

# The Mentor

THE NEWSLETTER OF THE STATE BAR OF MICHIGAN'S  
MASTER LAWYERS SECTION



*"The voice of trust through experience."*

*Fall 2015*

## From the Chair: News from the Master Lawyers Section Council

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The Master Lawyers Section of the State Bar of Michigan had its Annual Meeting on Friday, October 9, 2015 at the Hyatt Hotel in Novi, Michigan. Richard (Dick) Ruhala from Flint, Michigan was elected Chair of the Master Lawyer Section. He succeeds J. David Kerr from Mt Pleasant.

The newly elected officers are Chair Elect Cynthia L. Johnson, Secretary Ronald D. Keefe and Treasurer Kathleen Williams Newell. Elected to the Council for 3-year terms were Ruth Marie Shea, Roberta M. Gubbins and Vincent A. Romano. Elected for a 2-year term was Robert G. Teeter.

The Program at the Annual Section Meeting consisted of an interesting presentation by Lieutenant Matthew Rule of the Genesee County Sheriff Department on the topic of Senior Exploitation and Financial Scams.

Two educational one-day sessions for all section members are being planned for the month of May. More information on these sessions will be announced in the coming months. All section members are also invited to sign up soon to serve on a committee of their interest. The committees are communications, *The Mentor* (your quarterly Master Lawyer publication), transition of practice, Law Day, Constitution Day (Sept), membership, and nominating.

Sign up for committees with representative Amy Castner of the State Bar Office (517) 346-6322 or by e-mail [acastner@mail.michbar.org](mailto:acastner@mail.michbar.org).

Chair Dick Ruhala urges members of this section to serve on a committee and/or attend an educational session.

"To be successful, we need more active participation," he said.



Left to right, Former Chair J. David Kerr hands the gavel to elected Chair Richard (Dick) Ruhala

2015-2016

## MASTER LAWYERS SECTION

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Richard J. Ruhala  
6289 Tanbark Ct  
Flint, MI 48532-2157  
P: (810) 733-5154

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## NEWSLETTER EDITOR

Roberta M. Gubbins, Mason  
(734) 255-9119

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Send correspondence and  
material for publication to:

Roberta M. Gubbins  
[rmgubbins@yahoo.com](mailto:rmgubbins@yahoo.com)

## Letter from the Editor

This month's issue of the *Mentor* is a varied assortment of offerings from our members. Professor Gary Bauer explains why, in spite of such "legal experts" as LegalZoom, lawyers are still necessary while James A Johnson comments on an article in the May *Michigan Bar Journal* regarding the present and future of 42 U.S.C. Sec. 1983.

Scott Bassett urges the authors among us to go retro—write your novel on? an AlphaSmart Neo—a cheap and distraction-free alternative to a computer. Hon. William Giovan takes us down memory lane describing his two meetings with Henry Ford II. Stuart Israel speaks "In Praise of Rumpole," the fictional British barrister who prefers cigars, claret, poetry and justice in that order.

Richard Hawley tells about his hiking trip along Hadrian's Wall in Scotland and Richard Fellrath writes of the life of his great grandmother Bertha Fellrath from her point of view.

It is a fun issue with a variety of interesting articles that portray the diverse group of lawyers that make up the Master Lawyers Section. Thanks to all contributors. And, remember, we are always looking for articles. Please submit your thoughts to me at [roberta@robertamgubbins.com](mailto:roberta@robertamgubbins.com). We'd love to hear from you.

—Roberta



Roberta M. Gubbins, Editor



# Avoid the Dog in a Basket

By Gary Bauer



Help Me Clear the Fog to Make Good Legal Decisions  
“Can’t Do That on LegalZoom”

The title above appears on a t-shirt that my students gave me, which has the LegalZoom™ logo on it. Above it in felt-tip marker is written “Can’t do that on” They also signed it on the back. The reason they gave me that shirt is that they heard me describe how online legal services are not always the best possible alternative for individuals during my Estate Planning class.

Don’t get me wrong, many individuals will not seek the services of a lawyer and without LegalZoom™, they would not seek assistance of any sort. Some individuals will always look for more efficient ways to accomplish their goals. And to their credit, LegalZoom™ is one of the entities providing a service that appears to have met an unmet need. Many lawyers see this and other legal access sites as their impending doom and a major game changer for legal services for the future. I see it somewhat differently.

