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KENNEDY, ANTHONY M.

United States Circuit Judge
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Judge Kennedy was appointed United States Circuit Judge for the Ninth Circuit on March 24, 1975 and entered on duty May 30, 1975. He is a graduate of Stanford University, receiving a B.A. degree in 1958, and Harvard Law School, receiving an LL.B. degree in 1961. He also attended the London School of Economics.

In 1979 he was appointed to the Judicial Conference Advisory Panel on Financial Disclosure Reports and Judicial Activities and to the Committee on Pacific Ocean Territories.

Judge Kennedy is married to the former Mary Davis and has three children: Justin A., Gregory D., and Kristin M. He is a member of the American Bar Association.

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HONORABLE MARY STALLINGS COLEMAN

Michigan Supreme Court

BIOGRAPHICAL INFORMATION OF

MARY STALLINGS COLEMAN

CHIEF JUSTICE
MICHIGAN SUPREME COURT

Born Forney, Texas; B.A., University of Maryland, 1935, LL.D.; J.D., George Washington University, 1939; H.H.D. (hon.), Nazareth College; LL.D. (hon.), Alma College, Olivet College, Eastern Michigan University, Western Michigan University, Adrian College, Detroit College Law, University of Maryland. Admitted to D.C. bar, 1940, Michigan bar, 1950; individual practice law, Washington, 1940-50; partner in firm of Wunsch & Coleman, Battle Creek, Michigan, 1950-61; judge Probate and Juvenile Courts, Calhoun County, Marshall, Michigan, 1961-73; justice Michigan Supreme Court, Lansing, Michigan, 1973-79, chief justice, 1979- present. Member Michigan Governor's Commission on Crime, 1964-68, Michigan Governor's Commission on Delinquency, 1968-70; Michigan Governor's Commission on Youth, 1964-70, Governor's Commission on Law Enforcement and Criminal Justice, 1968-72, Member of National Commission on International Women's Year, Washington, 1975-76; trustee Albion College, 1973 - present, Fellow American Bar Foundation; member American Bar Association, American Judicature Society, National, Michigan women lawyers associations, Calhoun County Bar Association, AAUW, P.E.O., Business and Professional Women (Distinguished Woman), Phi Alpha Delta, Beta Sigma Phi, Alpha Delta Kappa, Recipient Service to State award for Michigan. Probate and Juvenile Court Judges Association, 1972, Outstanding Michigan Alumna award, 1975, International Wyman award, 1975, Alpha Omicron Pi; Distinguished Alumna award, University of Maryland, 1974, Profl. Achievement award, George Washington University, 1973, Distinguished Professional of Year, Michigan Association of Professions, 1976, Distinguished Citizen award Michigan State University, 1977, medal of honor DAR, 1978.

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MARY STALLINGS COLEMAN

Chief Justice Mary Stallings Coleman of the Michigan Supreme Court is a graduate of the University of Maryland, (B.A. 1935) and George Washington University (J.D. 1939). Justice Coleman was a solo practitioner in Washington, D.C. for ten years immediately following law school. Justice Coleman's career includes eleven years as a partner in a Battle Creek, Michigan firm. She first came to the bench, in 1961, as a judge of the probate and juvenile court, where she served for twelve years until her election, in 1973, as a Justice of the Michigan Supreme Court. Justice Coleman was elected Chief Justice in 1979, the first woman to hold this office.

Chief Justice Coleman has been quite active in the field of criminal justice and juvenile justice reform. She has served on several Michigan Governor's commissions on criminal justice issues. Justice Coleman's interest in criminal justice is reflected in her judicial scholarship. In her eight years on the Supreme Court she has written twenty-eight opinions for the court and 108 dissenting opinions. Of her opinions written for the court, the majority involve criminal justice matters.

Justice Coleman's judicial philosophy, can best be assessed by looking at her opinions in criminal appeals. In general, she rarely supports a decision which will result in the reversal of a conviction. In the few instances in which she reversed a decision which affirmed a conviction, she based her opinion on a clear holding of the United States Supreme Court. On this basis, she can be considered a conservative in criminal cases.

