

# HEARSAY

GENESEE COUNTY  
CIRCUIT AND  
PROBATE COURTS  
E-NEWSLETTER

a quarterly publication

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## NEW YEAR BRINGS CHANGES IN COURT, COUNTY LEADERSHIP



The Michigan Supreme Court announced the appointments of new Chief Judges for the Genesee County Courts, with terms beginning January 1, 2020.

The Honorable Duncan M. Beagle has been appointed as Chief Judge for the 7<sup>th</sup> Circuit Court and Genesee County Probate Court, while the Honorable Christopher R. Odette has been appointed as Chief Judge of the 67<sup>th</sup> District Court.

Judges Beagle and Odette succeed the Honorable Richard B. Yuille, who served as Chief Judge for all Genesee County Courts (Circuit, District, and Probate) from October 2011 through his retirement from the bench in January 2020. Judge Yuille's final day on the bench will be January 3, 2020.

Judge Beagle has been on the bench since 1991, serving as a Family Court Judge since its inception in January 1998.

"I'm very proud to have been selected the Chief Judge of our Circuit and Probate Courts. I look forward to working with my fellow judges, court administrators and our hard working support staff," said Judge Beagle.

"Over the first few months I will be educating myself as to the immediate issues facing

each of our courts. I hope to speak with each of our judges, administrators, and department heads. I truly want our employees to feel as though we have a 'work friendly atmosphere.' Their input will be welcomed."

Pursuant to the authority set forth in Chief Judge Rule, MCR 8.110, Judge Beagle has selected Judge Elizabeth A. Kelly as Chief Judge Pro Tem, Judge Jennie E. Barkey as Presiding Judge of Probate Court, Judge John A. Gadola as Presiding Judge of Family Division, Judge David J. Newblatt as Presiding Judge of Criminal Division and Judge Joseph J. Farah as Presiding Judge of Civil Division.

*— further background regarding the judicial appointments can be found in the "Leadership Appointments" article of this Issue on page 6 —*

"I've served as a Circuit Judge for over 28 years. There will be no need for me to 'micro manage' in my position as Chief," said Judge Beagle. "I have faith and trust in our Probate and Circuit Judges."

Judge Odette has served as a District Court Judge since 1994, with previous appointments as Chief Judge or Presiding Judge of the District Court. He has named Judge Jennifer

J. Manley as Chief Judge Pro Tem for the District Court. "We [Chief Judge Beagle and Chief Judge Odette] plan to form a Judicial Council which will meet quarterly throughout the year to address court-wide issues," said Judge Beagle.

"I truly want the Genesee County Circuit and Probate Courts to be recognized and respected for their hard work, professionalism and giving back to the community. I'm hoping for an atmosphere where all employees enjoy serving the public and look forward to coming to work each day."

In addition to the courts, the Genesee County Sheriff's Department will also experience a change in leadership in January 2020, as long-standing Sheriff Robert Pickell will be retiring from his post effective January 6, 2020.

Pursuant to statute, Probate Judge Barkey, Genesee County Prosecutor David Leyton, and Genesee County Clerk John Gleason are tasked with appointing an interim sheriff to fill the vacancy until the next election in November 2020. —so

# THE CHIEF SPEAKS

You will notice that the gavel is down on the Chief Judge logo.

Chief Judge Richard B. Yuille will retire effective January 3, 2020 after serving on the Circuit Court bench since 1997. He was assigned to the civil-criminal division for his entire judicial career.

Throughout his tenure, he served in a number of key leadership positions. In January 2000, he was appointed Chief Judge Pro Tem and served in that capacity until December 31, 2009. In January 2010, he was appointed Chief Judge of the Circuit Court and remained in that position until his next appointment.

Effective October 26, 2011, he was appointed Chief Judge of the Genesee County Courts and will retire while still serving in that capacity. It was the first time that a local judge served in this role.



