



# OBITER DICTUM



Obiter News:

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Volume 5, Issue 1: EIGHT PAGES

April 2010

## Takin' 'legal steps' to feed area's hungry

The second annual local "Dancing With the Stars" netted more than \$35,000 for local food banks, thanks in part to a number of MCBA members. 60<sup>th</sup> District Judge Maria Ladas

Hoopes and partner Patrick Johnson took two awards and wowed the crowd with their chemistry. Attorney Brenda Sprader and APA Matthew Roberts were audience favorites – as were

Shawn Davis and Patrick Nolan who took part in a "special" dance lesson for the crowd's amusement. Sponsored by the Women's Division of the Muskegon Chamber of Commerce, the dance performances took place 26, 27, and 28 Feb. 2010 at the Muskegon Harbor Holiday Inn. Performers raised \$35,500.00. Of that, voters raised \$13,000 at the actual event.

Matt Roberts' photo. But other MCBA members also rooted the *Con't Page 4*



Attorney **Brenda E. Sprader** partners with **Matthew Roberts**, senior assistant Muskegon County Prosecutor.



60th District Judge **Maria Ladas Hoopes** dances with **Patrick Johnson** at the 2nd Annual Dancing with the Stars show to raise funds to feed the needy.

"I can't believe the support this community offered," Ms. Sprader said. "Not only were they giving of their money but the support they showed to us at the event was just unbelievable." The Muskegon County Prosecutor's Office proved to offer the loudest support – complete with posters and sticks bearing

## Local colleges revitalizing area's economy



**Lee Coggin**  
Baker College

Muskegon's two higher education institutions are working hand-in-hand to train local residents for new job markets while developing not only their own facilities but also the Muskegon area.

**Lee Coggin**, Baker College's vice president for academics and incoming president, told 25 MCBA members at its February meeting that what's good for Muskegon's two higher education institutions translates into direct eco-

economic benefits to their communities.

"Muskegon's downtown – it's a great opportunity to be here. Who knows what the future holds," he said.

**Dale Nesbary**, Muskegon Community College president, addressed MCBA's March meeting. He, too, talked of serving the needs of West Michigan residents whose need of post-high school education has never been greater. *Con't Page 2*



**Dale Nesbary**  
Muskegon Community College

# James J. Kobza retires from 54-year legal career

**Jim Kobza**, one of Muskegon County best-loved and highly distinguished attorneys, retired 31 March 2010 in his 54th year of practice.

Williams, Hughes & Cook PLLC hosted an afternoon retirement party to celebrate an extraordinary career and to honor a very good man. "It's time," Mr. Kobza said.

The MCBA honored Mr. Kobza at its December 2007 Barrister's Ball. At that time, the association lauded him on his achievements — including the innovative **Law Education Fund** that now has amassed more than \$111,000 and has become a means to assist community children and help their parents become aware of the role lawyers play in Muskegon County.



**Jim Kobza at his retirement party.**

## *Baker, MCC helping to change Downtown Muskegon, economy*

### *Continued from Page 1*

"Our college can be more successful with facilities in the core city," he said. But attracting students who seek to better themselves, their families, and their communities is the first step.

"It's very important to get the message out — you need more than a high school education in this economy," Dr. Nesbary said. "It makes (an income) difference. It's important our population understands that."

Unfortunately, many local residents haven't gotten the message. And state politicians see higher education only as a cost to be reduced.

According to Dr. Nesbary, only 9 percent of adults in the city of Muskegon have a bachelor's degree. Countywide, it's 16 percent. Ottawa County, by contrast is at 28 percent and Kent County is 27 percent. The national average is 29 percent.

Even more disturbing, Coggin said, "70 percent of Michigan parents didn't believe college was an important goal for their children. That's quite sobering. Michigan competes with lots of other states whose population base does value (higher education)."

As for funding, Cindy Fairfield, editor of the Muskegon Chronicle, in a column on 14 March 2010, called the state's support for higher education "shameful."

"From 2003 to 2008 Michigan cut its tax support for higher education by 5.1 percent and was the only state in the country with lower aid levels for universities and colleges that it had the previous five years." Now a state Senate subcommittee has passed a bill cutting aid to higher education by another 3 percent.

