

# The Mentor

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



*"The voice of trust through experience."*

Winter 2018

## Message from the Chair

### Table of Contents

Message from the Chair.....	1
Notes from the Editor .....	2
The Tortuous History of the Mutual-Mistake Defense	3
In a Pond's Reflection.....	5
How Long Will She Last?...	6
A Most Unusual Law School Experience .....	6
Seeing Through Legalese: More Essays on Plain Language.....	8
Out of the Office.....	8
Photos from the 50 Year Honoree Celebration in September.....	10
Judge Pens Gripping Memoir about Triumph over Adversity .....	11
Brief Reflections About a Trip to Cuba .....	12
Eating Well in Detroit.....	14
Perception .....	15

The Master Lawyers Section was formed to provide its members with programs and information related to the transitioning from the practice of law, retirement planning, and to expand opportunities for community contribution. In an effort to plan ways of serving you better, the State Bar, working with the MLS Council, developed a survey which has been sent to all section members. The decision to do a new survey was based on changing demographics of the section. According to the material provided at the council's strategic planning session in November, the vast majority of section members are solo practitioners or at small firms and don't have the benefit of large firm support. The largest generational group in the section is Boomers (born in 1944-1960) at 76.1 percent, but it spans from the Traditionalists (born before 1944) at 22.4 percent, through GenX (born in 1961-1980) at 1.5 percent. Please take a few minutes of your time to participate in this important survey.



Ronald D. Keefe, Chair

Also, during the planning session the council brainstormed about possible opportunities to collaborate with other groups. Suggestions included the American Bar Association, the Young Lawyers Section through its YLS Summit event, the Oakland County Bar's Lawyers of a Certain Age (LOCA) committee, other local bars, law schools, and CPAs and other non-lawyer professionals. We welcome your ideas for collaboration with other organizations.

This is just a start. Stay tuned as we continue to seek ways to apply our experience to better serve the public in an active Master Lawyers Section.

2017-2018

## MASTER LAWYERS SECTION

## SECTION COUNCIL

**CHAIR**

Ronald D. Keefe  
Kendricks, Bordeau, Keefe,  
Seavoy & Larsen, PC  
128 W Spring St  
Marquette MI 49855-4608  
Phone: (906) 226-2543

**CHAIR-ELECT**

Kathleen Williams Newell,  
Southfield

**SECRETARY**

Paula L. Cole, Grosse Pointe Woods

**TREASURER**

Vincent A. Romano,  
Grosse Pointe Woods

**COUNCIL MEMBERS***Term Expires 9/30/2018*

Roberta M. Gubbins, Mason  
James H. Loree, Northville

*Term Expires 9/30/2019*

Michael Hayes Dettmer,  
Traverse City

*Term Ending: 9/30/2020*

Charles A. Fleck, Lansing  
David A. Kallman, Lansing  
Norman Otto Stockmeyer, Haslett

**IMMEDIATE PAST CHAIR**

Cynthia L. Johnson, Wayne

**NEWSLETTER EDITOR**

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

*The Mentor* is published by the  
Master Lawyers Section of the  
State Bar of Michigan,  
306 Townsend Street,  
Lansing, Michigan  
48933-2012

The views expressed in this  
newsletter do not necessarily  
reflect those of the publisher.  
Send correspondence and  
material for publication to:

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

## Notes from the Editor

I am constantly amazed at the talent of our members. This issue is a great example of that creative talent. We have three poems, a new column called “Out of the Office” where members can write about their volunteer activities in their communities, and two of our members have published books—Joe Kimble on plain English and a memoir by Judge Atkins.

Otto Stockmeyer writes about contracts and Rose the Cow; we celebrated our members in the 50-year luncheon piece; Roland Bassette writes of his trip to Cuba; and Jordan Leaming visits a restaurant, Selden Standard, in Detroit. William Sauer contributes a creative non-fiction piece called “Perception,” which takes place during WWII.

And finally, there is a link to a survey that we hope you will complete. The Master Lawyers Section is here to serve its members so please use the survey to let us know what direction you would like the section to take.

—Roberta



Roberta M. Gubbins, Editor

### Help Make the Master Lawyers Section Work for You— Take Our Survey Now

To set priorities for the next few years, the Master Lawyers Section is conducting the attached survey to gather insights and information from its members. If you completed the survey when you received an e-mail from Ron Keefe with the link, we thank you. If not, please [click here](#) to go to the survey. It's short and will really help the Master Lawyers Section serve you.



# The Tortuous History of the Mutual-Mistake Defense

By Otto Stockmeyer

## Introduction

Courts do not enforce all contracts. For example, contracts that are the product of fraud are voidable by the victim. Courts must strike a balance between protecting legitimate contract expectations and policing against contract wrongdoing. What if a contract was the product of a mistake? Neither party is guilty of any wrongdoing, yet the contract was not what the parties supposed.

That is where *Sherwood v. Walker*, 66 Mich 568 (1887) fits into the body of our law. It wrote the book on the law of mistake. In Plymouth, the plaintiff's hometown, the State Bar of Michigan erected a Legal Milestone plaque commemorating the case as "one of the most celebrated contracts cases in American history." Yet, twice our Supreme Court stripped the case of its legal authority, only to later embrace it again as well-settled precedent. (I wish to thank Professor Paul Moreno for suggesting this topic in his article "*Sherwood v. Walker*: Cows and Contracts," *Michigan Bar Journal*, January 2009 supp.)

