



2014 ANNUAL REPORT  
presented at the  
State of the Court Luncheon

October 1, 2014

Chief Judge Gerald E. Rosen

## STATE OF THE COURT MESSAGE

October 1, 2014

### **I. Judicial Officers**

Last year, Chief Judge Rosen reported that there were four district judge vacancies in the Eastern District of Michigan. We are happy to report that all four vacancies were filled since the previous State of the Court address.

Judge Judith E. Levy was appointed to the Bench by President Obama on March 14, 2014, filling the vacancy created when Judge Nancy G. Edmunds took senior status in August 2012. Judge Levy was formerly an Assistant United States Attorney for the Eastern District of Michigan beginning in 2000, and served as their Chief of the Civil Rights Unit from 2010. She is also an Adjunct Professor of Law at the University of Michigan. She is currently stationed at the Ann Arbor Divisional Office.

Judge Laurie J. Michelson was appointed to the Bench by President Obama on March 14, 2014, filling the vacancy created when Judge George Caram Steeh, Jr. took senior status in January 2013. Judge Michelson was formerly a Magistrate Judge for the United States District Court for the Eastern District of Michigan since 2011. Prior to that she was employed by the law firm of Butzel Long. Judge Michelson is a past president of the Eastern District of Michigan Chapter of the Federal Bar Association. She is currently stationed at the Levin Courthouse in Detroit.

Judge Matthew F. Leitman was appointed to the Bench by President Obama on March 14, 2014, filling the vacancy created when Judge Marianne O. Battani took senior status in June 2012. Judge Leitman was previously employed by the law firm Miller Canfield, PLC since 2004. He is currently stationed at the Levin Courthouse in Detroit.

Judge Linda V. Parker was appointed to the Bench by President Obama on March 17, 2014, filling the vacancy created when Judge Robert H. Cleland took senior status in March 2013. Judge Parker was formerly a Judge on the Third Judicial Circuit Court in Wayne County since 2008. Prior to that she was a partner in the law firm of Dickinson Wright, PLC, and as the first Executive Assistant United States Attorney for the Eastern District of Michigan. She is currently stationed at the Flint Divisional Office.

Senior Judge Julian Abele Cook, Jr. retired from the Bench on September 23, 2014. Judge Cook was appointed to the Bench by President Carter on September 23, 1978. He served as Chief Judge from December 1989 until December 1996 when he took senior status.

The Eastern District of Michigan lost two beloved judicial officers in the past year. Circuit Judge Cornelia G. Kennedy passed away on May 12, 2014, and Judge Patricia J. Boyle passed away on January 12, 2014. Judge Kennedy was appointed to the United

States District Court by President Nixon on October 20, 1970, and served as Chief Judge from 1977-1979. She was elevated to the Circuit Court in 1979 where she served until 2013. Of historical note, Judge Kennedy was the first woman appointed to the United States District Court for the Eastern District of Michigan.

Judge Boyle was appointed to the United States District Court by President Carter on October 10, 1978. She served the Eastern District of Michigan until April 1983 when she was appointed to the Michigan Supreme Court. She was elected to that court in 1986, and then reelected in 1990. Judge Boyle was the second woman appointed to our Bench, following only the aforementioned Judge Kennedy.

Bankruptcy Judge Phillip J. Shefferly continues to serve as Chief Judge of the Bankruptcy Court. Chief Judge Shefferly is in the first year of his current term, which will end on April 24, 2017. Bankruptcy Judge Walter Shapero continues to serve the Bankruptcy Court in recall status.

Magistrate Judge Charles E. Binder, who has served in the Bay City Divisional Office since 1984, retired from the Court on April 23, 2014. He is currently serving the Eastern District of Michigan in recall status until the official appointment of our two newest magistrate judges.

Magistrate Judge Patricia T. Morris was appointed by the Bench in December 2013 to fill the vacancy created with the retirement of Magistrate Judge Binder in Bay City. She officially became a magistrate judge on April 24, 2014. Prior to that date, she served the Eastern District of Michigan as a Law Clerk to Magistrate Judge Binder since 2005.