Coggin said he and Dr. Nesbary have forged a working alliance to better the community. After all, economic growth depends on attracting investment and industry, and "they'll look at the totality of the community, including the higher education piece."

Baker College's investment in Muskegon's downtown hosts 550 students in the 40,000-square-foot Culinary Arts Institute of Michigan. Already it appears the demand may outweigh the facility's capacity.

Baker today has 6,200 students, the largest enrollment in its 122-year history. The private college offers associate, bachelor, and master degrees as well as a doctorate in business administration. Its teaching fields include human services, culinary arts, health sciences, and education. Its first nursing class graduated in June 2009 and every member of the class passed the state licensing examinations.

Future growth depends on the economy. The career-oriented school today sees future trends in technical fields such as computerization and digital media design, but also in the health sciences.

In addition to its long history of providing a solid start on the path to a bachelor's degree and higher, MCC is studying the addition of other potential career areas that include autism studies, fire science and safety, a maritime academy, and studies in bioterrorism.

"We're a strong college and we're up to the challenges of the future," Dr. Nesbary said.

### **MCBA' Annual Meeting next month**

MCBA's Annual Meeting will be held at noon Thursday 20 May 2010 at the Muskegon County Club. The agenda includes a proposal to amend bylaws, to appoint 2010-11 officers, and committee reports.

### **Annual MCBA Steak Fry scheduled**

MCBA's annual Steak Fry will be held at the Muskegon Yacht Club on Thursday 29 July 2010. Cocktail hour begins at 5:30 p.m. with dinner to follow at 6:30 p.m. The event will be outside, under canopy, rain or shine. More info to come...

# SBM Representative Assembly Report

## *Chief Justice Kelly says Pro Bono work not only is a duty, it's a privilege*

Michigan's meager state budget for indigent defense is showing our state to be "one of the nation's stingiest and most fragmented systems" for criminal defense of the poor, said Marilyn J. Kelly, chief justice of the Michigan Supreme Court.

Speaking to the state bar's Representative Assembly on 27 March 2010, Chief Justice Kelly said the state's stagnant economy is causing unprecedented demand for criminal defense and that leaves public defenders overburdened.

Citing one grim statistic after another, CJ Kelly said 10 percent of all Michigan mortgages in 2009 were seriously delinquent or in foreclosure "to say nothing of the homes and businesses already foreclosed." More than 40 percent of children under 18 live in homes at or under the poverty level.



**Marilyn J. Kelly,  
Chief Justice**

Not surprisingly, substance abuse addiction rates are rising as are vulnerable adult abuse cases, she said.

IOLTA funds, which pay for indigent legal services, have dwindled as well. As a result, Legal Aid agencies, forced to turn away half of those seeking services, are doing "a valiant job, but they are being inundated," CJ Kelly said. In such an economic climate, 1 in 3 Michigan residents qualifies for free legal aid and the burden of the economy is passed to us.

"If there's to be any good news, you and I must do it by support pro bono work," CJ Kelly said. "We are members of a generous profession."

Providing pro bono services not only is a lawyer's duty, it's "also a privilege having an impact for good...It's also good business," she said.

Despite the dire economy – or perhaps because of it – "we must see to it that the Constitution works for the benefit of all." *By Mike Walsh, Representative, 14th Circuit.*

## *SMB voices disapproval of tax on lawyer services*

If cash-strapped state legislators and the governor succeed, a tax on legal services will become reality this year. The State Bar of Michigan is opposed to such legislation because it burdens the public's access to justice.

Elizabeth Lyon, SBM's Director of Government Relations, said the state organization is "actively partnering with local bar associations and sections" (to show the public) the impact of a service tax on legal services."

Such a tax, Ms. Lyon said, would burden the public who rely on state courts for a variety of needs, including 64% for family relation matters, i.e. support, custody, personal protection orders, and 20% for criminal defense.

Two states that already tax legal services – New Mexico (5%) and Hawaii (4%) –also tax medical services. However, law, like medicine, is not a discretionary consumer service, she said. South Dakota, which taxes legal services (4%), carves out numerous business exceptions. For example, law firm services to businesses are not taxed, but services to individuals are. Therefore, it's a tax on consumers or legal services that favors business and disfavors the individual. For example, an individual sues a car manufacturer. The individual pays the tax, the manufacturer doesn't.