## *Sherwood v. Walker*

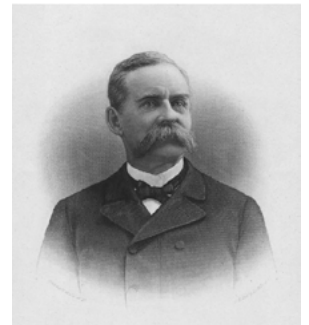
In 1886 Theodore Sherwood entered into a contract to purchase a cow with the fancy name of "Rose 2d of Aberlone" from Hiram Walker. Because they believed that the cow was barren, it was sold as beef for 5½ cents a pound, about \$80. When Walker learned that the cow was expecting a calf (and worth as much as \$1,000), he tried to back out of the deal. Sherwood sued to enforce the contract, and lost.

The bronze letters on the Legal Milestone plaque summarize the decision of the Michigan Supreme Court this way: "Because a mutual mistake affecting the substance of the transaction had been made, Hiram Walker had a right to rescind the contract, and keep the cow." Justice Allen B. Morse wrote the majority opinion. To him, "a barren cow is substantially a different creature than a breeding one."

Justice Thomas R. Sherwood (no relation to the buyer) wrote a strong dissent. He believed that the parties were equally ignorant as to the cow's capacity to breed, "and as to this each party took his chances."

## Justice Sherwood's Revenge

Less than a year after Justice Sherwood failed to prevail in Rose's case, he got his way in *Nester v. Michigan Land & Iron Co.*, 69 Mich 290 (1888). Nestor bought a tract of timberland. Upon harvesting, about half the timber was found to be unsound. The buyer sought relief on the ground that both parties were mistaken as to the quality of the timber. The trial judge agreed and ruled for the buyer. The Michigan Supreme Court reversed.



Justice Thomas R. Sherwood

Writing for the Supreme Court (with Justice Morse not sitting), Justice Sherwood not only rejected application of *Sherwood v. Walker*, but also held that the *Sherwood* case should be limited to its facts. "Limiting a case to its facts instead of overruling it," Professor Charles Knapp has said, "is like a sentence of house arrest instead of capital punishment. The case isn't dead, but it's not going anywhere, either."

## Rose's Exoneration

Justice Sherwood's revenge was short lived. Less than three years later, in *McKay v. Coleman*, 85 Mich 60 (1891), a building believed by all parties to be entirely on the land sold, was in fact partly on other land. This greatly affected the value of the property. The buyer sued to recover his deposit, but the trial court gave judgment for the seller.

The Supreme Court ruled unanimously for the buyer, saying: "This case is ruled by the principles laid down



in *Sherwood v. Walker*. There was a mutual mistake of fact as to the condition of the property.” So instead of being limited to its facts, *Sherwood v. Walker* was held to have established legal principles that must be followed in future cases having nothing to do with pregnant cows. Rose had been resuscitated, and would rule for nearly 90 years.

### ***Lenawee County Board of Health v. Messerly***

Rose suffered her second blow in the case of *Lenawee County Board of Health v. Messerly*, 417 Mich 17 (1982). It involved the sale of a three-unit apartment building. Unknown to either the buyer or seller, a previous owner had installed the septic tank without a permit. The lot size was too small to support a legal septic system, rendering the property uninhabitable and virtually worthless. The buyer sought to rescind the purchase based on mutual mistake.

Ruling for the seller, a unanimous Supreme Court agreed that the mistake was mutual, but was troubled by the distinction in *Sherwood v. Walker* between a mistake that goes to the substance of the contract and one that is merely collateral. Finding the distinction “inexact and confusing,” the court declared that *Sherwood* was to be limited to the facts.

### **Rose Lives On!**

It took nearly a quarter century for Rose to be resuscitated again. The vehicle was *Ford Motor Co. v. Woodhaven*, 475 Mich 425 (2006). The Ford Motor Company sought a refund of personal property taxes paid under what it claimed was a mutual mistake of fact.

Ignoring *Lenawee County* completely, a unanimous Michigan Supreme Court declared: “Our review of our

precedents involving the law of mistake indicates that the peculiar and appropriate meaning that the term ‘mutual mistake of fact’ has acquired in our law has not changed since *Sherwood* . . . [meaning] an erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction.” Applying that definition to the facts before it, the Court found that Ford had stated a valid claim.

Four years later, the Supreme Court again unanimously declared its allegiance to “the seminal case of *Sherwood v. Walker*” in *Briggs Tax Service v. Detroit Public Schools*, 485 Mich 69 (2010). Because these two most recent decisions were unanimous, it is unlikely that they are in any jeopardy from a shift in the high court’s partisan majority.

### **Conclusion**

When the State Bar dedicated its Legal Milestone plaque commemorating Rose’s case, Governor John Engler issued a proclamation that rightly concluded: “The details of this case are less important than the ruling, which remains as sound today as it was over a century ago. The principals are gone, but the principle will never die.”

### **About the Author**

*Otto Stockmeyer is an emeritus professor at WMU-Cooley Law School in Lansing, where he taught Contracts and other subjects for 34 years. [www.cooley.edu/faculty/norman-stockmeyer](http://www.cooley.edu/faculty/norman-stockmeyer) He can be contacted at [stockmen@cooley.edu](mailto:stockmen@cooley.edu). This article is an abridgement of an earlier article published in Michigan Academician, available through the Social Science Research Network at <https://ssrn.com/abstract=1789778>*



Otto Stockmeyer

Website bio: [www.cooley.edu/faculty/norman-stockmeyer](http://www.cooley.edu/faculty/norman-stockmeyer)

Articles: <http://ssrn.com/author=80303>

Books: [www.amazon.com/author/stockmeyer](http://www.amazon.com/author/stockmeyer)

## In a Pond's Reflection

By Tom Richardson

In a pond's reflection, I looked in to see  
 Faces of my family shining up at me.  
 Features and expressions that betold their ancestry  
 In the pond's reflection I looked in to see.