Justice Coleman's writings reflect a concern for the practical effect of her decisions. Some might criticize her scholarship as result-oriented and lacking in consistency. A few examples are illustrative. In People v. Plantefaber, 410 Mich. 594 (1981), she dissented from the majority opinion reversing a conviction on the ground that a warrantless search for marijuana conducted in the luggage of a suspect preparing to depart from an airport was not unreasonable. In the course of her dissent she noted "[t]he word reasonable is sometimes overlooked in consideration of the prohibition against unreasonable searches and seizures." In another case, People v. Eady, 409 Mich. 356 (1980) she dissented from a decision of the majority reversing a conviction for second degree sexual assault. She agreed that the testimony relied upon for conviction was hearsay, but concluded that the objection had

not been properly preserved. She then observed that "admittedly this strategy entailed good legal footwork but, I would not agree that we should permit form to prevail over substance." Justice Coleman's dissent in another case is also illustrative in that she objected to the majority decision to reverse a conviction for carrying a concealed weapon and grant a new trial. The decision was based on the prejudicial effect of a prosecutor's argument that a jury could consider the defendant's poverty and unemployment as evidence of guilt of the offense. Justice Coleman noted that the "evidence showed that defendant was clearly guilty of the crime charged and the arguments while clearly irrelevant to defendant's guilt, did not result in a miscarriage of justice."

In contrast to the cases above, Justice Coleman, writing for the majority, affirmed the decision of the Court of Appeals to reverse the conviction of a policeman for obstructing justice by failing to arrest a narcotics dealer in response to a bribe. Justice Coleman concluded that one of the elements of the crime was missing. She further concluded that the prosecutor could not avoid proof of the elements of substantive crimes by pleading conspiracy.

Justice Coleman writes simply with clear logical progression. Her writing cannot be distinguished by style, except insofar as she is usually quite direct in her conclusions and analysis. She does not rely on extensive footnotes or citations.

Justice Coleman has spoken publicly on the Equal Rights Amendment. In March of last year, she proposed that the state, rather than the federal constitution be amended to give women equal rights.

While we have no information concerning her energy and industriousness, there is nothing in the record to reflect adversely on these qualities. Her age does not appear in any of the available biographies. However, based on the date of her undergraduate degree (1935), she should be over sixty-five.

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
A	<u>People v. Davis,</u> <u>408 Mich. 255 (1980)</u>	Crimes/Conspiracy	"Wharton's" rule requires that conviction for conspiracy may not be obtained based upon participation by the same two defendants charged with the substantive offense. Here, the policeman's failure to arrest a narcotics dealer, in possession of narcotics, was motivated by the officer's desire to secure a reward may be an obstruction of justice. However, here element of corrupt purpose is absent, therefore, prosecutor may not avoid proof of elements of substantive crimes by pleading conspiracy.	<u>Vote:</u> 2, plus 2 separate concurrences, 2 dissenting. Affirming Court of Appeals' reversal of defendant's conviction.
B	<u>Derwinski v. Eureka</u> <u>Tire Co., 407 Mich.</u> <u>469 (1979)</u>	Workers Comp./Apportionment of compensation among employers.	The statutory definition of "disability" includes degenerative disc disease due to the nature of the work for several employers. Therefore, the award may be apportioned among employers as provided by statute.	<u>Vote:</u> 5-2 Aff'd Ct. Appeals' decision reversing Workers Comp. Appeals Bd. denial of apportionment.
C	<u>Wayne County Prosecutor v. Recorders</u> <u>Ct. Judge, 406 Mich.</u> <u>374 (1979)</u>	Crim./Con. Law Felony Firearm Statute	The Michigan Felony-firearm Statute does not violate the Fifth Amendment Double Jeopardy Prohibition.	<u>Vote:</u> 4-3 Reversed decision of Ct. of Appeals which reversed defendant's conviction for second degree murder and possession of firearm during commission of felony.

