

# Detroit Legal News

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## DAILY BRIEFS

### Area attorney elected president of French culture organization



David M. Thoms

Miller Canfield principal David M. Thoms has been elected to a one-year term as president of the board of directors of Alliance Françaises de Grosse Pointe.

At Miller Canfield, Thoms is a member of the Personal Services Group and co-leader of the Nonprofit and Charitable Organizations Group. He concentrates his practice in estate planning and

tax, non-profit organizations, business entity planning and tax, succession planning, and real estate.

He received an L.L.M. in taxation from Wayne State University School of Law, a J.D. from the University of Detroit-Mercy, a M.U.P. (Masters of Urban Planning) from Wayne State University, and a B.A. in History, with distinction, from Kalamazoo College. He also attended l'Université de Caen, France.

He resides in West Bloomfield.

The Alliance Françaises de Grosse Pointe is an organization that celebrates French culture, simultaneously looking to the past and taking an active role in the present.

### Judges Association seeks nominations for inaugural award

The Michigan Judges Association is beginning a program to recognize a current or former circuit and/or Court of Appeals judge(s) who demonstrates excellence in trial practice, scholarship, and service to the community and profession. The first annual award will be presented at the State Court Administrative Office Fall Conference in Lansing. Recipients will be chosen on the basis of competence in docket management and managing trials, contributions to the profession, contributions to legal scholarship, and/or contributions to the community.

Nominations will be evaluated by a blue-ribbon committee consisting of attorneys and both current and former judges. A nomination form may be downloaded and printed at [www.michiganjudgesassociation.org](http://www.michiganjudgesassociation.org). The nomination package should include the nomination form, the nominee's curriculum vitae/resume, and any supporting letters or information. The deadline for submitting a nomination is July 30. Nominations may be faxed to Thomas Oatmen at 231-724-4587, emailed to him at [otmenth@co.muskegon.mi.us](mailto:otmenth@co.muskegon.mi.us) or mailed to: Thomas G. Oatmen, Law Library, Sixth Floor, 990 Terrace Street, Muskegon, MI 49442-3357

Direct questions to MJA Vice President Timothy G. Hicks at [hicks@co.muskegon.mi.us](mailto:hicks@co.muskegon.mi.us) or by phone at (231) 724-6337.

### Holiday hours

The Wayne County Clerk's Office will be closed Monday, July 5, in observance of Independence Day.

The Wayne County Probate Court will be closed in observance of Independence Day on Monday, July 5, and will reopen on Tuesday, July 6 at 8 a.m.

The 36th District Court will be closed on Monday, July 5, in observance of Independence Day. Only criminal arraignments will be conducted.

The Third Circuit Court Civil, Criminal and Family Divisions will be closed Monday, July 5, in observance of Independence Day.

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## 'Dissenter' to retire from 6th Circuit Court of Appeals

### Judge, 77, served on Michigan Supreme Court from 1975 to 1985

By JOHN MINNIS  
Legal News

Imagine, if you will, a major alternative-energy company wants to locate within the City of Detroit, promising 6,000 jobs directly, and thousands more indirectly.

With 28 percent unemployment and huge budget deficits, Mayor Dave Bing and the city council are elated. With metro-area unemployment at 14 percent, Wayne, Oakland and Macomb County leaders back the plan, as do the governor and state lawmakers, who themselves are facing a \$1 billion budget deficit.

The company, though, wants the city to provide a 500-acre site with adequate road and rail access. The site the company wants is occupied by 6,000 residents, 1,400 homes, 144 businesses, 16 churches, two schools and a hospital.

Undaunted, the city proceeds under eminent domain to take the property for the economic "public good." A handful of residents, however, don't want to move, and others distrust the company's promises. They sue the city. The case makes it all the way to the Michigan Supreme Court, where two justices, despite the economic distress facing the city and state and despite near universal support of the plan, dissent.

Those courageous justices would be someone like Judge James L. Ryan, soon to retire from the U.S. Court of Appeals, Sixth Circuit.

In fact, while on the Michigan Supreme Court, Ryan was one of only two dissenters in *Poletown Neighborhood Council v. Detroit*. The year was 1981 amid the last "great recession" facing Detroit and Michigan. The company was General Motors, and the property bordered Hamtramck and was known as "Poletown" due to the once concentration of Polish Americans.

