



The Docket

Annual Meeting Edition - March 2014

EDWBA

EASTERN DISTRICT of WISCONSIN
BAR ASSOCIATION

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From the President

On behalf of the Eastern District of Wisconsin Bar Association, I am pleased to invite you to attend our 2014 Annual Meeting and Presentation, which will take place on Thursday, April 10, at the Milwaukee Athletic Club.

This is our Twelfth Annual Meeting and Presentation, and as always, it is the highlight of the EDWBA's year. This year's programming follows a general theme: changes to the practice of law. We will discuss not only changes to substantive law, but also challenges presented by advancing technology, new methods of delivering legal services, and evolving ethical obligations. And, of course, we will offer ample opportunity for members of our bench and bar to interact in a collegial setting.

The program begins with a panel discussion, featuring Chief Judge Griesbach, on emerging trends in the practice of law both inside and outside the courtroom. The panel will discuss the changing economics of the legal profession, influenced by such factors as outsourcing and the burgeoning presence of non-lawyers in the legal services industry, as well as the advantages and drawbacks of the increasing role of technology in the courtroom and the office.

After the general session, you can choose among separate programs for civil, criminal, and bankruptcy practitioners. The civil program will focus on challenges under the ethical rules presented by technology such as social media and by other changes in the practice of law. The criminal program will

discuss shifts in federal narcotics prosecutions. The bankruptcy program will examine the implications of the Supreme Court's upcoming *Bellingham* decision.

Our luncheon will begin with a keynote address from Judge James A. Wynn, Jr., of the Fourth Circuit Court of Appeals. After Judge Wynn's remarks, we will recognize this year's award winners – all deserving of our acknowledgement and appreciation for their service to the betterment of our District's legal community.

The EDWBA appreciates the ongoing support from the United States District Court, its judges, and the court staff not only of our annual meeting, but of our programming throughout the year.

I encourage you to read this newsletter to learn more about our keynote speaker, our outstanding programs throughout the morning, and our deserving award recipients. The registration form is on the back page. I hope to see you on April 10.

Sincerely,

Anthony (Tony) S. Baish
EDWBA President



Annual Meeting Agenda - 3 CLE credits applied for

- 7:45 a.m. Registration**
 - 8:15 a.m. Welcome and State of the Court Address by the Honorable William C. Griesbach, Chief Judge, United States District Court**
 - 8:30 a.m. General Session
Emerging Trends and Changing Economics in the Practice of Law**
 - 9:50 a.m. Break**
 - 10:00 a.m. Program Tracks**
- TRACK ONE**
- A Look Into the Stern Abyss: Making Sense of the Circuit Split on the Eve of the Supreme Court's Decision in *Bellingham***

TRACK TWO
Ethics in the Modern Era

TRACK THREE
Recent Changes in Federal Narcotics Prosecutions: The Second Holder Memorandum and the Proposed Smarter Sentencing Act

11:30 a.m. Luncheon
**For those attending the luncheon only, please arrive to the Milwaukee Athletic Club by 11:15 a.m.*

Keynote
The Honorable James A. Wynn, Jr., United States Court of Appeals for the Fourth Circuit

Awards Presentation

1:30 p.m. Adjourn

Keynote Address: The Honorable James A. Wynn, Jr.

The Honorable James A. Wynn, Jr., will deliver the keynote address at the EDWBA's Annual Meeting and Presentation. The keynote address will kick off the luncheon at 11:30 a.m.

Judge Wynn was nominated by President Obama to serve on the United States Court of Appeals for the Fourth Circuit in 2009 and confirmed by unanimous voice vote of the United States Senate in August 2010. Previously he served for nearly twenty years as an appellate judge on both the North Carolina Court of Appeals and the Supreme Court of North Carolina.

Following graduation from Marquette University Law School in 1979, Judge Wynn served in the United States Navy Judge Advocate General's Corps for four years on active duty and for twenty-six more years as a reserve officer. He was a military judge and Commanding Officer of the Navy Reserve Trial Judiciary. He retired at the rank of Captain.

Judge Wynn serves on the American Bar Endowment Board. In the American Bar Association, he is a member of the Governance Board and the Task Force of the Future of Legal Education. He previously chaired the Judicial Division; Appellate Judges Conference; the Working Group on First Amendment and Judicial Campaign Speech; and the National Diversity Summit. He was a drafter of the 2007 Revised ABA Model Code of Judicial Conduct.

For twenty years, Judge Wynn has served as Commissioner on the National Conference on Uniform State Laws where he has held leadership positions on the Executive Committee and as Vice President.