And upon reflection, I looked into me.  
 Saw the deep impressions made by family.  
 My mom's and dad's life lessons, my children's joy-to-be.  
 In the pond's reflection, I looked into me.

### About the Author

*Tom Richardson is a graduate of Kalamazoo College and University of Michigan Law School. He has practiced since 1980 and currently is an attorney with Lewis, Reed & Allen in Kalamazoo and a US bankruptcy trustee. He is married with four children and enjoys playing the piano, reading, and floating in the lake.*



Tom Richardson

## Granddaughters

By Paul E. Pirog

Why did the Lord make granddaughters so grand?  
 It's as if He knew how wonderful they would be,  
 And never require a "please love it command,"  
 To bring affection between them and the world, you see.

Was it to excuse our mistakes when we held her too long?  
 Or woke her to change diapers and she turned out  
 bone dry?  
 Perhaps she's made that way to hint right from wrong,  
 And for us to become better humans, thereby.

So, what should we do as she grows up each day,  
 To ensure that the love we give our granddaughter  
 Blossoms into goodness without delay  
 And makes us proud that her mom begot her.

Some say "be ready to spend plenty of dough"  
 Others advise "just lend them a hand"  
 But I say, find the best Grandpa you know  
 To enfold her and mold her – to make her so grand!

### About the Author

*Paul E. Pirog is a retired Brigadier General who spent more than 37 years in the United States Air Force as a B-52D navigator and Judge Advocate. He is a graduate of the US Air Force Academy and the University of Michigan Law School. He has practiced throughout the United States in virtually all areas of the law and he has been the Staff Judge Advocate (senior attorney in charge) in four different assignments. In addition, he spent more than 12 years as the Permanent Professor and Head of the Law Department at the Air Force Academy, responsible for the law curriculum, and 6 years as the Chair of the Social Sciences Division, helping to formulate the strategic direction of the Academy. He retired in 2014 and lives in Monument, Colorado, volunteering frequently in his local community and occasionally writing. He is an Emeritus Member of the Michigan Bar.*



Paul E. Pirog

Copyright 7 Jan 2018 by Paul E. Pirog

## How Long Will She Last?

By Diana Dinverno

I arrive for the mid-morning docket,  
briefcase strap slung on my shoulder,  
bypass the line of men and women  
who remove belts, place bags and purses  
on a conveyor belt to be scrutinized  
for potential danger, contraband, a forgotten phone.

With a bored glance, security waves  
me into the dingy corridor lined with attorneys  
conferring with clients or unrepresented opposition  
whose bodies betray indignation, resignation, or out-  
right fear.

I barely register the courtroom packed  
with the aggrieved seeking compensation,  
weary-faced debtors, lead-footed drivers  
hoping to avoid points, and landlords  
with petitions to reclaim tenancies  
in the statutorily authorized ten days.

I approach the judge's clerk, a new hire who lacks  
her predecessor's indifference, air of self-preservation.

She flashes a smile as she puts a checkmark  
on the docket sheet, says she likes my red glasses,  
and leans in: "You have lipstick on your teeth."

### About the Author

*Diana Dinverno is a multi-genre writer. She was a finalist for the New Rivers Press 2015 Short Story Prize and the recipient of awards from Detroit Working Writers, Rochester Writers, and the Poetry Society of Michigan. Her work appears in The MacGuffin, The Peacock Journal, Peninsula Poets, American Fiction, Volume 15: The Best Unpublished Stories by New and Emerging Writers, and other publications. She practices law in southeastern Michigan. More at [dianadinverno.com](http://dianadinverno.com).*



Diana Dinverno

## A Most Unusual Law School Experience

By Martin Magid

Among the many enjoyable memories of law school are my classmates. Some have become lifelong friends; others are memorable for other reasons. Jack Rose was the most memorable.

Even before I began at Wayne State Law School, I was familiar with the major details of Jack's marriage and divorce. It was a running media story. This recollection is from my memory.

Jack Rose wanted to represent himself in his divorce. His judge believed Jack needed representation to protect his considerable assets, and appointed the judge's former law partner to represent Jack. This decision was contrary to Jack's wishes, and he thought it was not ethical. It's an interesting question whether Jack's failings as his own counsel were more damaging to him than his actions

based on the possible conflict of interest presented by the judge's appointment of his former associate.

Jack said he never spoke to his appointed attorney, and would not let him handle any aspect of the case. At the conclusion of the trial, the judge approved a \$25,000 fee for his former partner.

Many appeals and motions followed. At some point Jack decided to become a lawyer, possibly because he believed his divorce case, and the issue of the attorney's fees, would continue well into the future.

Jack enrolled at Wayne Law School, and we had several classes together. He was very friendly and funny, and we often talked during breaks, sometimes about his case. He did ask for legal advice, but I, and most of

my fellow students, were quite ignorant of the judicial system we would soon confront.

