

HEARSAY

GENESEE COUNTY
CIRCUIT AND
PROBATE COURTS
E-NEWSLETTER

a quarterly publication

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A NIGHT OF HONOR



Judge Fullerton was the first female attorney to be elected a 68th District Court Judge, where she served from 1980-1982 and was then elected to the Circuit Court in 1982, where she became the second female to hold the position.



On December 13, 2018, the Genesee County Bar Association hosted "A Night of Honor" for Judge Judith A. Fullerton and Judge Geoffrey L. Neithercut at the Genesys Conference & Banquet Center. Both judges will retire at the end of the year.



Kendall Williams was the master of ceremonies, with speakers that included: Jessica Hammon, President, Genesee County Bar Association, Judge Duncan M. Beagle, Prosecutor

David Leyton, Kyle Riem, Jennifer Martin, Nancy Chinonis, Tom Pabst, Gregory Meihn, Judge David J. Newblatt and Chief Judge Richard B. Yuille.



Photo credit: Tom Kaza

Judge Neithercut served as a 68th District Court Judge from 1986-1994 and was then elected to the Circuit Court in 1994.

The honors bestowed on both judges came from their judicial colleagues, members of legal community and many other individuals who have worked with both of them over the years on community boards or events.

There were nearly 300 guests, all attending to honor the judicial service of the two judges, with a combined judicial career spanning nearly 70 years.



(Continued on page 7)

THE CHIEF SPEAKS

The Chief Judge article takes a holiday.

See you in the next edition.

Happy Holidays. —cjrby



ADMINISTRATOR CORNER

On October 5, 2018, Judge Jennie E. Barkey was honored as Jurist of the Year at the Michigan Foster Care Review Board (FCRB) training conference held in Bay City. The Jurist of the Year is one of the annual Child Welfare Awards awarded by the FCRB to recognize individuals who have demonstrated outstanding service to Michigan's foster children.

Judge Barkey presides over a weekly post-termination review (PTR) docket on Monday mornings. This specialized

docket is composed of recent termination cases with children in the foster care system. Judge Barkey oversees the docket and cases to help children achieve permanency quickly, preventing unnecessary delay in the process toward adoption. In 2017, there were 44 cases on the PTR docket, with a total of 64 kids adopted. So far in 2018, there have been 47 cases on the docket, with a total of 65 kids adopted.

Judge Barkey was nominated for the award by Vivek Sanka-



Pictured: Ed Zobeck, SCAO, Chief Administrative Officer, Judge Barkey

ran, an attorney and professor from the University of Michigan Law School. Attorney Sankaran is an advocate for the rights of children and par-

ents in child welfare proceedings and is the director of the Child Advocacy Law Clinic.

In addition to Jurist of the Year, the Child Welfare Awards categories include: Foster Care Worker of the Year; Lawyer-Guardian Ad Litem of the Year; Foster Parent of the Year; and Parent Attorney of the Year. More information about the FCRB can be found at:

www.courts.mi.gov/ferb. —so

HOLIDAY SPIRIT RETURNS TO THE GENESEE COUNTY COURTHOUSE

A group of staff, spearheaded by Doreen Fulcher, Election Supervisor, recently decorated the courthouse with all the trimmings reminiscent of a festive yuletide atmosphere.

There are wreaths or garland near the elevators, a decorated tree on every floor and the 2nd floor antique display cases now feature a vintage holiday village.

The most impressive decoration is the 12 foot Christmas tree showcased on the landing between the 1st and 2nd floors.

The “elves” that participated in decorating are: Cindy Grossbauer, Deanna Hawkins, Dave Linder, Peggy West and Tricia Wright.

An internal fundraising effort was also undertaken purchase the decorations. The decorations have received a multitude of compliments from the public and the staff. —jep





Left to Right:
Danielle Mooney, Holly Ostrom, Melissa Bishop
Not pictured: Joan Townsend

New Staff

Danielle Mooney, is the new judicial secretary for Judge Theile. She is a former

certified veterinary technician and also was a manager at a local restaurant/pub.

Holly Ostrom, joined the county as the law library paralegal in November. She attended ITT Technical Institute and received an associate's degree in criminal justice and paralegal studies. Additionally, she worked for a local attorney.

Melissa Bishop will be the judicial secretary for Judge Kelly effective January 2nd. She has been with the county for eighteen years including thirteen years at the 67th District Court and one year in the Criminal Division of the Prosecutor. She is leaving the position of administrative

secretary to the Board of Commissioners to come to the court.

Joan Townsend is a new family court clerk in juvenile records. She began working for the courts in October. She formerly worked in administrative capacities at a local automobile dealership, a charter school and for the City of Suffolk, Virginia.