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
D	<u>Boyce v. Royal Oak Board of Education</u> , 407 Mich. 312 (1979)	Rights of probationary public school teachers.	Probationary school teachers may be discharged due to an economic RIF, when statutory procedures have been completed. The legislature did not give probationary teachers rights, by implication, which were unavailable to tenured teachers.	<u>Vote:</u> 7-0 (plurality). <u>Aff'd.</u> decision of Ct. of Appeals.
E	<u>People v. Hampton</u> , 407 Mich. 354 (1979)	Crim. Procedure/New Trial	Trial judge did not abuse his discretion in granting a new trial on second degree murder charges where trial court found that evidence supporting key factual issue lacked sufficient clarity.	<u>Vote:</u> 7-0 (plurality)
F	<u>Local 1518 v. St. Clair Sheriff</u> , 407 Mich. 1 (1979)	Pub. Sector Labor Relations	The statutory provision of Public Employment Relations Act concerning compulsory arbitration was not intended to apply to individual grievances.	<u>Vote:</u> 5-2 <u>Rev'd.</u> Court of Appeals
G	<u>White v. City of Ann Arbor</u> (Consolidated two cases) 406 Mich. 554 (1979)	State Constit./Construction of Cable T.V. Statutes.	<p>1. Provision of State Constitution which requires approval of non-revocable public utility franchise by 3/5 of voters does not apply to cable T.V. (not a public utility within meaning of Constitution)</p> <p>2. Cable T.V. is a public utility under state statute permitting access easements.</p>	<u>Vote:</u> 7-0 (2 concurring opinions)

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
H	<u>People v. Green,</u> 405 Mich. 273 (1979)	Constitutional Law/ Crim. Procedure.	Prosecutor violated Code of Professional Responsibility when he questioned defendant without notifying his attorney (7-0). The violation does not, however, require application of exclusionary rule. (4-3) Therefore, conviction is affirmed.	<u>Vote:</u> (See holding)
I	<u>People v. Brooks,</u> 405 Mich. 225 (1979)	Criminal Law	A warrantless arrest for the misdemeanor of misrepresenting a vehicle I.D. is valid. The statute does not require that police must witness act of altering I.D.	<u>Vote:</u> 4-3 Rev'd. Ct. of Appeals. Defendant's conviction is reinstated.
J	<u>People v. Pearson,</u> 404 Mich. 698 (1979) (Consolidated four cases)	Criminal Law/Evidence	Prosecution's failure to exercise diligence to produce <u>res gestae</u> witnesses requires reversal of the convictions in two of these cases.	<u>Vote:</u> 4-1 Convictions in two cases aff'd. Rev'd. in two cases.
K	<u>Grigg v. Mich. National Bank,</u> 405 Mich. 148 (1979)	Civ. Pro./Class Action	Requirements for proceeding as a class action have been met in action on behalf of customers of bank and credit card holders for violation of federal banking law.	<u>Vote:</u> 5-1
L	<u>Smith v. E.R. Squibb & Sons,</u> 405 Mich. (1979)	Torts	1. Trial Court's refusal to instruct on theory of negligence and breach of implied warranty is not reversible error when manufacturer failed to provide adequate warnings. 2. Trial Court properly excluded evidence that defendant subsequently changed warnings.	<u>Vote:</u> 4-3

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
M	<u>Projectionist Union v. MERC, 403 Mich. (1978)</u>	Labor Law	The decision of the Employment Relations Commission is upheld. The finding that the employer's action in performing unionized jobs was motivated by economic necessity rather than by anti-union bias is supported by "competent, material, and substantial evidence.	<u>Vote:</u> 5-2
N	<u>People v. Jones, 408 Mich. 527 (1978)</u>	Crim./Resentencing	Due process requires that upon retrial, a judge may not impose a more severe sentence on a defendant convicted of rape and armed robbery unless there is objective information concerning identifiable conduct by defendant which occurred <u>after</u> the original sentence.	<u>Vote:</u> 5-2 Reversed, Tr.Ct. & Ct. of Appeals. Applied U.S. Sup. Ct. holding in 1969 case.
O	<u>Blue Cross v. Insurance Commissioner, 403 Mich. 399 (1978)</u>	Administrative Law	Upheld Insurance Commissioner's statutory authority to approve rates charged to subscribers and hospitals. However, commissioner is limited to statutory standard of ascertaining "fair and reasonable" rates and thus may not invade Dr/patient relation on matters of physician's discretion in practicing medicine.	<u>Vote:</u> 4-1-2 Rev'd. in part, aff'd. in part.
P	<u>Amato v. Oxford Schools, 402 Mich. 521 (1978)</u>	Administrative Law	A probationary teacher may be granted a third year of probation without giving written notice of unsatisfactory work before termination at the end of the third year. The statutory purpose is to permit further review of probationer's performance without giving a right of continued employment.	<u>Vote:</u> 5-2