Jack used condensed case materials, not the assigned casebooks. I recall that Professor John Mogk in Corporations called on Jack with a question on the main point of that day's first case. Jack glanced down at his materials, and responded with a perfect answer. Professor Mogk then changed the facts, and asked Jack if that would change the outcome. Jack again consulted his materials, and said "I'm sorry, Professor, my Cliff Notes do not cover that point." The class exploded in laughter, and Professor Mogk smiled broadly.

My interest in Jack Rose's dilemma led me to do a directed study instead of taking a two-hour optional course. My subject was "The Right to Self-Representation." When I got a high grade on my paper, I gave a copy to Jack. He used it in one of his appeals to the Michigan Supreme Court, and identified me as "Michigan's foremost authority on the right to self representation." I was both amused and embarrassed.

During the summer before the 1972-73 academic year, Wayne State determined that Jack would not be allowed to register for classes. He had been jailed for contempt of court, perhaps not the first time. When the term began, Jack was out of jail, but he was not permitted to register. He decided to sit silently in the classes that he would have enrolled in, hoping that professors would be sympathetic to him. As far as I know, no professor asked Jack to leave.

That term I took Professor Michael Josephson's "Advanced Evidence," which met in the Moot Court room. The registered students sat on one side of the room in jury-box seats, and Jack sat inconspicuously on the other side.

One day I was at the lectern, giving a closing argument. At one point I was barely conscious of slight muttering behind me. After I finished, the class took a break. In the hallway, one of the other students in the class said, "Wow, Marty! I don't see how you got through all that!" I said, "Yeah, what was going on?" He exclaimed, "The cops came in and arrested Rose!" I was stunned. The administration had enough of Jack's "free lunch." On the other hand, Jack was so conscious of my situation that he submitted to arrest as quietly as he could. We never spoke of that incident.

Within weeks, I graduated, took the bar exam, and began to look for a job as a lawyer. I was recruited to

work on a brief to the US Supreme Court, and while working on that, I ran into Jack in the Wayne Law Library. We said our hellos, and I asked how he was doing—he was wearing a pressed suit and tie, most uncharacteristic. He smiled and handed me a business card which was imprinted "Jack Rose, Attorney at Law." I sputtered in a stage whisper "But-but you're not an attorney!" He said, "A certain district judge doesn't seem to care. I'm doing some traffic cases." He seemed happier than at any other time I saw him. And that was the last time I saw him.

Jack's legal career was cut short by the state, and he served more time in jail. In 1975, when the US Supreme Court, in *Faretta v. California*, decided there is a constitutional right to self-representation in criminal cases, I sent a newspaper article about the decision to Jack, in jail. He wrote back, "Maybe they read your paper!" I smiled to myself, and felt bad about his situation.

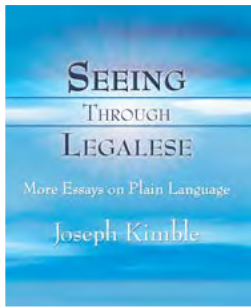
Jack had been arrested, charged and found guilty of conspiracy to commit murder, specifically, the planned murder of his divorce judge, which never happened. At his sentencing in the summer of 1976, Jack Rose took two cyanide capsules and died. Poor Jack's need to win was all-consuming.

I cannot claim that Jack Rose and I were close friends, but I think of him often. In my mind, his life and death are Shakespearean tales.

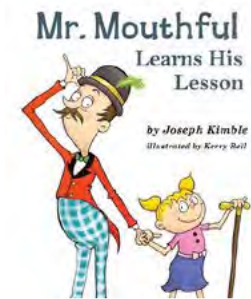
### About the Author

*Martin Magid is a native Detroiter. After graduating from Cass Tech High, he served in the U.S. Army Signal Corps. After earning his BSIE and JD degrees from Wayne State ('59, '73), he was in private practice for two years, and taught at Wayne State, Michigan and San Fernando Valley law schools. He then served as a senior trial attorney for EEOC in Los Angeles, administrative judge for EEOC in Detroit, administrative law judge and chief ALJ for Social Security Administration in Detroit. He is married and has five children, seven grandchildren, and three great-grandchildren. His hobbies are traveling to see his family, photography, and writing articles about the history of photography for magazines in the USA, Canada and the UK. He co-authored the book Bob-Lo Revisited.*

# Seeing Through Legalese: More Essays on Plain Language



This is Joseph Kimble's second book of essays on legal writing and drafting. The first, published in 2006, was acclaimed as "superb," "invaluable," and "a treasure." This second one collects his more recent writings—and promises to be equally good. The essays are brimming with sound advice, helpful guidelines, and real-world examples (many of them drawn from his work in redrafting federal court rules).



The other book is, of all things, a kids' book called *Mr. Mouthful Learns His Lesson*. Mr. Mouthful is a windbag whose highfalutin talk causes trouble and confusion for kids. But he learns his lesson when a little girl wanders off a dock, falls into the water, and needs to be rescued—fast. Kids will laugh at the misadventures of Mr. Mouthful and his monkey, Dupree. They will learn some new

words. And they will love the jaunty illustrations of Kerry Bell. That is exactly how they have responded in classroom visits.

## Biography for Joseph Kimble

Joseph Kimble taught legal writing and drafting for more than 30 years at WMU–Cooley Law School. He now provides seminars for legal and business groups. Along with dozens of articles, he has written three books: *Lifting the Fog of Legalese: Essays on Plain Language*; *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law*; and *Seeing Through Legalese: More Essays on Plain Language*. He is senior editor of *The Scribes Journal of Legal Writing*, the longtime editor of the "Plain Language" column in the *Michigan Bar Journal*, and the editor of the "Redlines" column in *Judicature*. Since 1999, he has been the drafting consultant on all U.S. federal court rules. He has received several national and international awards, including Burton Awards for his work in redrafting the Federal Rules of Civil Procedure and Federal Rules of Evidence.



