



**Michigan Appellate Bench
Bar Conference Foundation**

Michigan Appellate Bench Bar Conference

**Shaping the Law:
Tools of Advocacy and Decision Making**



**April 20-22, 2016
The Inn at St. John's Conference Center**

44045 Five Mile Rd, Plymouth, MI 48170

734-414-0600

Michigan Appellate Bench Bar Conference
Shaping the Law: Tools of Advocacy and Decision Making

April 20-22, 2016

The Inn at St. John's
44045 Five Mile Road, Plymouth, Michigan

Schedule of Events

Mission Statement

Our mission is to improve the administration of appellate justice in Michigan through conferences designed to encourage an exchange of ideas among Michigan appellate lawyers, judges, and court staff. The Michigan Appellate Bench Bar Conference Foundation believes that this interchange of ideas allows for participants to learn how to better perform their roles in the process and collectively to improve it.

- Get Started**
1. Review the brochure and identify sessions of interest to you
 2. Share this brochure with colleagues
 3. Complete the form in the back of the brochure
 4. Add the program to your calendar

Wednesday, April 20, 2016

5:30–7:00 p.m. **Registration and Grand Reception**

An opportunity to socialize with justices, judges, court staff, and fellow practitioners.

Thursday, April 21, 2016

7:30 a.m. **Registration**

7:30-8:30 a.m. **Continental Breakfast**

8:30-8:45 a.m. **Welcome**

Chief Justice Robert P. Young Jr., Michigan Supreme Court

Chief Judge Michael J. Talbot, Michigan Court of Appeals

Foundation Co-Chair Mary Massaron, Plunkett Cooney

8:45-10:30 a.m. **Plenary - *Shaping the Law: Tools of Advocacy and Decision Making***

In this interactive and informative plenary session, a “mega-panel” of Court of Appeals judges will discuss ways in which both the bench and the bar shape the law, including topics such as approaches to precedent, development of the common law, publication of decisions, statutory interpretation, and judicial restraint.

10:30-10:45 a.m. **Refreshment Break**

10:45-12:00 p.m. **Shaping the Law Breakout Sessions**

These breakout sessions will provide an opportunity for members of the bench and bar to further explore issues raised in the plenary session.

12:05–2:00 p.m. **Dewitt C. Holbrook Memorial Fund Luncheon**

Speaker: General William Suter

General William Suter has been described as a “towering figure” at the U.S. Supreme Court, where he served for 22 years as Clerk under two chief justices and 14 associate justices. Upon his recent retirement, General Suter was lauded by Chief Justice John Roberts, Jr. for managing “the Court’s docket with unparalleled organization and efficiency.”

2:15–3:30 p.m. **Plenary – A Day in the Life of the Clerk’s Office**

In this plenary session, members of the clerk’s offices of both the Supreme Court and the Court of Appeals will provide insight into how the offices handle an appeal or original action from initiation to resolution and discuss a wide variety of topics including: jurisdictional review, transcripts and record production, briefing, oral argument, motions and remand procedure.

3:30–3:45 p.m. **Refreshment Break**

3:45–4:45 p.m. **Law Practice Breakout Sessions – Sessions are offered twice**

The breakouts will be participatory — not traditional lectures from a panel of speakers. This is what makes the bench bar conference unique. All who attend the breakouts will be encouraged to participate in the discussion.

Criminal

Unlocking Lockridge: The Key to Fact-Finding at Sentencing

The session will explore the implications of the Michigan Supreme Court’s decision in *People v. Lockridge* on fact-finding at sentencing. All aspects of how the decision affects the scoring of the prior record variables and offense variables, and the practical responses to the decision are on the table for discussion.

Mitigation and Litigation in Juvenile Lifer Resentencing Hearings

The decision in *Miller v. Alabama* and the Michigan’s legislative response have fundamentally altered the way sentencings for juveniles who commit murder in Michigan are conducted. The session will discuss the nature of sentencing proceedings since *Miller*, the strategic considerations for prosecutors and defense attorneys, and the related issues that remain for conducting these hearings.

The Challenge of Ineffective Assistance of Counsel Claims on Appeal

The session will examine the central nature of ineffective assistance of counsel claims, the proper framework for examining the claims, and the responses of prosecutors and defense attorneys. This session will be discussion-based, relative to the need for attorneys to educate themselves in these areas as well as the need for complete investigation in these cases and the importance of understanding specific areas of law.

The Importance of Staying in Motion: Effective Motion Practice in the Court of Appeals

The ability to file effective motions in the Court of Appeals is a challenge. The session will discuss motions generally, but will mainly focus on motions to remand for ineffective assistance of counsel claims for defense attorneys and interlocutory appeals and their corresponding motions for prosecutors.