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
Q	<u>Sweeney v. Sweeney,</u> 402 Mich. 234 (1978)	Torts/Conflicts	Michigan public policy which permits child to sue parent for acts of negligence applies to Michigan residents suing in Michigan for negligence occurring in Ohio. Applied <u>lex loci delicti</u> (no real elaboration).	<u>Vote:</u> Unanimous
R	<u>Dressler v. G.R.</u> <u>Die Casting, 402</u> Mich. 243 (1978)	Workers Compensation	Finding below that worker's injury is a pre-existing traumatic injury rather than an occupational disease is supported by competent evidence and thus worker is not precluded from recovery by failure to disclose condition. Coleman would remand to determine if employer relied on misrepresentation by concealment of pre-existing injury.	<u>Vote:</u> 4-3
S	<u>McQueen v. Great</u> <u>Markwestern Pack-</u> <u>ing Company, 402</u> Mich. 321 (1978)	Workers Compensation	1. Worker's claim against bankrupt employer, although valid, is not entitled to priority under the statute. Moreover, statute, although remedial, does not expressly provide for retroactive application. Therefore, act doesn't apply to bankrupt employer. 2. A self-insured employer's reinsurance contract controls the reinsurer's obligation to pay the employer's accrued liability to the worker.	<u>Vote:</u> Unanimous

	<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
T	<u>(In re Vary Estate)</u> <u>Department of</u> <u>Treasury v. Ivy,</u> <u>401 Mich. 340 (1977)</u>	Social Security	The cash from social security benefits accumulated in the bank account of the decedent may be reached to satisfy the claim of the state hospital for charges arising out of care rendered in a state hospital.	<u>Vote:</u> 5-1 Case of First impression in Michigan.
U	<u>People v. Kyllonen,</u> <u>402 Mich. 135 (1978)</u>	Criminal Law/ Larceny	Statutory definition of larceny is exclusive of conduct which would establish "buying or receiving stolen property", thus, a thief may not be convicted of both offenses for conduct arising out of same transaction.	<u>Vote:</u> Unanimous
W	<u>Ford v. Tax Commission,</u> <u>400 Mich.</u> <u>499 (1977)</u>	Tax/Constitutional Law	A state statute which provides for election by the taxpayer owning inventory in more than one assessment district is constitutional so long as each taxpayer has the same right of election and is taxed the same after election.	<u>Vote:</u> 5-2 Aff'd. Court of Appeals.
Z	<u>People v. Morgan,</u> <u>400 Mich. 527 (1977)</u>	Constitutional Law/ Criminal Procedure	Defendant's absence from the <u>voir dire</u> is harmless error when defendant had opportunity to comment on format for questioning, and where defense attorneys participated in the in chambers <u>voir dire</u> on pretrial publicity issues.	<u>Vote:</u> 4, 2 concur, 1 dissent Court of Appeals Rev'd. Convictions reinstated.
1	<u>Huhtala v. Travelers</u> <u>Insurance Company,</u> <u>401</u> <u>Mich. 118 (1977)</u>	Torts/Contract Insurance	Plaintiff's action against insurer of owner of auto which caused injury is an action for promissory estoppel governed by six-year contract statute of limitations rather than applicable three year tort statute.	<u>Vote:</u> 5, 2 concur. Reversed Court of Appeals (Coleman favored reversal, but thought plaintiff must prove promissory estoppel at trial not simply establish element by pleading).