In a 5-2 decision, with Justice John W. Fitzgerald joining the dissent, the state high court upheld the city's economic taking of the property and deeding it over to a private company, GM, for the "public good." In its per curiam opinion, the court said the public benefits were "clear and significant" and that the private benefits to General Motors were "merely incidental."

It was a landmark case, and the court seemed to know it was breaking new ground. "If the public benefit was not so clear and significant," the court said, "we would hesitate to sanction approval of such a project."

"There were an awful lot of cases," says Ryan, 77, when asked about his most memorable cases over the years. "The Poletown case gained some national attention, and I wrote the dissenting opinion."

Fitzgerald submitted his dissent along with the majority's per curiam opinion. Ryan took another month to gather his thoughts.

"Unemployment was very high," Ryan recalls of the time three decades ago. "The City of Detroit condemned hundreds of acres for what was called a public benefit to help resolve high unemployment. The only problem is that homeowners thought it was unconstitutional to virtually give the land to General Motors. The Michigan Constitution says 'public use' not 'benefit.'"

Life went on, the plant was built. But 23 years later, Ryan was vindicated when the Michigan Supreme Court "vehemently" reversed itself in *County of Wayne v. Hathcock*.

The 2004 case involved the so-called "Pinnacle Project," an "aeropark" near Metro Airport. That project, too, promised to create thousands of jobs, but the court fell back on Ryan's "public use" argument under the state Constitution.

Ryan's moral victory was short-lived, however, when the U.S. Supreme Court upheld an economic-development taking similar to Poletown in *Kelo v. City of New London* (2005).

"They came to the wrong decision," Ryan says of Kelo. "The Supremes were wrong, but they're the Supremes."

See **RYAN**, Page 5

### Law library head named president-elect of association



Virginia C. Thomas

Arthur Neef Law Library Director Virginia C. Thomas was recently elected as vice-president/president-elect of the Michigan Association of Law Libraries (MichALL). She will hold the position for the 2010-11 term.

As vice-president/president-elect, Thomas will serve as a member of the MichALL executive board and chair MichALL's education committee, which is responsible for planning the organization's annual meeting programs and other activities that advance continuing education of Michigan law librarians. She will become president of MichALL for a one-year term at the close of the 2011 annual meeting.

MichALL, a chapter of the American Association of Law Libraries, was formed in 1979 to promote law librarianship, foster a spirit of cooperation among members of the profession, and develop and increase the usefulness of law libraries.

"On behalf of the Law School, I congratulate Virginia on her accomplishment," said Wayne Law Dean Robert M. Ackerman. "She has done a remarkable job leading the Arthur Neef Law Library, providing students and community members with the best resources available. Her election to this prestigious post illustrates the high regard in which she is held by the community of law librarians."

Thomas joined Wayne Law and the Wayne State University Library System as the Arthur Neef Law Library director in February 2009. As director, Thomas is responsible for overseeing one of the nation's 30 largest legal collections.

Prior to her current role, she was employed as Law Library and Information Technology director at the University of Cincinnati College of Law, where she also served as an adjunct law professor. Previously, Thomas held positions at the University of Miami School of Law, Loyola University of Chicago School of Law and the Chicago-Kent College of Law at the Illinois Institute of Technology.

Thomas received a B.A. in philosophy and German language and literature from DePaul University, an M.B.A. and J.D. from the Illinois Institute of Technology, and an M.A. in library science from the University of Chicago. She has taught, lectured and coordinated instructional support in law and is currently developing a course in empirical legal research. The author of numerous publications and presentations, Thomas is active in professional and community service activities and organizations.

### Probate Pros



Photo by John Meiu

The Wayne County Probate Bar Association met May 18 at the Renaissance Center Club in Detroit. Among those in attendance were (l-r) Judge David Szymanski, Elizabeth Luckenbach Brown of Jaffe, Raitt, Heuer and Weiss, judge Milton Mack, attorney Valerie Manos Geftos, Wayne County Public Administrator James McCann, and Oakland County Public Administrator Howard Linden.