Civil

Technology and Appellate Advocacy

The finer points of e-filing; maximizing the effect of a digital brief; lawyers and cyber security; remote law office practice; tools for collaboration; what to anticipate next.

Civil Appeals: The Basics and Beyond

Whether you are a more experienced practitioner or new to appellate practice, this session will provide a useful and informative review of appellate practices and procedures. It will offer an opportunity to discuss issues with knowledgeable judges and court staff. Everything from applications to briefs to oral argument, and anything in between, is open for discussion in an informal environment.

Interlocutory and Emergency Appeals

When is an interlocutory appeal justified? What factors does the Court consider in determining whether an appeal presents an “emergency”? How do I maximize my chances of receiving timely relief? This breakout session will explore these and other issues relating to requests for interlocutory and emergency relief in the Michigan Court of Appeals and Supreme Court.

Writing to Win – From Basics to Brilliance

Tips and tools for improving appellate briefs and motion papers. Court staff, commissioners, judges, justices, and practitioners—including session attendees—will discuss what works and what does not, what’s just wrong, and what really makes an impact and changes perceptions.

Family

Domestic Relations Appeals: The Domestic Relations track will focus on recurring jurisdictional issues.

Track I. Jurisdiction 101 – Final Order Issues in Domestic Relations Appeals. This session will address bifurcation under MCR 7.202(6)(a)(i) and what post-judgment attorney fee, custody, parenting time, change of residence, and other orders are appealable by right under MCR 7.202(6)(a)(iii) & (iv).

Child Welfare

Child Welfare Appeals 101: The Procedure.

Explore how child welfare cases are managed at the Court of Appeals; address final orders in child welfare cases and appealing dispositional, adjudication, and removal orders; examine the parts of the child welfare file contained in the record for appeal; discuss appellate motion practice for child welfare appeals; and address the scope of appointment for appeal (and whether it continues beyond the issuance of the COA opinion).

4:50–5:45 p.m. **Plenary – The Commissioner’s Office: Behind the Scenes**

In this plenary session, commissioners will give a glimpse behind the scenes of the Supreme Court and Court of Appeals and offer tips for navigating your appeal through the courts and avoiding common pitfalls.

6:00 p.m. **Reception and Dinner**

The Appellate Practice Section’s Lifetime Achievement Award will be presented to Justice Maura D. Corrigan, Retired, Michigan Supreme Court.

Maura Corrigan served as Justice of the Michigan Supreme Court from 1999 to 2011 and was Chief Justice from 2001 to 2004. Building on a lifetime of service to children and families, Corrigan left her seat on the bench to answer a call from Michigan’s Governor to lead the state’s Department of Human Services, where she focused on improving child welfare programs.

History of Prior Recipients

1998 Justice Charles Levin
2001 Justice Patricia Boyle
2004 Judge Harold Hood
2007 Judge James Ryan
2010 Kathleen McCree Lewis
2012 Justice Marilyn Kelly
2013 Sandra Schultz Mengel
2015 Justice Michael Cavanagh
2016 Justice Maura Corrigan

Dinner tables will be hosted by members of the bench.

Friday, April 22, 2016

7:30 a.m. **Registration**

7:30–8:30 a.m. **Continental Breakfast**

9:15–10:15 a.m. **Plenary - Tech 2016: Gadgets, Widgets and Apps for Appellate Practice**

The latest and greatest in hardware and software for lawyers and judges.

10:15–10:30 a.m. **Refreshment Break**

10:30–11:30 a.m. **Law Practice Breakout Sessions**

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Effective Oral Advocacy: From Preparation to Presentation

Oral argument is considered by many to be the pinnacle of appellate advocacy, but others question whether oral argument makes any difference in the majority of appeals. This session is designed to assist the appellate practitioner in preparing and presenting an effective oral argument that maximizes the opportunity for success on appeal. Participants in this session will discuss the best way to prepare for oral argument, effective methods for influencing the panel, practical advice for the day of oral argument, and tips and tricks for dealing with a hot, cold, or even hostile bench.

What You Can Do To Make Your Michigan Supreme Court Application More Appealing.

It's a well-known fact that only a small percentage of requests for leave to appeal are found to merit the consideration of the Michigan Supreme Court. This session will explore applications for leave to appeal from the Court's perspective: What do the Commissioners screen for? Do the Judicial Clerks have a checklist? What makes an issue "jurisprudentially significant"? When will the Court correct error? Why does the Court sometimes schedule a mini oral argument? How does the Court decide whether to grant peremptory relief? Does no really mean no and/or when is a reconsideration motion warranted? These are just a handful of the questions that will be addressed at what promises to be a lively bench/bar discussion.