The Eastern District of Michigan lost two magistrate judges due to elevations in 2014. As previously stated, Judge Laurie Michelson was elevated to district judge in March 2014, creating one vacancy. Additionally, former Magistrate Judge Mark A. Randon was elevated to Bankruptcy Judge for the Eastern District of Michigan in April 2014. Both elevations created vacancies in Detroit. The Bench has selected Anthony P. Patti and Elizabeth A. Stafford for appointment as magistrate judges to fill those two vacancies, pending successful completion of FBI and IRS background checks. Mr. Patti is currently a partner at the law firm of Hooper, Hathaway, Price, Beuche & Wallace, PC in Ann Arbor. Ms. Stafford is currently an Assistant United States Attorney for the Eastern District of Michigan in Detroit. Both will likely be stationed at the Levin Courthouse in Detroit.

Magistrate Judge Paul J. Komives continues to serve the Court in recall status. Magistrate Judge Komives was approved to serve the Court in recall status through September 2, 2015.

Magistrate Judge Donald A. Scheer began to serve the Court in recall status on April 24, 2014. He previously retired from the Court on September 20, 2010. He and Magistrate Judge Binder are assisting the Court in recall status until the official appointments of Mr. Patti and Ms. Stafford.

Our ten senior judges continue to contribute substantially to the work of the Court.

Judges Cohn, Zatkoff, Duggan, Friedman, Cleland, Edmunds, O'Meara, Tarnow, Steeh, and Battani receive cases at the same rate as district judges in active service.

As of this writing, there are 25 district judges (15 in active service and 10 in senior status) and 8 magistrate judges serving in the Eastern District of Michigan, for a total of 33 judicial officers. This is the largest Bench in Eastern District of Michigan history!

## II. Clerk's Office Statistical Information

### A. Civil and Criminal Case Information - Calendar Years 2012 and 2013

	<u>2013</u>	<u>2012</u>	<u>%</u>	<u>Circuit %</u>	<u>National %</u>
Civil Cases Filed	5,496	5,949	-7.6	-11.8	9.3
Civil Cases Terminated	5,743	5,609	2.4	-2.9	1.8
Criminal Cases Filed	779	707	10.2	0.5	-2.9
Criminal Cases Terminated	724	678	6.8	-2.3	-5.0
CR Defendants Filed	1,124	1,058	6.2	4.8	-3.0
CR Defendants Terminated	1,027	1,012	1.5	-0.4	-4.9

Our 5,496 civil filings for 2013 rank our district 1<sup>st</sup> in the Sixth Circuit and 14<sup>th</sup> nationally, and our 5,743 civil terminations rank us 1<sup>st</sup> in the Sixth Circuit and 12<sup>th</sup> nationally. On the criminal side, our 779 filings rank us 1<sup>st</sup> in the Sixth Circuit and 18<sup>th</sup> nationally. Our 724 terminations rank us 1<sup>st</sup> in the Sixth Circuit and 18<sup>th</sup> nationally.

### B. Civil Cases - Median Time Intervals from Filing to Disposition of Civil Cases Terminated During the 12-Month Period Ending June 30, 2014

	<u>Total Cases</u>	<u>Median Time Interval in Months</u>
Cases Disposed of With No Court Action	1,032	3.6
Cases Disposed of Before Pretrial	1,352	5.9

Cases Disposed of During or After Pretrial	1,831	13.0
Cases Disposed of By Trial	40	28.7

Our total number of 4,255 civil cases disposed of during this time period, with an overall median time interval of 8.5 months, ranks us tied for 3<sup>rd</sup> in the Sixth Circuit and tied for 32<sup>nd</sup> nationally.

**C. Criminal Defendants - Median Time Intervals from Filing to Disposition of Criminal Defendants During the 12-Month Period Ending June 30, 2014**

	<u>Total Defendants</u>	<u>Median Time Interval in Months</u>
Defendants Dismissed	76	17.1
Plea of Guilty	960	8.8
Defendants Disposed of By Trial	60	23.1

Our total number of 1,096 criminal defendants disposed of during this time period, with an overall median time interval of 9.2 months, ranks us tied for 5<sup>th</sup> in the Sixth Circuit and tied for 52<sup>nd</sup> nationally.

