

# Presentation Of The Portrait Of The Honorable Stephen M. Markman

November 16, 2022

**Justice Brian K. Zahra:** Welcome to the Markman bar mitzvah. [Laughter.] On behalf of my colleagues on the Michigan Supreme Court, it's my distinct pleasure and honor to stand in for Chief Justice [Bridget M.] McCormack and preside over our presentation of the portrait of my former colleague and dear friend, retired Chief Justice Stephen Markman. Our Chief would have been here this evening but for the fact that she herself is being honored at a ceremony in Washington D.C. She sends her regrets for being unable to be with us, and she asked me to pass on her best wishes to Steve and his family.

Many thanks and gratitude are also extended to the Michigan Supreme Court Historical Society and its board members. Do we have any board members here? Yeah. Thank you very much for your service. The Historical Society has played a significant role in the restoration, preservation, and maintenance of many of the portraits of the Justices of the Supreme Court. On behalf of the current and past members of the Court, please accept our gratitude for your dedication and commitment to the Historical Society.

I would also like to recognize former members of the Supreme Court who are in attendance, and I'm not quite sure who all is here. I know Chief Justice [Michael F.] Cavanagh is here. I saw him. Mike Cavanagh. Thank you for being here. Chief Justice Bob Young. Justice Kurt Wilder. Thank you. We're going to hear from Justice [Clifford W.] Taylor later in the program, but he's participating in here. Any other former members of the Court? Well, thank you for your attendance.

Steve Markman served more than 24 years in Michigan's judiciary, 20 years as a Justice of the Michigan Supreme Court. Most lawyers would consider this a remarkable and distinguished career in public service, but Steve gave so much more of himself to the public, and I'm sure you'll hear from the many other speakers about his many areas of public service. There is, however, one area of public service I find remarkable, which I will take the liberty of discussing.

In 1985, Steve was nominated by President Ronald Reagan and confirmed by the Senate to the position of Assistant Attorney General of the United States. In that position, Stephen Markman was in charge of the Justice Department's Office of Legal Policy. In that role, Steve, among other things, assisted the President and the Attorney General in the judicial selection process. Then-Assistant Attorney General Stephen Markman promoted the notion of original-meaning jurisprudence throughout the Justice Department. During Steve's tenure, the Office of Legal Policy published a source book on original-meaning jurisprudence, which described this jurisprudence as "the enterprise of attempting to interpret the provisions of the Constitution as those provisions were generally understood at the time of their adoption by the society which framed and ratified them."

With Steve Markman's assistance, President Reagan elevated Justice William Rehnquist to the position of Chief Justice and nominated Antonin Scalia and Justice Anthony Kennedy to the Supreme Court of the United States. Steve also materially assisted in the nomination and confirmation of 230 other federal judges, including Judge Richard Suhrheinrich, who we will hear from this evening; Judge Paul

Gadola, father of Court of Appeals Judge Michael Gadola; and Judge Lawrence Zatkoff, my mentor and the federal district judge for whom I clerked. On his last day in office, President Reagan presented Justice Markman with a handwritten note, thanking him for his service to the Reagan Administration and his service to the people of the United States of America. I say all this to point out that Chief Justice Markman greatly influenced our nation's jurisprudence, and his contribution to the law goes well beyond the great state of Michigan.

As a member of the Michigan Supreme Court, Chief Justice Markman developed a reputation for being a thoughtful and exceptionally well-prepared jurist who always asked piercing and probative questions of counsel. I personally marvel at the way in which he could distill a highly complex and difficult case down to a handful of poignant questions—questions that addressed, as he would often say, not just the case before the Court but the next 100 cases to come before the Court. Steve was a self-proclaimed devil's advocate, and I mean no disrespect at all when I state the devil could have no better advocate than Steve Markman. [Laughter.] To the contrary, I offer this observation with my utmost admiration for Steve. For some, Stephen Markman is a lawyer's lawyer and a judge's judge who has materially enhanced the quality of our legal profession.

We have a long list of highly esteemed speakers tonight, but there's one person who is conspicuously absent from this list of speakers, and that is because he is no longer with us. Court of Appeals Judge Jonathan Tukel was a former Assistant United States Attorney hired into the U.S Attorney's Office by Chief Justice Markman. Judge Tukel was a close and dear friend of Chief Justice Markman and a dear friend of many in attendance tonight. He died of cancer a little more than a year ago. His time on this earth was far too short. May we please have a moment of silence to remember Judge Tukel. Thank you.

Our first speaker this evening is my recently reelected colleague Justice Richard Bernstein. Richard and Steve served together from the beginning of 2015 to the end of 2020. During that time, the Court issued over 200 opinions. It will shock nobody when I state that Steve and Richard approached the function of judging from wildly different perspectives, and while I did not bother to count the cases, there are good many cases in which Richard and Steve completely and resoundingly disagreed with each other. Nonetheless, I'm sure they would agree that they greatly enjoyed and respected each other. Justice Bernstein, the floor is yours.

**Justice Richard H. Bernstein:** There are certain people that just truly define what it means to be a judge. There are certain people who have the character, who have the temperament, who have the sophistication. And we can talk about the incredible accomplishments of Justice Markman. We can talk about his time at the Department of Justice. We can talk about his time on the Michigan Supreme Court. We can talk about his time as a jurist.

But what makes Steve so incredibly special is he serves with an incredible humility. He serves with an incredible kindness. He serves with an incredible warmth. For I like to say that Steve is somewhat of a throwback. He's the kind of person that is always thinking about other people. He's the kind of person that will always let others ask questions before himself. He represents the idea of dignity. He represents the idea of worldliness.

Steve is someone that I really have become incredibly fond of. The reason that I have so much admiration for Steve is because whenever you had a chance to engage with Justice Markman there was something quite remarkable about it. Is that he was a person, when he served on this bench, that was

always intellectually honest. He was a person that functioned within a certain core set of values. He was a person that had a certain core ideology as it pertained to how he approached the law and his interpretation of it. But the greatest thing about Steve Markman is that if you approached him and had conversations about various cases and the impact of various cases, if you spoke to him with the jurisprudential philosophy that he followed, he was always open for conversation, he was always open for dialogue, and he was always open to people who could present an argument that he was willing to believe in.

And the thing that I admired so much about Steve is there were so many cases that he and I had a tradition after oral arguments, we would get together here in Lansing and go to his favorite restaurant—a restaurant that I absolutely love—and he loved talking about the cases. But his honesty, his honesty as it pertained to his intellect, as it pertained to how he saw these cases, how he saw these issues, he was always intellectually honest. And if you were able to talk about a case but do it within the framework as to how he approached the law and the Constitution, he was always open to listening, he was always open to having a conversation, and he was always open, if you made the right argument, to looking at it from a different point of view.

And there were so many situations and circumstances where he and I would talk, and he would say to me, “You know, Richard, with your jurisprudential philosophy, you might not like the result. You might not like this result, but approaching it with the philosophy that you approach all other cases, this would be an equitable and appropriate result.” And thanks to Steve’s mentorship, there were a number of cases where ultimately, after having very intense conversations with him, I would ultimately write opinions that I wasn’t happy with the result, didn’t like the result, but would put a line in that simply said that ultimately this is now for the purview of the Legislature. That’s what makes Steve such a profound person. That’s what makes him such a great judge. He was a person who did this because he genuinely believes in service. He dedicated his life to service.

I conclude by saying this: I miss the conversations that I used to have with Steve every day on this Court. I miss coming to work and having a chance to see Steve every day. I miss his warmth. I miss his kindness. I miss his friendship. I miss the fact that he was always a person that when it came to his time at conference you would always listen with an intensity because when Steve speaks, he chooses his words carefully, and they all have meaning and profound value. And I think what’s beautiful about Steve is that his legacy continues with his family, with his children, with his sons, who when you meet them and talk to them and learn about them have that same humility, have that same warmth, have that same grace. I miss working with Steve. I miss the time that I had the opportunity to spend with Steve. But most importantly, I just miss having the opportunity to come to work and see my good friend.

