

The Mentor

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



"The voice of trust through experience."

Winter 2014

From the Chair

The Master Lawyers Section has incredible potential for information and service to one another, the profession, the public, and for fun. There are 17,400 of us. Thousands of years' experience and wisdom are stored in our members.

We now have the tools to support each member of the Master Lawyers Section to provide that information and service. The tools are state-of-the-art Internet tools. More than any other section, many of our members need to patiently learn how to use them. We didn't grow up with them. We grew up with typewriters, carbon paper, onion skin paper, mag cards, Western Union messages, Yellow Pages, names and telephone numbers, and a host of other things about which current younger lawyers have no knowledge.



J. David Kerr, Chair

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SBM Connect

Amy Castner at the State Bar has personally seen the need of our members for a great instruction sheet on one of our tools—SBM CONNECT. That instruction sheet is being delivered to you in every way we can imagine. The instruction sheet first shows how to sign into the State Bar of Michigan site. Then the instruction sheet shows how to access the Master Lawyers portion of SBM Connect. I am asking you to take the time to learn how to do this. Then you have a choice about participating.

As I write this there are discussions or shared files on the following topics: Dues After 70, Contempt of Court, Condominium Co-Owners Rights, Tech Start-Up Attachments, Israeli Start-Up Attachments, and Scientific Evidence in the Courts.

There are many potential uses. Do you want to get a foursome together for golf in your area? Post it. Are you curious about a cruise? Post it. Do you have a knee replacement coming up and would like to hear from those who have been through it? Post it. Do you love the Constitution and want to communicate with others who are like-minded? Post it.

The Mentor

Our quarterly newsletter, with excellent editor Roberta M. Gubbins, provides an opportunity for you to publish on topics you think might be of interest to our

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17,400 members. If you have an idea for an article or have an article that is ready, please send it to Roberta at rmgubbins@yahoo.com.

E-Blast

We can send an e-mail to every member of the section for whom the State Bar has an e-mail address. In e-blasts we will attempt to bring interesting items to your attention. The problem with an e-blast is that it is one sided. You cannot talk back. If you believe there is a topic which should be covered in an e-blast, please let me know at my e-mail: estate-plan@lawyer.com.

Conclusion

We have great potential, great wisdom, and great experience. We are poised to have a great section for one another, for service, and for information.

— David Kerr, Chair

Letter from the Editor

The month of January, originally named Januarius in the Roman calendar, is named after Janus, the Roman god of beginnings and transitions. He is depicted as a two-faced god capable of looking at the past and the future at the same time, which is what you do when you set out to think about your New Year's Resolutions: you're like Janus and look to the past to plan for the future.

Looking back at the Master Lawyers Section activities for the past year, we find some positive changes. *The Mentor*, once languishing in writing oblivion, is up and running; ZeekBeek, the new directory for the State Bar, will soon be active, meaning Michigan lawyers can take part in the Internet legal marketplace; and messages from and to Master Lawyers Section members are stacking up on SBM Connect.

As you look forward to next year, remember these changes.

David Kerr, our chair, encourages you to take part, particularly with SBM Connect, which has been active since its inception. It flows with messages. No matter your interest, with 17,000 plus members in our section, there is sure to be someone with an opinion or information on the same topic. Being active in the Master Lawyers Section is easier than ever: all you need is a computer, Internet access, and something to say. And we know lawyers always have something to say. Bring up a topic and people will respond.



Roberta M. Gubbins, Editor

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Remember articles for *The Mentor* are appreciated. Many in our group are retiring from the law, moving to a new space in life, taking up new experiences, using their skills honed from years of practice to benefit others in a different way or traveling to explore new lands. We want to hear from you.

Not interested in writing a complete article? Send us a short bit about the changes in your life and we will include it in our “News from Our Members” section. And send pictures. Readers love pictures.

As you make your resolutions for the new year, please add “activity in Master Lawyers Section” to your list.

Best,

Roberta

P.S. Techie stuff: Please submit your articles in MS Word. Stories should be no more than 1,000 words. Send pictures as separate attachments in jpeg format. And, most important, don’t forget to send a picture of yourself.