## A True Story:

For example, as a high school student exactly 50 years ago, I was employed at a veterinary clinic on weekends. At that clinic, there were over 60 cages, some of which were used to house animals who were recovering from medical interventions. The majority of them,

however, were used to board animals for a fee. One of my tasks was to take the animals (usually dogs) and put them in “runs” so they could get exercise. Meanwhile I cleaned their cages and refreshed their water and food. One of the animals boarded almost every weekend was a German Shepherd. The “owners” would bring the dog to the clinic for the weekend and pick him up on Mondays.

Let me describe that animal. He was full-grown and always carried into the clinic in a padded basket. The reason he didn’t come in on a leash was that he couldn’t walk. In fact, he was completely paralyzed. The vet explained that that couple had been charged with the care of this dog after the owner had passed away. He said that it was his understanding that they were being paid a monthly stipend to care for the dog as long as it lived. As I look back, as a skeptic, I feel their motives were suspect and that the money was the object of their affection, not the welfare of that dog.

The lesson? Unintended consequences may flow from your carefully laid plans as in this case. Be careful what you wish for! You love your pet and put in place what you believe are safeguards to protect your dog after you pass away. You establish a pet trust to ensure that your dog is cared for after you are gone. As a result of this experience, if I established a trust for a pet, I would provide for a trusted, uncompensated, third party with powers to intervene and terminate the trust under certain circumstances consistent with the welfare of the animal. But that advice is personal to me and would flow from my legal education and experience. The owner of that dog would have probably been horrified at the outcome and no cost would be too great to prevent such a miscarriage of their intent.

## “Can’t Get That on LegalZoom™”

This brings me to the title of this post, which happens to be on my t-shirt and the connection to this story. I hear many attorneys lament the development of legal resources on the Internet and the potential they have to affect their bottom line. I couldn’t disagree



more. Examples like the one above demonstrate that there will always be a place for good legal counsel who cannot be accessed online. All of my students inquire of their clients whether they have any pets to help the client make well-reasoned decisions concerning their care after the client dies. The least valuable outcome for any client is the document itself.

*It is the counseling that goes into informed decision-making and execution on that plan that have the greatest value.*

It really requires someone experienced enough to see the potential “parade of horrors” that may dominate the ultimate outcomes of a client’s best-laid plans. He can do it on his own, but he risks the “dog in a basket” outcome. And, who will probate the estate after the person dies?

The counseling before preparation and later execution of that plan is where the greatest skill must be employed. As you will notice, even websites of self-prepared documents offer to connect the applicant with attorneys for the legal advice that that person may wish to consult. The problem is that the self-help individual may not have the ability to understand that there are legal or practical considerations that can only be the product of *education and experience*.

*Experience is a hard teacher. She gives the test first and the lessons afterwards. – Anonymous*

Many of the errors introduced or poor planning decisions eventually will play out in some fashion. True, some are harmless and can be rectified without too much difficulty. But how many of those errors cost more in the rectification than in the “savings” realized in the initial creation of that legal document? The solution is the creation of better public awareness of the types of legal conundrums people routinely find themselves in by the Bar or the ABA. Every day another example of misplaced or misunderstood actions by non-attorneys crosses my desk in one way or another.

### **The Lesson For You**

If you have been in practice for any length of time, you know of the value of good counsel. We need to do a better job of helping the potential client understand why a lawyer’s knowledge and experience in the process is “invaluable.” Tell him a “true story” of your own so he understands the value of your service.

*Professor Gary Bauer, WMU Cooley Law School, has taught wills, trusts and estates, environmental law, and general practice externs, and he currently teaches several clinical courses in the Sixty Plus, Inc., Elderlaw Clinic. He is chair, secretary, and council member of the Law Practice Management Section of the State Bar of Michigan.*



## What's in a Name? Part II

By James A. Johnson ©2015

Kudos to Glen Lenhoff's May 2015 *Michigan Bar Journal* article, "A View of the Present and Future of 42 U.S.C. § 1983." Lenhoff's focus on three key issues: qualified immunity, procedural due process, and Section 1983 attorney fee statute, are discussed with great clarity and pinpoint accuracy.