**Justice Zahra:** Thank you, Justice Bernstein. Next, I’m pleased to introduce Judge Richard Suhrheinrich of the United States Court of Appeals for the Sixth Circuit. Judge Suhrheinrich comes from humble roots. Early in life, Judge Suhrheinrich became very interested in the life of Abraham Lincoln. He believed that if Abe Lincoln could become a lawyer from his humble beginnings, so, too, could he. Indeed, Judge Suhrheinrich proved to be a very successful lawyer. In 1969, he co-founded a firm that focused on medical malpractice defense litigation, and by 1984, his firm had approximately 75 lawyers working for the firm. President Reagan appointed him to the United States District Court for the Eastern District of Michigan in 1984, and in 1990, President George Herbert Walker Bush appointed him to the United States Court of Appeals for the Sixth Circuit. It’s my honor to present to you Judge Richard Suhrheinrich.

**Judge Suhrheinrich:** May it please the Court. Judge Markman, Judge Markman's family, friends, and relatives of Justice Markman, good afternoon. I was delighted when Steve asked me to speak. Over the last several years when I have been in a similar situation, I've always had Steve speak on my behalf, so it was my turn to speak on his behalf. The problem is he put blinders on me. He said, one, no jokes. [Laughter.] As if I had any humor or he had any. [Laughter.] Two, no sarcasm. And three, be over in five minutes. [Laughter.] Well, the five minutes became easier and easier because everything I was going to talk about is in his biography and you've already heard. So please excuse me if I somewhat repeat.

Incidentally, my son came up to me and said, "Am I going to be your substitute?" And I said, "What do you mean?" He said, "Look at the name: Richard Suhrheinrich, Jr." Well, I'm not a junior. My son and I have different middle names. He's not a junior, so I don't know. Steve, where'd you get that? [Laughter.]

Well, with my limitations and trying not to repeat too much what everybody else has said, I got to thinking: what could I talk about? And strange as it may seem, the only thing I could think of was what Steve means to me and what I think of Steve. Steve, you've heard, is an intellect. I don't think there are many people that understand the Constitution as well as he does. As Justice Zahra said, he vetted most of the federal judges. You may be interested in the fact that I escaped that. I was not vetted by Steve Markman nor his committee. My political genius who ushered me through it got me beyond him. Otherwise, I probably wouldn't be a federal judge.

But I have read some of his writings. They're clear. They're concise. They make sense. They do what I keep trying to tell my law clerks, and that is kind of outline so that the reader can understand where you are and where you've been. That's all true. He lectures on the Constitution constantly. He has taught for 30 years at Hillsdale [College]. Most of us in this room at one time or the other have sworn to uphold and to defend the Constitution. But I daresay few of us have read it from the very first page to the very last page. But all of Justice Markman's students have in the 30 years because he reads to them on their first class the Constitution of the United States. The class is three hours long, one day a week, and frequently he lectures for three hours. Do you have any conception of the intellect that that takes?

Justice Markman has been called upon, in this country all the time, to lecture on the Constitution, and if he's not lecturing, he's called upon to debate various aspects of the Constitution. We're very lucky in Michigan. We had two great constitutional experts, Steve Markman and Joe Grano, and we should always remember that. So intellectually, one thing that Steve means to me is that.

The second thing he means to me is courage. Steve doesn't go in for fist fights or anything like that; he doesn't have that kind of courage. But he is going to the Ukraine to take care of their judiciary. He and two scholars or other judges from Europe meet to discuss this—what should happen with the judiciary. And I said—he's going back in a couple weeks—I said, "Are you going to the Ukraine this time?" And he said, "If that's where they want me, that's where I'll go." "But in truth," he said, "I'll probably be in Poland." Well, Poland is pretty dangerous, too. It looks like the Russians may have just launched missiles on their behalf.

But Steve Markman has a courage that many of us don't have. He has moral courage. One of his colleagues from the Ukraine called him up during the war and said, "Look, would you take care of my

wife and children until I can find something better for them?” And without a thought, he said, “Certainly, send them to my home.” And he took care of them. Or, I should say, his wife took care of them. She has the most moral courage of both of them. So when I think of Steve, I told you why I think of him intellectually. We still have lunch once or twice a month. When I think of Steve, I think of his courage.

And the third thing I think of is something, I thought, how can I express it so strongly? And I got to thinking about a movie, “Saint—Scent, rather, of a Woman,” with Al Pacino. And in it he dances the tango. Now I’m not going to say Steve Markman dances to tango. I doubt if he even knows what it is. [Laughter.] But in that movie, Al Pacino portrays a United States Marine colonel who is blind, and he finds a young man in a private school to be his eyes for his last big weekend. Now Marine colonel is really something.

Let me tell you a quick story—has nothing to do with what we’re talking about today. But when I was a U.S District Judge, I was a colleague of George La Plata. George had the most beautiful white hair I think I’ve ever seen. He had a portrait of himself in his chambers with his blue Marine uniform on, gold buttons, gold sword. Just beautiful, I mean, just beautiful. Well, Charlie Joiner comes in one day, who is former Dean at University of Michigan Law School and a colleague of both George and mine and says, “George, why do you have your staff call you Colonel instead of Judge?” And George says, “How many federal judges are there?” Charlie says, “I don’t know. Less than a thousand. About a thousand.” George says, “There are not a thousand Marine colonels.”

So that gives you some idea—that’s supposed to be a little humorous. [Laughter.] That gives you some idea of the magnitude of which this movie was based on. Al Pacino discovers that this young man is about to be kicked out of the private school that he recruited him for to be his eyes for that weekend. And the reason he’s about to be kicked out: something bad happened. He witnessed the rich kids—he, of course, was the poor kid there on a scholarship—doing the bad thing. But in the Colonel’s mind, he would not snitch or rat on his friends or his colleagues, so they had a big hearing—all the faculty was there, the benefactors were there, the students were there. And lo and behold, Al Pacino shows up to plead his case, and he brags about him, what he does, and he said, “You know, you’re about to throw a man away because he has one thing: he won’t snitch or rat on his friends.” “And man”—as he slams down his cane—he says, “That’s integrity.”

Now we move to Steve Markman. After his first reelection, we were having lunch, and he says, “You know, I’ve been approached, maybe, to be a federal judge. What do you think?” I said, “What’s to think? Other judges from this Court have done it; other judges have left.” I said, “You make more money. You got a lifetime appointment. You don’t have to run for election. What’s the problem?” He said, “Well, I got to think about it.”

And so he did, and we had lunch about two weeks later, and I said: “Well, you’re going to announce your retirement? Go on the federal bench with me?” And he said, “No.” I said: “What? Are you kidding me?” He said, “No.” He said: “I got to thinking, if I did that, I would be disappointing the people that spent money to get me elected. I would be disappointing the people that worked on my campaign. I would be disappointing the people that voted for me. I can’t do that.” And so, in the words of Al Pacino, “Man, that’s integrity.”

So Steve Markman means three things to me: intellect, courage, and integrity. When you look at all these pictures, you can name all of the judges. You know, you might say, Maura Corrigan—leader.

You might say, Cliff Taylor—philosopher. But when you look at Steve Markman, you see integrity. A man with courage, intellect, and integrity can do almost anything. I think the beginning of his work in Ukraine is just the beginning. We may not have seen everything. But I know one thing: I am so proud to have him as my friend. Thank you. [Applause.]

**Justice Zahra:** Thank you, Judge Suhrheinrich. Our next speaker has a very interesting background. He was a Michigan Supreme Court Chief Commissioner, which means he is incredibly smart and hardworking. As chief commissioner, you oversee the work of all the commissioners in the Supreme Court, and you attend the Court's conferences, prepare to answer any questions that may arise about any one of the cases from any member of the Court. Our current Chief Commissioner describes former Chief Commissioner Michael Murray as the gold standard for chief commissioners. This is due to his care and concern for the Court as an institution, his love for the law, and his sharp intellect. In 2004, Chief Commissioner Murray left the Commissioner's Office to become legal counsel for the Diocese of Lansing. In 2005, he was ordained a deacon in the Catholic Church, and in 2016, he was ordained a priest. He is currently the pastor at St. Martha's Parish in Okemos. It's my honor to present to you Father Michael Murray. Well, I'll clap for you. [Applause.]