State Bar Announces a Day of Service for MLK Day

By Benjamin Ensroth & Robert Mathis

The SBM’s forthcoming launch of a web presence in honor of MLK Day is great news. It gives honor to a genuine black American hero, an icon of the modern-day Civil Rights Movement whose message and acts of non-violent protest shifted the conscience of a nation and in doing so ushered in a sea change in public discourse on America’s racial divide, economic justice, and human rights.

This year, the SBM is asking lawyers to commit on January 19, 2015, to provide pro bono or community service on that specific day or any future day of the year. The “day on, not a day off” mantra of the movement is fitting for the legal profession that is dedicated to service to the public.

After a long struggle, spearheaded by Michigan lawyer and Congressman John Conyers Jr. and the late Coretta Scott King, the widow of Rev. Dr. Martin Luther King, and with the help of many others, legislation was signed in 1983 creating a federal holiday marking the life and contributions of Dr. King. In 1994, Congress designated MLK Day as a federal holiday, the only federal holiday observed as a national day of service. (Learn more here <http://mlkday.gov/about/serveonkingday.php>)

By bringing lawyers together with people in need of assistance, non-lawyer groups and community organizations, the launch will continue to enhance the public image of the legal profession. We are displaying our proud history of lawyers involved in meaning-

ful community-based activities, such as those already being chronicled under the SBM’s “A Lawyer Helps” campaign. We encourage you to send a story and photos of your day of service activity to “A Lawyer Helps.”

The most compelling stories of service will be featured on the “A Lawyer Helps” website and in an upcoming edition of the *Michigan Bar Journal*.

Michigan attorneys are encouraged to visit the SBM’s website to find an organization or group to join in celebrating MLK Day and to become involved with that entity’s activities on an ongoing basis. On MLK Day, find an activity to join in your own community. Also consider an activity that assists a community other than your own. Doing so would not only be a fitting tribute to Dr. King and his legacy, but will add to the distinguished list of his fellow drum majors for justice and ministers of peace.



Benjamin Ensroth Robert Mathis

Benjamin Ensroth, SBM intern, 3rd year law student at MSU Law. ***Robert Mathis***, Pro Bono Service Counsel, SBM.

Julie Fershtman on Mentoring

In our last issue, Lawrence S. Katz wrote on mentoring, stating it “is a time-honored tradition,” in which the Master Lawyers Section can play a major role. Julie Fershtman, former president of the State Bar of Michigan, has acted as mentor to over 40 mentees. She took time to answer some questions about her experience.

1. How many mentees have you helped?

Response: At least 40. I met most of my mentees through mentoring programs (such as the Women Lawyers Association of Michigan and Oakland County Bar Association) and the State Bar of Michigan’s Mentoring Center (<http://www.michbar.org/programs/mentorcenter.cfm>). Beyond that, some people approached me after a bar association event, and I’ve even approached a couple of people with the offer to mentor them. I’d like to say that I’ve helped mentees, but I suppose they’d be the judge of that.

2. How and where did you meet with your mentee?

Response: Meetings and conferences have varied. Some I’ll try to meet a few times a year for lunch, but I’ve kept up with most by occasional phone calls or e-mails, especially when I’m busy. I’ve also been known to bring mentees (especially job-seekers) along with me to bar association activities so that I can introduce them to others. Overall, the in-person lunch meetings have been the most meaningful because we have fewer distractions and can discuss confidential subjects.

3. What questions were asked? Topics covered?

Response: Topics have changed over the years. Decades ago, mentees only sought advice on workplace dilemmas (such as difficult coworkers) and job or career changes. In the last few years, mentees have wanted comments on their resumes, leads on job opportunities, and job search strategies; every couple of weeks I’ll share with them job listings I’ve found that seem to fit their interests. Some of my mentees are new lawyers starting their own practices. Mentees sometimes want input on bar association involvement, and I can easily draw on my 25+ years of bar association activity to help them. Occasionally, a mentee will seek advice on substantive or procedural aspects of handling a new case, and I’ll try to serve as a sounding board.