Of particular interest is the Sixth Circuit's emphasis that district courts must be vigilant in construing the facts in the light most favorable to the plaintiff, and that it is up to the jury to determine if defendant police officer's conduct was reasonable, as set out in *Greco v. Livingston County and Anthony Clayton*, 774 F.3d 1061 (CA 6, 2014). To quote the Sixth Circuit:

When deciding whether an officer violated such a clearly established right, we may not call off the trial merely because an officer says he or she acted reasonably in the face of competing testimony. We instead consider the facts in the light most favorable to the plaintiff. *Id.* at 1063-1064.

In contrast, the Fifth Circuit Court of Appeals affirmed a FRCP 54(b) Judgment of a Houston district court in *Robbie Tolan v. Cotton & Edwards*, 854 F.2d 444 (S.D. Tex. 2012). Robbie Tolan, an unarmed black male, was shot three times in his parents' driveway by white police officers and severely injured. The police were responding to a mistaken report of a stolen car. This case, alleging claims under 42 U.S.C. § 1983 (use of excessive force in violation of the 4<sup>th</sup> Amendment) involved an appeal from a summary judgment of qualified immunity granted to the police officers' use of deadly force. Tolan was shot under the mistaken belief that he was the perpetrator of the felony which they were responding. The district court decided as a matter of law that no genuine issue of material fact existed in the use of deadly force against unarmed Robbie Tolan.

Consistent with *Greco*, the U.S. Supreme Court on May 5, 2014 reversed the Fifth Circuit's affirmation of a qualified immunity defense decided by the USDC

Houston Division, in *Robbie Tolan v. Cotton & Edwards*, discussed in my summer 2015 *The Mentor* article, "What's In A Name." The U.S. Supreme Court, on May 5, 2014 in *Robert R. Tolan v. Jeffrey Wayne Cotton*, 572 U.S.\_\_\_\_2014, held that the Fifth Circuit improperly failed to take into account the relevant evidence supporting Tolan's version of the events.

The latest in a series of fatal confrontations between law enforcement and unarmed black males is the fatal shooting of Samuel DuBose of Cincinnati, Ohio. Ray Tensing, a University of Cincinnati police officer, was indicted on July 29, 2015 on murder charges in the fatal shooting of Samuel DuBose. DuBose, an unarmed black motorist, was stopped because of a missing front license plate.

Hamilton County Prosecutor Joseph Deters called the July 19 killing of Samuel DuBose "senseless" and "totally unwarranted." Protestors are clamoring that national refrain: "Black lives matter."

Discriminatory policing and civil rights violations is a hot button issue nationwide. The 2016 presidential election candidate who sincerely addresses this issue together with other important national issues such as immigration will garner enough votes from minority and majority citizens to change his or her address to 1600 Pennsylvania Ave, Washington, D.C.

The civil rights lawsuit of *Robbie Tolan v. City of Belaire, Texas*, involving racial profiling and institutional racism is set for trial on Sept. 14, 2015. Stay tuned because I will be back with the outcome.

**James A. Johnson** of Southfield, Michigan is an accomplished trial lawyer and is an active member of the Michigan, Massachusetts, Texas, and Federal Court bars. Mr. Johnson concentrates on serious personal injury, entertainment and sports law, insurance coverage and federal crimes. He can be reached at [www.JamesAJohnsonEsq.com](http://www.JamesAJohnsonEsq.com)

# Write a Book? Go Retro!

By Scott Bassett

Whether we are retired or still practicing, inside every master lawyer is a frustrated author trying to break out. Although my virtual appellate practice remains a full-time job, I am making time to write my first book. After years of procrastinating, I FINALLY started it.

But have you ever tried focused creative writing on a computer? There are distractions everywhere! Your email notifications, the allure of the web browser, updates to your Twitter feed, and do I even need to mention Facebook? How do you eliminate distractions when writing - short of resorting to a legal pad and pen? Go retro!

Having come of age in the pre-PC era, I learned to type on a Royal manual typewriter in the typing lab at Oliver Wendell Holmes Junior High School in Livonia (an appropriately named school for a future lawyer).

By far the most important class I took in junior high was called "General Business." It was taught by the school's vocal music teacher, Mitch Madis. The first semester was devoted to typing skills. Mr. Madis painted the keys on every typewriter white so we would have to learn the keyboard by memory. What a great idea!