**Father Michael Murray:** May it please the Court.

**Justice Zahra:** You can—come on this side.

**Father Murray:** We've heard almost a perfect summary of Justice Markman from Judge Zahra—Justice Zahra, Justice Bernstein, Judge Suhrheinrich. I'm going to go back to one moment, a long time ago, that I think is part of how we get there. It's November of 1999, Justice Brickley has grown ill, has resigned. His successor, Justice Markman, has been appointed. And so in the old auditorium of what is today the Williams Building and was then the Law Building and before that was the beautifully and poetically named Seven-Story Office Building [laughter]—we gather in the auditorium, and we have the investiture of Justice Markman. We have the swearing in by Justice Marilyn Kelly.

As on an occasion like this, people comment, say nice things, and in time, Justice Markman, as he will today, is offered the opportunity for rebuttal. He talked a little bit about—he began to talk about judicial philosophy, but he almost immediately explained that he wasn't going to talk about judicial philosophy as it is often understood—the things that we take and we lump into imprecise and often simply inaccurate, insufficient words, like liberal or conservative or textualist or living constitution. He wasn't going to talk about any of that. He's going to talk about judicial philosophy in the sense of how you do the job. And it was in how you do the job that he both revealed many of the personal characteristics that Justice Bernstein and Judge Suhrheinrich talked about, as well as eventually how this work plays itself out, something Justice Zahra talked about well.

He said he had five points—this is all in 461 Mich [Reports]. He said he had five points. The first few, I think, are really the key ones. The first one was: always remember that for every one of these cases, this is one of—perhaps the most consequential affair or endeavor of that person's life. This person is in litigation. They're probably not sleeping very well. They might not be eating very well. It's getting in the way of their family life. It's getting in the way of their work. That doesn't take in any particular outcome of the case, but it's what you need to remember as we do the work on the case.

And the second one he talked about a little bit, and he amplified it later on in days to come, when he spoke to some of the Court staff. He talked about how a judicial opinion—a good judicial opinion—

is often written, as he said, for the party losing the case. The party winning the case—it goes to the bottom line, reads the last sentence, and cheers. It isn't necessarily all that interested in how the Court got to where the winning litigant wanted them to go, but the loser needs to know that the Court really listened and understood.

His third point was about oral argument, and it was of the same ilk: talking about how, at an oral argument, one can test what may become the rationale of the winning side, giving the loser—the possible loser, the prospective loser, the way the case seems to be going internally at the Court—an opportunity to respond to whatever might be the rationale ultimately used against them. As he amplified his second point, though, I think he really got to what underlies what several of these speakers have spoken of, which is he talked about how a judicial opinion needs to deal honestly, forthrightly, respectfully with the losing party's strongest arguments.

Now, if a losing party's got 14 arguments, they don't all have to be addressed. But the losing party—their best arguments have to be honestly faced, honestly addressed, and honestly analyzed. You know, it's no secret we live in a society today in which it is often asserted that opposing points of view are utterly without merit. We have two differing approaches on how to solve a problem. Then it's not that we have two differing approaches on how to solve the problem—it's often pretended that the other side, well, they don't even want to solve the problem; they want to make the problem worse. No, they've got another approach to the problem.

It's interesting, you go a little farther along in my own life, and I get handed [Saint Thomas] Aquinas of Summa—his life's work. His life work was to go through fundamental Christian doctrines and begin with the very best arguments that he could find or muster himself as to why these things are not true. Did God create the world? Is this world a product of love? Smaller things. Are there angels? Are there not? Is there eternity? And so for every one of these questions for years and decades, Aquinas begins with the very best arguments he could find for why these things are not true. What's the best argument a skeptic can muster, and then Aquinas sets about to answer it.

What Justice Markman talked about that day about the importance of respectfully and honestly addressing the arguments that ultimately are not going to prevail, obviously it's what Aquinas was about. It's something we talk about all the time with the kids. I'm blessed to be at a school. We get middle-school kids in, we talk about current issues, and we make sure that's how we approach it. Baked into that, of course, is these personal characteristics of patience, of kindness, of humility.

In my current line of work, I hear confessions, and at the end of a confession, you give a penance. And we explain to the kids that penance is not punishment. Penance is the next good step in the right direction. So your [i.e., the audience] penance: if we take something from here, let's take our own commitment, when talking with someone with whom we disagree, that we really listen, and we really consider the possibility that they might be right and make sure that we are fairly addressing in our own minds and hearts the best arguments they've got for where they are. Thank you very much. [Applause.]

**Justice Zahra:** Thank you, Father Murray. Our next speaker is a Michigan Supreme Court appointee to the Michigan Attorney Discipline Board, where he currently serves as the Board's vice chair. He formerly served as the Grievance Administrator for the Michigan Attorney Grievance Commission. Prior to his service with the Commission, he was a professor of law at Western Michigan University Thomas M. Cooley Law School. He taught courses in criminal law, criminal procedure, evidence, and

white-collar crime. Prior to teaching, he worked for nearly 30 years in the United States Attorney's office in Detroit. In 1989, he was named chief of the Criminal Division, I believe, by then-United States Attorney Stephen Markman. It's my pleasure to introduce to you Alan Gershel. [Applause.]

**Alan Gershel:** Thank you. Turning your back on the Court—that's usually not a good thing to do. [Laughter.] Thank you. I have had the pleasure of knowing Justice Markman for over 30 years. He has been my boss, and he's been my friend. We began working together when he was appointed the U.S. Attorney for the Eastern District of Michigan in 1989. Shortly after he became the U.S. Attorney, he appointed me as the Chief of the Criminal Division. I appreciated and valued the trust that he placed in me.

In my almost 30 years I was in the U.S. Attorney's Office, I worked for many U.S. Attorneys. In my opinion, Justice Markman was one of the smartest, most dedicated, hardest working, and innovative individuals I've worked for. He displayed a passion for public service and a deep commitment to the citizens in the Eastern District of Michigan. It was apparent to all of us who worked in the office that he truly valued the work and the role we played in the administration of justice.

Many of the principles he said to me regarding our responsibilities as prosecutors were deeply held and have stayed with me all these years. Here are but a few examples—I think they're reflective of his character. First, one of the most important functions of government as enshrined in our Constitution is the protection and security of its citizens. And many of the programs that he initiated, both law enforcement and community-based, reflected this. Two, we are doing the public's business, and as a result, we have a duty and a responsibility to inform them of our work. This included not only our successes but also unfavorable decisions. He may be the only U.S. Attorney I worked for that issued press releases when we lost a case. He also said—and as a career prosecutor, this resonated with me my whole career—there was no greater responsibility as a prosecutor to try and take away someone's liberty. It must be done fairly, and it must be done with integrity.

He was a hands-on leader, and I mean that in a positive way. He wanted to know about cases, both criminal and civil. He would often participate in meetings related to the status of the case. Everyone in the room was encouraged to speak frankly and honestly. He encouraged debate. He would ask questions, often difficult ones, but all designed to be sure that the matter we were discussing had been fully aired and thought-out. He genuinely wanted our recommendations. No one ever felt, "I can't say that to the boss."

Very early on in his tenure, he recognized the importance of reaching out to the defense bar to get their perspective on the work of the office. He had me assemble a representative group of criminal-defense lawyers who practice in federal court. I recall the meeting. There was frank and honest discussion. Justice Markman asked many questions where there may not have been agreement on all issues. I believe everyone in that room who participated in that meeting felt that Justice Markman closely listened to their concerns and was genuinely interested in what they had to say. The meeting sparked review and revision of several existing office policies and practices.

Justice Markman often carried with him index cards—those of you from the office in those days remember, probably remember, this—with notes on these cases. When he came to see me with his cards, I first felt a little bit like the law student in the movie "Paper Chase," being called on by Professor Kingsfield. After once or twice, I have to admit, I was not prepared; it didn't happen again.