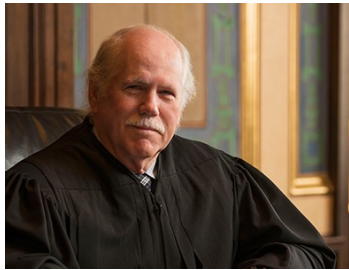
It was during this time that Judge Yuille was deeply involved in negotiations with the Genesee County Board of Commissioners and the City of Flint, leading to the creation of the 5<sup>th</sup> election division for the City of Flint, 67<sup>th</sup> District Court, and the dissolution of the former 68<sup>th</sup> District Court.

Other service included presiding over the Adult Felony Drug Court from 2005-2010, Chair of the Genesee County Judicial Council and Chair of the Criminal Justice Advisory Council.

He was the inaugural judge assigned to the high volume of civil cases alleging damages related to water quality in the City of Flint. Matters still pending were reassigned to a

civil division judge while Judge Yuille and his staff remained available for a smooth transition.

I would like to personally thank him for his service to the Courts. He will be recalled by me as a Chief Judge that was intelligent, available and supportive of initiatives designed



to command respect for the role of the judiciary. Good health and good times to you and yours.

One of Judge Yuille's colleagues has known him since high school. Judge Beagle commented that he knew Judge Yuille from being on the basketball court together when they attended Southwestern

High School. Yuille was the better basketball player and an outstanding student said Beagle. He recalled when all three of the Yuille brothers were sworn into the bar at the same time by former judge, Philip Elliott. It was a proud day for the Yuille family.

Judge Yuille was in practice with two fine attorneys, Herb Milliken and David Magee. Magee was Yuille's father in law. Judge Beagle indicates that he will miss him and hopes that he enjoys a well-deserved retirement.

Judge F. Kay Behm offered her remarks, "Judge Yuille is a good man and a good judge. It has been a privilege and honor to serve with him. I wish him all the best in retirement."

To use one of his expressions, "this ship has sailed." If you look on the front of the newsletter, you might say "this sleigh has sailed." -bam

## ADMINISTRATOR CORNER



During the holiday season, like many businesses and public places, courthouses tend to display festive decorations to celebrate the unique time of the year.

At the Genesee County Courthouse, Election Division Supervisor Doreen Fulcher has coordinated the *Courthouse for the Holidays* display for the past two holiday seasons, which includes holiday decorations on the 1<sup>st</sup> to 2<sup>nd</sup> floor staircase, the 2<sup>nd</sup> floor display cabinets, and entry/exit areas on the old and new sides of the building.

Many thanks to the volunteers who participated in decorating: Doreen Fulcher, Cindy Grossbauer, Deanna Hawkins, Kati Hutchinson, Mary Laetz, Rachel Laurie, Dave Linder, Sandra Porter, Leslie Raleigh, Julie Schriener, Peggy West and Tricia Wright

Additional funds were collected to purchase a new tree for the 3<sup>rd</sup> floor and the holiday decor at the two entrances.

Gift-giving is another holiday norm, one of which is undertaken with festive intentions. Although it is common during the season, judges and court staff at the courthouse are prohibited from accepting such gifts and gratuities by the

Code of Judicial Conduct, Canon 4(E)(4) and Canon 3(B)(2).

The State Court Administrative Office sends a friendly reminder to court staff each year to avoid accepting holiday gifts. No one likes to be the Ebenezer Scrooge or Grinch – but during December court staff are best served by taking the humbug approach. –so



## EMPLOYEE SPOTLIGHT



Left to Right:  
Samantha Weinstein,  
Kay-lee Fuller, Ta-  
sheena Thompson

**Samantha Weinstein** is Judge Farah's new judicial advisory assistant, she attended the University of California, Davis, where she majored in both Political Science and History. After graduating, she accepted a position in Sacramento as the Special Legislative Assistant to Governor Jerry Brown.

