in publication. Getting volunteers willing to take over the task of putting the Obiter back in print was no easy task. In the meantime, email and broadcast fax has taken the place of reaching out and letting our members know of upcoming events and meetings. In this day and age, computers have taken over the daily planning and organizing for many professionals. Checking your computer for emails and monitoring your favorite websites for news and updates have become a daily chore for most. I remember first talking about the idea of the Muskegon County Bar Association getting its own website back in 2000 when I became a new board member. Although I have been involved in many events and constructive changes in the Muskegon County Bar Association, my main task as I serve as President for the next year is to make that idea a reality.

Imagine logging onto your computer as you drink your morning coffee and being able to read about upcoming events and sending out your RSVP for the annual steak fry by email. No need to tell your secretary to call and reserve your spot. Or, imagine if you will, you are at home and can't remember the P# and address of your adversarial opponent as you are finishing

up a brief on the computer. Quickly log into the MCBA website, find the attorney directory section, perform a quick search, and there it is. Problem solved. The capabilities are endless as is the information as is the information highway. Log onto the Michigan State Bar website [www.michbar.org/localbars/muskegon](http://www.michbar.org/localbars/muskegon) and you can check out other local and special purpose Bar Associations under the Opinions, Research and Links page in order to get a glimpse of what the new MCBA website may look like. The State Bar Association just revamped its website and in addition to hosting our website, will be assisting us on its layout and design. The goal is to have us online by December. How exciting will that be? Once online, the Obiter Dicta Newsletter and news of upcoming events will be available through the website. Of course, those of you still living in the dark ages will be able to get a hard copy "snail mailed" to you at the office. Any ideas and suggestions will be welcomed as we embark on this monumental task.

We have had some wonderful, informative events around the bend. The first is a September 30 meeting at Rafferty's with a presentation from staff members at the new Brian P. Mattson Restorative Justice Center. Aside from dispute resolution, the center is now fully invested in taking on referrals from Juvenile Court, Family Court and District Court in helping fashion some

very creative remedies for Victims who wish to work with offenders in order to feel justice will be done.

The next meeting is scheduled for October 20 at Rafferty's where Donald LeDuc, Dean of Thomas M. Cooley Law School, will be our guest. He will let us know what lies ahead for the law school and the future of the Grand Rapids Campus as well as the interesting lawsuit they are involved in with the American Bar Association over the accreditation of the satellite campuses.

On November 10 the Executive Director of the Michigan State Bar Association, John Berry, will join us again at Rafferty's to give us an update as to what is going on at the State level. Mr. Berry has been the executive director since the inception of the State Bar's Strategic Plan nearly four years ago. He will let us know where we now stand and discuss the struggles and potential victories of that plan as it enters

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### **ON CLIENTS**

...Ideal client - "the very wealthy man in very great trouble."

John C. Payne, ABA Journal April 1960

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### **MUSKEGON COUNTY BAR ASSOCIATION, INC. BOARD OF DIRECTOR'S MEETING August 10, 2004**

*The Board of Directors Meeting of the Muskegon County Bar Association, Inc. was held at the City Café, Muskegon, Michigan and was called to order by President, David B. Kortering at 12:15 p.m.*

*Present were: President David B. Kortering, Vice-President James Kroger, Directors: Hon. Andrew Wierengo, John Wiewiora, and Geoff Nolan.*

*Absent & Excused: Treasurer Joe Bush, Secretary Anna Duggins, and Director Randy Fielstra.*

### **MINUTES**

*The Minutes of the July 13, 2004 meeting prepared by Joe Bush were approved as written.*

the next phase.

Last, we will once again all meet for the holidays on December 10 at the Muskegon Country Club for a night of friendly mingling under a festive atmosphere at our annual Christmas Dinner Dance. The local Band "Landing Strip" promises to make it an event you will not want to miss.

So, mark your calendar and soon you will be able to access the new MCBA website. Thank you, Jim Kobza, for getting out this special edition of the Obiter to our members, and thank you, board members and officers, for working together to make this upcoming year another success. As always, I look forward to seeing all members at future Bar Association Events in the upcoming months.

David B. Kortering, President

"Battledore and shuttlecock's a very good game, when you an't the shuttlecock and two lawyers the battledores, in which case it gets too excitin' to be pleasant."