The second semester focused on business principles. We had to research and write about a career (I was going to be a recording engineer). We also applied for our Social Security cards as part of that class. Back then, that wasn't done at birth like it is now.

Ever since taking General Business and learning how to touch type, typing has been easier for me than handwriting. If you've seen my handwriting, you will understand. So going back to pen and paper is not a viable option for me when it comes to writing a book.

But neither is my desktop or laptop PC. Too many distractions, even with one of those [cool minimalist word processing apps](#). Despite the uncluttered interface of those apps, I know my email or web browser is just a click away. Too tempting. And there is no way I am going to lug around a real typewriter. Besides, I HATE paper. I want everything to be digital. My appellate practice is, and has been for years, completely paperless.



An AlphaSmart Neo

The device that let me get started on my book is the [AlphaSmart Neo](#). It was designed for use in schools. But schools have transitioned to more advanced devices such as Chromebooks. There are a ton of surplus AlphaSmart Neo devices for sale on Ebay and Amazon. I paid around \$30 for mine in near perfect condition and with fresh AA batteries (it takes 4). The keyboard seems full-sized to me. It easier to type on than anything but my Lenovo ThinkPad X220 or my old IBM Model M mechanical computer keyboard (if you do a lot of typing, do yourself a favor and buy a [mechanical computer keyboard](#)). It is instant on, instant off, and it automatically saves your work.

I like that there is no paper. Use a standard USB cable to connect it to any PC ([or Mac](#)). Then open Word (or whatever word processing application you use) to receive the text you typed on the Neo. Then hit the Send key and watch (or not) as your text is typed into the document or application on your computer.

So you no longer have an excuse. Order a Neo on Ebay or Amazon and write that book that is inside your head dying to get out!

*Scott Bassett operates a virtual Michigan appellate practice focusing on family law cases. He is a 1978 graduate of Wayne State University and earned his JD from the University of Michigan Law School in 1981.*



# My Two Lapses with Henry Ford

By Hon. William J. Giovan

In the late '60s, when I was still a young lawyer, I was invited to a society event, mostly as an escort to my mother, Dorothy, who was active in the Italian-American community. It was the opening event of an Italian-themed initiative of the auto industry, co-chaired by Ed Cole, president of General Motors, and Christina Ford, the Italian wife of Henry Ford II. Many notables were in attendance, including representatives of the Italian government.

During the socializing after the speeches I somehow found myself in a three-way conversation with Henry Ford II and Mary Fisher, the daughter of Max Fisher. While addressing Mary, Henry opened his silver cigarette case, containing a lone cigarillo, a cigarette-sized cigar, and while lifting it toward his lips he interrupted himself, gentleman that he was, and made a gesture to offer it to me.

What did I do? I accepted it! The moment it touched my fingers a wave of embarrassment flowed over me for what I had done. From the grandson of the man who put the nation on wheels, himself a titan of the auto industry and an international celebrity, I had taken his last cigar, even though offered to me only as a polite gesture. It was too late to do anything about it. Worse yet, Henry Ford lit the cigar for me. I'm not sure how I survived the rest of the evening.

Many years later when I was a circuit judge, Mr. Ford was getting divorced from Christina in a trial in the next-door courtroom of Judge John Kirwan on the

15th floor of the courthouse. Jack Miller of the Honigman firm, who was representing Ford, came to my chambers and said, "Judge, during recesses Mr. Ford has no place to sit except in the hallway and the reporters are hounding him. Since you are in a trial, is it possible that we could put Mr. Ford in your chambers during our recesses?" I readily agreed, and from time to time I was chitchatting with Henry Ford and Mr. Miller in chambers during my own recesses.

Have you ever thought of something appropriate or clever to say only after the occasion passed? At the time I had no recollection of the cigar incident, and I'm sure that Henry Ford had none. It was only later that it occurred to me that I should have said, "*Anyone who is willing to give me his last cigar can sit in my chambers anytime he wishes!*"

It's bothered me since that I didn't say it. At a minimum, however, I take consolation in the thought that being saved from the harassment of reporters was a sufficient compensation to Henry Ford II for my having taken his last cigar.