She then moved to East Lansing to attend MSU College of Law where she recently obtained her J.D. as a Fieger Scholar

with a special certificate from the College's Trial Practice Institute.

**Kay-lee Fuller** is the new part-time student clerk, formerly working as an admissions ambassador at U of M and is a current student at U of M Flint. She began working here December 17. Kay-lee is a court employee as-

signed to work in the legal division of the county clerk. She assists with scanning and record management.

**Tasheena Thompson** took the position of probate court deputy register on November 12. After completing the medical assistant program at Ross Education Center, Tasheena worked as an assistant for 6 years.

**BreeAhna DeLauter**, before coming to FOC, she worked as a caregiver for

memory care patients. She is currently assigned as a program clerk in the Team Clerk department.

**Jason White**, Jason worked for the Sheriff's Department in many different areas before joining FOC as a deputy.

**Salliann Mrak-Dore**, worked at Bueches Food World before joining the FOC as a program clerk. She is currently assigned to the information counter.



•Many thanks to the information desk volunteers: Edie Campbell, Nancy Clark and Lynette Peppler. The court continues to recruit additional volunteers for Wednesday – Friday timeslots.

•Congratulations to the Genesee County Bar Association for another successful year (the 29th year) of providing a Holiday Dinner to the community at the Masonic Temple. A total of \$18,515 was raised for

this event which is entirely funded by donations from the legal community and volunteers.



Left to Right: BreeAhna DeLauter, Jason White, Salliann Mrak-Dore

### Summary of Jury Trial Activity 2016 - 2019

	2016	2017	2018	2019
<b>FC</b>	22	22	34	37
<b>FH</b>	5	13	14	12
<b>Civil</b>	14	10	12	22
<b>Total</b>	41	45	60	71
<b>Trial Days</b>	218	221	260	300

## AN UPDATE ON THE MICHIGAN REGULATION AND TAXATION OF MARIHUANA ACT



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

An Update on the Michigan Regulation and Taxation of Marihuana Act appeared in the October 15th 2019 edition.

On Nov. 6, 2018, Michigan became the 10th state in the nation to legalize the recreational use of marijuana by adults (21 and older) with the passage of Proposal 1 — The Michigan Regulation and Taxation of Marihuana Act (MRTMA).

Specifically MRTMA provides for adults to be able to possess, use, and cultivate marijuana

and for taxed commercial sales by state licensed retailers. It also provides for the creation of a regulatory framework for the commercial provisions of the Act.

At the time it was passed, I wrote a column about the law and today I will provide a brief update.

The part of MRTMA allowing individual marijuana possession and cultivation has gone into effect. As to commercial growing, sales, and taxation, it’s still a work in progress but getting close to being finalized.

Toward this end, an entity called the Marijuana Regulatory Agency (MRA) has been given the responsibility for drafting rules to implement the rest of the statute and then to administer it.

This is a mammoth undertaking and for the past year, the MRA has been very busy.

MRA now has its rules in place as to how the commercial aspects of MRTMA are to be implemented including licensing. MRA also has published an instruction booklet for those who wish to apply for licenses for what are called “Adult Use Establishments.”

There are licenses for growers, designated consumption establishments (a place to use marijuana), marijuana event organizers, marijuana micro businesses, processors, retailers, safety compliance facilities (warehouses), and secure transporters.

As one can see, these licenses cover a broad spectrum of commercial marijuana operations.

Applications for these licenses will be accepted starting Nov. 1.

Under MRTMA, local communities can opt out of allowing Adult Use Establishments, and as of Oct. 11, there are 994 Michigan governmental units which have done just that with 24 in Genesee County.

It is anticipated that actual retail sales will commence sometime in 2020, and there will be a 10-percent excise tax and a 6-percent sales tax imposed by using the state’s special computer program called the Marijuana Enforcement Tracking and Compliance System, which monitors inventory and sales.