**III. Bankruptcy Court Statistical Information**

	<u>2013</u>	<u>2012</u>	<u>%</u>	<u>Circuit %</u>	<u>National %</u>
Bankruptcy Filings	31,768	38,034	-16.5	-8.4	-12.2
Bankruptcy Terminations	37,530	39,881	-5.9	-4.0	-7.5

The Bankruptcy Court's 31,768 filings and 37,530 terminations rank 1<sup>st</sup> in the Sixth Circuit. Nationally, our filings rank us 6<sup>th</sup> in filings and 5<sup>th</sup> in terminations.

**IV. Probation Department Information**

	<u>2013</u>	<u>2012</u>
Persons Supervised	1,609	1,682

The number of persons supervised is the 3<sup>rd</sup> highest in the Sixth Circuit and represents 14% of the total number of persons under supervision in the Sixth Circuit. Nationally, the Eastern District of Michigan ranks 25<sup>th</sup> in the number of persons under supervision. The major offenses continue to be violations of drug laws and fraud. Other contributing offenses were robbery and weapons/firearms violations, with a significant increase in sex offender cases and Hobbs Act violations.

**V. Pretrial Services Agency Information**

	<u>2013</u>	<u>2012</u>
Pretrial Initial Appearances	1,306	1,316
Pre-Bail Reports	1,141	1,136

The 1,306 initial appearances and the 1,141 pre-bail reports are the highest in the Sixth Circuit, and 12<sup>th</sup> for initial appearances and 13<sup>th</sup> for pre-bail reports nationally.

**VI. Building Renovation Project**

As you are aware, the Levin Courthouse continues to suffer significant infrastructure deficiencies, and the Court has been working for years to address these deficiencies. I'm happy to report that our proposed renovation project was included as a line item in the FY 2014 budget submitted by President Obama earlier this year. The \$31 million request would be for the design of the project and the completion of Phase I, which will focus on several immediate structural issues in the Courthouse. Phase I will specifically include renovation of the parking and loading dock area in the basement, construction of a stair tower in the interior, and the replacement of three existing chillers. Phases II and III are up for approval in FY 2015 and FY 2016 respectively. The total estimated cost for all phases of the project is \$129,041,000.

The Court held a press conference on March 6, 2014 to make the special announcement about this renovation project and approval of funding. Members of the press, public and Court staff attended the press conference and heard enthusiastic comments from Chief Judge Rosen, GSA Regional Administrator Ann Kalayil, City of Detroit Mayor Mike Duggan, Senator Carl Levin, Congresswoman Candice Miller and Congressman John Conyers. This is a great move towards improving the infrastructure of the Levin Courthouse, preserving the historical value of the Courthouse, and helping in the effort to rebuild the downtown Detroit area.

## **VII. Budget**

The fiscal year 2014 budget, which ended on September 30, 2014, was a major improvement from the prior 2013 fiscal year for the Federal Judiciary, including the Eastern District of Michigan. As I reported to you last year, the District Court Fiscal Year 2013 local budget was 1.9 million dollars less than Fiscal Year 2012 due to sequestration. Congress has restored 2 million dollars to the Fiscal Year 2014 local budget to match the Fiscal Year 2012 levels.

The Court did not receive its final fiscal year 2014 budget until February 2014. The District Clerk's Office payroll account was funded at 96.7% of their staffing formula, and Probation Department and Pretrial Services Agency payroll accounts were funded at 91.4% of their respective staffing formulas. In fiscal year 2014, the District Clerk's Office authorized staffing decreased by 3.8 work units, Probation Department decreased 2.3 authorized work units and Pretrial Services Agency decreased .2 work units. The operational and information technology accounts were reduced by 24% across-the-board for the District Clerk's Office, Probation Department and Pretrial Services Agency operational and information technology accounts were reduced by 3.6% and their law enforcement accounts by 10% in fiscal year 2014.

As I reported last year, our FY 2013 sequestration budget resulted in significant shortfalls in the personnel budgets for the all three court units despite being 63 positions under our authorized staffing levels. The Law Enforcement accounts in our Probation Department and Pretrial Services Agency budgets were also substantially reduced due to sequestration. These accounts provide electronic monitoring, drug testing, mental health and sex offender treatment.

The personnel shortfalls and the law enforcement accounts were covered in FY 13 with primarily reduced IT allotments and other discretionary accounts. The Court had planned ahead to cover our IT infrastructure and building renovation needs in Fiscal Years 2012 and 2011 to allow us some flexibility to reprogram funds into payroll and law enforcement accounts in order to avoid staff furlough days and/or layoffs.

