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## Feature Story

# Lawyer Of The Year 2002

## F. Martin Tieber

### Lansing

**Education:** Wayne State University Law School (1975); University of Notre Dame (1972)

**Admitted to bar:** 1975

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**Legal experience:** Law Office of F. Martin Tieber (2002); State Appellate Defender Office (1973-2002)

**Affiliations:** Criminal Defense Attorneys of Michigan; State Bar of Michigan; Innocence Project

This year, Lansing attorney F. Martin Tieber has seen numerous

changes in his professional life.

He was elected president of the Criminal Defense Attorneys of Michigan, and spear-headed a membership drive that nearly doubled the organization's ranks.

And, after a nearly 30-year stint, he left the State Appellate Defender Office this past fall — the first administrator to leave the office in 24 years, and the first attorney to ever retire from SADO. He likened his career at SADO to "part social work, part lawyering."

But just because he's decided to hang out his own shingle doesn't mean his mission has changed. He's established an "of counsel" relationship with criminal defense colleague Frank Reynolds' firm, and will continue to shine the spotlight on what he believes are appalling inequities in Michigan's legal system, especially for indigent defendants.

One of Tieber's crowning achievements is the establishment of The Thomas M. Cooley Law School Innocence Project. The project is part of a nationwide network which has been credited with the release of dozens of wrongfully convicted prisoners through the use of DNA testing. He organized a group of more than 150 Michigan criminal defense attorneys who have agreed to take project cases to court — pro bono.

Perhaps Tieber's tireless efforts on behalf of indigent defendants can best be illustrated by

the case of Eddie Joe Lloyd.

Lloyd was convicted in 1985 of the rape and murder of 16-year-old Michelle Jackson based on a confession obtained by police while Lloyd was medicated and in a mental hospital. He received a sentence of life in prison.

However, DNA testing completed this past summer showed that Lloyd could not have committed the crime.

After spending more than 17 years behind bars, Lloyd is now free. He is the 110th convicted person in the U.S. — and the first in Michigan — to be exonerated by post-conviction DNA testing, according to the Innocence Project.

Tieber has no plans to give up the fight for some of the most powerless people in the justice system — the indigent.

"We know there are innocent people in Michigan's prisons. Whether we will be able to find them and prove their innocence remains to be seen," Tieber stated. "Nationally, four out of 10 cases where DNA is tested by Innocence Projects result in the exoneration of an individual who has been convicted and incarcerated. This is an incredible statistic and speaks volumes about the failures of our criminal justice system, which fall most heavily on the poor."

*Q. The Innocence Project in Michigan seems to have picked up steam since its inception.*

A. None of this would be happening without the dedication and hard work of Cooley Law Professor Norman Fell, the project's director, and Barry Scheck who co-founded the project at New York's Benjamin N. Cardozo School of Law.

According to Fell, project students have reviewed the vast majority of the initial requests for statutory viability. About 800 have been found to not meet the statutory requirements, 180 are under active investigation with about 330 awaiting further review.

At least 12 cases have been identified in which DNA testing will conclusively establish the identity of the perpetrator a number of which have been assigned to volunteer participating attorneys.

*Q. You've been involved with CDAM for several years, and have been elected president this year. What are your goals for the organization? What would you like to see happen?*

A. Michigan currently ranks dead last among the states in fees paid to defense counsel in indigent cases. There is virtually no defense position highlighted on crucial substantive issues that are raised from time to time in the mainstream press.

As president of CDAM, I've begun working on these issues by appointing a special Compensation and Standards Committee, co-chaired by Daniel J. Hartman and Joseph A. Niskar, as well as a Media Relations Committee. I've also begun coordinating with the leaders of the Wayne County Criminal Defense Bar Association on the compensation issue.

I generally don't seek the spotlight, but as president of CDAM I feel it is one of my tasks to try to be the spokesperson for some very critical issues.

*Q. What are the current compensation levels for attorneys appointed to represent indigent clients?*

A. I was stunned to learn that attorneys in Detroit are receiving fees of \$5 - \$10 per hour to represent poor defendants charged with life offenses. The long-standing compensation impasse in Wayne County has denied defense attorneys a compensation increase for more than 20 years.

A well-managed system strives for parity between criminal justice adversaries, and such a

system benefits all. Trials are more likely to come to a just result and sentencing errors are diminished. No one loses when reasonable resources are provided for criminal defense of the poor.

*Q. What steps have you taken to see that attorneys are fairly compensated?*

A. Suit has been filed in Wayne County Circuit Court protesting the shockingly low fees paid to appointed counsel in Wayne County. The plaintiffs are CDAM and the Wayne County Criminal Defense Bar Association (WCCDBA).

WCCDBA represents approximately 100 self-employed attorneys who accept the most serious and difficult indigent defense cases. Their members serve in approximately 75 percent of Wayne County criminal cases in which defendants can not afford legal representation.

*Q. You are quite passionate about defense for the indigent. Why is that so important to you?*

A. As a child and watching the telecasts of the Watergate hearings, I saw that people who had a lot of money had a separate system. It's largely a resource issue — sometimes people are convicted of felonies because they don't have the resources to show they aren't guilty.

It was ironic walking into the Hall of Justice, the new court "palace," with a box of papers presenting the case for proper representation of the poor in criminal cases.

Appointed defense attorneys are seeking no more than a reasonable amount of compensation above overhead costs. To do less is to take, without compensation, a lawyer's time.

Also, no one is asking state or county governments to just throw money at a problem. Many things, including accountability, oversight, training and gradation of fees based on experience should be part of the solution. It is criminal to cap fees at a level where attorneys are required — if they are to do an effective job — to pay out of their own pockets to represent poor persons accused of a serious crime. It is not just a question of attorney fees — it's one of resource parity and equal justice.

The Eddie Joe Lloyd case brought home the reality of the damage caused by virtually eliminating representation on one side in our adversarial system. Our system of justice is based on the notion that two equal adversaries, through confrontation, will produce the truth. However, Lloyd's truth was buried because there was no equality between adversaries.

*Q. What are your thoughts on the Lloyd case and its handling by the popular press?*

A. One of the things I've learned in handling major litigation over the years is that positive media attention can be a critical key to substantive success.

In the wake of the *Lloyd* case, the Detroit Free Press ran an excellent editorial focusing attention on this problem. As CDAM president, I will devote the resources I have available through the end of my tenure to sustain attention this most critical and embarrassing injustice has attracted.

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