There are many additional details, which I haven’t mentioned here. For more information, MRA has a website at [mich.gov/lara](http://mich.gov/lara).

## JUDGE LATCHANA ASSIGNED TO CIRCUIT COURT



Effective November 18, 2019, Judge Mark W. Latchana was assigned to the Circuit Court, in addition to continuing with selected duties as a 67<sup>th</sup> District Court Judge.

Anticipating the retirement of Judge Richard B. Yuille on January 3, 2020, all pending civil cases related to water

quality in the City of Flint were reassigned to Judge Farah. This resulted in Judge Farah being assigned to a 100% civil docket, his existing civil docket *plus* the City of Flint water quality cases.

Judge Latchana was assigned to the criminal division, taking over the Judge Farah pending criminal docket and a proportionate share of new filings.

Judge Latchana will preside in the double jury courtroom, including a criminal motion call on Monday afternoons.

Jury trials and further proceedings will be in the double jury courtroom, unless competing demands require a different location.

Lynn Beldin, judicial secretary to Judge Latchana, is also

working out of Circuit Court each week. Lynn provides continued support to Judge Latchana

We want to welcome both Judge Latchana and Lynn Beldin to Circuit Court. They are both a great addition and share the mission to deliver the best possible service to court users. —bam

# ADOPTION DAY



Probate Court Judge Jennie E. Barkey and the adoptions staff celebrated Michigan Adoption Day on November 26, 2019 by confirming adoptions in public hearings for three families.

The hearings included a total of five children being adopted, including a set of twins. It's the only time of year the public is allowed to see the hearings.

The Adoption Day speaker was adoptive parent, Jonathan Albert, as he shared his family's experience with adoption. He has personal and professional experience in adoptions



including being a foster parent. He is currently the Post Adoption Resource Center Supervisor for Region 6 which covers Genesee, Saint Clair, Huron and Sanilac counties. There was also a presentation by adoptive parent and Founder/Director of Clara's Hope, an organization that supports fos-

tinued dedication!" Judge Barkey's weekly post-termination review docket removes any barriers to achieving adoption permanency expeditiously. Judge Barkey explains, "I love this day for a lot of reasons. The number one reason is that it's totally about fami-



ter and adoptive families. Adoption Day 2019 was a joyous occasion for all of the families – and several local media outlets (ABC12, WNEM5, and MLive/Flint Journal) covered the event as well.

To make the celebration even more special, the planning committee decided to surprise & acknowledge Judge Barkey by presenting her with an award that read "*The Children's Rocket Docket Judge!* Thank you for your con-

ly! Kids that have families have childhoods, which is a very rare commodity these days, but kids that have families have a chance. I'll fight for that chance for them until I can't fight anymore."

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



tirelessly to make this day such a success. Family games were played that included crowd participation. The adoptions leadership and staff (Sheonna Hill, Dana Anderson, Darious Baylock, Mary Anne Falk and Fredricka Savage) should be commended for their hard work in highlighting both the need and the joy in adopting a child who needs a family. –sh



# GENESEE COUNTY CIRCUIT AND PROBATE COURTS

## LEADERSHIP APPOINTMENTS



*Judge Duncan M. Beagle* has been a judge since 1991 and was a member of the inaugural bench of the Family Division of Circuit Court when it was statutorily created on January 1, 1998. He has served in all divisions of the court but most recently in the Family Division, where he also served as the Presiding Judge. His interests have led him to create a family dependency drug court and truancy court. In addition, he presides over a docket aimed at the early identification of fathers in paternity cases to foster parental contact and timely initiation of child support.



*Judge Elizabeth A. Kelly* has been appointed by Beagle as the Chief Judge Pro Tem of the Circuit Court. Judge Kelly began her judicial service in 2019 and presides over a criminal and domestic docket. This hybrid docket provides Judge Kelly with an opportunity to use her private practice experience in both areas.