On a national basis, many employees were laid off in fiscal year 2013 and many Courts used furlough days to meet shortages in their respective payroll budgets.

Fiscal Year 2013 funding cuts to the Judiciary have also put public safety at risk. The Judiciary employs nearly 6,000 law enforcement officers-probation and pretrial services officers-to supervise individuals in the community after they have been convicted of a crime and subsequently released from prison, as well as defendants awaiting trial.

But the most significant impact of budget cuts and sequestration in Fiscal Year 2013 was the reduction in funding for Defender Services. The Federal Defender Offices had to reduce staff and furlough employees due to shortages in their payroll accounts.

In other Judiciary accounts in FY 2013, payments to private attorneys providing defense counsel services to clients in our Defender Services program were suspended the last three weeks of the fiscal year. Security systems and equipment in our Court Security program were cut nearly 30%.

Congress restoring our Fiscal Year 2014 local budget at FY 2012 levels has allowed us to hire additional Clerk's Office staff, Probation Department and Pretrial Services Agency officers, backfilling of positions in federal defender offices, fully issue payments to private attorneys providing defense counsel services to our Defender Services program, and fund Court Security programs.

The final budget picture for fiscal year 2015 is not yet known. The House of Representatives passed H.R. 5016, the FY 2015 Financial Services and General Government (FSGG) Appropriations Bill, which includes the Judiciary at 3.6% above the FY 2014 enacted level. The Senate Appropriations Sub-Committee has passed essentially equal to total funding in the House-passed bill. The Senate version of the FSGG bill has not progressed beyond the subcommittee level.

We expect to be on a Continuing Resolution (CR) starting the beginning of the Fiscal Year, October 1, 2014 at the House and Senate Appropriations Sub-Committee passed levels.

Congressional action in Fiscal Year 2014 and to date on Fiscal Year 2015 Judiciary appropriations is very encouraging and reflects the hard work of the Judicial Conference's Budget Committee, judges around the country involved in our Congressional outreach efforts.

I want to personally thank our outstanding staff that has been doing more with less for several years and to let them know that we plan to backfill some of the lost positions over the last few years to provide some relief. I also want to thank Congress for making the Judiciary a funding priority in order to allow us to continue to provide the level of services that the Court historically has provided to the public and the Bar for many years.

I will continue to keep you informed on FY 2015 funding for the Judiciary as it progresses through the full Senate and ultimately the President of the United States.

## **VIII. Space and Facilities Projects**



The Court recently completed a renovation of Room 115, the large multi-purpose room on the first floor of the Levin Courthouse. This room is used for naturalization ceremonies and FBA functions, as well as numerous Court activities. For many visitors, this is the only room in the Courthouse that they will see. With that in mind, the Court decided to upgrade the lighting and finishes in that room.

With the appointment of the four new judicial officers, the Court was in need of chambers space to house the new judges. The Court is currently renovating suite 814, formerly the Court Administrator's space, and Chambers 744, Circuit Judge Kennedy's former space. These chambers have been assigned to Judge Mark A. Goldsmith and Judge Laurie J. Michelson.

## **IX. Redesigned Website**

On September 8, 2014, the Eastern District of Michigan launched a redesigned website. Several years ago the Judicial Branch Committee of the Judicial Conference established an Ad Hoc Subcommittee on New Media whose goal was to consider whether the information on court websites was easily understood to users and displayed accurately, clearly, consistently and timely. To meet their goal, development tools and website templates were made available to all courts. Though local variations were permissible, many courts moved to these new design templates which have made it easier to find similar information when visiting the various websites throughout the Judiciary.

The Eastern District of Michigan put together a subcommittee to consider the redesign of our website led by the Chair of the Court's Information Technology (IT) Committee, Judge Marianne O. Battani. The redesigned website was reviewed meticulously by various staff and members of the public, including several people affiliated with the Federal Bar Association and the Court Historical Society. The Court thanks those who took the time to assist in the redesign process. You can find the redesigned website at [www.mied.uscourts.gov](http://www.mied.uscourts.gov).