4. How did the experience affect you?

Response: Through mentoring I’ve developed meaningful friendships. I’ve become a better listener. With 28 years of experience as a lawyer, I sometimes find that I, or someone I know, have encountered a mentee’s exact issue, and I can share different perspectives and options. Mentees have mentored me, as well, and offered invaluable, timely guidance.



Julie Fershtman

I suspect that some lawyers avoid mentoring programs out of fear that mentoring is time-intensive. It’s definitely not, although there are times when a mentee seeks immediate help on a particular problem or issue. Other lawyers might assume that they bring nothing to the table as a mentor. That’s never the case. Effective mentors, in my opinion, shouldn’t have all the answers. They don’t preach. They’re not judgmental. Rather, they encourage. They share ideas and options. They have a genuine interest in helping someone else advance in his or her career.

5. How does mentoring benefit the profession in general?

Response: Every lawyer, I strongly believe, benefits from mentoring, and the public we serve is the greatest beneficiary in the end. Mentors can help a young lawyer handle the fine points of practicing law that law schools don’t teach. When experienced lawyers take the time to listen and offer guidance to less experienced lawyers, we can help mentees avoid the mistakes we made. With so many lawyers forming their own practices, the need is greater than ever for more senior lawyers to mentor new lawyers. Even if you don’t have all the answers, chances are good that you know others who do, or you can recommend excellent resources. For

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younger lawyers with mentors, it's empowering and comforting to know that the mentor is just a phone call, e-mail, or text away.

6. Any other thoughts you would like to add?

Response: The Honorable Al Butzbaugh (past State Bar president) is my mentor and role model. I'm forever grateful for the time he has taken to mentor me through the years. He has profoundly impacted me as a professional and as a person. He inspires me to mentor others.

***Julie I. Fershtman**, a shareholder with Foster Swift Collins & Smith, PC in its Farmington Hills office, focuses her practice on commercial litigation, insurance defense, insurance coverage, and equine law. She is listed in *The Best Lawyers in America*, 2013-2015 for Commercial Litigation and Insurance Law. She is a past president of the State Bar of Michigan. A frequent author, she has written over 300 published articles and 3 books. The ABA is publishing her fourth book in 2016. Her speaking engagements span 28 states. She graduated from Emory College and Emory Law School.*

Holiday Blues?

By Tish Vincent, LJAP Program Administrator, SBM

In Leland, Michigan in the 1950s the budget for holiday decorations was quite low. A big event in the chill days of December was the lighting of the Christmas tree. This tree was not driven into town for the season; it grew at the curve on M-22 all the time. The townspeople strung lights on it in early December and removed them in early January. The other extravagance was a string of colored lights across the wires at the major intersections. All totaled this was probably five strings of colored lights and it was considered wondrous by the town's children.

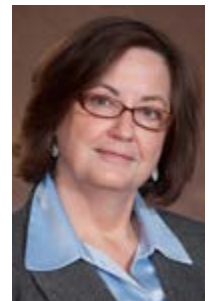
In 2014 people do not seem so delighted with simple traditions. The holidays get bigger and start earlier every year. What used to be a day of celebration has extended to a five-week celebration with social commitments, long shopping lists, and ever increasingly detailed thoughts of what must be accomplished.

It has always drawn my attention that we celebrate the winter holidays at the darkest, coldest time of the year. The end of the year is also a time when car insurance is due, winter taxes are due, holiday events and gift-giving become costly, and families feel obligated

to spend time together whether they want to or not.

Expectations: Each of us has some hope for a magical holiday season. Each of us has memories of years that seemed to come close to this magical possibility. A favorite Christmas memory of mine is from 1975. My husband and I were living in White River Junction, Vermont with our 18-month-old son. We did not have much money. My husband was training and I was staying home with our son. I made a few gifts and we selected a few toys for his gifts. The landscape in Vermont was beautiful. There was snow and our simple decorations gave us joy. Our son was delighted with his Sesame Street Fisher Price house and our meal was delicious. We were far from our family but we were a family and we had a warm and magical holiday.

Sometimes we are trying to recreate a memory such as this one. Sometimes we have not enjoyed happy memories from the holidays and are hoping this year



Tish Vincent

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will be different. Sometimes our happy memories stand in stark contrast to what is happening in our lives now. Perhaps we have lost a child, a spouse, or a job and are grieving and frightened.