*Judge Jennie E. Barkey* has been appointed the Presiding Judge of the Probate Court. Judge Barkey previously served as Chief Probate Judge and has been instrumental in the formation of Veterans' Court, Adult and Juvenile Mental Health Court and assists the Family Division Judges throughout the year. Barkey also presides over the adoption docket for the Family Division. Judge Barkey began her judicial service in 2006.



*Judge Joseph J. Farah* has been appointed as the Presiding Judge of the Civil Division. Judge Farah has been a judge since 1998. He has served in all divisions of the court, is active in the Michigan Judges Association and is a frequent presenter at statewide judicial training events.



*Judge John A. Gadola* has been re-appointed as the Presiding Judge of the Family Division. Judge Gadola has been a judge since 2003. He is actively involved with Genesee County as it plans to build a new juvenile justice facility to replace the Genesee Valley Regional Center and add space for a day treatment option for local youth who are involved with the court system. Judge Gadola also presides over Adolescent Recovery Court.



*Judge David J. Newblatt* has been appointed as the Presiding Judge of the Criminal Division. Judge Newblatt served in the Family Division, where he was the presiding judge. He now serves in the criminal- civil division. Judge Newblatt has been a judge since 2004. He was instrumental in the creation of Girl's Court and continues the Infant and Toddler Maltreatment Court (Baby Court). Judge Newblatt currently serves as the Chair of the Genesee County Community Corrections Advisory Board.

All appointments to take effect January 1, 2020. –bam



# ARE YOU SMARTER THAN A LAW STUDENT?!?! TESTING YOUR KNOWLEDGE OF EVIDENCE

JUDGE JOSEPH J. FARAH

Judge Farah is an adjunct faculty member at WMU - Cooley Law School. He teaches evidence and evidence problems.

## Rules of the Game: On Your Honor

1. Take no more than a minute or two to answer a question.
2. Don't look up the rule involved.
3. Limit your answer to 40 words.

1. In a civil case for compensation for personal injuries, is evidence of a policy of insurance ever admissible. Why or why not?
2. Is evidence under MRE 404(b), other acts evidence, limited to introduction by the prosecution in a criminal case? Explain.
3. Do the rules of evidence apply at all courtroom hearings where testimony is taken? Explain.
4. For most claims, charges, and defenses, may character evidence be introduced in the form of reputation, opinion, and specific instances of conduct? Explain.
5. Do the Michigan Rules of Evidence contain specific indications that the rules are not to be used in divorce trials? Explain.
6. In a homicide case, if the prosecution's forensic pathologist is "board certified" and defendant's is not, should the Court – on the People's motion – preclude defendant's expert from testifying? Explain.
7. In order to introduce habit evidence, must the proponent introduce at least two witnesses supporting the party's claim that the party acted in conformity with the party's habit? Why or why not.
8. Are subsequent remedial measures ever admissible in a civil trial? If not, why not; and if so, under what circumstances?
9. If counsel calls a witness to the stand, under what circumstances – if any – may counsel ask leading questions?
10. When trying to refresh a forgetful witness's memory, must the refreshing document be one previously prepared by the witness? Explain.

Answer can be found [HERE](#) on the last page.

## TECH UPDATE

### **Zoom Deployment – Michigan Supreme Court (MSC), Court Video Project**

The Michigan Supreme Court is offering Zoom accounts to every judge in Michigan. Zoom is a video communication application that is used with the existing Polycom equipment to create a virtual courtroom. This allows remote participation in courtroom proceedings for users who do not have a Polycom system.

Through Zoom, a proceeding can be scheduled by simply sending an invitation to a party or witness. They can click on the link and virtually join you in the courtroom.

The tech team will contact each circuit, district and probate judge to activate their Zoom account. In addition they will provide a tutorial on Zoom operation. The goal is to accomplish this in the month of January 2020.