## **X. Special Sessions of Court**

On May 16, 2014, the Court held the formal Investiture of Magistrate Judge Patricia T. Morris at the Bay City Courthouse. Magistrate Judge Morris was appointed to the Bench on April 24, 2014.

On June 6, 2014, the Court held the formal Investiture of Judge Judith E. Levy at the Levin Courthouse in Detroit. Judge Levy was appointed to the Bench on March 14, 2014.

On June 13, 2014, the Court held the formal Investiture of Judge Matthew F. Leitman at the Levin Courthouse in Detroit. Judge Leitman was appointed to the Bench on March 14, 2014.

On June 27, 2014, the Court held the formal Investiture of Judge Linda V. Parker at the Levin Courthouse in Detroit. Judge Parker was appointed to the Bench on March 17, 2014.

Although not a Special Session of Court, on July 1, 2014, the Court held a reception for Judge Laurie J. Michelson. Judge Michelson was appointed to the Bench on March 14, 2014.

## **XI. Naturalization Ceremonies**

In calendar year 2013, the Eastern District of Michigan naturalized 10,942 new citizens, up from 9,769 in 2012. We are expecting to swear in approximately 10,843 by the end of the current year. Bi-weekly naturalization ceremonies continue to take place in the Court's multi-purpose room and in Courtroom 100. In addition to those ceremonies, judicial officers presided over several large off-site ceremonies throughout the Eastern District including venues such as Comerica Park, the Detroit Opera House, and several local community festivals.

## **XII. Court Ombudsman**

Attorney George Bedrosian continues to serve the U.S. District Court for the Eastern District of Michigan as Ombudsman. Mr. Bedrosian's role is as an intermediary between judicial officers of the Eastern District and the Bar. He acts on an informal basis to interface and address those matters lacking an institutional mechanism or forum for redress.

## **XIII. Security**

The Court's Security Committee, chaired by Judge John Corbett O'Meara, continues to meet regularly with the Marshals Service to discuss security concerns and means by which federal court facilities can remain safe for judges, the Bar, court staff and the public. Additionally, the expanded District-Wide Security Committee continued to meet twice annually. This expanded committee includes members from the Court, as well as from the U.S. Attorney's Office, Federal Defender Office, GSA, and FPS.

#### **XIV. Case Management/Electronic Case Files (CM/ECF)**

It's the 10 year anniversary of e-filing in the Eastern District of Michigan. What started as a new, unfamiliar program has become the standard way of doing business in the Clerk's Office. The Court no longer hosts three hour, in-house training sessions for ten attorneys at a time. Instead, attorneys from across the country now utilize the Court's online training program. In ten years, more than 16,000 attorneys have been added to the roster of e-filers. In 2004, 291 attorneys made 1,057 filings during the month of August. Contrast that to 2014, when 1,757 attorneys made 5,557 filings during the month of August. It's easy to see how far CM/ECF has come.

In 2004, all of these were exceptions to electronic filing: new cases, the issuance of summonses, appeals, sealed documents, filing fee payments, state court records, Rule 5 materials, administrative records and transcripts from social security benefit claims. Now, the only exception are sealed documents in criminal cases. The Clerk's Office has developed procedures for all the rest. In 2004, attorneys had to contact the e-filing help desk to add or change an email address and update firm information. An attorney couldn't update a login and password and had to call anytime a password had to be reset. Now, an attorney has the ability to do all of this instantaneously.

Of course, advancements are still being made, and an important one from the past year is that CM/ECF has now integrated with the Court's newly upgraded web site to create a court calendar of upcoming hearings being held throughout the district. The calendar is able to pull dates, times and room numbers from CM/ECF and it's displayed, free of charge, on the Court web site. Along with the RSS feeds of CM/ECF filings, the Court web site is an easy way to stay connected with cases of interest.

#### **XV. Pro Bono**

As I reported last year, the Court's Pro Bono Committee was assisted by the Federal Bar Association Pro Bono Committee in the formation of the Federal Pro Bono Council, an initiative to increase the number of firms, bar associations, and solo practitioners participating in the Court's Pro Bono Program. Past FBA President Thomas McNeill spearheaded this effort, and Dean John Nussbaumer and Lynn Shecter are the Co-Chairs of the Council's Steering Committee. The Council's Training and Resource Committee first training seminar took place at the Levin Courthouse on October 30, 2013. The topic was prisoner civil rights cases in federal court, and was organized by Committee member Dan Manville. A mediation component of the Council is co-chaired by Antoinette Raheem, Ed Pappas and Marty Reisig. A Recruitment Committee made up of several local and special bar associations is chaired by Marla Linderman. The Resource and Training Subcommittee is chaired by Fred Herrmann.