Judge Wynn holds a Bachelor of Arts degree in journalism from the University of North Carolina at Chapel Hill, a Juris Doctorate degree from Marquette University Law School, and a Master of Laws degree in judicial process from the University of Virginia School of Law.

He delivered the commencement address for the Marquette Law School in 2005, was the E. Harold Hallows Judicial Fellow in 2002, and was the Nathan A. Fishbach Fellow in 2012. He received the Alumni Merit Award from Marquette University in 2004.



PROGRAMS AT A GLANCE

GENERAL SESSION – 8:30 a.m.

Emerging Trends and Changing Economics in the Practice of Law

Moderator: Kathy L. Nusslock, Davis & Kuelthau

Panelists: Hon. William C. Griesbach, U.S. District Court
Paul J. Eberle, Whyte Hirschboeck Dudek
Daniel T. Flaherty, Godfrey & Kahn
Fred Petillo, State Bar of Wisconsin

Legal practitioners in the public, private, and corporate settings, along with the courts themselves, are impacted by the changing economics of the legal industry and emerging trends such as outsourcing. This panel discussion will highlight recent data compiled and reported by the State Bar of Wisconsin, and explore how and to what effect different business and fee models are being used. Panel discussion will also address the successes and pitfalls of the increasing role of technology in the courtroom and the office, as well as in marketing. In addition to members of the bench and bar, the panel includes a non-attorney CEO of a major law firm and the researcher of the State Bar's report.

TRACK ONE – 10:00 a.m.

A Look Into the *Stern* Abyss: Making Sense of the Circuit Split on the Eve of the Supreme Court's Decision in *Bellingham*

Moderator: Bruce G. Arnold, Whyte Hirschboeck Dudek

Presenters: Hon. Lynn Adelman, U.S. District Court
Hon. G. Michael Halfenger, U.S. Bankruptcy Court
Timothy F. Nixon, Godfrey & Kahn
Thomas L. Shriner, Jr., Foley & Lardner

On January 14, 2014, the Supreme Court heard oral argument in *Executive Benefits Insurance Agency v. Arkison* (*In re Bellingham Insurance Agency Inc.*), when the Supreme Court revisited the constitutional limits on the power of

federal bankruptcy judges in the wake of the groundbreaking decision two years ago in *Stern v. Marshall*. The panelists will offer their own thoughts and predictions regarding the range of possible outcomes of the *Bellingham* decision, including a glimpse into the potential impact of the Supreme Court's decision on the system of magistrate judges, where parties routinely consent to permit magistrate judges to exercise Article III judicial powers.

TRACK TWO – 10:00 a.m.

Ethics in the Modern Era

Presenter: Michael J. Aprahamian, Foley & Lardner

The changing practice of law has implications for how lawyers comply with the Model Rules of Professional Responsibility. This interactive presentation will discuss those changes and identify best practices for attorneys to ensure compliance with their ethical obligations.

TRACK THREE – 10:00 a.m.

Recent Changes in Federal Narcotics Prosecutions: The Second Holder Memorandum and the Proposed Smarter Sentencing Act

Moderator: Ben Kempinen, University of Wisconsin Law School

Panelists: Hon. Charles N. Clevert, Jr., U.S. District Court
Erica N. O'Neil, U.S. Attorney's Office
Thomas G. Wilmouth, Law Office of Thomas Wilmouth

The program will primarily focus on the following: 1) the recent Smart on Crime Criminal Justice Reform Initiative, which instructed prosecutors to decline charging mandatory minimum sentences and recidivist enhancements for certain categories of non-violent, low-level drug offenders; 2) the 2010 Fair Sentencing Act that statutorily reduced the crack to powder cocaine ratio from 100-to-1 to 18-to-1; and 3) the proposed Smarter Sentencing Act, which would, among other things, statutorily lower mandatory minimum penalties in drug cases.

JUDGE MYRON L. GORDON
LIFETIME ACHIEVEMENT AWARD

THOMAS E. BROWN
GIMBEL, REILLY, GUERIN & BROWN

EDWBA

EASTERN DISTRICT of WISCONSIN
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Due to the manner in which they practice their craft, certain lawyers have a broad impact on other lawyers, and in particular on young lawyers. Dave Cannon was universally respected for his skills as a lawyer and advocate, but more importantly, for his candor. Nathan Fishbach brought passionate and painstaking preparation to every case he handled as both a prosecutor and defense practitioner. Judge Terence T. Evans had a unique ability to make the most complex issues understandable through his eloquent writing, allusions and humor.