*Hon. William Giovan is a former chief judge of Wayne Circuit Court. His areas of practice include arbitration and mediation.*



Hon. William J. Giovan



# In Praise of Rumpole

By Stuart M. Israel, Legghio & Israel, PC

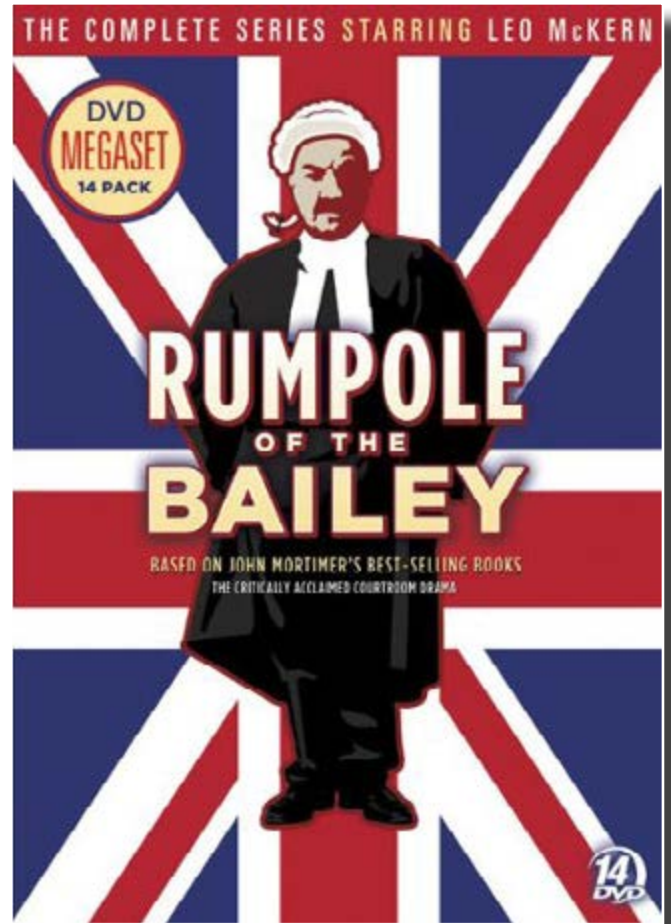
Litigation can be as unpredictable as the path of a ball bearing in a pinball machine, influenced simultaneously by the laws of physics and happenstance. No one knows this better than British barrister Horace W. Rumpole. He observes:

Some people tell their stories in court compellingly, clearly, and with the utmost conviction. They make their listeners feel the wrongs they have suffered, their fears, and well-founded outrage at any possible injustice that might be done to them. Such ‘good witnesses’ are often accomplished liars. Others stumble, hesitate, look fearfully round the court as though seeking ways of escape and convince nobody, even though they may be, and sometimes are, telling nothing but the truth.

And it is not just about the witnesses, Rumpole learned from his first head of chambers, C.H. Wystan, QC, that “more cases are lost by lawyers asking questions than for any other reason.”

Rumpole’s career at the bar was chronicled by the late barrister and prolific author Sir John Mortimer, QC. Rumpole is the subject of the British television series bearing his name, which ran sporadically from 1975 until 1992, and the 14 or so story collections and novels published since 1978. Is Rumpole a fictional character? Is Sherlock Holmes?

Rumpole practices mainly at the Old Bailey, London’s Central Criminal Court, the doomed edifice topped by the iconic bronze statue of Justice, sword in her right hand, the scales of justice in her left. Rumpole mostly defends the accused. He is the “brief” of choice of the Timson clan, a family of “minor south London villains” for whom non-violent crime is both a vocation and a calling. Rumpole defends the friendless and unpopular, victims of circumstances, the guilty, the over-charged, and, with some frequency, the innocent. Rumpole always strives to see that justice triumphs and more often than not he succeeds. In the process, he of-



fers wry comments on the foibles of the courtroom and the human condition.

Rumpole’s stock-in-trade is courtroom skill—sometimes prettily-displayed, sometimes not. He is most adept at cross-examination—“not the art of examining crossly but the gentle task of leading a witness politely into a fatal admission.” Rumpole is not above using the law--it can be useful--but he knows that persuasive advocacy is about stories and people. The law has limitations: “It has always been my view that knowing too much law is not only no help but also a considerable handicap to the courtroom advocate.”