However, there's a significant difference between being an involved and engaged leader and being a micromanager. He was undoubtedly the former. He recognized that prosecutorial discretion executed under a framework of carefully thought-out policies was necessary both institutionally and for morale. I also remember Justice Markman telling me that every case is different and presents its own challenges and difficulties. The charging and resolution of a case cannot be solely dependent on a serendipity of an individual prosecutor. To allow this is not only unfair to the defendant, but it also breeds disrespect and mistrust for the system. There needs to be a standardization while allowing some flexibility in the exercise of prosecutorial discretion. A proper balance needed to be struck.

In this vein, under his leadership, there was the creation of a formal guilty-plea approval process as well as a wholesale revision of our prosecution guidelines. We also instituted a formal discovery policy with an emphasis on disclosure of information. There would be no trial by ambush. Our rule of thumb became that even if certain information was arguably not disclosable under caselaw, if it doesn't pass a smell test, we should release it. The criminal justice system is a fairer system when we share information and allow sunshine into the process. I carried that guidance the rest of my career.

There were many initiatives that we took during Justice Markman's leadership. He included a formal training program for law enforcement, especially for the newer agents, as well as the formalization of a pretrial diversion program for placing nonviolent defendants with no criminal history into a supervised program to give them a second chance without being saddled with a criminal conviction. Another significant program initiated during this time was the development of a robust community-outreach program. Many of the prosecutors in the office at that time were skeptical about taking on this nontraditional role. Eventually, they came to appreciate the important—this important function.

Justice Markman helped establish what was then known as the Downtown Executive Club, which consisted of business, political leaders, and law-enforcement officials who planned projects to improve the downtown area. In addition, a program called Weed and Seed was established; its purpose was to create a partnership with law enforcement and community groups and improve security through judicial—through youth education and crime prevention projects. Assistant U.S. Attorneys spoke to community groups and schools. Because of increased violence in the metropolitan area at that time, the prosecution of gun crimes became a top priority, as well as drug gangs. With respect to drug gangs, Justice Markman recognized that success in this area would be enhanced by partnering with our local officials. So, at that time, we engaged in a lot of cooperation with state and local prosecutors and law enforcement personnel.

Under Justice Markman's leadership, the office was in the forefront of the prosecution of doctors and pharmacists who illegally distributed controlled substances, such as pain medication. This was long before this became the nationwide problem it is today. During his tenure, several significant criminal cases were initiated, including a public corruption probe involving several judges who were accepting bribes in disposing cases. There was also the investigation and prosecution of the top tier of the Detroit Police Department for embezzling millions of dollars, resulting in the convictions of the police chief and others.

One day, Justice Markman came to my office and said he wanted to try a criminal case. My initial reaction was admittedly skeptical. I thought, "How are you going to find the time to do this given the demands of the job?" He told me this was important to him. This wasn't a bad impression of staff; rather, he genuinely wanted to experience what it was like to try a case and experience what the staff had to do on a daily basis. As a result, Justice Markman became one of the lead prosecutors in a case

involving a notorious and violent drug gang. As I look back, Justice Markman may have been the only U.S. Attorney to actually try a case.

Our professional paths crossed again when I was the Grievance Administrator and he became the Chief Justice. I always appreciated his support and an open-door policy where I could speak frankly on matters involving attorney discipline in our state. For that matter, I had the same experience with Chief Justice Young and Chief Justice McCormack. All were genuinely interested in the work of the Attorney Grievance Commission and always asking what I needed. I thank you all for that.

In closing, thank you, Justice Markman, for the trust you placed in me and for your friendship. I wish you the best of success and good health as you enter the next journey in your life. May it be satisfying and rewarding. You have earned it. Knowing you as I think I do, I believe something Justice Sandra Day O'Connor said after she retired is apropos. She said, "I need to retire from retirement." I suspect that will likely be you. Congratulations. [Applause.]

**Justice Zahra:** Thank you, Mr. Gershel. Next, we will hear from Cheryl Nowak, Chief Justice Markman's longtime senior clerk. Cheryl graduated from MSU's College of Law in 2000, and her first and, up until Steve's retirement, only job was law clerk to Justice Steve Markman. In 2021, Cheryl joined our Supreme Court Commissioner's Office, where she has served the Court admirably. Now, long before I joined the Court, it was rumored that Steve Markman was a demanding employer. [Laughter.] Some might even say he was a difficult employer. How Cheryl not only survived but thrived in this working environment is a mystery to many of us in the Court system. Perhaps Cheryl will confirm some of these rumors and tell us all about it tonight. [Laughter.] I know you didn't want any jokes, Steve. I had just one. But in all seriousness, the bond between the law clerk and the judge is a strong one, one that lasts well past the period of the clerkship. Cheryl will speak on behalf of the many clerks who were fortunate enough to have clerked under Chief Justice Markman's tutelage. Cheryl, please take the podium. [Applause.]

**Cheryl Nowak:** Thank you, Justice Zahra. Yes, it is so good to see so many of Justice Markman's former clerks here tonight. It's very nice to see them. Good afternoon. My name is Cheryl Nowak, and I had the honor of working for Justice Markman for 20 years, first as his law clerk and then his senior law clerk. I'm very thankful that he gave me that opportunity.

My husband and I are both from up north, and when I was a third-year law student, I had a job lined up at a small law firm in Traverse City. I was going to have a view of the bay. But before that happened, I received a phone call from Justice Markman asking me if I wanted to come in for an interview. I did, and he miraculously offered me a job. My husband and I talked it over and decided that I could not turn down such an amazing opportunity. Everybody that I talked to about Justice Markman told me that he was a brilliant Justice.

So my husband and I decided that we would stay in Lansing for one more year and then move to Traverse City. But that one year turned into 20 years—and before we knew it 20 years. But I do not regret it at all. I was so fortunate to have Justice Markman as my mentor right out of law school. Everybody that I had talked to was right. Justice Markman is truly a brilliant man. I have learned so much from him over the years. When I first started working for him, I was in such awe of him, and I could not understand why in the world he would possibly be interested in my thoughts on cases. It was one of those "pinch me, because this cannot be real" moments in my life. But fortunately, it was very real.

Although I worked for him for 20 years, I never stopped learning from him. And it wasn't just legal knowledge that I learned from Justice Markman; I also learned the importance of being a good public servant. Justice Markman would frequently remind us that the people of the state of Michigan were counting on us to carry out the rule of law.

If I had to describe Justice Markman with just one word, it would, without a doubt, be dedicated. I have never met somebody more dedicated to both the rule of law and the people of this great state of Michigan than Justice Markman. One thing I can say with certainty is that the taxpayers of this state got way more than their money's worth from Justice Markman. He eats, sleeps, and breathes the law. I hope that, in his retirement, he is taking a bit of a break, but I have my doubts. [Laughter.]

Law is his passion. Every morning Justice Markman would come into the office ready to talk law because he had been thinking about something all night and he had new thoughts to share and discuss. I don't think that the man sleeps. Many times, I would get e-mails from him in the middle of the night about work. Luckily, he did not expect me to respond in the middle of the night, but first thing in the morning it was "go time." This man's mind went a mile a minute, and it was often hard to keep up with him, especially if I hadn't had my coffee yet, which was often the case.

He always talked about how every case was important because every case was important to the parties involved. And he desperately wanted to get every single case right. He would spend hours upon hours upon hours thinking about the cases before the Court. He is a bit of a perfectionist. When writing opinions, he would strain over every word to ensure that he was using just the right word for the situation. I remember one time when we were trying to decide whether to use one of two different words—I don't remember exactly what two words we were going back and forth between—but I do remember thinking to myself, "Don't these two words mean exactly the same thing?" [Laughter.] He must have read my mind because he pulled down his Oxford Dictionary from his shelf, and he explained to me that the two words did indeed have subtle differences. So another lesson that I learned from Justice Markman is that words matter.

