

NO NAME NEWSLETTER

KALAMAZOO COUNTY TRIAL LAWYERS

DECEMBER, 2012

MAN BITES DOG...THEN LAUGHS!



KCTLA MEETING

FRIDAY, DECEMBER 14

NOON (LUNCH \$17)

PARK CLUB

SPEAKER: JEFF GETTING

RSVP BY WEDNESDAY, DECEMBER 12

(Be there to expel him from Membership...)

Will he grow a pony tail...? Will he keep the sunglasses...?

It's seldom that we, the KCTLA, are able to say this but...congratulations to ***one of our own***. Jeff Getting, KCTLA member (soon to be former member) was recently elected Kalamazoo County Prosecutor. No #%@&! That really happened.

Not since what's his name...**Claude Carney**, was elected **104 years ago** (Earl, did you know this guy) has a Democrat been elected Prosecuting Attorney in Kalamazoo County. (That's true! I read it in the Gazette) For those who, unlike Earl, don't remember Claude, he was assistant prosecutor under John W. Adams. Adams was Kalamazoo Circuit Judge from 1900-1908) He, Claude, was President of the Michigan State Bar in 1919. He married into the Westnedge family, which probably didn't hurt him politically. However it didn't seem to help either. He ran for Circuit Judge and Congress and lost both times. He was, however, able to end his career on a high note, as a member of the Michigan Liquor Control Commission. The rest of us should be so lucky. Anyway, Jeff...Claude left some big shoes to fill...and maybe an empty glass or two. Good luck. Make the most of it. I don't expect to be around in **2116**.

VICE PRESIDENT'S COLUMN

Julianne Meyer-Sorek

Getting Serious about Indigent Defense – *Really!*

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In our state, effective indigent defense, with adequate resources, has long been a legitimate concern. Each county is responsible for its own indigent defense delivery system. That has generated uneven and inadequate delivery systems throughout the state. It has also earned our state a ranking near the bottom in funding indigent defense -- Michigan was 44th out of 50 states according to the June 2008 NLADA report on Michigan's system.

The good news: important progress is being made right now – through bipartisan effort.

Arising from the June 2012 recommendations from the Governor's Advisory Commission, legislation is now working its way through the legislature. House Bill 5804 has passed the House and is pending in the Senate.

What's in the legislation? HB 5804 creates a permanent Michigan indigent defense commission [MIDC] within the judicial branch. It does not create a specific delivery system or specific funding – that is left to local governments. The legislation focuses only on indigent criminal defense for adults, and for juveniles charged or sentenced as adults. It does not address representation of juveniles charged with crimes or representation in abuse/neglect cases.

The legislation incorporates all of the ABA ten principles of a public defense delivery system. It is unclear however whether the ABA principle on parity of resources is fully incorporated. HB 5804 states that the MIDC shall be 'mindful that defense attorneys ... are equal partners' and 'mindful that the local ... defense systems should be adequately funded....' There is no explicit reference to parity of resources, as there is with the other principles.

The commission sets the standards for indigent defense. It oversees the local delivery systems. It is the quality control monitor. Local governments must comply with MIDC directives.

Who's on the MIDC? There are 14 members with staggered terms. Nominations are made by various politicians and organizations. From those nominations 13 are appointed by the Governor. The 14th member is the

Nominees must have significant criminal justice experience or a commitment to indigent defense. No current indigent defense attorney is eligible for appointment.

What about local control? The local government remains responsible for creating and funding the local delivery system. A formula for minimum funding is provided in the legislation. (Current estimates of per capita spending in more than half the counties is less than about \$7.38 per capita). If a county falls below the funding level, the state will fund the difference; if the county meets or exceeds that level, no state funding is available. In addition, if the county is unable to properly provide a delivery system, the MIDC shall do so. Whether the funding formula is adequate and where state funding would come from are not clear.

How a local government selects and maintains its indigent defense delivery system is not identified. Who will be at that table designing a local system is not specified. How people will be selected to sit at that important table is also unknown. At present, our local defense bar is not a partner in the decision making on indigent defense delivery.

How to measure success? Data collection from local governments and indigent defense attorneys is required and will measure effectiveness of the system and the attorneys.

HB 5804 is a solid first step for improving indigent defense in Michigan. The stickiness, as always, is in the implementation of good intentions and ideas. It's a work in progress. As trial lawyers we know that advocacy for change is important. Let's get talking!



“44th out of 50”

KUPFERSCHMIDT'S OBJECTIONABLE RAMBLINGS

Judge Welty is retiring. I'm not real happy about that. He was an exceptional judge. During his tenure on the bench he decided most of my cases a whole lot better than I argued them. I can't pay a higher compliment to a judge than that. I'm going to miss him. Having said that, there's going to be a Judge Welty Retirement Party on Saturday, December 15, from 7:00 PM to 10:00 PM at the Riviera Theatre in Downtown Three Rivers. You're invited. There will be music, appetizers and a **cash bar**. I plan to stop by. I encourage all of you to do the same.

While I'm on the subject of St Jo County, congratulations to Dave Tomlinson and Rob Pattison on their recent election to the bench. Now if they would only take down their damn yard signs. By the way, Tomlinson has a KCTLA connection. He and Royce (Yah...that Royce. The T Shirt and Shorts guy that comes to our meetings and never eats) were both on the **MSU Fencing Team**. So Royce is still wearing T Shirts and Shorts..... Tomlinson is now wearing a black robe ... Touché!

Kathy Brickley pulled off her *second* first in less than 104 years. She was the first woman *appointed* Judge in Van Buren County. Now she's also the first woman *elected* judge in that county. (However, she's not the most controversial woman in the Van Buren Court House)

Being first, **twice**, has to be better than being first **once** in **104 years**. (Earl Dalzell is doing the math) But being the first in 104 years isn't bad. And It's got to be satisfying biting the hand that once fired you. (I Can't seem to get away from the Dog References...come to think of it I still have a few of them on my resume)

This Claude Carney guy was prosecutor from **1907-1908**. I checked with Tom Dietz at the KVCC Museum. He said there's a picture of Mr. Carney hanging on a wall at the Beacon Club. Turns out the Beacon Club may have been his home at one time or another. It appears that he ran for Congress twice and lost both times. He unsuccessfully contested one of those elections. If you're interested you can read about it on line. Just Google Carney vs Smith. (It's right up there alongside Bush v Gore...)

As you may have already gleaned from the front page, Kalamazoo County Prosecutor **elect**, Jeff Getting, is going to be the speaker at our December 14 meeting. And as most of you who have read our bylaws know (yes...we have bylaws, and I'm sure somebody, not me, has a copy) as soon as he's done speaking we will summarily, but with our usual professional civility, have to terminate his membership and have Namitta (our sergeant at arms) forcefully escort him to the Parking lot and admonish him never to return until he is no longer a "County Employee". I'm expecting standing room only just for that.

Finally, if you're wondering what to get me for Christmas...somebody, please, give me a copy of our Bylaws. If I don't see you on the 14th...Happy Holidays...Pay your Dues!