## Guide names 3 Detroit law practices 'Top Firms'

### Miller Canfield, Honigman and Dykema make the cut

By KATHRYNE GILBRIDE  
Detroit Legal News

Miller Canfield, Honigman and Dykema have been named "top firms" in the legal research publication *Chambers USA: America's Leading Lawyers for Business*.

*Chambers* is a referral guide designed to objectively present the best practitioners in the main areas of corporate law.

In Michigan, *Chambers & Partners* ranked firms in the following six categories: Real Estate; Corporate/M&A; Labor and employment; Litigation: General Commercial; Employee Benefits & Executive Compensation; and Banking & Finance.

The qualities on which the attorneys rankings are assessed include technical legal ability, professional conduct, client service, commercial astuteness, diligence, commitment, and other qualities valued by clients.

Miller Canfield, recognized nationally as a leader in Sports Law, was selected a top law firm in all six practice areas ranked in Michigan. The firm received the highest possible ranking in Commercial Litigation; Employee Benefits & Executive Compensation; and Labor & Employment Law; and was also recognized for Banking & Finance Law; Real Estate; and Corporate/M&A work.

*Chambers* ranked the firm nationally and recognized 21 of the firm's attorneys as leading business lawyers, more than any other Michigan law firm for the sixth year in a row.

Those named Leading Attorneys by *Chambers* in 2010 at Miller Canfield include: Gregory L. Curtner, Joseph M. Fazio, Stephen G. Palms, Orin D. Brustad, Donna J. Donati, Leonard D. Givens, Jonathan S. Green, Kristin A. Hermann, David K. McLeod, Christopher A. McMican, Megan P. Norris, Clarence L. Pozza, Jr., Steven A. Roach, Richard J. Seryak, Carl H. von Ende, Jerome R. Watson, Charles (Sandy) Mishkind, Thomas W. Cranmer, Ronald E. Hodess, Ronald H. Riback and James A. Simpson.

Detroit law firm, Honigman Miller Schwartz and Cohn LLP's (Honigman), achieved a number one rating in *Chambers*, and have been the only number one ranked firm in Michigan for the past four years.

*Chambers* also rated Honigman's Employee Benefits and Labor and Employment practices among the top three in the state for the fifth year in a row and Banking and Finance among the top three in Michigan for the last two years.

Referring to Honigman's Real Estate practice, *Chambers* 2010 states, "This firm retains its position as the market leader in Michigan, with a particularly formidable presence in the

retail sector." Additionally, the Chair of the Real Estate Department Lawrence McLaughlin has been named a "star" by *Chambers* in the legal practice for four consecutive years.

Those named Leading Attorneys by *Chambers* in 2010 at Honigman include: Norman Ankers, Joseph Aviv, Donald Baty, Richard Burstein, Gregory DeMars, Herschel Fink, David Foltyn, Michael Friedman, Raymond Henney, Donald Kunz, Denise Lewis, Howard Luckoff, Lawrence McLaughlin, David Parsigian, Todd E. Sable, William Sargent, Gregory Schermerhorn, Alan S. Schwartz, Robert Weiss and Richard Zuckerman.

The national firm Dykema along with ten of its Members have been recognized by *Chambers* as leading business attorneys in the states of Michigan and Illinois. Dykema is ranked a leading firm in Corporate/M&A; Employee Benefits & Executive Compensation; Labor & Employment; Litigation: General Commercial; and Real Estate.

The following Dykema attorneys were named Leading Attorneys by *Chambers* in 2010: J. Michael Bernard, James P. Feeney, Dennis M. Haffey, Patrick F. Hickey, Margaret Adams Hunter, Michael S. Kurtzon, Aleksandra A. Miziolek, Cameron H. Piggott, Joseph A. Ritok and Ronald L. Rose.

Official Newspaper: City of Detroit • Wayne Circuit Court • U.S. District Court • U.S. Bankruptcy Court

### Money Matters

Despite deficit and sluggish growth, U.S. is still 'least worst' place to invest

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Selecting, working with the right expert in complex litigation

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Why it's sometimes best to just shut up. Lawyers' mouths get them in trouble

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### Legal People (July 5)

#### Miller Canfield

Miller Canfield associate Karolina Niemirska-Fido (Warsaw, Poland office) and principal Richard A. Walawender (Detroit, Mich. office) co-authored "Poland's Revised Bankruptcy, Reorganization Law." The article appears in the June 2010 issue of the American Bankruptcy Institute Journal.