If I was given another word to describe Justice Markman, it would be integrity. I swear we did not coordinate speeches. [Laughter.] I'm cheating—kind of cheating—by choosing the word integrity because it encompasses many words that describe Justice Markman, such as trustworthy, dependable, and loyal. Like Jim Carrey in "Liar Liar," I don't think that Justice Markman is capable of telling a lie. And when he says that he's going to do something, you better believe that he's going to do it.

Justice Markman was always very helpful to clerks looking for jobs. He would not just write a letter of recommendation and call it good; he would talk to them about what they wanted to do, and he would pick up the phone, and he would make calls for them. I know that many doors were opened for clerks by him doing just that for them. I also know that Justice Markman is a big reason why I am fortunate enough to still be working for the Court now in the role of a commissioner, and I am very grateful to him for that. I can't say that Justice Markman was the best boss ever, though, because my current boss is in the room. [Laughter.]

I must, at this time, give a shout-out to Keri Perkins, who was Justice Markman's judicial assistant almost the whole time that he was a Justice. She was a rock for all of us in Justice Markman's office. If it wasn't for her, none of us would have known what we were doing. Thank you, Keri.

Finally, I must mention Justice Markman's love of children. My kids are 19 and 16 now, and they still talk about coming to work with me when they were younger and had days off from school. Justice Markman brought a huge box of toys into the office for my kids to play with on such occasions, and he would actually get right down on the floor to play with them. He would also let them play with other things in his office, including fragile objects, which also always made me nervous. [Laughter.] And he enjoyed racing down—racing them down the hallways of this very building.

It should come as no surprise, then, that his favorite event of all the events that he participated in as a Justice was Adoption Day. He always said that it was the most joyous occasion to take place in the courtroom. I think that his favorite pictures he had up on his walls in his office in the Hall of Justice were pictures from different Adoption Day events across the state. He would always proudly show these pictures to his guests.

And I know that he is now enjoying spending time with his own grandchildren. He even brought one of his grandsons to my son's open house this summer, and my daughter and him played cornhole together. I hope that Justice Markman knows how much I truly appreciate everything that he has done for me over the years. Words cannot express how grateful I am that I had the opportunity to learn so much from him and how proud I will always be to say that I clerked for the Honorable Stephen J. Markman. Thank you. [Applause.]

**Justice Zahra:** Thank you, Cheryl. Next, we will hear from John Engstrom. John started his career off as law clerk to the Honorable Ralph Guy of the United States Court of Appeals for the Sixth Circuit. He then practiced law at Dickinson Wright before joining the United States Attorney's Office, where he served under then-United States Attorney Stephen Markman from 1989 to 1992. John continued to serve in the United States Attorney's Office until 2010, when he became Resident Legal Adviser to the United States Embassy in Ukraine. From 2013 to present, John has served as Resident Legal Advisor to the United States Embassy in Turkey. Mr. Engstrom, the floor is yours. [Applause.]

**John Engstrom:** May it please the Court. Well, this has been a very inspiring evening, and I appreciate what everyone else has said. They've stolen some of my thunder, but I do have a few unique things to tell you about Steve Markman. I think I'm going to focus on the fact that back in the 1990s when I was in the U.S. Attorney's Office and Steve was the U.S. Attorney, he had his hands full. He was learning how to be the U.S. Attorney. He was learning about all our different cases. As Alan mentioned, he really didn't know about our cases, and he asked us questions about them.

But his intellectual curiosity was such that he was persuaded by the Department of Justice to go twice to Ukraine in the early 1990s to work with the Ukrainian government on drafting a constitution. And you can all go home and Google the Ukrainian Constitution and see whether they followed any of Steve's ideas. I can tell you it's about 50 pages long, so I'm not sure that they really understood Steve at that time, but that's his service. He went there. He was curious. And he came back.

And when he came back, I remember, particularly, he set up a Monday lunch—a brown [bag] lunch event in the U.S. Attorney's Office, and he invited all the prosecutors to come to that. And he sat down, and he told us stories about a post-Soviet Ukraine. And I can honestly say, in 1991 or '92, I could not have pointed to Ukraine on a map. I didn't really even understand what the relationship between Ukraine and Russia was. It meant nothing to me at that time.

But the one thing I remember Steve telling us at that meeting that stuck with me is that we should no longer call Ukraine “the Ukraine.” Get rid of that definite article, because we would never call Belgium “the Belgium.” We would never call France “the France.” Ukraine is now an independent country, and it deserves its name: “Ukraine.” And that’s a lesson that was very important to Ukrainians, and I think a lot of Americans are still struggling, especially if they’re of our generation. It’s easy to go back to the habit of calling it “the Ukraine.” But Steve quickly ended that, and it stuck with me ever since.

And I have to say to Father Murray, I remember Steve’s investiture here in the Court, and, in fact, right after that, I sent Steve an e-mail and asked him if he would send me a copy of the speech that he gave because it meant so much to me. It was very inspirational. And that’s another memory from back in the days.

Well, after Steve had gone to Ukraine and he served as U.S. Attorney, I continued as a prosecutor in Detroit and had the opportunity in 2010 to move to Ukraine and to work as a Resident Legal Advisor on behalf of the Department of Justice in our embassy there. And generally, what I did was to work with their criminal justice system—whether it was the judges, the prosecutors, detectives, even defense attorneys—to try to strengthen their criminal justice system. And what was supposed to be a three-year relationship with Ukraine is now a 13-year relationship with Ukraine. I moved back there in 2019 to again work directly with people there.

And in 2020, it was a perfect opportunity. Steve was retiring from the bench, and I called him up, and I said, “Would you be interested in doing some work in Ukraine again?” Because I knew he always had a curiosity about Ukraine. And he was. So, I first set him up with virtual meetings with some of the judges in the High Anti-Corruption Court. And I remember we talked about writing a good judicial opinion and the importance of writing for the loser, which goes back to that investiture speech. And Steve’s relation—ability to relate to the judges in Ukraine was clear, even in a virtual meeting.

And I—after that, the United States and Europe and other donors—donors to the country—decided that Ukraine really needed to do much, much more to reform its judiciary. Sadly, Ukraine’s judiciary is and always has been fairly corrupt and not very well-trained either. And so there’s a program that was set up where there’s something called the High Courts—or High Qualifications Commissions of Judges, and this is a group of judges that will select the judges that will fill vacancies on—in the Ukrainian judiciary. Well, if you look at the judiciary as a clan, that group has traditionally selected the worst judges to be judges because it protects them, and everyone continues on.

And so the program, now, was to bring in three international experts that would be able to sit with three Ukrainian judges on a panel, and they would vet all the candidates that will be on that—that commission. And if that works, it has the opportunity to really transform the court because right now the court has 2,047 vacancies. It should be at about 5,000 judges; it now has 2,000 vacancies. So, this commission is going to have the opportunity to almost fill half of the court right away.

And Steve’s job is to vet all the candidates, and with three votes from international experts, any candidate can be removed from the pile. And so the job that Steve has is a very, very important job in Ukraine. And I know when I talked to my colleagues in the U.S. government—in the U.S. embassy—and said, “Steve Markman would be a good person for this position,” they’d never heard of him. He wasn’t someone that did a lot of international programs with the Department of Justice and—but I convinced them that I know Steve, and I know that he is going to take this very, very

seriously. He will not be going to Ukraine and drinking vodka and enjoying the high life that many diplomats do. He'll be there working in his hotel room late in the evening.

And so he came, and I remember last year at this exact time, he came to my house—my apartment in Ukraine—and we had a Thanksgiving dinner that was one of the most wonderful dinners, and it was made particularly wonderful because Justice Markman was there. And he had these Ukrainian officials there at the table, and he asked so many probing questions. And they loved him, and he loved them. And it's a relationship that's continuing as of today.