<u>Case</u>	<u>Subject</u>	<u>Holding</u>	<u>Factors</u>
2 <u>Avis v. Romulus,</u> <u>400 Mich. 337 (1977)</u>	Tax/Municipalities	The provision of statute which restricts tax exemptions for operators of concessions at airports located in counties of 1,000,000 plus population violates Constitution. The act bears no reasonable relation to the purpose of the taxation exemption.	<u>Vote:</u> 6-1
3 <u>Featherly Construc-</u> <u>tion Company v.</u> <u>Property Develop-</u> <u>ment Group, Inc.,</u> <u>400 Mich. 198 (1977)</u>	Statutory Construc- tion/Availability of C/A.	Upheld statute which deprives unlicensed residential builders of the enforcement of all causes of actions in state courts.	<u>Vote:</u> Unanimous The wisdom of prohibiting legal action as a penalty for failing to obtain a license is a matter for legislative rather than judicial consideration.
4 <u>Crews v. General</u> <u>Motors Corporation,</u> <u>400 Mich. 208 (1977)</u>	Torts/Product Liability	An experienced auto mechanic has not substantiated the "failure to warn" theory of liability when he testified that he knew of danger of his action which led to his injury. Plaintiff has the burden of proof of defect.	<u>Vote:</u> 3-3 Affirmed decision of the Court of Appeals affirming trial court's direction of verdict for defendant.
5 <u>People v. McIntosh,</u> <u>400 Mich. 1 (1977)</u>	Criminal Law/Jury Instructions	1. Trial Judge must instruct the jury on both defense and prosecutions theory of case where there is evidence supporting both. 2. Negligent homicide and manslaughter with a motor vehicle are statutorily linked. Thus, failure to instruct on negligent homicide is reversible error.	<u>Vote:</u> 5 plus 2 concur- Reverse. Reversed in part, affirmed in part.

HONORABLE CORNELIA KENNEDY

E.D. Mich. 6th Cir.
Court of Appeals

CORNELIA B. KENNEDY

Judge Kennedy, 58, received undergraduate and law degrees from the University of Michigan (A.B. 1945; J.D. 1947). She served on the Law Review at Michigan and following graduation was a law clerk to Judge Harold Stephens of the United States Court of Appeals for the District of Columbia Circuit. From 1948-1967, she was in private law practice in Detroit and from 1967-1970 served as state court judge on the Wayne County Circuit Court. In 1970 she was appointed by President Nixon to be United States District Judge for the Eastern District of Michigan. In September, of 1979, Judge Kennedy was confirmed as United States Circuit Judge for the Sixth Circuit. She has been rated "Well-Qualified" by the ABA Standing Committee.

As a United States District Judge, Judge Kennedy published more than 80 full opinions and was reversed relatively few times by the Sixth Circuit. In approximately 14 months on the Sixth Circuit, she has published 43 full opinions. Her written product is extremely conscientious and thorough, albeit at times emphasizing relatively tangential considerations and arguments. Her opinions are clear and reflect what may be characterized as very good analytical ability. Moreover, the quality of her work has improved discernibly over the years.

One of Judge Kennedy's foremost qualities is a consistent approach to recurring issues which evinces a generally conservative judicial philosophy. She has demonstrated a reluctance to interfere with decisions reached by legislatures, state courts, administrative agencies, and even private associations, absent a persuasive showing of error or irregularity. Her most controversial decision -- and one which raised great opposition to her appointment to the Sixth Circuit from individuals such as Drew Days -- reflects this conservative viewpoint.

In United States v. School District of Ferndale, 460 F. Supp. 352 (E.D. Mich. 1979), Judge Kennedy, after an earlier refusal was reversed by the Sixth Circuit, reached the merits of a less than clearcut school desegregation case brought by the Civil Rights Division. In a thorough analysis which the Sixth Circuit reversed, Judge Kennedy refused to find de jure segregation warranting the requested busing remedy. Judge Kennedy held that unlawful intent to segregate was not established merely by the drawing of school boundaries "in a fashion which placed the students in the school nearest their home." Rather, she continued:

"to have denied the residents of this area an elementary school conveniently located within one-half mile of their home, while providing white residents in other portions of the district with schools within such a half-mile, which School District did, would have been discriminatory."

Judge Kennedy has exercised similar conservative restraint in other decisions. She has refused to hear federal antitrust claims by plaintiffs with directly related state actions pending. Moreover, she normally defers to lower court or agency-factual determinations. While having published relatively few criminal procedure decisions, she has adhered closely to the current Supreme Court view that, absent compelling circumstances, habeas corpus review of state court convictions should be denied in cases in which defendants waived or fairly litigated procedural objections in state courts.

Judge Kennedy consistently refuses to apply too expansively procedural due process "notice" requirements under the Fifth Amendment, for example, in cases involving class action settlements or benefit terminations or employee sanctions. She has, in turn, also sought to impose a reasonable degree of finality in statutory claims cases -- for example, under the Age Discrimination Employment Act -- through application of statutes of limitation and related procedural rules.