The Council members have all pledged to take on representation of clients in over 125 cases. Volunteers include not only law firms, individual attorneys, and bar associations, but also an ADR organization and a litigation services company. Court staff, including judges' staff members and Clerk's Office managers, have been invaluable in making this program a success.

The Court is also grateful to those firms and individuals who have taken on pro bono cases this year. The Law Day "Ask the Lawyer" program sponsored by the Court and the FBA continues to be a success with lawyers, law students, and staff assisting persons who have filed pro se cases in our Court.

The Court looks forward to continued combined efforts to assist those who appear in our court without representation. This service to the community is greatly needed and our program provides a unique opportunity for lawyers and other volunteers to use their skills to fulfill their pro bono commitment to the profession.

#### **XVI. Ad Hoc Jury Committee**

The Ad Hoc Jury Committee continues its efforts to increase the response to jury duty in our community and especially the response of minorities in an effort to increase minority representation in the Court's jury pools. Over the past year there has been a 10% increase in response rates overall for our district.

Chief Judge Rosen and other members of the Bench, including Committee Co-Chairs Judge Denise Page Hood and Judge Victoria A. Roberts, have continued their community outreach activities. On November 12, 2014, Chief Judge Rosen, Judge Hood, and Judge Roberts, along with the United States Attorney's Office and the Federal Defender Office, will be participating in a townhall meeting in Southwest Detroit to discuss jury diversity and the importance of jury service with members of the Hispanic and Latino communities.

Feedback from practitioners about what they see in the courtroom is always appreciated. Many thanks to the Jury Department staff who continue to support the efforts of the Committee.

#### **XVII. Court History Program**

The Court's oral history program is still going strong. Over the past year we have completed the oral history of former District and Bankruptcy Clerk David Sherwood. Senior Judge John Corbett O'Meara's oral history is in the finishing stages. Next up for an oral history will be newly retired Bay City Magistrate Judge Charles E. Binder.

This year's joint Federal Bar Association-Historical Society luncheon is scheduled for November 20, 2014 at the Westin Book Cadillac. The featured speaker will be the Honorable Marilyn Kelly, former Chief Justice of the Michigan Supreme Court.

### **XVIII. Relationship Between the Bench and the FBA**

On September 8, 2014, the district judges continued their practice of hosting an annual meeting with representatives of your Chapter of the Federal Bar Association. Items discussed included the FBA's website upgrade, upcoming programs, chapter communications, finances, membership and programming.

### **XIX. Law Day 2014**

Continuing the tradition renewed in 2006, the Court hosted a Law Day event on May 1, 2014. This year's national theme was "*Why Every Vote Matters*". Several federal agencies, as well as Court departments, set up booths to inform attendees of their purpose and provide demonstrations. Some of these agencies include the Bureau of Alcohol, Tobacco, Firearms, and Explosives; Customs and Border Protection; U.S. Coast Guard; U.S. Drug Enforcement Agency; Federal Bureau of Investigation; Internal Revenue Service, the U.S. Postal Inspection Service, and many more. Law Day guests included local high school students, college students, and members of the Bar and public. Courthouse tours were also led by Barbara Radke.

A panel discussion was held in Courtroom 100 featuring a discussion on historical and current issues regarding voting and the election process. Special guest speakers were Michigan Director of Elections Chris Thomas and Jocelyn Benson, Dean of the Wayne State University Law School.

The Court, in conjunction with the Federal Bar Association and the Wolverine Bar Association, continued with the always popular "Ask the Lawyer" program where attorney volunteers provided free legal advice to people who have cases pending in our Court and do not have lawyers representing them, as well as other persons with legal questions, was a success as well. This year's "Ask the Lawyer" program included 26 volunteer attorneys who provided legal advice to the 37 litigants who attended. We also had eight student volunteers from Cooley Law School assist with the program.