

# Detroit Legal News

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Vol. CXXV, No. 249

Monday, December 14, 2020

75 Cents

## DAILY BRIEFS

### FBA to present 'New Lawyers Seminar' online

The Federal Bar Association, Eastern District of Michigan Chapter, along with the U.S. District Court will present the 45th Annual New Lawyers Seminar online via Zoom on Tuesday and Wednesday, January 12-13.

At the virtual "Seminar for New Lawyers: Navigating Your Way in State & Federal Court," attendees will receive practice tips and real-world advice about law, procedure and strategy from Michigan's top lawyers and judges.

Cost for this two day webinar is \$75 (no refunds provided for cancellations after December 20). Registration fee includes presentation materials and a one-year local chapter membership.

New Lawyers Seminar participants will also have the opportunity to participate in a mass swearing-in ceremony held during the seminar and be admitted to practice before the U.S. District Court for the Eastern District of Michigan. This opportunity will be open only to individuals who register for the New Lawyer's Seminar. Participants must apply separately for admission to the federal court and to participate in the swearing-in ceremony. New Lawyers Seminar registrants who indicate during the online registration process that they wish to participate in the mass swearing-in ceremony will be sent information on how to submit their application.

To register, visit <https://fbamich.org> and click on "calendar."

### Annual 'Form 10-K/Proxy Tune-Up' offered as webcast

The Practising Law Institute (PLI) will present the "Seventh Annual Form 10-K/Proxy Tune-Up" as a live webcast on Thursday, December 17, beginning at 1 p.m.

Preparation and review of Forms 10-K and proxy statements this year present several new challenges. Disclosures about the impact and uncertainties of COVID-19 must be tailored to each company's situation. The SEC's continuing Disclosure Modernization and Simplification undertakings during 2020, including disclosure about human capital resources, must be implemented. Evolving disclosure questions surrounding the impact of the transition away from LIBOR and cybersecurity will also factor into this year's reporting process. Gary M. Brown, of Nelson, Mullins, Riley, & Scarborough LLP, and SEC Institute Director George M. Wilson will discuss these and other key reporting issues at this webinar.

Topics will include:

- Tailoring disclosures about COVID-19 for your company – risk factor, MD&A, executive compensation and accounting considerations
- Details of the changes to your Form 10-K required by the SEC's 2020 Disclosure Modernization and Simplification initiatives and other rule changes – 15 Minutes
- SEC staff focus areas for 2020 Form 10-Ks, including non-GAAP measures and MD&A
- Example disclosures in key areas such as known trends, Brexit, LIBOR and other emerging risks
- Accounting and financial reporting watch areas
- Recent enforcement actions
- Continuing topics from 2019 and looking forward to 2021

Course materials will be available to attendees prior to the start of the program. Cost for the webcast is \$299. To register or for additional information, visit [www.pli.edu](http://www.pli.edu) and click on "programs."

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## In the forecast

### Litigation attorney knows the bounds of 'uncertainty'

By TOM KIRVAN  
Legal News

As an admitted "one small step at a time guy," attorney Mark Rossman took the proverbial leap of faith in 2015 when he founded his own law office in Troy after spending nearly 14 years with a prominent business litigation firm in metro Detroit.

In a sense, it was a gamble with no assurance of a payoff, much in line with what Rossman advises clients when they contact him about pursuing a possible litigation matter.

"I tell them that there are three certainties in litigation," Rossman said. "First, it's going to cost a lot. Secondly, it will take a lot of time. And finally, the outcome is entirely uncertain."

Uncertainty, regrettably, has taken on a whole new meaning in 2020, a year unlike any other in modern times, according to Rossman.

"The pandemic is peeling back the fiction of economic stability for businesses, individuals, and families," said Rossman. "As we head into 2021, it's likely that we are going to see an economic pandemic with collateral damage that will make the viral pandemic look like child's play."

He already is seeing the initial fallout in terms of an uptick in business dissolution and partnership separation cases.

"Lawsuits, in many respects, are driven by economics, and when times are tough we generally see a lot of dissolutions, whether in breakups of businesses or in marriages where the stakes are high," Rossman indicated. "As a result, we have been busy and that figures to continue in the year ahead."

Especially when "lenders start calling in loans and landlords start evicting tenants," Rossman predicted.

"Those legal remedies have been on pause because of the pandemic, but when the government ordered moratoria end, it will make a lawyer's job a very busy one," said Rossman.