Florida and Massachusetts led the way in taxing legal services and both led the way in repealing the tax due to administrative and business difficulties that arose.

The SBM is asking members to take the issue to your clients and community. Bring the following to their attention. This tax:

1. Burdens citizens and business – not lawyers.
2. Discourages early legal consultation and could result in more complex problems later.
3. Inhibits access for criminal defense, a Constitutionally protected right.
4. Unfairly burdens those already suffering from misfortune.
5. Suggests legal services are discretionary but most are not.
6. Is unfair to Michigan businesses, forcing many to seek legal services out of state.
7. Would add double taxation to some legal services that already are taxed – property transfers, estate administration, for example.
8. Would invade client privacy when audits on legal services are made.

## **Family law lawyer 'trolling' recommendation wins narrow RA approval**

The SBM's Representative Assembly by a vote of 68-43 passed a resolution to outlaw "trolling" of family law clients.

After heated debate, RA members agreed to amended language that states, in part, "[A] lawyer may not initiate contact solicit a party for purposes of establishing a client-lawyer

relationship, until the first to occur of the following: service of process upon the party or fourteen (14) days has elapsed from the date of filing of the particular case." The recommendation calls to amend either the MRPC or MCR. *Con't Pg 5.*



# Judge, lawyer, APA dancing for area's needy



**Your 2010 MCBA dance team**

Clockwise, Hon. Maria Ladas Hoopes with Attorney Brenda Sprader; Judge Hoopes and partner Patrick Johnson; Ms. Sprader and partner, APA Matthew Roberts; Ladas Hoopes and Mr. Johnson perform as does the Roberts-Sprader duo. As for Attorneys Sean Davis and Patrick Nolan, the jury remains OUT.



Muskegon's "Dancing With the Stars" might better be called "Dancing With The Law," as 60th District Judge Maria Ladas Hoopes and Patrick Johnson, joined Matthew Roberts, Senior Assistant Muskegon County prosecutor, Attorney Brenda Sprader, and attorneys Sean Davis and Patrick Nolan in the second annual performance to help raise funds for area food pantries. Sponsored by the Women's Division of the Muskegon Area Chamber of Commerce, the event raised more than \$35,000 to feed area people. *Photos courtesy of Ms. Sprader.*

**Con't from Page 1**

the dancers on. They included Vincent Carlson, Jeff Nolan, Terry Nolan, Ken Hoopes, Paul Ladas, Hon. Neil G. Mullally, and Hon. John C. Ruck.

Recipients of the funds included Love, Inc., \$5,000; Mission for Area People, \$3,000; Rescue Mission, \$3,000; Every

Woman's Place, \$2,000; Age Well Services, \$3,000; Hope Light House, \$2,500; Salvation Army, \$3,000; and First Congregational Church, \$2,000. Friday and Saturday performances were sold out shows with over 400 people attending each show. Sunday only had about 15 seats left.

## Scrapbook: Annual Barrister's Ball, 2010



### Lawyer 'trolling' recommendation

#### *Con't from Page 3*

Elizabeth Sadowski, chair of the Family Law Section and sponsor of the recommendation, said she was alarmed by rising incidents of attorney solicitations aimed at divorce defendants who had not yet been served or received an injunctive order. The potential exists for such a defendant, alerted by the solicitation, to remove a child from the country.

Certain attorneys, Ms. Sadowski and others said, hover at court filing windows to glean daily filings then hurry to contact the would-be defendants.

Elaine Fieldman, of the SBM's Professional Ethics Commission, opposed the measure because it restrains certain lawyers, not all lawyers, and because solicitation "goes to a party, not a prospective client." Additionally, filing a lawsuit is public information. "There is no showing this will prevent any harm it's very overbroad," she said.

*More snapshots on Page 6.*

### SBM is fiscally sound but profession facing challenges: Director

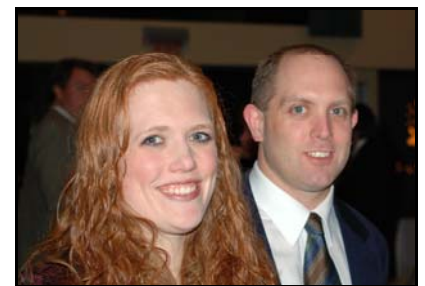
The State Bar of Michigan is in sound financial condition, said Janet K. Welch, director, but numerous issues confront the profession. Chief among them, she said, is our "very inadequate public defender system with a rising tide of pro se litigants and indigents. It's a huge undertaking."