Finally, Judge Kennedy has had experience in reviewing claims lodged under 42 U.S.C. § 1983 and has been criticized by some liberals as having taken an unduly narrow view of the rights and remedies conferred under that statute.

Judge Kennedy is, in short, a highly respected judge who appears consistently to apply to her opinions a conservative judicial philosophy. Her work is generally well reasoned, if not always outstanding in conciseness or insight. On balance, she should be considered a very strong candidate.

CORNELIA C. KENNEDY

Born:	August 4, 1923	Detroit, Michigan
Legal Residence:	Michigan	
Marital Status:	Married	Charles Stuart Kennedy 1 child
Education:	1947 - 1947 1945 1947	University of Michigan A.B. degree J.D. degree
Bar:	1947	Michigan
Experience:	1947 - 1948	Law Clerk to Chief Judge Harold M. Stephens, D.C. Court of Appeals
	1948 - 1952	Practiced law with her father, Elmer H. Groefsema
	1953	Practiced law with her sister, Margaret C. Schaeffer
	1953 - 1966	Markle & Markle partner
	1966 - 1970	Judge, Third Judicial Circuit of the State of Michigan
	1970 - 1977	U.S. District Judge Eastern District of Michigan
	1977 - 1979	Chief Judge, U.S. District Court, Eastern District of Michigan
	1979 - Present	U.S. Circuit Judge, 6th Circuit Court of Appeals

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
S	<u>Kroger Co. v. NLRB (6th Circuit 1980)</u>	Labor Law: Secondary boycotts	For Petitioner. In view of inseparable relationship between general grocery store operations and the use of paper bags, consumer picketing in shopping center constituted an illegal secondary boycott of neutral grocery store.	1. Reversed District Court findings. 2. Extremely logical opinion.
T	<u>U.S. v. Sizemore (6th Cir. 1980)</u>	Sufficiency of evidence to support criminal conviction.	Conviction of one co-defendant for making explosive device was reversed due to minimal circumstantial evidence attributable directly to him.	1. Conviction of one co-defendant affirmed; conviction of the other co-defendant reversed. 2. Thorough, but unremarkable opinion.
U	<u>Parish v. Califano (6th Cir. 1981)</u>	Eligibility for social security child disability benefits.	For claimant-appellant. Multiple sclerosis victim's ability to work after the cutoff date for child disability benefits does not rebut evidence that disability occurred prior to cutoff date.	1. Reversed administrative denial of benefits. 2. Opinion is fair and supported by HHS regulations which provide that multiple sclerosis should be viewed as an "episodic" disease.
V	<u>Laskey v. International (U.A.W.) (6th Cir. 1981)</u>	Settlement of class action	For defendant-appellees. Disappointed class members cannot challenge settlement in Rule 23(b)(2) class action absent evidence of improper notice or inadequate representation.	1. Affirmed District Court findings. 2. Opinion emphasizes the importance of settlements and encourages reasonable finality in litigation.

OPINIONS OF JUDGE CORNELIA KENNEDY (Eastern District of Michigan, Sixth Circuit Court of Appeals)

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
A.	<u>U.S. v. School District of Fernadale</u> (E.D. Mich. 1978)	School desegregation case of major proportions.	For school district. Construction of new school in white section of district did not constitute unlawful discrimination in view of natural demographics of area and absence of proof of discriminatory purpose or intent.	1. Lengthy opinion rejected pure "effects" analysis and placed weight on legitimate interests of residents to have students attend school nearest their home. 2. Opinion was highly controversial and reversed by Sixth Circuit, but was reasonable in requiring evidence of purpose or intent, not merely the discriminatory effects of a school board decision.
C	<u>Huron Valley Hospital v. City of Pontiac</u> (E.D. Mich. 1979)	Antitrust law; Ripeness	For defendant. 1. Pending state antitrust action by plaintiff on same fact issues precluded federal court hearing of antitrust claims. 2. State-created hospitals are exempt from antitrust laws under "state action" doctrine.	Opinion displays deference to state court proceeding. In an effort to impose finality on the proceedings, Judge Kennedy offers a gratuitous advisory opinion on the antitrust issues.
D	<u>Schroeder v. Dayton Hudson Corp.</u> (E.D. Mich. 1979)	Retroactive application of state age discrimination statute.	For plaintiff. Plaintiff's failure to file age discrimination claim within limitation period of old statute was cured by the court's retroactive application of longer statute of limitations under subsequent state civil rights act.	Concise, albeit overly conclusory opinion on retroactivity of civil rights statute.
E	<u>Dietz v. American Dental Association</u> (E.D. Mich. 1979)	Review of Dental Association admission standards	For defendant association. Decision of dental association to "grandfather" certain practicing dentists into the association while rejecting other applicants based upon an oral examination was not arbitrary or capricious.	Opinion accords great deference to the determinations of self-regulating educational and professional organizations.