As Father [Murray] mentioned, Steve even took some—a Ukrainian family into his own home and opened the door for them in a time of crisis. So, in conclusion, as you can see, Justice Markman's commitment to the rule of law did not end with his retirement from the bench. I'm not a Ukrainian. I don't speak Ukrainian very well, and I certainly can't speak for the Ukrainian people, but I can assure you there are many Ukrainians right now that are very grateful for the fact that Steve Markman is working in their country to try to assist them in reforming as they assert their sovereignty and look to the West for assistance. So, I thank you, Steve, for all you're doing for Ukraine, all you've done for my career over 30 years. I'm grateful, and I look forward to seeing your portrait. [Applause.]

**Justice Zahra:** Thank you, John. I will now call upon retired Chief Justice Clifford Taylor to introduce our next speaker. Chief Justice Taylor served in the Michigan judiciary for 17 years, 12 years on the Supreme Court. In four of those years, he served as the Court's Chief Justice. After leaving the bench, Chief Justice Taylor joined the Miller Canfield law firm. Currently, Cliff is fully retired and enjoying his grandchildren. Notwithstanding his distinguished legal career, it is widely known that Chief Justice Taylor possesses just the second-best legal mind in his household, behind that of his spouse, Lucille. [Laughter.] Chief Justice Taylor, please take the podium. [Applause.]

**Justice Clifford Taylor:** Thank you, Brian. I appreciate that. I am just recently turned 80, and it seems to me most of my adult life has been spent being the warm-up act for John Engler. [Laughter.] I've—because of that, you're going to have an interest in warm-up acts as a general matter, and I've learned that in the old world of vaudeville and burlesque that they used to always have an opera singer or someone equally boring who would perform before the stripper, and that's sort of the way I see my role today. [Laughter.]

John Engler and I have been friends for a long, long time. [Continued laughter.] Yeah, you're in for a treat. But, in any event, John has had probably the most interesting career of anybody in public life that was a contemporary of mine. He wrote a thesis in his senior year at—in college about how to run for the Legislature and proceeded to put it into effect and went back to Beal City, his home, ran for the Legislature, and won. Came to Lansing and served in the House for eight years, during which time he was a stickler for the rules and was able to get a lot of things done that he thought were important, and other Republicans did, because of his knowledge of the workings of the body.

In '78, he ran for the Senate and was successful. And then in the mid-80s, [he] was involved in an effort to create recalls for several Democrat legislators in the Senate, which were successful, which culminated in John becoming the Senate Majority Leader. And in that position—there was then a Democrat Governor, James Blanchard—and in that position, he was involved in affecting a number of compromises in very contested areas of Michigan law, such as workers' compensation and governmental immunity. I think it was dismaying to John when those compromises many times would be compromised by the judiciary itself.

And I think from my many conversations with him about this that he concluded that there's a great divide in this country and particularly in Michigan on how powerful judges should be in the making of public policy. Should the judiciary be muscular in remolding statutes that seem to them poorly drawn or conceived, or should they be deferential to the legislative product? Such deference means, of course, no remolding. There are and have been judges of both stripes in our state, and the appointing governor in making his selection inevitably chooses from one camp or the other, even if he doesn't know that's quite what is happening.

Governor Engler fully understood this and chose judges, including Steve Markman, who would be deferential to the legislative work. He saw this as consistent with the theory of our government that the people, via the Legislature, make the rules or laws that they live under, and the deconstruction or augmentation of those laws is beyond the judiciary's authority. It is this theme that ran through his Supreme Court appointments. It accounts, I think, for my appointment, for Maura Corrigan's appointment, for Bob Young's appointment, and, of course, the final of the four, Steve Markman.

His appointments have been, I think, true to this notion of his that that was what a judge was supposed to do. This was a controversial view; in fact, it still is today. I think recently you can see this controversy where it's had in the discussions concerning *Roe versus Wade*. Steve Markman was such a judge, and his arrival on the Michigan Supreme Court gave us the fourth vote to do this kind of jurisprudence that Governor Engler thought was important, and we did, too. Here to discuss his thoughts on this and Justice Markman is my friend, John Engler. [Applause.]

**Governor John Engler:** It is a delight to be able to join you remotely from New Hampshire. No, I'm not promising a presidential campaign. [Laughter.] [Indiscernible @1:12:20.] I think that Stephen, when he talked to me about it, and nicely invited me to participate, I said, "Well, I can't do it unless we can figure out a way to do it remotely." And Steve, thank you, and thank you to the staff of the Court for being so accommodating so that I can join all of you remotely tonight and be part of this because this is an important ceremony. It's the culmination of—at least the public-recognition phase officially—of Justice Steve Markman's tenure on the Court.

I'm reminded and appreciative of Cliff's generous—very generous introduction. It was Grantland Rice who wrote about the Four Horsemen at Notre Dame. In one sense, they represented, I think it was a famine, pestilence, you know, destruction, and, yeah, that's sort of what the progressives in Michigan thought when we had a Supreme Court of Cliff Taylor, Bob Young, Maura Corrigan, and Steve Markman. But the core virtues that I think of that Court would be courage, integrity, wisdom, and intellect.

This was a Court that I was personally very proud of, and it was a delight to see that after several years, this Court—this Supreme Court finally was recognized as the finest Supreme Court in the country. And it truly was a rule-of-law court, and Steve Markman was the fourth appointment. His appointment, the opportunity, arose in 1999, and, you know, Steve—a lot of things have been said about Steve. I've had the chance to listen now for a bit of time to Father Murray, to Cheryl's comments, to Alan's comments, and John Engstrom's comments, and they touch on the ethics of Steve's legal career, his extra-legal activities outside the—extra-legal in the sense of [indiscernible @1:14:37] judicial, not illegal. But that—[indiscernible @1:14:40] [laughter]—that word can be gray.

And then I also know something else about Steve, he was a—and this problem was mentioned maybe at some point, maybe Dick Suhrheinrich said this. But we could see this professor of constitutional law down at Hillsdale now. I think Steve taught 30 years [indiscernible @1:14:59] started in the early '90s down there. So, he's impacted a lot of students. In a few moments, I actually got a comment from one of the students I happened to find, but I wanted to talk about Steve, and I'll be brief.

I know this is probably overtime for everyone with a nice unveiling to happen yet and then a reception, but one of the things that Steve has always been [is] a scholar. I mean he's been someone who has paid attention, not just to the law, teaching about the law, and reverence to the Constitution, whether that's the U.S. Constitution or Michigan's Constitution. In the *Imprimis*, [indiscernible @1:15:44] the Hillsdale [indiscernible @1:15:47] in 2010, I found an article where Steve had written about the coming constitutional debate. And he was citing in his article a work that he had done when he was in the Reagan Justice Department as the Assistant Attorney General, writing a paper for [former U.S. Attorney General] Ed Meese, and Steve's rather impressive recall, he come to cite the paper, you know, verbatim just sitting there for others [indiscernible @ 1:16:15] Constitution in the year 2000, the choices ahead.

In this paper, he was worried about where we're going to be in 20 years. This was 1980 to 2000, but he also was suggesting that we might be wondering, if looking ahead, what that Constitution would be like in year 2030. Well, we're only eight years away, so I don't know, Steve, if some of the hopes and some of the fears—probably some of both—have been realized by now.

But in there, Steve was—themes that were to be part of his judicial career for sure. He worried that the division, really, of the democratic representative process was going to be under assault by activist judges. He said this: “The system of the judicial government in which substance follows the outcomes are increasingly determined by the federal government.” So, he had that awareness of where we were headed, and he went into greater detail, obviously, in the article—made out some very solid arguments. They were arguments that certainly appealed to me, and I've always felt that each of the three branches—and I've had the privilege of serving in two of them and being leaders in two of the three branches—that each branch should exercise its powers appropriately and fully under the Constitution. But I never felt in the judicial branch that there was anything that appointed them as the Legislature. That was the legislative branch, and we were the folks, when I was there, that would pass the laws.