Karen O'Hara

Karen O'Hara (new volunteer) began as a volunteer at the circuit court information desk in October 2018. Presently, Ms. O'Hara is pursuing a degree in paralegal studies. She joined the volunteer staff in an effort to learn more about the field of law. Karen is married

and has two children. Ms. O'Hara enjoys international traveling.

Departures

Kyle Bruckner, judicial advisory assistant to Judge Gadola, has taken a position with the Michigan Department of Attorney General. His last day was December 14, 2018.

Craig Datz, former law clerk to Judge Fullerton, leaves the court as of January 2, 2019 to begin practicing law with Attorney E. Frederick Meiers.

Steve Ellis, former judicial advisory assistant to Judge Neithercut, will remain in that capacity and work with Judge Elizabeth Kelly in 2019.

Laurie Fraidenberg, former secretary to Judge Theile, retired in early December. She worked 26 years with the county, starting as a program clerk at the Friend of the Court and concluding with 3 years as a judicial secretary.

After retiring from the former 68th District Court, **Mary Foust**, began working in 2009 as an account clerk for the local specialty courts. In 2011, she became judicial secretary to Judge Neithercut. In 2019, she will assist with new staff training and will fill in when needed as a bailiff or judicial secretary.

Marcia McCree, former secretary to Judge Fullerton, will transfer to the 67th District Court functioning as certified electronic recorder for the 67-5 election division,

Tom Temple, former jury supervisor, left the county to pursue a paralegal career with a private law firm on November 30, 2018.

Diana Van der Vossen's last day of employment will be December 28, 2018. She worked in the jury office and we wish her the best in her new capacity at Mott Community College, Office of the Registrar.



• **JAVS upgrade for 67th District Court** - This past November and December, the 8 courtrooms in the 67th District Court were upgraded to a new digital recording system or a new version of a digital recording system. These sophisticated systems use microphones and cameras to capture visual images and audio recordings.

Three of the new systems replaced an old audio-only recording system. This a significant upgrade, by adding video

to the recording, courtroom security is greatly enhanced. Many thanks to the judges and staff who shuffled schedules to make the installations possible before year end.

Court staff have received training on how to navigate the software.

The vendor is Justice Audio Visual Systems (JAVS). As a result, all 23 courtrooms and referee hearing rooms in Genesee County will be supported

by one vendor. This is highly desirable, resulting in system wide compatibility and uniform technical support.

The Michigan Supreme Court adopted standards related to recording system archiving, long term backup and long term storage. These requirements are strictly monitored by the tech team to ensure preservation. Each individual session of court is reviewed to make certain that a reliable recording is safeguarded.

PUBLIC SATISFACTION SURVEY

Every two years all Michigan Courts must distribute a public satisfaction survey to court users.

The purpose of the survey is to measure how court users rate access to the court system and their experience in terms of fairness, equality and respect.

The following individuals assisted with survey week:

Circuit Court

Cheryl	Benway
Dana	Baumgart
Darius	Baylock
Suette	Brown
Jessica	Clemens
Cheryl	Denney
Michelle	Edwards
Rob	Gifford
Debbie	Gray
Kenda	Herrick
Sheonna	Hill
Sharee	Hubbard
Sue	Johnson
Rhonda	Judd
Mary	Moors
Michelle	Orvis
Kathy	Richardson
Fredericka	Savage
Dawn	Thomason
Joan	Townsend
Diana	Van der Vossen

District Court

All staff participated in survey however the following deserve individual recognition:

Angela	Barron
Nicole	Briley
Marie	Carter
Chelsea	Hawley
Alicia	Hyde
Sydney	White

FOC

Erin	Kotranza
Gina	Miller
Stephanie	Mills
Lynette	Warren

Probate Court

Sam	Olson
Angela	Westfall

SALES TAX FOR INTERNET SALES



67th District Court Judge Mark C. McCabe writes “Ask the Judge” for the *Tri-County Times*.

Sales Tax for Internet Sales appeared in the April 17th 2018 edition.

Most of us at one time or another have purchased products using the internet.

Over time, internet sales of products have steadily increased. For example, consumers spent \$453.46 billion in 2017, a 16 percent increase from 2016.

As it turns out a legal and tax collection issue has developed with these sales for the 45 states (including Michigan) that levy sales taxes on retail purchases.

This is because of the 1992

United States Supreme Court case of *Quill Corporation v. North Dakota*, which held that under the United States Constitution’s Commerce Clause, states cannot impose a sales tax on out of state retailers that do not have a physical presence in the state.