Niemirska-Fido advises Polish and foreign clients conducting business in Poland, with an emphasis in bankruptcy and reorganization proceedings.

Walawender heads the firm's Corporate, International, and Automotive Groups and co-founded the firm's Polish partnership in 1991. He is the lead attorney on numerous multinational M&A transactions for U.S., Canadian, European, Asian, Mexican and Polish clients.

#### Potestivo & Associates P.C.

Potestivo & Associates P.C. is pleased to announce that through united fundraising efforts firm-wide, they have raised \$4,568 for the American Cancer Society's signature event, Relay 4 Life, held June 26-27 at Hart Middle School in Rochester Hills.

"The annual fundraising we do for the American Cancer Society's Relay 4 Life is something all of our employees look forward to and continue to get creative with year after year," says Brian Potestivo, founder and president, Potestivo & Associates. "It brings our employees together for a common goal and the money we are able to donate at the end of the relay, is something everyone can feel proud of."

The firm's various departments put together a wide range of fundraising events such as bake sales, 50/50 raffles, euchre tournaments and themed lunches. During the relay, several employees participated and took on a leg of the relay with family and friends and fellow coworkers. Those who didn't relay showed support by attending the event and cheering on the walkers.

#### Giarmarco, Mullins, & Horton, P.C.

John A. Anderson, attorney with the law firm of Giarmarco, Mullins, & Horton P.C., has been appointed by the Board of Trustees for Genesys Regional Medical Center, Grand Blanc, Michigan, to serve as a member of the Executive Committee of the medical center's Board of Trustees and as an officer of the corporation in the capacity of Corporate Secretary. The appointments were made by the Genesys Board at its meeting on June 2 and became effective July 1.



#### headlines Detroit

- [Life-changing month comes to a close](#)
- [Archer gives keynote at conclusion of Sophomore Summer Institute](#)
- [Fashion sense Lawyers find event planning is a 'Green Breeze'](#)
- [A 'person'able approach](#)
- [Diversity in the legal profession](#)
- [examined State bar holds diversity symposiums at law schools](#)
- [Obituary: Stuart 'Bud' Kirvan](#)

#### headlines National

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- [Undercover for Plaintiffs Firm Suing Dole](#)
- [Appeals Court Rules Against Obama](#)
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Anderson specializes in health care law with Giarmarco, Mullins, & Horton PC in Troy.

“I’m honored by the appointment” Anderson said. Anderson also observed that “Genesys is widely acclaimed as one of the nation’s best hospitals and it’s exciting to be part of a dynamic organization focused on quality healthcare delivery to residents of the Southeastern Michigan region.”

#### **Kemp Klein Law Firm**

Robert Zawideh brings two decades of experience to Kemp Klein as he joins the full service law firm located in Troy. Zawideh helps businesses and families involved in estate and post-death disputes, complex business and commercial litigation, employment claims, franchise litigation, real estate claims and contract disputes.

Zawideh’s litigation practice has taken him before Michigan’s trial and appellate courts, including the Michigan Supreme Court, as well as before federal courts, state courts and arbitration panels across the United States.

Zawideh earned his law degree from Wayne State University Law School in 1990 and his Bachelor of Arts, Justice, Morality & Constitutional Democracy from Michigan State University in 1987.

#### **Honigman Miller Schwartz and Cohn LLP**

For the sixth consecutive year, Honigman, Miller, Schwartz, and Cohn LLP’s Real Estate; Corporate/Mergers and Acquisitions (M&A); and Litigation: General Commercial practices have achieved a number one rating in the legal research publication Chambers USA: America’s Leading Lawyers for Business (Chambers). In addition, Honigman’s Real Estate and Corporate/(M&A) practices have been the only number one ranked firm in Michigan for the past three years.

Chambers also rated Honigman’s Employee Benefits and Labor and Employment practices among the top three in the state for the fifth year in a row and Banking and Finance among the top three in Michigan for the last two years.

In addition to Honigman’s Real Estate Department’s ranking, its chair, Lawrence McLaughlin, has been named by Chambers as a “star” in this legal practice for four consecutive years.