It may seem counterintuitive but at holiday times our expectations can be damaging. Expectations are resentments in training, according to the wisdom of recovery from addiction. If we expect a happy holiday dinner but our grown children and in-law children come for dinner and get into an argument we are disappointed and hurt. If we spend hours preparing a lovely meal for people who do not arrive, or arrive late and are in a bad mood, we are hurt and offended.

Realities: The wisdom of recovery from addiction counsels each person in the three A's: Awareness, Acceptance, and Action. To be healthy and to weather challenges without becoming depressed we need to be aware of our circumstances, our limitations, and ourselves. Once we have become aware of our realities we need to accept them. I do not mean accept as in saying this is all right and we are fine with it. I mean accept that it is true and real in our lives. Once we are aware and have accepted we can begin to decide what action we need to take.

Let's take an example of a grandparent couple with a number of grown children and a selection of grandchildren. The grandparent couple wants to host a holiday dinner and have that Norman Rockwell feeling. Two of their adult children get in a disagreement at every family gathering. Becoming aware of this reality and accepting it will position the grandparent couple to take action. Perhaps they will have two dinners and invite each child at a separate time. Perhaps they will have a small dinner alone. Perhaps they will host an open house gathering so the opposing parties won't be seated at the same table. The action itself will grow from the acceptance and the awareness.

Joy: Joy at the holiday season comes from simple traditions and from knowing what simple traditions are important to you. For me the simple traditions that make the holidays special are the lights, one type of Christmas cookies, music and the opportunity to share time with friends and family. Each of us will have different traditions and preferences. Joy flows from knowing what simple pleasures matter to you and ensuring that you enjoy them. We need to cultivate the ability to enjoy the simple pleasures and to turn our mind away from the losses, the hurts, the disappointments we have experienced.

Those of us in the Master Lawyers Section have seen many holiday seasons come and go. Our parents have long since passed away and we are aware of how fleeting life is. We have experienced losses and joys and can choose to emphasize joy. We can be the person who encourages the wonder of the season in youngsters, who supports those who are struggling, and to honor the season by deciding to stay positive.

Santa Claus joke: An old friend shared this joke with me. I do not know the origins of the joke or I would cite the author.

There are three seasons of life:

1. **You believe in Santa Claus.**
2. **You are Santa Claus.**
3. **You look like Santa Claus**

As a person in the "look like Santa Claus" stage of life I wish each reader of this column a happy holiday season. If it is not happy and you need someone to talk with remember LJAP is here for you with three trained professionals ready to listen.



Diversity in the Legal Profession, Past and Future

By Greg Conyers, Director of Diversity, SBM

The State Bar of Michigan has a long history of working to address diversity issues within the profession, rooted in the larger role that race, ethnicity and gender play in access to justice. It is an ongoing endeavor that identifies approaches to these issues that are endemic to the society as a whole and impact the impression people have of the legal system.

This was first quantified in the 1986 report of the Michigan Supreme Court Citizen's Commission to Improve Michigan's Courts, led by former Michigan Supreme Court Justice Patricia Boyle. The report concluded that over one-third of Michigan's citizens at that time believed that the Michigan court system discriminated against individuals on the basis of gender, race or ethnic origin. Additionally the lack of diversity within the profession undermined trust in the system and the rule of law. As a result of the report the Bar committed to mitigating those beliefs in strategic ways by educating and engaging the profession and the public regarding issues of fairness, access and equality.

... the focus on diversity has evolved to encompass distinctions in sexual orientation, disability, generation, and background just to name a few.

In 1987, the Michigan Supreme Court created the Task Force on Gender Issues in the Courts and the Task Force on Racial/Ethnic Issues in the Courts. In their 1989 reports the task forces made 167 recommendations about how to improve the quality of justice and to eliminate both bias and discrimination. The Bar developed a number of approaches to addressing the concerns outlined in the reports leading up to the present-day focus on continuing to improve the profession in Michigan and seeking access to justice for all of its residents.