Rumpole is immutably old school and never politically correct. He smokes smelly cheroots, over-imbibes inexpensive claret, stays portly with full English break-



fasts at the Tastee Bite, and perpetually pokes at the recitidious. His vest is dusted with cigar ash, his hat is ready for the thrift shop, and his barrister's wig is only slightly newer than the Magna Carta. Despite the passage of time, Rumpole does not seem to age. He served without distinction during World War II with the RAF "ground staff" and tried the Penge Bungalow murder case "alone and without a leader" in 1947, but he has remained in the neighborhood of age 70 from the mid-1970s until well into the new millennium.

Age and life disappointments do not hinder Rumpole's pursuit of justice. He remains the indefatigable scourge of the self-satisfied and self-important. These include judges who do not share Rumpole's reverence for the golden thread running through British justice, the presumption of innocence.

Rumpole is the master of the mildly sardonic *bon mot*, delivered *sotto voce*, in court and out, often punctuated with snippets from Wordsworth or others who occupy Rumpole's well-worn copy of *The Oxford Book of English Verse*. Always at odds with the gavel-wielding denizens of the Old Bailey and the "circus" courts, Rumpole also leaves time for clashes with other powers-that-be, like his head of chambers at Equity Court, Samuel Ballard, QC, who "is seriously concerned at the number of teaspoons of instant coffee our junior clerk uses per cup" with "trivial rules and penny-pinching regulations."

And Rumpole does not always see eye-to-eye with Hilda, his formidable wife who, out of her earshot, he refers to as "She Who Must Be Obeyed." Hilda perpetually tries to cure Rumpole's lack of ambition for much other than cigars, claret, poetry and justice.

Rumpole usually defends; he (almost) never prosecutes, or pleads his clients guilty. He champions those aligned against the impersonal power of the state. And he prefers the wisdom of juries to the decision-making of judges. Ever iconoclastic, Rumpole will never be a "silk"—a queen's counsel. He always will be concerned about fees—most from the "legal aid." He will never quite catch up on his tab at Pommeroy's Wine Bar. Nor will he ever quite be at peace with Hilda, or with Judge Bullingham, whom Rumpole affectionately calls, *sotto voce*, the "Mad Bull," or with Head of Chambers Ballard, who is on a crusade to make all of chambers, including Rumpole's "room," a "smoke-free zone," or with the Bar Council's "control-freakery."

## He remains the indefatigable scourge of the self-satisfied and self-important.

Rumpole toils on without the honors or material success enjoyed by less-worthy colleagues, like the boundlessly ambitious, self-centered, dapper, often hapless, always-climbing, once head of chambers, and now judge, Sir Guthrie Featherstone, QC, MP. Serving clients, afflicting the pompous, cigars, claret, poetry, and preventing injustices more often than not, are Rumpole's modest rewards.

Rumpole lives on DVD and YouTube, perfectly portrayed by the late Leo McKern. The small screen is the place to meet Rumpole. Once seen and heard, McKern becomes *the* Rumpole of the stories and novels. If you (1) are a legal professional and (2) have any capacity for humble reflection on your professional endeavors, you will be better off knowing Rumpole of the Bailey.

*Stuart M. Israel, Legghio & Israel, Royal Oak, Michigan, practices labor and employment law.*



# Hiking in Scotland

By Richard S. Hawley

My latest trip was a hike with “The Wayfarers,” an English company with an office in the United States.

With an informed guide and a trailing van we hiked portions of Hadrian’s Wall near the Scottish border for several days while visiting ruins and active excavation sites. We then hiked in the Lake District visiting the former homes of Beatrix Potter and William Wordsworth while enjoying the beautiful lake countryside. During the hike we stayed at smallish boutique high-end hotels. Our group was composed of seven hikers and two staff.

The cost was reasonable and the staff was professional and caring. The Wayfarers’ 2016 Walk Schedule lists 55 difficulty-rated walks all over the world. I’m planning a walk next year of the “Northumberland” area of England. If you find this mode of travel interesting, Google “The Wayfarers.”