So, anyway, Steve, on the Court, was a Justice of great integrity and certainly a law-and-order Justice, as has been mentioned. Somebody who followed the law, applied it fairly—intellect, you know, off the charts. He's also, you know, quite a vote-getter, really. I'm pretty proud that I won three statewide elections, but so did Steve. He won three statewide elections. He, in 2000, [won] for the first time and then for full eight-year terms in 2004 and 2012. So, you look at Steve, you don't see a guy who's out there as a vote magnet necessarily. He's not someone you look at and say, this guy is a [indiscernible @1:18:46], yep, there he was unbeaten in three statewide elections and would have, had the constitutional age limit gotten him—not gotten him—he would still be serving on the bench, and we'd have to delay this portrait unveiling for some period of time.

I knew, though, you know, I said I had something for a student—I found something about a student. You know, Steve is a—he is a good communicator, but it was mentioned, I think, by Justice Zahra—and congratulations, Justice Zahra on your reelection, and I'm not sure who's on the Court, Justice Bernstein, congratulations if you're sitting up there, of course, on your reelection, and I don't know if

the Chief Justice is there, but, certainly, congratulations on your new role, helping America solve problems through arbitration rather than the legal system.

But this is what a student said about Steve at Hillsdale. Steve, if you've seen this before, but they were asked to rate Professor Markman, and there were other grades I didn't cite, but this one I thought was pretty good. A student said this: "Probably the most harrowing course I've ever taken or ever will take. [Laughter.] A former Michigan Supreme Court Justice, Markman is the strictest professor I've ever had, to the point of unreasonability at times." [Laughter.] People who work with Steve know that that is a possibility. [Laughter.] "That said, the course was phenomenally enlightening, and his lectures are gold mines on constitutional law. He's a genius and worth the trouble." [Laughter.] [Indiscernible @1:20:26.]

I certainly thought that, you know, Steve is a genius, and he was worth the trouble. He did a great job on the Michigan Supreme Court, and he has given back to the state and to the nation with his service in many, many other ways. And, Steve, for me to be able to be here just for a little bit remotely and to say congratulations on your extraordinary tenure as a Justice of the Michigan Supreme Court. You've written opinions, and you've—frankly, you and your colleagues had the courage, in time, to reverse decisions that had gotten it wrong in the past and—and do so with the [indiscernible @1:21:08] that was compelling of reasoning. Now that it's in the records of the Court, it is the controlling view, and I suspect and hope that it will remain so for a very long time because you and your colleagues certainly made a lot of sense on the criminal law in Michigan and in, you know, a whole lot of other areas when we get over to the civil side as well.

So, this portrait that will hang there will represent a Justice who served with great skill and great intelligence and made tremendous, impressive contributions to the legal history of this state. And I'm just very proud that I can be part of this tonight. So, Steve, thanks for letting me come in remotely. Congratulations to you, Kathy, and the family and to all of your friends that are there tonight to celebrate. So, I salute you. Thank you [indiscernible @ 1:22:05]. [Applause.] Now signing off.

**Justice Zahra:** Okay, well, thank you, Governor Engler. My son is a student at Hillsdale College, and he took Justice Markman's class last year. Steve, that was Kevin's review. [Laughter.] And he thought he was doing it anonymously. [Laughter.]

We're nearing the moment we've all been waiting for. Next, it's my pleasure to introduce to you Sam Knecht, the artist who created the portrait we are about to unveil. Sam is a retired professor of art who has taught at Kendall College of Art and Design, the University of Michigan School of Art, and Hillsdale College, where he chaired the Art Department from 1978 to 2013. Commissioned portraits by Professor Knecht are found in prominent public collections, including the Allan P. Kirby, Jr. Center for Constitutional Studies and Citizenship in Washington D.C., the United States District Court for the Northwestern District of Ohio in Toledo, Michigan State University in nearby East Lansing, and the Thomas M. Cooley School of Law right here in Lansing.

This is the second of at least three portraits Professor Knecht will have displayed here in the Hall of Justice. He also painted the portrait of Chief Justice Thomas Giles Kavanagh, currently on display in Justice Viviano's office, and he is undertaking the difficult task of creating my portrait, and I thank you for that. Professor Knecht, please come forward and share your thoughts prior to the unveiling. [Applause.]

**Samuel Knecht:** May it please the Court. I'll keep this mercifully brief. I couldn't add anything more to what the distinguished colleagues of Justice Markman have already explained in brilliant fashion. I'll offer just a couple of personal insights in working with Justice Markman on this project. It became [clear] early on in our discussions, some years ago, that he was someone who wanted to avoid frills, embellishments in art, and I felt like, okay, I think if you want just a factual approach, I think I'm your man. He seemed to agree. He likes the Kavanagh portrait, which is frankly now hanging in the vestibule of the Court. So, I felt like, okay, I can be the Sergeant Joe Friday of portrait painting; you know, just the facts.

Anyway—but a couple of insights. He permitted me to bring my sketchbook into Court sessions, sit over there out of the way, and sketch while my subject was in his habitat and, you know, ideas were turning and turning. But as our discussions elsewhere went forward, I could see that he didn't want anything gussied up in this portrait. Just keep it simple, straightforward. So, I thought that was—that was very useful for me because in the—in the world of commissioned portraiture, there's always at least two people making the portrait: the subject and the artist. It's a collaboration.

In meeting Steve in this building from time to time, I was struck in his office that he kept a board on the wall with postcards representing probably every county courthouse around the state of Michigan. And being a visual guy, I liked that. It told me something about his regard for the whole food chain, the network of law in Michigan, and as reminders of his place within that. Elsewhere, a few years apart, he conducted me on tours of the building so that we could together look at the other judicial portraits, and he was very kindly interested in my opinion of them. And, of course, I had no knowledge of judicial record in those individuals represented. But I could talk to him about style and, you know, here's somebody who was just getting a little too frilly with their brush work, you know.

And it seems to me that, in a portrait like this, the goal is twofold: you represent the person, and you symbolize the office. Now, representing the person is a matter of being realistic, attentive to color, shape, texture, detail, anatomy, of course, and so on. But what about character? The unseen things that don't immediately come to the eye. I felt privileged to be an observer in Court sessions, and in our e-mail correspondence, in meetings at Hillsdale, dinner in our home, and so, little by little, I could see that this, indeed, was a man of character. And, you know, with time going on, and certainly culminating in this occasion, I could see that my admiration continued to increase. It already started out at a very high level, and it just went up from there.

So anyway, we'll dispense with those remarks now, and I'm told that Steve would like his grandchildren to help me pull the veil off the portrait. [Moving toward the portrait with Justice Markman's four grandchildren.] Okay, let's find out who you are. Who are you? [Young boy: Jack.] Jack. And you are? [Young girl: Lily.] Lily? [Lily: Yeah.] Great. And you are? [Young girl: Genevieve.] [Young boy: I'm Ben.] Okay, great. Well, you guys, you're going to step over here very carefully. Watch out for these lights. Step over there. Girls in the middle. Now, very carefully, we're going to grab the hem here. Reach up. Each of you come close and grab the hem, and when I say "pull," you pull, okay? Okay, ready? One, two, three, pull. [Portrait unveils. Applause.]

**Justice Zahra:** Now for rebuttal, we have retired Chief Justice Stephen Markman. [Applause.]

**Justice Markman:** Well, I will not have a rebuttal or a refutation, but I also will not affirm anything that's been said today, too. [Laughter.] I'm very honored by everything that's been said today.

Let me tell you one story. I know that John Engstrom has heard this story. I hope he'll allow me to repeat it. This is a story from my first day on the job with the United States Senate Judiciary Committee about 45 years ago. I had been given a position as the Minority Counsel for the Senate Judiciary Committee, and I was there during my first week, and there was a conference of the entire committee—all the senators on that committee—and it was a very hot day in the middle of the summer.

And the chairman of the committee was a very senior senator from Mississippi by the name of Jim Eastland. He must have been about 85 or 90 years old at this point. And he'd been chairman of the committee for many years, and I think he vaguely recognized me. He knew that I had been hired on the staff of the Judiciary Committee. He didn't know me well, but he knew I was from Michigan.