Joseph Kimble

## Out of the Office

*(How do you volunteer your time? Read how our members contribute to their communities in our new feature column, Out of the Office.)*



### Roberta M. Gubbins

I have been a docent at Potter Park Zoo in Lansing since 2008. We offer tours of the zoo, take education animals to schools and events in the area, assist at birthday parties, and provide enrichment for the animals. We also provide assistance to the zoo keepers when it's needed such as watching the female arctic fox who is back on exhibit after making an

escape in December, or when the North American river otter pups, born Feb 6, are ready to learn to swim, keeping track of them to be sure they are safe. The zoo is a great place to volunteer. We learn about the animals so we can teach others about their behavior and habits.

*Photo: North American river otter pup being returned to mom by vet after brief inspection*

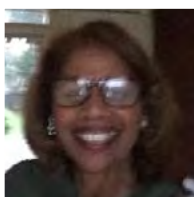
Continued on the next page





### Jack Keiser

I volunteer at the Legal Outreach Clinic run by the Kalamazoo County Bar Association, providing counseling and free legal advice. I also tutor elementary children in literacy through the Community in Schools program. But a greater portion of my time is spent working with the Southwest Michigan Land Conservancy (SWMLC) where I assist with legal advice and services. I just completed two years as board chair of SWMLC and remain a board member.



### Kathleen Newell Volunteer Michigan History Day Competition

I served as a judge in the Michigan History Day competition on January 22 and January 30, 2018. MHD is run by the Historical Society of Michigan and is part of the National History Day program. I had the opportunity to judge at the school competition level which is within the student's own school or classroom and allows the student to move on to the District Competition. Any finalist from the school competition can move on to the local or district competition. National History Day (NHD) students had as their topic for the 2017-2018 school year "Conflict & Compromise in History."

I had the opportunity to judge competitions and written essays, at the first level at the Hilbert Middle School in Redford, MI on January 22 and again at the Franklin Middle School in Wayne, MI on January 30. The interaction between the students and their judges is the key part of this program at this level. Students selected to advance have the opportunity to make significant changes and improvements to their project based on the suggestions of the judges.

**Expungement Clinic (Clear your criminal record)**—I served as a volunteer attorney for this clinic hosted by the city of Southfield, Lakeshore Legal Aid, and the D. Augustus Straker Bar Association. Residents of Wayne, Oakland, and Macomb counties were eligible to participate. Individuals with two misdemeanors and/

or one felony and five years after completion of sentence could qualify for the clinic. The clinic was conducted on January 8, 2018 at the Southfield Public Library from 2-6 pm. No special experience was required for volunteer attorneys participating in the clinic but a short training was conducted



### R. William Schooley

I'm a semi-retired lawyer who openly and unashamedly doubles as a rifle and pistol coach with Venture Crew 357 in Chelsea, MI. We're sponsored by the Chelsea American Legion Post. I try to help youngsters who aren't into team sports qualify for college scholarships. And my wife says I'm a shameless recruiter for venturing and scouting.

My out-of-the-office passion is youth development through the tool of shooting sports. I also believe that rifles are tools to be used to develop safe gun handling techniques, the fundamentals of marksmanship, having fun shooting and enjoying the company and camaraderie of the other adults and youth in our shooting sports venture crew. And, maybe for some, competitions and qualifying for college scholarship dollars.



### Norman Otto Stockmeyer

In 2015, I participated in the AARP Foundation's Tax-Aide Program. Volunteers (after a couple of training sessions) assist elderly and low- to middle-income people file their income tax returns. It runs from mid-January to mid-April. Information is at [https://www.aarp.org/money/taxes/aarp\\_taxaidel](https://www.aarp.org/money/taxes/aarp_taxaidel).

More recently I have been a Free Lunch Monitor for AARP. We attend "free lunch" investment seminars. Using a checklist developed by AARP and the North American Securities Administrators Association, we listen for evidence that guests are being pressured into purchasing fraudulent or unsuitable investments. Visit <http://createthegood.org/toolkit/how-spot-%E2%80%9Cfree-lunch%E2%80%9D-scam>.

# Photos from the 50 Year Honoree Celebration in September



# Judge Pens Gripping Memoir about Triumph over Adversity

*Detroit's former 36th District Court Chief Judge Marilyn E. Atkins shares life story about race, religion, abuse, and success*

When “Baby Rosemary” was born in 1946 Detroit to an Italian teen and a married black man, then placed in a foster home, her fate could have turned tragic.

She was adopted, but that blessing was cursed by her mother’s abuse, which inspired the girl’s fierce independence and pioneering spirit.

At age 19, “Baby Rosemary” (Marylin Bowman) married former Roman Catholic priest Thomas Lee Atkins, who was 44 years old and white.

Banished to hell by a bishop, they were scorned by family for defying the racial, religious, and romantic conventions of 1966. But despite their union and two biracial daughters, Marylin became an attorney, then a judge, then the longest serving chief judge in the history of Detroit’s 36th District Court.

*The Triumph of Rosemary: A Memoir* by Judge Marylin E. Atkins is a jaw-dropping chronicle of how she beat the odds as a mixed-race baby in Detroit foster care, and later blazed a fierce trail of triumph over racism, abuse, and excommunication from the Catholic Church.