Charles Dickens, Pickwick Papers 1836

### **PRESIDENT'S REPORT**

*David Kortering reported that the Steak Fry at the Yacht Club on July 22<sup>nd</sup> was a success as there was a great turnout (78 RSVP's with 70-75 showing up), the weather was excellent, the steaks were grilled to perfection, and the bar tab was kept under \$300.*

*It was also reported that the Liberty Bell Recipient Plaques have been mounted on the walls near the elevators at the Kobza Hall of Justice on the 3<sup>rd</sup> and 5<sup>th</sup> floors. The new Frank Scott Probation/Parole Employee of the Year award has been mounted near the elevators on the 2<sup>nd</sup> floor. It was also noted that the Law Education appreciation plaque is near the elevators on the 6<sup>th</sup> floor.*

*The Charity Softball Game for Child Haven at Softball World on August 5<sup>th</sup> went well with the private practice attorneys against sticking it to the County attorneys, judges, and prosecutors 14-9. The real winner was Child Haven which received close to \$1,800 with 8 law firm sponsors at \$200 a piece and 20-22 players at \$20 a piece.*

### VICE-PRESIDENT'S REPORT

James Kroger updated the board as to where we are on getting all the members for the 2004 directory and how the updates will be made. James and David will get together and check their lists as to which law firms they dropped off directories to and which firms and attorneys still need them. It was also discussed that some secretaries are requesting that the directories be emailed to them for download on diskette and/or CD. Once the website is online, it was discussed that the directory, without all the personal information, will be available through the website.

James and the board members discussed possible speakers for monthly luncheons being: John Berry, Executive Director of the State Bar Association, Mark Fairchild from the Register of Deeds to do a presentation on their new computerized filing system, Attorney General Michael Cox, someone from DCL college of Law or Cooley Law School in Grand Rapids to go over their programs and plans in Grand Rapids, someone from the Secretary of State or Driver's License Appeal Division.

### NEW BUSINESS

David Kortering notified the board that he wished to appoint Pat Nolan as the new Bench Bar Chairman as the Bylaws indicate that the president appoints a new chair each year. He indicated that he had already notified Joe Fisher, who stated that he would not remain on the committee after diligently serving as the chair for the past year. Without objection, a motion was made and seconded, and by unanimous vote, Pat Nolan will become the new

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### **REMAINING SCHEDULE OF BAR ACTIVITIES - 2004**

Your membership dues cover all costs related to these regularly-scheduled meetings of the Bar Association, which always include a speaker or other useful program along with your meal. Please R.S.V.P. to me, James Kroger, (231) 727-2616 or

**September 30<sup>th</sup>**

12:00 p.m.

Rafferty's Dockside Restaurant

committee chairperson.

The idea of raising dues to \$150 to keep up with rising cost, to help pay for the design and maintenance of the MCBA website, and for the added cost of printing and mailing the *Obiter Dicta* when it gets back in circulation was discussed. It was also discussed that if any extra funds exist at the end of the fiscal year, the Board would vote on an amount to be deposited in the Law and Education Fund. A motion was made by President David Kortering, seconded, and passed unanimously to raise the dues to \$150. The dues invoices will go out in the mail within the next week or two.

### OLD BUSINESS

The proposed dress code by Hon. John Ruck was discussed. It was determined that each Judge should be responsible for policing his own court room, but the issue would be deferred to the Bench Bar Committee for further discussion.

James Kobza is still interested in starting up the Law to Teens program with the help of Fred Culver. James Kobza is also willing to print the *Obiter Dicta* until it can be available through the yet to be designed MCBA website. It was discussed whether members should still be mailed the newsletter if it becomes available online.

David Kortering reported that he has been in contact with a staff member from the State Bar Association who will assist us in designing a website to be hosted by them.

The meeting was adjourned at 1:10 p.m. with no other business to come before the Board.

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Speaker: Representatives from the Brian P. Mattson Restorative Justice Center  
**October 20<sup>th</sup>**

12:00 p.m., Rafferty's Dockside Restaurant  
Speaker: Donald LeDuc, President and Dean of Cooley Law School

**November 10<sup>th</sup>**

12:00 p.m., Rafferty's Dockside Restaurant  
Speaker: John Berry, Executive Director, State Bar of Michigan

**December 10<sup>th</sup>**

Christmas Dance

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### ON LAWSUITS

"A piece of paper blown by the wind into a law-court may in the end only be drawn out again by two oxen."

Chinese proverb, S.G. Champion, 1938

"If you've a good case, try to compromise, if a bad one, take it to court."