A University of Michigan alum, Rossman isn't bashful in describing himself as a "jack of nearly all trades and a master of most," a claim backed up by being recognized as a "Top Lawyer" by DBusiness Magazine in both corporate and family law and in the Michigan listing of Top 100 "Super Lawyers." Rossman, who earned his juris doctor from Wayne State University Law School in 2001, said he has "litigated cases up and down the appellate ladder, to the Supreme Courts of both the United States and Michigan."

Over the past three years, he has served as host and has been among the presenters at the State Bar of Michigan's Symposium on Corporate Oppression held alternately in Grand Rapids and Detroit. The two-day program annually attracts a panel of speakers that features prominent members of the bench and bar.

"I started the program for the State Bar three years ago, and this year's program was our largest in terms of speakers and registration, and was a great success notwithstanding the pandemic," said Rossman.

An avid writer, Rossman displayed his talent for the field while working for the high school newspaper at Grosse Pointe South, winning an

award from The Detroit Free Press in a student competition. His award-winning story focused on one of the school's alums who was gay and had suffered various slings and arrows because of his sexual orientation.

"Homophobia was a pretty edgy subject at the time for a high school newspaper, but the story attracted a lot of attention and helped heighten awareness about the challenges of being gay in a straight world," said Rossman, who honed his writing skills at U-M, where he was awarded a bachelor's degree with honors in English.

He has continued his passion for the subject through his Detroit-based publishing company, "publishing313," which serves as an outlet for those "in love with the lyric and the noun and the verb," said Rossman.



Mark Rossman

### Attorney helped diffuse a road rage altercation

By TOM KIRVAN  
Legal News

For an attorney who considers himself a "legal fighter" for his clients, Mark Rossman did his best to be a peacemaker last February during a road rage incident in Troy that had the potential to be a deadly confrontation.

At the tail end of his morning commute to work in Troy on February 11, Rossman was driving along Crooks Road near his office when he came upon two vehicles stopped on the busy north-south thoroughfare sandwiched between Big Beaver and Maple roads.

"I wasn't sure what triggered it, but by the time I came upon the scene it was clear that the men in the two vehicles were in a very heated argument, shouting at each other in the middle of the street," Rossman said. "Next thing I know, the driver who got out of the pickup truck slugged the man who had gotten out of his car, dropping him like a bag of rocks onto the street. He just decked him."

At that point, Rossman decided it was time to intervene in an attempt to prevent the altercation from escalating further.

"In retrospect, it probably wasn't the smartest thing for me to do, considering the open-carry law in this state, but I just couldn't sit there and do nothing," Rossman said of his decision to help break up the fight.

So, after leaving his own car, Rossman shouted at the pickup driver to get back in his vehicle, a plea that wasn't answered initially.

"I then demanded a second time that he get back in his vehicle, hoping that he would come to his senses to avoid making a bad situation even worse," Rossman indicated.

By that time, another nearby motorist was recording the unfolding drama on a cell phone in a video that was about to take an alarming turn.

"The guy did get back in his truck, but then he drove over the victim's foot in a rush to get out of there," Rossman said. "It was shocking. I could hear the crunch of bones when the truck ran over the man's foot. It was sickening."

Rossman then helped the victim make his way to the safety of the sidewalk, where within minutes he received aid from police and emergency medical personnel who were summoned to the scene.

"Since most of the incident was on video, I understand that police were able to track down the pickup truck driver, but I never heard whether he was arrested or faced any charges related to the fight," Rossman said.

What Rossman does recall, however, is that the road rage victim already was dealing with his own set of health challenges before having his foot broken in the middle of Crooks Road.

"He told me that he was on the way to a chemo treatment when the whole thing happened," Rossman reported. "Talk about the ultimate 'bad day.' It doesn't get much worse than that."

## District judge to retire after 42 years of service

After a distinguished law career spanning more than four decades, Judge William G. Kelly of Kentwood's 62-B District Court will retire effective Jan. 1, 2021.

Kelly has served the Kentwood community as the city's first and only district court judge since 1979. He was elected in November 1978, following his father, Joseph Kelly, who served as Kentwood's municipal judge from 1971-79. In 2014, he was re-elected for his seventh and final six-year term. Kelly has led a team of nearly 25 court personnel to serve the community.

A retirement celebration to honor Kelly's career will be held virtually at 3 p.m. Wednesday, Dec. 30. The event will include remarks by Chief Justice McCormack and other distinguished speakers. Colleagues, community members and the media are invited to attend via Zoom – Meeting ID 4280940961 – or the 62-B District Court YouTube Channel.