“I want people of every age to read my story and believe that no matter how difficult their life circumstances might be,” says Judge Atkins, 71, who retired in 2012 and lives in Detroit, “they can beat the odds like I did. My life shows that vision, determination, and hard work, plus family teamwork, are the keys to success.”

The book is being released on the 50th anniversary of the U.S. Supreme Court decision *Loving v. Virginia*. The June 12, 1967 ruling struck down laws in 16 states banning interracial marriage.

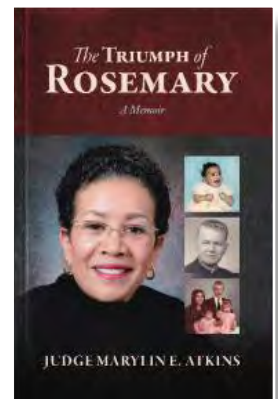
Judge Atkins says the book also answers the question, “What about the children?” that people ask interracial couples, assuming that the kids will have a difficult time in a world that often forces them to choose black or white.

“My answer is that our children grew up in a loving home where they learned the value of education, justice, spirituality, and giving back,” Judge Atkins says. “I am so proud that my daughters are publishing this book through their publishing company.”

Elizabeth Ann Atkins and Catherine M. Greenspan co-founded Two Sisters Writing & Publishing to publish their own novels and books dealing with race. They write and publish memoirs for accomplished individuals through their company Atkins & Greenspan Writing; the most recent publication was *Let The Future Begin* by Dennis W. Archer and Elizabeth Ann Atkins.

“*The Triumph of Rosemary* will make you laugh, cry, and appreciate the power of one woman to pioneer a place for herself and her family in a sometimes unwelcoming world that ultimately embraced and celebrated her family’s legacy of colorblind love,” Catherine says. “We couldn’t be more honored that our mother wrote her own book and gave us the privilege of publishing it. Everyone who reads it says, ‘This should be a movie;’ the screenplay is being developed now.”

*Judge Marylin Atkins earned a bachelor of arts in psychology from Saginaw Valley State University and a juris doctor from the University of Detroit School of Law. Marylin enjoys exercising, playing the piano, doing carpentry, relaxing with friends, and baking banana-nut-raisin bread that she delivers to her friends, family, and others. She lives in Detroit.*

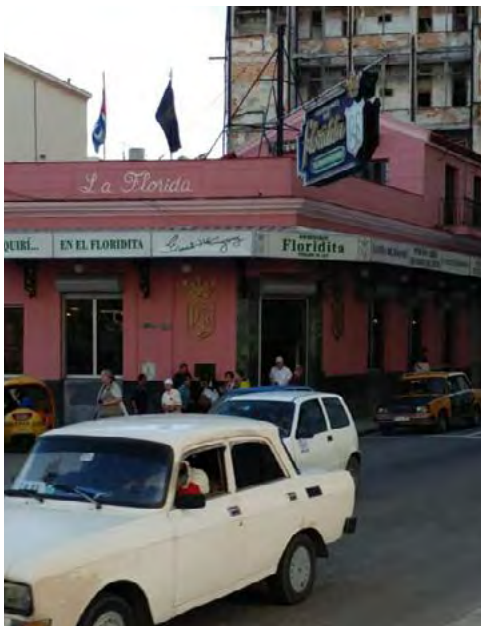


# Brief Reflections About a Trip to Cuba

By Roland L. Bessette

Cuba is about the size of Pennsylvania at 42,426 square miles. The population of 11.39 million places it between Ohio and Georgia. Havana? Its 2.11 million people would place it behind Houston at number five among US cities. Based on raw numbers, the attention paid to Cuba has been outsized since JFK embargoed all trade with it during 1962. Yes, there was the Cuban Missile Crisis and Russian influence until 1991. The overarching nemesis was Castro, who needed the United States as an enemy to justify his endless revolution and make his fatigues more than a costume. Democratic and Republican presidents alike have continued the embargo during the decades since, until President Obama lifted some restrictions. Much ballyhoo resulted from President Trump's restoration of some limitations, though not much has changed for most Americans who travel there.

My wife and I traveled to Havana last month. My motivation included a desire to see the sites associated with Hemingway. My wife's goals included viewing a favorite painting at the National Gallery in Havana. Those things did not disappoint. What surprised us was the impact of meeting the Cuban people and



El Floridita (Hemingway's favorite bar in Havana) with a derelict building behind it.

experiencing, first-hand, the impact of Castro's revolution.

A reality for anyone traveling to Cuba: bring whatever you need plus a cushion in cash. There is no infrastructure for American credit cards or ATMs. The state restaurants won't impress because there

is a shortage of quality ingredients. The best that can be said is that they do what they can with what they have available. Things are better in the pricier hotels. Also, the paladares (privately-owned restaurants) can be very good, though it is difficult to be spontaneous about dining in Havana. Reserving something well in advance is mandatory. A last-minute decision to try for a table at Dona Eutemia or La Guarida is a run against long odds.

The Cuban people are outgoing, straightforward, and dignified. They lean more toward Spanish than Caribbean or Latin cultures. Live music is featured in most restaurants. Two musicians we spoke with were proud that Caruso appeared in Havana during 1921.

"After Castro, there was nothing," one lamented. "No one came. We lost a lot."

Havana is different in that it was once considered a jewel—the so-called Paris of the Caribbean. It isn't like some of the poor cities in South America where the structures were substandard from day one. However, a walk through the old streets reveals many sad living situations.