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
F	<u>Marshall v. American Motors Corp.</u> (E.D. Mich. 1979)	Age Discrimination in Employment Act	1. Summary judgment for defendant on claims involving discriminatory acts occurring outside the statute of limitations. 2. Summary judgment denied to defendant on other claims because factual issue of employer's "good faith" existed.	Relatively well-reasoned opinion. Reasonable use of statute of limitations to limit scope of complex action.
G	<u>Transmatic Inc. v. Gulton Industries</u> (1977)	Patent validity	Summary judgment for plaintiff. Subsequent utility patent on a light fixture embodying a lens already covered by prior design patent is invalid due to double patenting.	Opinion is thorough, but analysis of patent claims is not very clear.
H	<u>U.S. v. Weingarden</u> (E.D. Mich. 1979)	Social Security Fraud	Social Security Act provision prohibiting or bribes in connection with the furnishing of services paid for by federal funds was sufficiently clear to provide notice of illegality to defendants.	Motion to dismiss indictment denied. Thorough opinion.
I	<u>In re Upjohn Co. Antibiotic Liability Litigation</u> (E.D. Mich. 1979)	Grounds for protective order in discovery	In complex product liability litigation, protective order against dissemination of federal court discovery material to related state court plaintiffs would not be granted, but court would monitor each dissemination of information to ensure relevance to related state claims.	Judge Kennedy vacated order granted by another district judge prior to multi-district consolidation. Decision appears fair and principled in view of earlier broad protective order which was arguably a prior restraint in violation of the First Amendment.
J	<u>Schultz v. Newsweek</u> (E.D. Mich. 1979)	Libel and Slander	For defendants. Under Michigan law, qualified privilege exists for published material addressing an issue of "public interest." Plaintiff did not offer any evidence of malice on the part of Newsweek, thus creating no genuine fact issue for a jury.	Summary judgment for defendants. Opinion not clearly organized, but makes appropriate use of summary judgment device to prevent unduly long trials.

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
K	<u>Parets v. Eaton Corp (E.D. Mich. 1978)</u>	Choice of Law	1. Plaintiff's claim of improper firing from South American job by Ohio corporation was properly governed by Ohio law 2. Plaintiff's claim of breach of contract to provide employment in Michigan was governed by Michigan law.	1. Defendant's motion to dismiss plaintiff's claims granted in part, denied in part. 2. Opinion reaches a correct result, but analysis is not entirely clear and addresses peripheral issues.
L	<u>Gottfried v. Mayco Plastics, Inc. (E.D. Mich. 1979)</u>	Standards for order to bargain under National Labor Relations Act.	For plaintiff (NLRB). Statutory public interest in promoting collective bargaining warranted interim injunction and bargaining order against employer who allegedly engaged in unfair labor practices.	1. Interim injunction granted to NLRB. 2. Opinion presents a thoughtful analysis.
Mc	<u>Yeretsky v. Blum (E.D. Mich. 1979)</u>	State workmen's compensation claim	For defendant. State workmen's compensation act is exclusive remedy for work-related physical or mental injury which bars plaintiff's claim for emotional distress in common-law civil rights action.	Plaintiff's claim dismissed. Opinion is extremely sensible in preventing unnecessary duplication of worker's remedies, but analysis is not clearly articulated.
Mc 1	<u>CIRCUIT COURT OPINIONS:</u>			
	<u>Brewer v. American National Insurance Co. (6th Cir. 1980)</u>	Libel and slander	For plaintiff-appellant. Libelous statement made by employee to employer which led to termination of company agent must be submitted to a jury on issues of qualified employee privilege and enterprise liability under Kentucky law.	1. Reversed District Court findings. 2. Relatively thorough review of Kentucky law.
M	<u>Hockenbury v. Sowders (6th Cir. 1980)</u>	<u>Habeas Corpus</u>	Federal <u>Habeas</u> review of state conviction denied: 1. Because defendant did not object to alleged error in timely fashion at trial; 2. Due to comity (deference to the state court's application of its own waiver of objection and "fundamental error" rules).	1. Denied habeas relief. 2. Extreme deference shown to the state criminal trial process.