The SBM cannot provide "more paid work" for attorneys but has continued to provide membership benefits, including Casemaker, a free legal research tool. Additional tools are coming within weeks, she said.





**MCBA 2009 Barristers' Ball  
Muskegon County Club, Dec. 2009**



MCBA President Joseph Bader recognized Jenny McNeill, for her service as 2008-2009 MCBA president.



# MCBA Annual Meeting

MCBA's Annual Meeting will be held, starting at noon Thursday 20 May 2010 at the Muskegon Country Club. This year's agenda:

- Lunch
- Call to Order Joseph Bader
- Additions/Corrections to Agenda Joseph Bader
- Minutes from 2009 Annual Meeting Mike Walsh
- President's report Joseph Bader
- Committee reports
  - Bench Bar Brad Groom
  - Law Day David Waterstradt
  - Pro bono Dan Bonner
  - Obiter Dicta Mike Walsh
  - Family Law Section Carolyn Marcus
  - Alternative Dispute Resolution Section Shon Cook
  - Law Education Fund Nancy Hornacek

- Vice President's report John Schrier
- Committee reports
  - Steak fry John Schrier
  - Barristers' Ball 2010 John Schrier
  - Golf outing David Kortering
- Treasurer's report David Bossenbroek
- Old business Joseph Bader
- New business Joseph Bader

- 2009-2010 Board Nominees
- David Bossenbroek
  - Karen Groenhout
  - D. J. Hilson
  - Hon. Maria Ladas Hoopes
  - Carolyn Marcus
  - John Schrier
  - Mike Walsh
  - David Waterstradt

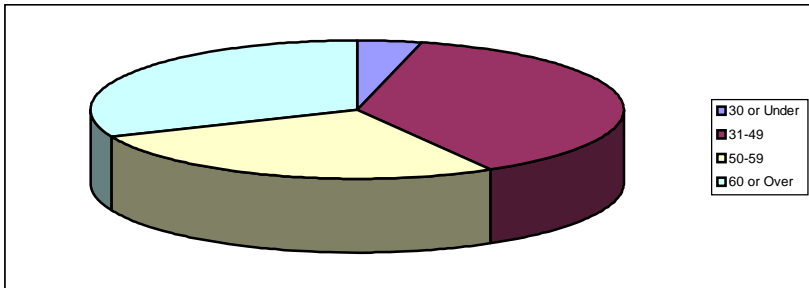
## Firm reaffiliation

**Rick Tolle** and **Mike Walsh**, members of Tolle & Walsh PLC, opted to construct separate firms as of 1 July 2010. Since then they have been operating as Rick Tolle & Associates and Michael G. Walsh & Associates, Attorneys, PLC. Both remain at 8 West Walton Ave., Muskegon, MI 49440 where they are joined by **Brenda Sprader & Associates, PLC** and **Vincent E. Carlson & Associates, PLC**.



**RETIREMENT CELEBRATION:** Friends, family, and colleagues honored **R. Curtis Mabbitt** 4 February at the Muskegon Yacht Club on his "retirement." Curt intends to remain active, both individually and professionally, working on his golf game and certain cases. Wishing Curt a good retirement are, clockwise from left, **Aron Schillaci, Michelle Schillaci, Janelle Wiersma, Caro Mabbitt, and Lisa Thompson.**

## MCBA data as reviewed by the state bar



Who retired, hired, married, born? We want your firm's news and photos : [mcbaobiter@yahoo.com](mailto:mcbaobiter@yahoo.com)




**HEIR FORCE:** **Tonya Selig**, assistant to Mike Walsh and Rick Tolle, holds **Trinity Jane**, born in January. Tonya, husband Todd, and "Trin" live in Shelby.

**LAW DAY 2010**

**David Waterstradt, Law Day** chairperson, reports all is ready for the annual gala at the Muskegon Harbor Hilton.

This year's speaker is **Charlie McCallum**, immediate past president of the ABA Business Law Section, former chair of Warner Norcross & Judd's International Business Practice Group and current chair/CEO of Terra Lex, an international legal referral network.



MCBA Officers 2009-2010

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