The following individuals at Honigman were named “Leading Attorneys” by Chambers in 2010 (the practice area appears below as designated by Chambers):

- **Ankers, Norman**, Litigation: General Commercial (Detroit).
- **Aviv, Joseph**, Litigation: General Commercial (Bloomfield Hills).
- **Baty, Donald**, Banking & Finance: Bankruptcy (Detroit).
- **BurNstein, Richard**, Real Estate (Bloomfield Hills).
- **DeMars, Gregory**, Real Estate (Detroit).
- **Fink, Herschel**, Litigation: General Commercial (Detroit).
- **Foltyn, David**, Corporate/M&A (Detroit).
- **Friedman, Michael**, Employee Benefits & Executive Compensation (Detroit).
- **Henney, Raymond**, Litigation: General Commercial (Detroit).
- **Kunz, Donald**, Corporate/M&A (Detroit).
- **Lewis, Denise**, Real Estate (Detroit).
- **Luckoff, Howard**, Real Estate (Bloomfield Hills).
- **McLaughlin, Lawrence**, Real Estate (Detroit).
- **Parsigian, David**, Corporate/M&A (Ann Arbor)
- **Sable, E. Todd**, Banking & Finance: Bankruptcy (Detroit).
- **Sargent, William**, Labor & Employment (Detroit).

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- **Schermerhorn, Gregory**, Employee Benefits & Executive Compensation (Detroit).
- **Schwartz, Alan S.**, Corporate/M&A (Detroit).
- **Weiss, Robert**, Banking & Finance: Bankruptcy (Detroit).
- **Zuckerman, Richard**, Litigation: White-Collar Crime & Government Investigations (Detroit).

### **Butzel Long**

Butzel Long attorney and shareholder Beth S. Gotthelf was a guest on Bloomfield Community Television's (BCTV) Practical Law show on Sunday, June 27. Gotthelf discussed alternative energy with host Henry Gornbein on the program "Practical Law."

Based in Butzel Long's Bloomfield Hills office, Gotthelf heads up the environmental, energy and land use practice. She represents and counsels a diverse mix of clients in numerous matters throughout the country.

Gotthelf is president of the Great Lakes Guardian for water protection, general counsel to the Michigan Association of Metal Finishers, Chair of the Birmingham Brownfield Authority, and former general counsel to the Wayne County Brownfield Authority.

She has been very active in the State Bar of Michigan, Environmental Law Section, including serving as past chair of the Section. She is co-chair of the American Bar Association (ABA) Section of Natural Resources, Energy and Environmental Law, Teleconference Committee, vice chair of the ABA 2010 Eastern Water Conference and ABA 2011 National Water Conference, and vice chair of the ABA Water Quality and Wetlands Committee. She is past chair of the Environmental Law Committee of the Oakland County Bar Association and is a past member of the State Bar Representative Assembly on behalf of Oakland County.

Gotthelf serves on the Detroit Regional Chamber of Commerce Leadership Committee for Transportation, and is past chair of the Chamber's Task Force on Water and Sewer Issues. She is a Fellow of the Michigan State Bar Foundation and a Fellow of the Litigation Counsel of America.

Gotthelf is a graduate of the University of Detroit Mercy School of Law (1985) and Oakland University (B.S. Public Administration and Public Policy, 1980). In 2009, Gotthelf received an Oakland University Distinguished Alumni Award.

Additionally, Butzel Long attorney and shareholder Laurie Michelson has been elected president of the Federal Bar Association, Eastern District of Michigan Chapter. Previously, Michelson served as president-elect (past secretary, past treasurer and past program chair) and Board member of the Federal Bar Association, Eastern District of Michigan.

The Federal Bar Association was founded nationally in 1920 by a group of federal government lawyers and has grown and expanded over the years. The Association is now recognized as the professional organization for private attorneys, government lawyers and judges involved in federal practice.

Based in Butzel Long's Detroit office, Michelson practices in the areas of white collar criminal defense and media law/ intellectual property litigation.

Michelson was recently named for the first time to Chambers USA — America's Leading Lawyers for Business 2010. Michelson is the practice group leader for Butzel Long's Intellectual Property, Technology and Media practice.

Michelson has written numerous guest articles and spoken on white collar criminal