Much has changed since 1992, but as a result of the *Quill* ruling, states have been unable to collect all of the sales taxes that would ordinarily be due to them on internet sales.

In a 2015 Supreme Court case, Justice Anthony Kennedy wrote a concurring opinion which indicated that it might be time to re-examine the physical presence rule as online retailers doing extensive business within a state have a sufficiently “substantial nexus” to possibly require sales tax collections.

In 2015, Michigan’s General Sales Tax Act was amended to require certain larger internet sellers to collect sales taxes. I won’t go into the law in its entirety, but importantly one section uses the term “affiliate nexus.”

At least 21 other states now have internet sales tax laws. In 2016, South Dakota passed an internet sales tax law, which referenced a seller’s “economic presence” in the state. It then sued four internet-based retailers to force them to collect sales taxes. Ultimately, the South Dakota courts ruled that until the *Quill* decision is changed, the South Dakota law can’t be enforced.

This decision (*South Dakota v. Wayfair Inc.*) was appealed to the United States Supreme Court where yesterday the court heard oral arguments as to whether the physical presence rule should be changed. This case is being watched closely because it could affect not

only South Dakota’s law, but the internet sales tax laws of the other states as well.

Times change. We will all wait to see what the Supreme Court decides as to whether a change should be made here. —mcm

* Since the date of the original publication of this article, the United States Supreme Court decided *South Dakota v. Wayfair* (No.17-494) on June 21, 2018 and reversed the South Dakota Supreme Court based on a finding that the commerce clause of the United State Constitution does not require a physical presence in the state before a state sales tax can be imposed. The physical presence rule of *Quill Corp. v. North Dakota*, 504 U.S. 298 and *National Bellas Hess, Inc. v. Department of Revenue of Ill.*, 386 U.S. 753 were overruled.

NEW JUDGES AND LOCATIONS

Please take note of the following courtroom and docket assignments, effective January 2, 2019.

Judge F. Kay Behm
Criminal & Civil Division

3rd floor, Room 307
810.257.3521

Judge Elizabeth A. Kelly
Criminal & Domestic Dockets

3rd floor, Room 306
810.257.3257

Judge David J. Newblatt
Criminal & Civil Division
(change in location only)

3rd floor, Room 300
810.257.3080

Judge Brian S. Pickell
Civil & Juvenile Dockets

3rd floor, Room 504
810.257.3238



Judge Elizabeth A. Kelly



Judge Brian S. Pickell

ADOPTION DAY



It's the only time of year the public is allowed to attend the hearings. Former adoptive parent, Regina Bush was the event speaker, as she shared her family's experience with adoption.

work tirelessly on behalf of children in foster care," explains Presiding Probate Court Judge, the Honorable Jennie E. Barkey.



Probate Court Judge Jennie E. Barkey and the adoptions staff celebrated Michigan Adoption Day on November 20, 2018 by confirming adoptions in public hearings for three families, which included a total of four children being adopted.



Judge F. Kay Behm attended the event and shared a warm moment with one of the participants.

There was a magician that entertained the crowd with a magic show. The staff, Darius Baylock, Mary Anne Falk, Debbie Gray, Sheonna Hill and Fredricka Savage should



She made national news 20 years ago for a landmark transracial adoption case.

Adoption Day 2018 was a joyous occasion for all of

After the hearings a reception was held in the jury quarters for all of the family members, court staff and agency workers who worked together to make this day such a success.



be commended for their hard work in highlighting both the need and the joy in adopting a child. —sh



the families – and several local media outlets (ABC12, WNEM5, and MLive/Flint Journal) covered the event as well. "This day marks the beginning of an exciting journey for those deserving children and families.

This celebration offers us an opportunity to take a moment to acknowledge what is important.

It is also a reminder to us of the importance of those who



A NIGHT OF HONOR (CONT'D)

The evening was topped off by a presentation from the Michigan Supreme Court honoring both judges and presented by Justice Elizabeth T. Clement. Also in attendance was Megan Cavanagh, Justice Elect to the Michigan Supreme Court. –bam



*Justice Elizabeth T. Clement
Michigan Supreme Court*



Judge Neithercut, Judge Bengle, Judge Yeotis



Judge Fullerton Family

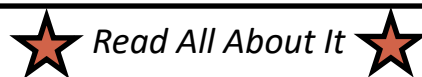


Judge Neithercut family



Judge Yuille

*Photo credit: A Night of Honor: Attorney Referee
Shelley Spivack*



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We want to hear from you! Send us an email letting us know what you would like to see in the newsletter and feedback on the current edition. You can also submit ideas and information about activity in your department. hearsay@7thcircuitcourt.com