Tom Brown's impact on this profession stems from the pillars of his practice – fairness and common sense – along with his innate ability to tell his client's story. Just as other lawyers gathered in the courtroom when Bill Coffey was cross-examining a prosecution witness or Jim Shellow was cross-examining a state expert, lawyers gather to hear Tom talk to a jury. Although a zealous representative of his client, jurors (as well as other lawyers and judges) know him to be a man whose word can be trusted. They believe in him, even if, ultimately, they do not believe his client.

Tom generously shares his knowledge and experience with other lawyers as a mentor and as a highly regarded speaker, panel member and moderator for countless local, state and national CLE seminars. On every occasion, he emphasizes the importance of earning a reputation through integrity and fairness in an attorney's relationships with clients, juries, opposing counsel, and the courts. In fact, his habit of asking "fair question?" during cross-examination of witnesses was slyly referenced in a Seventh Circuit opinion authored by Judge Evans, who nonetheless affirmed Tom's client's conviction.

These qualities were first noticed in the late 1960s when Tom worked as a law clerk for Gerald Boyle. As impressive as he was as a law student, Tom made an even greater impression several years later as an Assistant United States Attorney in the Eastern District of Wisconsin, where he successfully prosecuted dozens of cases. While serving as an AUSA, Tom developed a reputation as both a talented trial lawyer and a fair prosecutor who epitomized the role of public servant in seeking justice.

In 1978, Tom joined the law firm that ultimately came to be known as Gimbel, Reilly, Guerin & Brown. He quickly became invaluable to the firm. Although his private practice career had its foundation in federal criminal cases, he was able to try cases in different areas of law and different forums with equal skill. In the mid-1980s, Tom developed an extensive civil practice, including defending manufacturers in product liability cases he tried in federal and state courts across the country.

Tom's involvement in Bar activities, on both the state and federal level, provided another opportunity for him to share his perspectives with other lawyers. As the former chairman of the State Bar of Wisconsin Criminal Law Section and a member of the State Bar Committee on Revision of Homicide Laws, he greatly influenced Wisconsin's criminal justice system. As a founding member of EDWBA and a board member "emeritus" for several years, he influenced the mission and course of the EDWBA. As a member of multiple Magistrate Judge Selection Committees, he influenced the District's judicial philosophy.

Tom's influence, locally and nationally, is reflected in his recognition by "Milwaukee's Best Lawyers," "Best Lawyers in America" and "Super Lawyers," as well as his selection as a Fellow of the American College of Trial Lawyers.

Tom Brown represents the very best in the trial lawyer. He is skilled, empathetic, honorable, and a spellbinding storyteller. He is, and has been, for 43 years, the model professional. His influence has great reach in the Milwaukee legal community and the Eastern District. Tom Brown is greatly deserving of the Judge Myron L. Gordon Lifetime Achievement Award.



JUDGE ROBERT W. WARREN PUBLIC SERVICE AWARD

TERRI L. FULL, CHIEF PROBATION OFFICER UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN



Terri L. Full, Chief United States Probation Officer in the Eastern District of Wisconsin, is a well-deserving recipient of the Judge Robert W. Warren Public Service Award. Like Judge Warren, Terry has dedicated her career to public service. For the past 26 years, Terri has worked in various capacities in the United States Probation Office in this district, culminating in her appointment by the Court to the position of Chief Probation Officer in 2009. Terri's depth of experience – as a probation officer, supervising probation officer, and deputy chief probation officer – has served her well in her current position. As a probation officer, Terri supervised a variety of offenders – drug dealers, white collar criminals, mobsters, and bank robbers. Some were easier to supervise than others, but she treated each offender in a caring, professional manner and, most importantly, always with respect.

As Chief United States Probation Officer, Terri has implemented evidence-based programs to better meet the needs of ex-offenders. She was instrumental in establishing the Successful Transition and Re-Entry Together (START) program in the district which helps ex-offenders recently released from prison make the often difficult transition from prison to life in the greater community. The re-entry team, comprised of a probation officer, an assistant United States attorney, a deputy federal defender and a magistrate judge, meets weekly with ex-offenders involved in the program and provides assistance and support to help reduce the high rate of recidivism. Terry is an active and invaluable champion of START. Terri also successfully implemented another important initiative for probation officers – the Firearms and Safety Program. Since probation officers can now be armed, this program provides training by certified officers in firearms use, as well as self defense techniques.

But this is not all that Terri has accomplished. She has shared her expertise and knowledge as an adjunct professor at both Marquette University and the University of Wisconsin-Milwaukee. On the national level, Terri has served as a member of the faculty at the Federal Judicial Center's New Officer Orientation Program and as a member of the Professional Education Committee.