Family

Domestic Relations Appeals: The Domestic Relations track will focus on recurring jurisdictional issues.

Track II Jurisdiction 201 -- Subject-matter jurisdiction, Personal Jurisdiction, and Venue issues in Domestic Relations Appeals. This session will address the nuances of subject matter jurisdiction and personal jurisdiction, when they can be raised, and how much a party can participate in the litigation before waiving an objection to jurisdiction. This session will also cover the interplay of subject matter jurisdiction with the statutory venue provision for divorce proceedings.

Child Welfare

Child Welfare Appeals 101: The Substance

Receive a recap of the significant legal events (and there were many!) since the last Appellate Bench Bar Conference. Exchange ideas on issue spotting for child welfare appeals – what issues should counsel be looking for in the record, which issues have not been resolved by the courts, which issues do counsel need to keep on challenging.

11:30–11:45 a.m. **Break**

11:45–12:45 p.m. **Dewitt C. Holbrook Memorial Fund Luncheon**

Friday's luncheon will be a special time for advocates and justices, judges, and court personnel to meet each other informally over the meal. Since practice before appellate tribunals is formal and there are few opportunities for bench and bar to talk to each other less formally than in a courtroom argument, don't miss this chance to spend an hour together getting to know those we work with.

12:45–1:45 p.m. **Plenary: The Michigan Supreme Court's view on Judging and Advocacy**

In this ever-popular session, justices of the Michigan Supreme Court will provide insight into appellate practice before the Supreme Court including discussing the application for leave process and how the justices consider requests for leave, oral argument on applications and what the advocates approach is most helpful, and merits appeals including briefing, oral argument, and motion practice.



Michigan Appellate Bench Bar Conference Foundation

2016

Shaping the Law: Tools of advocacy and Decision Making
Wednesday, April 20 through Friday, April 22, 2016
The Inn at St. John's — 44045 Five Mile Rd, Plymouth, MI 48170

Conference Fee:

\$375 — Advance Registration Deadline March 30, 2016

\$400 — Late Fee Registration

\$425 — Onsite Registration

Gratis — Supreme Court Justices and Michigan Court of Appeals Judges

Event Registration

The conference fee includes program materials, Wednesday's Pre-Conference reception, breakfast included, Thursday's luncheon at the conference, Thursday's reception and dinner with the Justices and Judges, and Friday's luncheon. Hotel room fees are not included.

All conference participants will attend plenary sessions & the advocacy breakouts, but space for other breakout sessions is limited. Assignments to breakout sessions will be made on a first-come / first-serve basis according to your preferences noted below.

Check all that apply:

Registrant:

<input type="checkbox"/> Justice	<input type="checkbox"/> Court Staff	<input type="checkbox"/> Reporter
<input type="checkbox"/> Judge	<input type="checkbox"/> Practitioner	<input type="checkbox"/> Moderator

Practice area:

<input type="checkbox"/> Civil	<input type="checkbox"/> Civil defense	<input type="checkbox"/> Civil Plaintiff
<input type="checkbox"/> Family		
<input type="checkbox"/> Criminal	<input type="checkbox"/> Criminal Defense	<input type="checkbox"/> Criminal Prosecution
<input type="checkbox"/> Child Welfare		

(All attendees must complete a registration form – This includes reporters and moderators)

Name: _____ Title: _____

Firm Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: (____) _____ Fax: (____) _____

*Cell Phone: (____) _____ * Required for messages during the conference.

*E-Mail Address: _____ *Required for Link to electronic handouts & app.

I will attend the following events: Food is ordered based on your attendance, please confirm your attendance by checking the boxes.

<input type="checkbox"/> April 20: Pre-Conference Reception — 5:30–7:00 p.m.
<input type="checkbox"/> April 21: Luncheon — 12:05–2:00 p.m. (Speaker: General William Suter)
<input type="checkbox"/> April 21: Dinner with the Bench — 6:00 p.m. *Please confirm your attendance for seating arrangements
<input type="checkbox"/> Guest/Spouse name: _____ April 21 — Dinner (for guest/spouse meal fee \$50.00)
<input type="checkbox"/> April 22: Lunch with Judges & Justices — 11:45–12:45 p.m.

Please list any special needs: _____

Dietary restrictions for all meals: _____

Scholarship Request: <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/> SADO <input type="checkbox"/> MACC <input type="checkbox"/> Child Welfare <input type="checkbox"/> Other

If yes, please attach a completed scholarship application. The form is available for download at www.benchbar.org.