### **Ticket System**

In October 2019, the Tech Team implemented a ticket tracking system. The goal is to manage and document all requests for technical assistance until they are resolved. Ticket tracking systems allow teams to capture, manage, prioritize and track the status of staff issues in an organized and highly collaborative manner.

From October to December over 600 tickets were placed. Court staff should continue to request assistance by using the following email address: [courthelpdesk@7thcircuitcourt.com](mailto:courthelpdesk@7thcircuitcourt.com).

### **Michigan Income Tax Garnishments**

For three consecutive years, the circuit court has pursued state income tax garnishments with the Michigan Department of Treasury (MDOT). A garnishment is a post-judgment court process that allows a creditor to collect money from a garnishee.

Only delinquent accounts are referred to garnishment. The cases are reviewed to make cer-

tain that the garnishees have not filed for bankruptcy, are not in prison and are not deceased.

With the assistance of the Tech Team, the garnishments are assigned by the court and filed electronically with MDOT. There is a \$5.00 filing fee for each request and writ for garnishment. A copy is saved in the court file and a proof of service is mailed to the garnishee. –jep

## YOUTH ARTS: UNLOCKED

Since 2011 Youth Arts: Unlocked (YAU) has used artistic concepts and techniques to bring expression, learning and discovery to justice-involved youth. Through weekly, multi-disciplinary visual art, dance, theatre, poetry and yoga workshops the program serves youth in detention and on probation in Genesee County.

Many of these youth, ages 10-17, have themselves been victims of neglect and abuse. YAU's workshops provide these kids with much needed opportunities for self-reflection and growth.

YAU's experience has proven that creative expression and being treated as an individual with potential helps build the self-confidence and resiliency needed to address the issues that have brought the youth into the justice system.

Building positive relationships with caring adult role models is often a first step. One former participant shared this thought:

"I love how it helped me express my feelings and stress, the more I showed an unknown talent the more I learned about myself positivity."

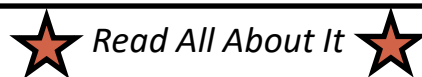
The work of the program has been recognized and assisted by local and national foundations, the Genesee County Board of Commissioners, the Michigan Council for Arts and Cultural Affairs and Michigan Humanities Council as well as numerous community partners.

During the month of October visitors to the County Administration Building had the opportunity to see and appreciate the work of these talented young artists in a rotating display outside of the Human Resources Office. In January the youths' work will be displayed in the showcases on the second floor of the County Courthouse. Stop by and take a look! -sp



## ANSWERS: "ARE YOU SMARTER THAN A LAW STUDENT"

1. Insurance evidence is not always inadmissible. Admissibility is determined by the purpose for admission under MRE 411.
2. No, MRE 404(b) makes no such limitation. 404(b) evidence may be used in a civil case or concerning a witness.
3. No. MRE 1101(b)(1)-(10) lists situations where the rules – except as to privilege – do not apply.
4. No. For the vast majority of cases, only reputation and/or opinion may be used to demonstrate character. Only where character is an essential element may the form of proof extend to specific instances of conduct. MRE 405.
5. No, with the exception as to in camera custody hearings as to child preference. MRE 1101(B)(6).
6. No. MRE 702 – the rule that delineates expert witness qualifications to offer an expert opinion – contains no such requirement.
7. No. MRE 406 requires no such corroboration.
8. Yes. MRE 407 lists both proper and improper purposes for the use of such evidence such as ownership, control, or feasibility of precautionary measures, if controverted, or impeachment.
9. Under MRE 611(d)(3), when questioning an adverse party, a hostile witness, or a witness identified with an adverse party and, by implication, preliminary questions.
10. No. MRE 612 makes no such precondition for the use of a refreshing document.



Hearsay is now available on the Circuit Court website [www.7thCircuitCourt.com/hearsay-newsletter](http://www.7thCircuitCourt.com/hearsay-newsletter)

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](mailto:hearsay@7thcircuitcourt.com)