<u>TAB</u>	<u>CASE</u>	<u>SUBJECT MATTER</u>	<u>HOLDING (MAJORITY OPINION)</u>	<u>OBSERVATIONS</u>
N	<u>Clutter v. Johns-Manville Sales Corp.</u> (6th Cir. 1981)	When claim for exposure to toxic chemical accrues.	For plaintiff-appellant. In applying the statute of limitations, asbestosis claim accrues not at the time of harmful exposure to asbestos, but rather when the disease is "manifested."	1. Reversed District Court dismissal. 2. Thorough review of Ohio law. Opinion addresses an excessive number of arguably tangential considerations.
O	<u>Moore v. Califano</u> (Sixth Cir. 1980)	Federal Coal Mine Safety Act	For defendant-respondent. Administrative denial of black lung benefits was based upon substantial evidence. 1977 Reform Act's new evidentiary rules should not be applied retroactively to require a rehearing in this case.	1. Affirmed HEW administrative denial of benefits. 2. Well-reasoned, limited review of administrative determination.
P	<u>Bills v. Henderson</u> (6th Cir. 1980)	State Prisoners' Civil Rights Action (42 U.S.C. §1983)	For plaintiff-appellees (in part). State regulations which only permit prisoner transfer to punitive segregation upon a showing of good cause entitle prisoner to some procedural due process prior to such transfer.	1. District Court affirmed in part, reversed in part. 2. Extremely thorough and well-written opinion. While prisoners were granted some procedural protections, no formal hearing was required, and prisoners' damage claims were denied.
Q	<u>Carothers v. Rice</u> (6th Cir. 1980)	Federal Securities Fraud Claim	For defendant-appellees. Under controlling choice of law principles, Rule 10 (b)-5 action was barred by application of Kentucky state securities law statute of limitations.	1. Affirmed District Court findings. 2. General reasoning is very sound. Opinion addresses numerous peripheral issues.
R	<u>Transco Security v. Freeman</u> (6th Cir. 1981)	Due process: Suspension of federal contractors.	For plaintiff-appellants. Notice to contractors of suspension from GSA eligibility due to "billing irregularities" was unconstitutionally vague in denying contractors a reasonable opportunity to respond.	1. Reversed District Court findings. 2. Thorough analysis of the law. Court identifies a liberty interest of federal contractors which may be damaged by unsupported official allegations of fraud. Therefore, some opportunity to answer the charges is required.

THE WHITE HOUSE

WASHINGTON

June 19, 1981
5:15 pm

THE PRESIDENT'S SCHEDULE
Monday, June 22, 1981

9:00 am (30 min)	<u>Staff Time</u>	Oval Office
9:30 am (15 min)	<u>National Security Briefing</u> (Richard V. Allen)	Oval Office
9:45 am (15 min)	<u>Meeting with Baker, Meese, Deaver,</u> <u>Friedersdorf, Speakes, and Gergen</u>	Oval Office
10:00 am (45 min)	<u>Personal Staff Time</u>	Oval Office
10:00 am (2 hrs)	Hold	
12:00 (2-1/2 hr)	<u>Lunch and Speech Preparation Time</u>	Oval Office
2:30 pm (30 min)	<u>Meeting with selected group of six</u> <u>Governors to discuss block grants</u> (Richard S. Williamson) White House Photographer Only	Cabinet Room
3:00 pm (30 min)	<u>Personal Staff Time</u> <i>prep. for Safire</i>	Oval Office
4:00 pm (30 min)	<u>Interview with William Safire</u> (Larry Speakes) White House Photographer Only	Oval Office
4:30 pm (30 min)	<u>Personal Staff Time</u>	Oval Office
5:00 pm (30 min)	<u>Staff Time</u>	Oval Office
5:30 pm (30 min)	<u>Join White House Reception for</u> <u>Champion of American Sports</u> (Peter McCoy)	East Room

Tomorrow - "Day in the Life" - U.S. News