Cubans are accustomed to slow service and long lines. Prices do not go down and efficiency does not rise as there is only one cell phone company, utility, etc.



Torre Bianco - Finca Vigia - parts of Old Man/Sea written by Hemingway



Street Scene

Goods in stores are limited. Customs doesn't have to worry as there is little worth bringing back.

Young Cubans we spoke with were frustrated. They had degrees from "the university" but could do little with them. If they don't own a home or a car, the govern-

ment won't allow them to leave as the fear is they will not return. Many indicated that they would not.

The classic cars from the fifties were "repatriated" when Castro took over. A car is wealth and something to hand down from generation to generation. I had forgotten about the lovely lines and bold styling of a 1959 Chrysler Imperial convertible.

It's a longer discussion than this format permits, but Castro's "revolution" was circular and often incoherent. He could only rob from the rich once. After that, he stole from the poor, who were without options. Some department stores from the '50s are empty, decaying hulks. They were looted once. If there was a need for what they carried, there was no system for bringing more of it to the island. Most receive an education now. Medical care is available for all. But there is a numbing deprivation and sense of resignation.

When Castro disbanded the Cuban government, he abandoned El Capitolio—a building designed by Cuban architects trained in the United States and reminiscent of the U.S. capital in Washington, D.C. It is undergoing restoration. There are many examples of spiteful neglect and signs of restoration in Havana. Castro demanded deprivation as fealty to his ego and ideology. There was a tradeoff of two steps back for every inch forward. As with most charismatic despots, it was all about him. Many young Cubans realize that.

When we were clearing customs in Florida, the agent asked why we visited Cuba and then answered for us.

"To see the Hemingway stuff. Only reason I would go. You got there while it's still possible to go."

When we offered that some parts of Havana were in bad shape and that the people were eager for change, he was unsympathetic. "They did it to themselves. I'm not the least bit sorry for them."

Did they? Is demonization of the Cuban people a way of disposing of any obligation to them?

The United States should facilitate change through interaction with the Cubans and assistance to their country. Restoring travel restrictions and the embargo because of Castro is not much different from what some in Ireland felt after so many decades of turmoil. Does anyone remember why we are doing this? Worse, who really cares?

The musicians who mentioned Caruso declined to provide their names or be photographed. As even Meyer Lansky noted when he fled Cuba in 1959, "I know a communist revolution when I see one." The next one, long-needed, has been slow in coming.

### About the Author

*Roland L.*

*Bessette graduated from the Detroit College of Law and has been a member of the State Bar of Michigan since 1985. A veteran of the US Navy, he retired as the regional counsel (Michigan and Wisconsin) for the Department of Veterans Affairs after 34 years of federal service during February of 2013. He now resides on Cape Cod and teaches employment law at Penn State University.*



Author at the Finca Vigia - Hemingway's House

*Mr. Bessette has written several books, including a biography of Mario Lanza.*

# Eating Well in Detroit

By Jordan G. Leaming

## Selden Standard

3921 Second Ave  
Detroit, MI 48201  
(313) 438-5055

<http://www.seldenstandard.com>

Growing up in the Rocky Mountains, winter weather never bothered me. Sure you needed to dress with a few more layers, but everything else rambled on the same. The sun still shines and the sky is blue. Michigan winters have required some adjustments. Not only do I rarely find myself reaching for my sunglasses, I find it hard to muster the same motivation for anything outdoors. This includes going outdoors to eat. Spring, summer, fall, and hermit; those are my Michigan seasons.

On the suggestion of a good friend and fellow ICBA member, I managed to escape one night and try an outstanding venue in Detroit.

We arrived to the glow of Edison bulbs and subway tiles. Visually, Selden Standard is everything I hope for in a dining experience. Is it hipster, millennial, modern, industrial, modern industrial? I do not have the answer but it is just right. The bar area is ample, well-stocked, and by the front entryway. Plenty of people were congregated there enjoying some libations, while others were snagging some of the Standard's more solid fare. Their kitchen area is open with a variety of cooking implements. I was most impressed with the wood fired stove for baking any number of dishes and a grill that is ubiquitous all over Brazil and Argentina.

Even though the layout is wide-open, we still were able to have a conversation without resorting to yelling or hand signals. The ample use of hard finishes does make the restaurant a little louder than some, however.

The oysters which we ordered to start things off were excellent. Normally I would rant for a paragraph or two about my impression of the meat products, which were fantastic, but instead the cauliflower needs to be reviewed.

The picture I have of the cauliflower dish does not do it any justice and as such is not included here. I highly suggest visiting the webpage to drool at the rotating photos at the top of the page. My friend was probably not terribly amused by my fixation with the use of cumin on the cauliflower. There was a mix of earthy, sweet, and mild heat that really impressed me—so much so that we ordered two servings. This mix of flavors made what can sometimes be bland roasted cauliflower, truly memorable.

Hermit season has me fairly shackled; however, I find myself looking at my calendar for another excuse to make it down to Selden Standard. Give it a try the next time you find yourself in Detroit; it is worth the trip.

## About the Author

*Jordan G. Leaming is an associate attorney for Blue Cross Blue Shield of Michigan. His practice areas are health care law, insurance law, subrogation, Medicare Advantage, and tort claims. <http://linkedin.com/in/jordan-g-leaming-90690715>*



Jordan G. Leaming



# Perception

By William R. Sauer

“You insult me! You are a lieutenant! I refuse to sign with anyone below the rank of Colonel! GET OUT!” Words of a bitter man spoken at a bitter time.