***Richard Hawley** clerked for a federal judge for a year following law school, then entered the Foreign Service of the United States for two years. After the State Department, he entered the Army Judge Advocate General’s Corps, retiring after 23 years to take a position as division corporate counsel with Litton Industries, Inc. During his 19 years with Litton he worked in California, mostly in the areas of California law and international law relative to Saudi Arabia, Oman, Hong Kong and Korea. After retiring from Litton, he consulted with Ralph M. Parsons Construction on Middle East contracts and worked for four years as a volunteer attorney in Ventura County, California.*



Wall Remnants



Roman Commander Quarters



In front of Wordsworth’s home



## A Well Traveled Life: A first person biography of Bertha Fellrath

*By Richard Fellrath*

I was born Beata Hirth on December 31, 1832 in Gaggenau, Grand Duchy of Baden, the fourth of nine children of Johann Adam Hirth and Martha Kolb Hirth. Father was involved in politics for as long as I can remember. He was the head of the Radical Party in Gaggenau. He was the son of Theresia Hirth, who died when I was a small child, so I don't remember her very well. I never knew my father's father either. My father and mother were married November 24, 1823 in Gaggenau (he and she were both 21 years old). Mother's parents were Joseph Kolb and Marie Futterer. I remember that my brother Cornelius, who was born September 16, 1838, died in that same year. Mother died after my brother Bernhorst was born in 1843. I was about nine so I don't remember much of her either. Father, by then the burgermaster of Gaggenau, then married Agnes Gross, widow of Adolph Stoser, the innkeeper of the Hirsch Inn in Gaggenau, on May 3, 1847. She was from nearby Renchen. She took the responsibility of raising our family.

At about this time (I was 15), revolutions erupted all over Europe. The closest was France Gust across the river Rhine which, on the ouster of Louis Phillipe on February 24, 1848, became a republic. In May of that year, a popularly elected all-German Congress met in nearby Frankfurt am Main and offered the crown of a united Germany to the king of Prussia who, being a reactionary, refused to take a crown from the "rabble." The revolutionary spirit affected my father greatly. At a meeting at our house, Michael Dunz, the town clerk, is reported to have said that "it was time that the oppression of the people by the ministries, the grand duke, and the young princes should end and that this was causing the country dearly." Father agreed. This was reported to the Baden justice ministry by a policeman named Schuhmacher. Father and Dunz denied this conversation but, given later developments, it was probably true. In August a proclamation of amnesty



Bertha Fellrath

was made and it was determined that no action was to be taken against Father since there were no actual subversive acts by him.

The revolutions spread but it seemed that "out of the way" Baden would not be involved. Then, in May of 1849, when I was 16, the nearby Rastatt military garrison revolted and a popular assembly at Offenburg proclaimed a provisional government. The grand duke fled the country. Father led a group of citizens (which was called a mob by the royalists) against the local Margrave's castle in nearby Rothenfels and also searched a local bathhouse for Chief Minister Beck, who was said to be hiding there. He also sent two citizens to Karlsruhe, which was in the hands of rebels, to obtain arms and ammunition. It was a heady time. Many international revolutionaries came to Baden, including the revolutionary Pole Mieroslawski, who was given command of the army, and Karl Marx.

Volunteer units of Poles and Hungarians joined in the rebellion.

The Prussian government, the most reactionary in Germany, moved troops from the nearby Bavarian



Palatinate into Baden. The revolt fell apart in the face of the Prussian army. There was a battle at Rastatt. The garrison surrendered on July 23, and the grand duke, supported by the Prussians, returned.

The Prussian courts-martial convicted over 1,000 people, and 27 were executed. 10,000 are reported to have fled, mostly to Switzerland. Father was removed as burgermaster in July and on August 1, 1849 was jailed in Rastatt. On August 9, there was a public seizure of his property and he was restricted to the city limits of Gaggenau. Father decided that there was no future for him in Baden and, on January 22, 1850, asked to be allowed to emigrate. In April, my stepmother wrote to the grand duke imploring him again for permission to emigrate. When there was no answer, Father took matters into his own hands and, in May, escaped to France, swimming the Rhine. The Baden records show that there was “no reason to act on this (immigration) petition since Johann was in Detroit.” I am not sure if I ever knew why he came to Detroit. Father instructed us to follow him, and we did on May 26, 1851. We booked passage on an old wooden sailing ship, the “Gallia,” which took 99 days to cross from Harve to New York. We arrived on September 4: my stepmother and seven children, including my sister Rosina and my brother Anton, both 17, and my brother Casmir, 21. I was now 18 years old. The three younger children, including Benhorst who was eight, also came with us. We joined Father and my sister Sophia in Detroit. On September 16, 1852, Michael Dunz presented a petition to the city director, Count von Rennin in Rastatt, seeking delayed permission to emigrate, for return of the monies which were seized, and to have Father’s sentence commuted. Claims against the estate were filed, including one by Hugo Wolff for legal fees of 26 florins and 23 kroner. He was given permission to emigrate and was repaid about 500 florins (minus 20 florins for court costs). However, he was to serve his sentence if he were ever captured. I think this is one reason that there are few records about Father. He didn’t want people to know he was a “wanted” man.