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### **IN MEMORIAM**

Since the last issue of the Obiter, May 2002, a few of our well known and well liked members have passed on. They were:

Benjamin Marcus, age 96, passed away in Santa Monica, CA after a long illness, a renowned figure in labor law and the American trial lawyers;

Seymour I. "Sy" Rosenberg, age 87, passed away September 18, 2002, a moving force behind the establishment of Blue Lake Fine Arts

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### ON TRIALS

"[Trial] - a formal inquiry designed to prove and put upon the record the blameless characters of judges, advocates and jurors."

A. Bierce, *Devil's Dictionary*, 1906

"Only a very foolish lawyer will dare guess the outcome of a jury trial."

J. Frank, *Law - Modern Mind*, 1930

"An incompetent attorney can delay a trial for years or months. A competent attorney can delay one even longer."

E. Younger, Atty. Gen. Calif, March, 1971

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### **LAW EDUCATION FUND**

At its February 11, 2002 Board meeting, the

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### ON WORDS

"Then words came like a fall of winter snow."

Homer, *Iliad*, 8<sup>th</sup> Century B.C.

"A word must become a friend or you will not

French proverb, H.L. Mencken, 1946

"Suits at court are like winter nights, long and wearisome."

Tom Deloney, 1597

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Camp; an active litigator for his entire career;

David W. Marra, age 51, passed away unexpectedly on September 8, 2002. He was a gregarious man, and an unflappable and very able counsel;

Elmer B. Wahl Jr., age 72, passed away April 16, 2003. A long-time trust officer at Lumberman's Bank, a practicing attorney until the end. Very active in community events, he was popular for his annual riposte with Chronicle Editorial editor, Charles Woodruff.

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Muskegon County Bar Association initiated Phase II of the Law Education Fund solicitation. As of this issue, this Phase is still alive and ongoing. Since initiated, the following new pledges or additions to prior pledges were received. The policy of the Bar is to publish these contributors and amounts only one time.

Todd Helle	\$ 500
George Van Epps	\$ 250
Charles Silky	\$ 100
Rick Reider	\$ 500
Rodrick Lewis	\$ 500
Tom Linck	\$ 50
Tom O'Toole	\$ 1000
John Schrier	\$ 500
Phil Stoffan	\$ 1000
Mike Walsh	\$ 500

understand it. Perhaps you do well to be cool and detached when you are seeking information, but I remind you of the wife who complained, 'When I ask John if he loves me, he thinks I am asking for information'''

Sir Edward Coke, *Case of Swans*, 1592.

"Law has always been unintelligible, and I might say that perhaps it ought to be. And I will tell you why, because I don't want to deal in paradoxes. It ought to be unintelligible because it ought to be in words – and words are utterly inadequate to deal with the fantastically multi-form occasions which come up in human life...."

Learned Hand, *Brief Case*, November, 1951

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## NEW MEMBERS

On November 26, 2003 in Judge Graves' Courtroom, the following new attorneys were sworn in. They and their sponsoring firms were:

Chad Catalino - Cook & Houghtaling

Bill Franks - Evan & Franks

Rachel Novak - Rose & Eklund

Dara Nykamp - Prosecutor Tony Tague

Leigh Zalewski - Mccroskey Law Firm

We are notified of a new member relocating from Ingham County: Phyllis D. Groenewoud, whose address is P.O. Box 7, Montague, MI 49437.

### Editor's Note

Apologies for not including more bio on our new members, but none was furnished with the list and there was a rush to put this newsletter to bed. If any other new members have not been recognized by the Bar, your editor would appreciate notice for inclusion in the next Obiter Dicta issue. Please call 727-2118.

**DON'T MISS THE NOON,  
SEPTEMBER 30 MEETING AT  
RAFFERTY'S!**

## THE PHOENIX EDITION

As you can see by the masthead, the Obiter, like the Phoenix, has finally risen from its own ashes. The last known issue was printed May 2002. Your editor published the Obiter Dicta for four years in the mid to late 1990's, then turned that duty over. There were a few issues in 1999 and 2000 which were very well done and quite sophisticated in layout. For whatever reasons that degree of effort was discontinued.

So, when current president David Kortering explained that he needed help, I had to volunteer again, but advised him that this issue would not be fancy in its layout. I would revert to the old style that I and my secretary knew so well. I have committed to at least 3 issues, this one, and the next in January and one in April. After that it will be up for decision by a new president and Board. I hope this issue has been informative and maybe entertaining. Notwithstanding a Bar website, it is my opinion that print media arriving on an attorney's desk will always have its place.

If any member would like to assist with the Obiter Dicta, please phone. The work is fun, but the pay is lousy. If you have any material that you think should be published to the Muskegon Bar membership, please address it by the end of December to:

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(231) 727-2118