Time	Wed, April 20	Thur, April 21	Fri, April 22
7:00 AM			
7:30 AM		Registration & Continental Breakfast 7:30–8:30 PM	Registration & Continental Breakfast 7:30–8:30 AM
8:00 AM			
8:30 AM			
9:00 AM		1 Plenary 8:45–10:30 AM	6 Plenary 9:15–10:15 AM
9:30 AM			
10:00 AM			
10:30 AM		2 Breakout Session 10:45–12:00 PM	7 Breakout Session 10:30–11:30 AM
11:00 AM			
11:30 AM			
12:00 PM		Luncheon 12:05–2:00 PM	Lunch with Judges & Justices 11:45–12:45 PM
12:30 PM			
1:00 PM			
1:30 PM		3 Plenary 2:15–3:30 PM	8 Plenary 12:45–1:45 PM
2:00 PM			
2:30 PM			
3:00 PM		4 Breakout Session 3:45–4:45 PM	
3:30 PM			
4:00 PM			
4:30 PM		5 Plenary 4:50–5:45 PM	
5:00 PM			
5:30 PM	Grand Reception 5:30–7:00 PM		
6:00 PM		Reception & Dinner with the Bench 6:00 PM	
6:30 PM			
7:00 PM			

1 Thursday, April 21 - Plenary
8:45–10:30 AM
Shaping the Law: Tools of Advocacy and Decision Making

2 Thursday, April 21 - Breakout Session
10:45–12:00 PM
These breakout sessions will provide an opportunity for members of the bench and bar to further explore issues raised in the plenary session.

3 Thursday, April 21 – Plenary
2:15–3:30 PM
A Day in the Life of the Clerk's Office

4 Thursday, April 21 – Law Practice Breakout Sessions
3:45–4:45 PM
Please indicate your first (1) and second (2) preferences in each time period for the following breakout sessions (your area of law):

Criminal:

- ___Unlocking Lockridge: The Key to Fact-Finding at Sentencing
- ___Mitigation and Litigation in Juvenile Lifer Resentencing Hearings
- ___The Challenge of Ineffective Assistance of Counsel Claims on Appeal
- ___The Importance of Staying in Motion: Effective Motion Practice in the Court of Appeals

Civil:

- ___Technology and Appellate Advocacy
- ___Civil Appeals: The Basics and Beyond
- ___Interlocutory and Emergency Appeals
- ___Writing to Win – From Basics to Brilliance

Family:

- ___Domestic Relations Appeals: The Domestic Relations track will focus on recurring jurisdictional issues.

Child Welfare:

- ___Child Welfare Appeals 101: The Procedure.

5 Thursday, April 21 – Plenary
4:50–5:45 PM
The Commissioner's Office: Behind the Scenes

6 Friday, April 22 – Plenary
9:15–10:15 AM
Tech 2016: Gadgets, Widgets and Apps for Appellate Practice

7 Friday, April 22 – Law Practice Breakout Sessions
10:30–11:30 AM
Please indicate your first (1) and second (2) preferences in each time period for the following breakout sessions (your area of law):

8 Friday, April 22 – Plenary
12:45–1:45 PM
The Michigan Supreme Court's view on Judging and Advocacy

Criminal:

- ___Unlocking Lockridge: The Key to Fact-Finding at Sentencing
- ___Mitigation and Litigation in Juvenile Lifer Resentencing Hearings
- ___The Challenge of Ineffective Assistance of Counsel Claims on Appeal
- ___The Importance of Staying in Motion: Effective Motion Practice in the Court of Appeals

Civil:

- ___Writing to Win – From Basics to Brilliance
- ___Civil Appeals: The Basics and Beyond
- ___Effective Oral Advocacy
- ___What You Can Do To Make Your Michigan Supreme Court Application More Appealing

Family:

- ___Domestic Relations Appeals: The Domestic Relations track will focus on recurring jurisdictional issues.

Child Welfare:

- ___Child Welfare Appeals 101: The Substance

Office Use Only:

Date Rec: _____

Staff: _____



Space is Limited. Walk-In Registration (\$425 Conference Fee) Allowed Only if Space is Available.
Advance Registration Recommended.

Make checks payable to: Michigan Appellate Bench Bar Conference
Mail to: Michigan Appellate Bench Bar Conference Foundation
PO Box 66, Grand Ledge, MI 48837
P: 517-627-8700 | F: 517-627-3950

Hotel Reservation Deadline: April 6, 2016

The Inn at St. John's ~ 44045 Five Mile Road, Plymouth, MI 48170

A limited number of hotel rooms have been reserved for conference participants.

Call 734-414-0600 for reservations and ask for the conference rate \$155.00.



**Michigan Appellate Bench
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Grand Ledge, MI 48837

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