Through her years of service, Terri has gained the trust and respect of judges and lawyers in the district. Through her efforts to solicit ideas, foster greater communication and develop programs that assist both probation officers and staff, she has gained the trust and admiration of her staff.

It is especially fitting that Terri is receiving this award because she began her career in Milwaukee by serving as deputy clerk for Judge Warren, a man she describes as a compassionate judge, a great role model and her mentor. Terri recently announced that she will be retiring after 30 years of federal service in this district. She has left a rich legacy. Terri will be missed.

JUDGE DALE E. IHLENFELDT BANKRUPTCY AWARD

JANET L. MEDLOCK, CLERK OF COURT UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF WISCONSIN



For the bankruptcy court, like other courts, the past several years have been stressful - the budget has been either frozen or cut, sequestration kicked in and the nation experienced a government shut-down. During this same time period, the formula the Administrative Office uses to calculate how many staff members each clerk's office may employ was revised, which meant that many courts –including the Eastern District of Wisconsin Bankruptcy Court – had no cushion for hiring additional staff should their workloads increase.

While bankruptcy courts have a tradition of doing more with less, the pressure of trying to continue to provide the level of service that Eastern District citizens ought to be able to expect with continually decreasing resources has been challenging. The Eastern District

of Wisconsin Bankruptcy Court, however, has been guided through these stressful times by the calm and steady hand of our clerk of court, Janet Medlock.

Janet began her career with the bankruptcy court in December 1997, when she started working in the file room. She advanced through the ranks of the clerk's office – case administrator, courtroom deputy, personnel specialist and assistant to the clerk, chief deputy, and account clerk.

On January 11, 2011, the judges offered her the position of Clerk of Court, and happily, she accepted. The court has benefitted from Janet's guidance ever since. Not only has she helped navigate the court through treacherous budget shoals, but she has continually and consistently worked to improve and enrich the entire federal family. She is the chief organizer of the federal court's "Take Your Kids To Work Day," a program that grows in popularity each year. She has spearheaded collections for food pantries during the federal building's "Week of Giving" in December. She has built strong relationships with other agency heads in the building. She is a member of the building security committee. And she continues to better her already-considerable skills, working on a PhD in management at Cardinal Stritch University (where she also obtained her master's degree and HR certification after completing undergraduate work at Indiana University).

A clerk of court must wear many hats – she must handle subject areas as varied as information technology, psychology, law, and accounting/budgeting. No matter which of these hats Janet is wearing, she puts the court first, and is committed to making it the best that it can be. Janet is the embodiment of the spirit of the Judge Dale E. Ihlenfeldt Bankruptcy Award.

NATHAN A. FISHBACH FOUNDER'S AWARD

JOSEPH D. KEARNEY

DEAN, MARQUETTE UNIVERSITY LAW SCHOOL

Dean Joseph D. Kearney joined Marquette University Law School as an assistant professor in 1997. Since becoming Dean in 2003, he has moved the law school strongly and vigorously into a previously unprecedented role of fostering collegiality and cooperation between the legal academy and the bench and bar. Recognizing that the law school is uniquely positioned to contribute both to the intellectual life of lawyers and judges, and even more broadly to exploring the possibilities for positive change in the public policy of our State and region, he has led the law school's transformation into a regional center for the debate, discussion, and study of such important issues as education, race and poverty, criminal law and sentencing, clergy sex abuse, the use of water resources, and elections. In its sparkling new facility (for whose very existence Dean Kearney bears an enormous credit), Marquette University Law School is a driving force for open, civil discourse about the great issues of the day.

An honors graduate of Harvard Law School and Yale University, Dean Kearney came to Marquette after serving as a law clerk for Associate Justice Antonin Scalia and Circuit Judge Diarmuid F. O'Scannlain. A Chicago native, Dean Kearney practiced commercial and appellate litigation, with a primary focus on federal regulatory issues, at Sidley & Austin. He continues to teach annually a course on advanced civil procedure, focusing in part on unique aspects of Wisconsin civil procedure, and biannually both a course on the federal courts and a Supreme Court seminar. He has published extensively on a variety of topics ranging from the role of the press in judicial elections, the influence of amicus curiae briefs on the Supreme Court, the public trust doctrine, and telecommunications regulation.

He resides in Whitefish Bay with his wife, Anne, and their three sons.



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To receive a refund, notice of cancellation must be received before 5 p.m. on April 4, 2014. Questions? Contact Katy Borowski, kborowski@milwbar.org or 414.276.5933

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