General Wilhelm Daser’s troops had surrendered on November 6, 1944 at Middelburg, Walcheren Island, Netherlands. A month-long battle had left the island almost totally flooded. The Canadian 6<sup>th</sup> Infantry Brigade, a/k/a “Scottish Highlanders,” defeated the German troops—but not the general’s stubborn pride. He wanted to win this last skirmish.

Back at camp, Lt. Mark “Mac” MacDonald only said, “We’ve got 48 hours to find a colonel. I’ll be damned if we let that pompous Nazi ass stand in our way!”

The town of Middelburg suffered greatly from bombings, first from the Germans in 1940 destroying most of the buildings in the town center and then the recent allied bombings done to strategically destroy the dykes to flood the island with saltwater. Townspeople didn’t know whom to blame for their misery. But General Daser and a four-year occupation under the heel of German boots were the favorites to win the blame game.

November 8, 1944, 7:30 a.m. General Daser gathered his remaining troops (23) and placed two at the front of the bakery where he occupied the second floor, then two on the stairway and 19 in his office. He waited, dividing his time between drinking schnapps and snapping at his men. Every tick of the mantel clock made him angrier. All that his beloved Third Reich stood for—world domination, antisemitism, eugenics—his mind reeled at the thought. If only he had been on the front. If only he had been given a real command. His strategies would have worked. Instead, he was considered old and ordered to babysit. Now his war was all but lost.

8 a.m.—A soft knock on the office door. “Enter,” he said, gritting his teeth. A German soldier opened the door enough to slide through.

The corporal saluted, clicked his heels, and said, “General, sir, there is a Canadian colonel here to see you. He says he has an appointment.”

“Very well, show him in. Wait, are there others with him?”

“Yes sir. Three men,” the corporal replied.

“Only the colonel, the others can wait outside.” General Daser smiled to himself thinking that a room full of allied enemies would certainly make this colonel uncomfortable if not scared. He straightened upright in his chair and drained the last of his schnapps as the door opened.

The colonel strode in, tall, slim, polished boots gleaming in sunlight that bled through the window. Standing at attention, he saluted and waited for the customary response. There was none. Daser sat impassively. “General Daser, may I present myself? I am Colonel Jonathon Smith, acting commander of the Sixth Canadian Infantry Brigade. I am here, as you know, to present the Articles of Surrender for your signature.” Silence; the general glared at this colonel, scrutinizing his dark hair, brown eyes, and somewhat olive complexion.

“Mind if I sit while I wait for you to speak?” This said, the colonel took a nearby chair, slid it close to the general’s desk and sat. He sat, reached inside his uniform jacket and retrieved some folded papers.

Daser felt disappointed and somewhat confused. His ruse of showing the strength of the Third Reich had not fazed this man. His resolve was fading. The colonel lightly tossed the documents on the desk in front of the general.

Another moment passed in silence. “General, if you wish not to speak that’s all right with me. Just sign. Each set is two pages. Sign the second page of each and I will return the bottom set for your records after I sign. I understand this may be difficult for you.”

Daser slowly took a pen and began to sign the second page of each set. “Oh, General, please print your name and rank under the signature lines, if you will. The typist mistakenly left those out.” Colonel Smith stood and pointed to the mentioned spot. Daser did as requested, the only sounds of the clock and scratching of the pen working its way across the papers.

Seeing the general finish, the colonel said, sliding the papers across the desk, “Pen?” The general silently complied and pushed over the pen. After he signed each set, the colonel tightly folded them separately and handed one back to Daser. “Well, General, I believe that concludes the business immediately at hand, so please follow my men to your new quarters. Men!”

The office door opened and the Canadian soldiers entered quickly, disarmed the Germans including the general, and escorted them down the stairway to a location at the edge of Middelburg. The office of the former General Daser was now the loft of a barn.

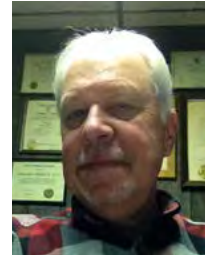
Later, in the mid-afternoon, General Daser stood at the small loft window overlooking the road that led into town. He watched as the Canadian troops came in, mostly walking in groups of three or four with an occasional jeep or amphibian vehicle between them. One group caught his eye as they laughed and jostled, but one soldier looked uncannily familiar. As they approached, Daser saw the soldier closest to him had dark hair, olive complexion, tall, wearing shiny boots. The general could clearly see the corporal stripes on his sleeve. The group stopped in front of the barn. The corporal pointed to the window and the group all laughed even harder.

Unable to believe it could be true, he turned to his men yelling, “My papers! Get me my papers!” A soldier retrieved them from a bench. General Wilhelm Draper saw clearly his name and signature and that of “Corporal Joshua Greenbaum, acting commander of the Sixth Canadian Infantry Brigade.”

No! What could be worse, surrendering to someone not an officer or to one who is a Jew? “A CORPORAL JEW! A JEW! A JEW!” he screamed, falling to his knees sobbing.

### About the Author

*Currently in his 43<sup>rd</sup> year of practice, William is semi-retired having spent 18 years as district court judge in Berkley. He divides his time between family (wife, son, daughter-in-law, three grandchildren), traveling, relaxing at his summer home near Gaylord, and his law practice. This piece of historical fiction is true and was inspired by a visit to the Netherlands. Since resuming practice his most interesting case was successfully defending a woman charged with attempted murder. She tried to drown a rampaging raccoon in her trash can. He also enjoys writing.*



Willaim R. Sauer