My sister Sophie was married to Robert Vileehamer on Oct 2, 1854, at St. Mary’s Church (Old St. Mary’s Church, in Greektown, Detroit).

While I lived in Detroit, I met Frank Fellrath, an immigrant from Alsace. He had been a farmer in Springwells Township but had been living in the town since his father died of cholera on July 22, 1854. We were married at St. Mary’s Church on January 11, 1855. By this time I ceased using the name Beata and adopted the more American Bertha. We lived in Detroit for a year, Frank working as a day laborer and then as a watchmaker. On February 16, 1856, we bought an 80-acre farm in Lennox Township, near New Baltimore, Michigan from David Guldner for \$675.00 to be with my father. Frank’s brother Charles Joseph, age 10, came and lived with us, and Frank’s brother John bought a nearby farm on July 21, 1857. A third brother, Joseph, bought a farm in nearby Casco Township in 1861. We were to farm for the rest of Frank’s life, and I particularly loved gardening, especially my roses, which I continued to cultivate long after his death.

We had three children in New Baltimore: Theresa, born in 1857; Catherine born in 1858; and John, born in 1860.

In 1861 the Civil War started and it reached all the way to Macomb County. I think it was in 1862 that Frank was drafted. Charles Joseph took his place and volunteered for service in the Union Army. He joined the Michigan 24th Infantry, a part of the famous Iron Brigade, and fought in most of the battles in the eastern United States thereafter. After the Civil War, Charles came back and convinced his brother John to accompany him to Texas.

At about this time my father died and we moved closer to Detroit. We sold our farm on Andreas Street on Oct 15, 1861 for \$1,000.00. On January 12, 1863, we bought a 43-acre farm in Dearborn Township for \$1,200.00. It was at the corner of Jim Daly Road and Michigan Avenue. I guess it was about this time that relations with Joseph became strained. He later moved back to Detroit and we had little to do with his family after that time. We kept having children, Victoria in 1862 and Mathilda in November of 1864. In the 1870 census our land was listed as worth \$2,000.00 and our personal property at \$500.00. We built a house where several of our children and grandchildren were born (it was moved to Trowbridge St. and torn down

in the 1960s). We joined the Catholic church in Dearborn Township, St. Johns (later Sacred Heart) and are listed as contributors in 1872. On October 29 of that year, Frank and I were the godparents of my brother Benhorst's and his wife Regina's child Augusta at that church.

We had a second family, three more children, Frank Henry, born on Sept 4, 1872; Mary Joseph, born on February 24, 1876; and Charles, born on October 25, 1878. In the interim, Mathilda died on January 29, 1873.



Bertha Fellrath

On May 12, 1885 my husband, Frank, died, four days short of his 56th birthday. He was buried in Mt. Kelly Cemetery in Dearborn. His probate estate showed he had two parcels of land worth \$5,000.00 and \$700, personal property including two notes, one from our daughter Catherine's husband Joseph Schneider for \$197.29 and one from a Mr. Clay. We had 7 cows and 25 sheep (total estate \$6,592.29.)

My son Frank Henry took over ownership and management of the farm and I continued to live there with my daughter, Mary and my son Charles, who was still in school at age 21. I lived with Frank Henry until he died in 1925. I built a cottage on Portage Lake in Dexter Township in that year.

In 1930 I was living with my oldest daughter and her husband, Thomas Daly, on Gully road when I passed away of that old age disease, senility and of Carcinoma (a large tumor). It was on December 20 of that year, eleven days shy of 98 years. I was buried with my husband in Mount Kelly Cemetery on Outer Drive and Cherry Hill in Dearborn. My grave can still be seen in 2005. All in all I had a full and well traveled life.

***Richard Fellrath** is a member of the Master Lawyers and the Business Law sections of the State Bar of Michigan. He practices in Troy, MI concentrating on Chapter 7 and Chapter 11 Bankruptcy.*