In 1996, under then State Bar president and current federal Judge Hon. Victoria Roberts, the State Bar of Michigan Task Force on Race/Ethnic and Gender Issues in the Courts and the Legal Profession was charged with reporting on the status of the recommendations made in 1987 and developing a strategy for implementing those recommendations as well as identifying new areas of concern.



Greg Conyers

In 1997 following on the heels of these extensive reports, the Open Justice Commission (OJC) was empowered to look at access to legal services and the courts for underrepresented populations. When that body was replaced by the Committee for Justice Initiatives in 2009, the Equal Access Initiative took up responsibility for what could be described as “two sides of the same coin:” access to the system and courts for the underserved and the increased diversity of the profession.

In 2009, the EAI held a series of statewide strategy sessions to educate the legal community about the ongoing challenges of serving an increasingly diverse public and receive feedback on why the profession should be concerned with reflecting inward. The position of director of diversity within the Executive Office was created, weaving the thread that began in 1996 tightly into the fabric of the SBM.

The direct focus on the issues surrounding diversity is necessary because of the ongoing need for improvement. Since the time of the release of the 1986 report, many important things have been accomplished but much remains to be addressed. Over time the challenges have become more complex, even as the ranks of those dedicated to accomplishing them have grown. Moreover, the focus on diversity has evolved to encompass distinctions in sexual orientation, disability, generation, and background just to name a few.

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In fact the profession in Michigan mirrors the rest of the country in two significant ways. The percentage of different diverse populations represented within the profession continues to be of concern as does the ability of people coming into the profession to thrive. For example, the number of minority attorneys, while it has ebbed and flowed since 1986 overall, still is not reflective of the general population and languishes near the bottom among professions. We know, for example, that in general the number of non-white lawyers in Michigan is around 15 percent including people of mixed race background (of those who choose to self-report). The largest minority population in Michigan, African Americans, makes up around 13 percent of the total population alone, but only about 6 percent of the lawyers. As the country as a whole is moving rapidly towards a majority-minority demographic composition, the legal profession is not keeping pace in terms of reflecting the makeup of the community it serves.

Of equal concern is the inclusivity of the profession at various levels. Women and minorities continue to be underrepresented in positions of leadership. We know, for example, that across the board nearly 50 percent of law school graduates are female. Membership in our bar in Michigan is about 70 percent male and 30 percent female and growing closer to even. Yet numbers for women in leadership positions as partners are low nationally and in Michigan. (National Association of Women Lawyers reports that of the top 200 firms, women account for only 15 percent of equity partners and 4 percent of managing partners). The makeup of equity partners continues to be overwhelmingly male and white.

Inclusion requires recognition that problem solving, which is at the heart of the legal profession, is best accomplished when there are diverse voices around the table and they are given appropriate consideration. Some law firms continue to struggle with building a

culture that attracts and retains diverse talent, which also impacts access to representation for all. With the relatively recent development of having four generations in the workplace comes the challenge of how to capitalize on each employee's strengths and plan strategically for the eventual retirement of an entire cohort.

These are only a few of the many vital considerations that must be addressed to have a relevant profession in the 21st century that meets the needs of the local community and the reality of a global society. The Bar recognized the importance of these issues to respect for the rule of law decades ago and continues to bring focus and resources to bear to improve the profession and service to the public.

2010 marked the initiation of the President's Diversity and Inclusion Advisory Group (PDIAG) under then Bar President Tony Jenkins. The group of legal profession luminaries of various backgrounds from across the state was tasked with developing a long-term strategy to address existing and emerging diversity and inclusion issues within the profession and act as an advisory body to bar leadership. The Pledge to Improve the Diversity and Inclusion of the Legal Profession in Michigan was adopted unanimously by the Board of Commissioners and the Representative Assembly, and rolled out to gather signatories statewide. In 2011 PDIAG was renamed the Diversity and Inclusion Advisory Committee (DIAC) and given bylaws and an ongoing mission as a full committee of the Board of Commissioners

To date DIAC has engaged in developing surveys of the law firm and corporate law office sectors, developing a report of caregivers in law firms, data regarding diversity among law school faculty and students, Annual Meeting programs on implicit bias and workplace inclusion. The coming year will include further emphasis on pipeline programs and collaborations with affinity bar associations.