And in the middle of the meeting—it was kind of a sweltering day—he called me over to his side. This was the first time that I had really spoken to him directly. And he said, “Feel hot.” I said: “Yes, sir. It is kind of hot. It's, you know, a hot summer day. Can I turn the air conditioner up? Can I do something to make it more comfortable for you?” And he grimaced at me and waved me away and told me to sit down. And I couldn't quite figure out why that response.

But a few minutes later, he called me back to him a second time. I went over there, this time a little more apprehensively. And he said, “Feel hot.” I said, “Yes, sir. It's very, very hot in here, and I'd like to do anything I can to be helpful. Should I turn the temperature down? Should I turn the air conditioner up?” And again, he grimaced at me, this time a little more ferociously, and waved me back to my chair.

And at this point, the Majority Counsel—I was the Minority Counsel, the Republican Counsel—the Majority Democratic Counsel came up to me. He said, “Boy, you need to learn English.” I said, “Well, what do you mean by that?” He said, “He wants to know whether Michigan Senator Phil Hart is here.” [Laughter.] Senator Phil Hart—Senator Feel Hot. And I made it through that, but it was a very close call. And I was very appreciative that I remained on the Senate Judiciary Committee for some time after that.

This is obviously a very remarkable occasion, and I appreciate everything that's been said today. But let me offer a few comments on—a few miscellaneous comments. As I look upon the bench behind me, I do recall with great pride that I am the possessor of a judicial record of the Michigan Supreme Court that will not soon be broken. I will be recognized for quite a long time, I predict, in the Guinness Book of Michigan Supreme Court Records.

My historic achievement is that I served as the junior Justice of this Court for longer than any other person in the 187 years of this Court. I served for more than 10 years as the junior Justice of this Court. In other words, I was the senior Junior Justice ever, and I'm proud of this. That meant that I was always walking into this courtroom last among the Justices. Always having my name at the very bottom of all orders and opinions. Having always to pour the coffee for the more senior members. [Laughter.]

But most and worst of all, it meant that I was the first in our conferences to have to cast my vote. I couldn't look at what anyone else had done. I couldn't say ditto. I actually had to come up with some—some rational statement as to why I would do this in the case or do that in the case. And it

was a very tense kind of situation. But these were my burdens, and I believe I weathered them well for more than a decade.

Let me also congratulate my friends and colleagues who were kind enough to speak for me on the Court, Justice Zahra and Justice Bernstein. I know, of course, what has weighed most heavily upon them for much of the past year during a lengthy reelection campaign was the exceedingly gloomy prospect that they might be unable to participate in today's event [laughter] if they did not prevail. It is inspiring for me to know that such a concern motivated both Justice Zahra [laughter] and Justice Bernstein during their more difficult—their most difficult moments on the campaign trail. And I appreciate your gratitude for that.

And let me also thank the Court, if I might, for what they presented to me earlier this year at a Community Connections program that we held at Hillsdale College. The Court—the Justices of the Court presented me with four bound volumes of my 175 authored opinions. They presented me with that, and it was a wonderful, wonderful occasion for me. I'm grateful and appreciative for what they did, and I do encourage the Court to consider doing that for all future departing Justices.

Why do I say that? I say that for truly I have found that there is nothing that can sustain and console a retired Justice like myself more than to relax in front of a fire with a wine and to sit and read those books and to admire my own words [laughter] and to chuckle at my humorous phrases [laughter], to recall my clever retorts to my dissenting colleagues [laughter], and most of all to immerse myself in the best of my footnotes. [Laughter.] It's been a wonderful summer reading those cases, and I thank the Court for that honor.

And I would also like to extend to my former colleague Chief Justice McCormack all best wishes upon her imminent retirement from the Court. She has been a diligent and thoughtful Justice and Chief Justice, and I wish her success and fulfillment in what comes next for her and her family.

Let me also, of course, take this moment to offer thanks and appreciation to many. I thank the Justices for their sponsorship and participation in this event, as well as nine other Justices with whom I've had the honor to serve on this Court. I thank my law clerks for their conscientious efforts in making my opinions appear coherent, and I am very proud of all that they have subsequently done in the practice of law after they've left my office. And I thank, in particular, my senior law clerk, Cheryl Nowak, and my judicial assistant, Keri Perkins, for their 20 years of service on behalf of the people of Michigan.

I thank my friends who have spoken so kindly of me on my behalf this afternoon. I thank Justice Zahra for presiding today on what will soon be the beginning of his 30th year of dedicated judicial service on every level of the Michigan Supreme Court, the trial court, the Court of Appeals, and now, of course, for many years on the Michigan Supreme Court. I thank Governor Engler, who was in the ether here a few minutes ago. I thank Governor John Engler and his longtime counsel, Lucille Taylor, who afforded me this opportunity to serve on the Court.

I, of course, thank all of you in this courtroom and in this courthouse today who've adjusted and accommodated your schedules to join me on this occasion. I thank all those who serve in this wonderful Hall of Justice and all who serve on the judiciary of this state whose job it is every day to uphold the equal rule of law.

I thank Professor Knecht, whose portrait overcomes all the many limitations of the portraitee. [Laughter.] I thank Lynn Seaks for all that she has done in coordinating this event despite a full-time [position] at the very highest levels of the McLaren Hospital. I thank my friends and colleagues at Hillsdale College.

I thank my family for their support and my grandchildren, in particular, for the remarkable agility they demonstrated in unveiling this portrait while nonetheless appreciating their befuddlement at this entire event. [Laughter.]

And, of course, very much I sincerely thank the people of Michigan who have allowed me to serve on their judiciary and most recently on the highest Court of their state over the course of five statewide reelections until I reached an age at which the Michigan Constitution viewed me as irrebuttably incapable [laughter] of demonstrating that I could serve any more on this body.

I'd like to conclude very briefly on this ceremonial last day to recall the commitments that I made 23 years [ago] at my investiture on my ceremonial first day. Several individuals have mentioned that, and I'm very honored that they took the time to look to some of the commitments I made on that first day. And I think such an accounting is worthwhile for a judge or any elected official to undertake, for those kinds of commitments and promises that a public officer make[s] define the terms of his or her public service, and they give definition and meaning and substance to his or her oath of office.

So, I did take a look at the commitments that I had made 23 years ago. I really did mean them. I've tried to live up to those. I've had 50,000 cases that have come before me on this Court, and in one manner or another, I have tried always to recollect the commitments that I made to the people of Michigan that I would do in these cases some of the things being mentioned today. I would write for the losing parties. I would do so because, of course, the prevailing parties will look to see the affirmed or the reversed as the last word of the opinion, and that will be sufficient for them. It's the people who've lost the case who need to be reinforced in the idea that the Court abided by the rule of law and didn't simply decide its decision on the basis of misconceptions or misunderstandings of the facts of a case or simply because they didn't like the cut of the jib of the individuals who are arguing the contrary position.

So, I did take a careful look at what I had promised to do, and I am proud that, despite all the imperfections of living up to those commitments and the flaws that I've made over the years, I did attempt to the best of my ability—and it was a limited ability, but it was the best of my ability—to do what I said I would do because I don't think there's anything more important in a public official than that he or she live up to the promises and commitments that he or she has made when he or she is seeking the support of the people. It's easy to make those commitments; it's harder to live up those—to those commitments. And I've not always lived up to them, but I've done my best to try to live up to those commitments, and I hope in some manner I've been successful.

So let me once again thank all of you for being here. Let me say, it's my honor to have served on the judiciary of our great state, and I am equally honored by the fact that so many of you would be here this afternoon. I very much look forward to the reception that we're going to have, and I hope you'll allow me to join you in conversation while we enjoy that reception. Thank you so much for what you've done for me. [Applause.]

**Justice Zahra:** Thank you, Justice Markman. You are the only person this evening that lived within your time constraints. [Laughter.] On behalf of the Court and the Historical Society, I'm honored to accept this portrait. Before we adjourn, I want to thank the many people of the Supreme Court staff and security personnel who made this very special evening happen. In particular, let me thank a former member of the Supreme Court family, Lynn Seaks, who returned to the Court to help out. Thank you so much, Lynn. Court is now adjourned. We look forward to seeing everyone in the rotunda for the reception.