During his tenure, Kelly instituted several programs, including the Sobriety Court and meditation of small claims cases. Kelly was also instrumental in implementing modern technology in the court. Additionally, he conducted more than 4,000 weddings throughout

his time as district court judge.

"I have been fortunate to have had a great law career," Kelly said. "I have loved serving this community for so many years and I am grateful for all the opportunities that have helped me become a better judge. We have a great team at 62-B District Court, and I look forward to seeing the court's future accomplishments and growth."

Kelly explored ways technology could better serve the justice system and Kentwood community. At the onset of the COVID-19 pandemic, 62-B District Court quickly adapted and created a virtual court on Zoom with a livestream on its YouTube Channel. Kelly also has worked with the Supreme Court to imple-



William G. Kelly

ment a paperless system throughout the state to begin in the near future.

"With its challenges, the pandemic has brought innovation to Michigan courtrooms as we look at ways we can continue to conduct court safely in the interest of justice," Kelly said. "I am proud of the virtual court we have been able to establish for Kentwood in my last year."

Active professionally, Kelly has served as faculty for a number of programs. He has been a teaching faculty member of the Michigan Judicial Institute's new judge's program since 1985. He has taught classes on several topics at the National Judicial College since 2002. He also has served as adjunct faculty at Western Michigan University Thomas M. Cooley Law School on the use of technology in advanced trial practice and presented at the National Center for State Courts' court technology conferences.

Kelly served on the Foreign Language Board of Review and is a member of the Legislative Committee of the Michigan District Judges Association. He previously served as

See **JUDGE**, Page 3

## Nessel defends restitution for victims of consumer fraud

Michigan Attorney General Dana Nessel recently joined a bipartisan coalition of 29 other attorneys general urging the U.S. Supreme Court to affirm the Federal Trade Commission's (FTC) authority to seek restitution for victims of anticompetitive, unfair and deceptive trade practices when enforcing consumer protections under the FTC Act.

In an amicus brief filed in *AMG Capital Management LLC v. Federal Trade Commission*, the coalition argues that the FTC's authority is critical and benefits states and their residents.

"As attorneys general, my colleagues and I rely on our partnerships with federal regulators like the Federal Trade Commission due to its broad investigative and enforcement authority. This authority is crucial when it comes to holding accountable those who take advantage of vulnerable consumers," said Nessel. "With the help of the FTC, states are in a better position to protect their residents from unfair and deceptive trade practices. My colleagues and I urge the court to uphold the FTC's authority, thus allowing us to continue our work to protect the pocketbooks of our residents and combat anticompetitive and deceptive behavior."

In April 2012, the FTC filed a lawsuit against Scott Tucker and several of his companies that provided high-interest, short-term loans online. The lawsuit alleged the loan business violated the FTC Act. The district court ruled in the FTC's favor, ordering Tucker to pay about \$1.27 billion in restitution. Tucker appealed to the U.S. Court of Appeals for the 9th Circuit and argued that the FTC did not have the authority to demand restitution. The appellate court affirmed the district court's decision, and Tucker appealed again to the Supreme Court.

For decades, courts have recognized the FTC's authority to seek restitution under Section 13(b) of the FTC Act. The attorneys general argue in their brief that denying the FTC this authority will negatively harm states and their residents and will impede federal-state collaborations to protect against anticompetitive, unfair, and deceptive practices. Between 2016 and 2019 alone, the FTC has mailed more than \$1 billion in refunds to consumers affected by such practices.

States rely on partnerships with federal regulators, such as the FTC, to protect millions of Americans from monopolists and fraudsters. While state attorneys general regularly obtain restitution through their own enforcement actions under state law, states also benefit from the FTC's independent authority to investigate and address violations of federal law.

If the FTC were prohibited from seeking restitution, the attorney generals argue, that would embolden those who seek to take advantage of vulnerable consumers. Restitution prevents wrongdoers from benefiting from their actions by requiring them to return ill-gotten gains to affected consumers. Without the FTC's authority to seek restitution, these practices would erode consumer confidence and deter competition.

In filing the brief, Attorney General Nessel joins the attorneys general of Alaska, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, and Wisconsin.



Dana Nessel

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Expect the unexpected in the bond market

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### Food Court

Adventures in Cooking: Majida Rashid offers a recipe for nutty holiday muffins

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### Legal People

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