

Two Lawyers and a Significant Justice



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Disappointments in life sometimes are recognized only after years have passed. One of mine is never taking or, more likely, never having the opportunity to meet and talk with a certain lawyer who at one time practiced in my hometown of Flint and who became the first African-American justice of the Michigan Supreme Court. Of course, I am referring to Justice Otis M. Smith, who passed away in 1994¹—18 years after I was sworn in as a lawyer in Genesee County. Our paths simply never crossed, and I am the lesser for it.

As a lawyer in Genesee County, I was always aware that Otis Smith was something of a legend, but I never took the time to look at his life and his connections to Flint²—not until Wallace Riley, our oldest SBM past president and a past president of the ABA, suggested that I write an article about Smith given our mutual geographic, if not chronological, connection.

Otis Smith was from Memphis, Tennessee, where, as African Americans in the 1920s and 1930s in the South, he and his brother had experiences with which I will



Justice Otis M. Smith

never be able to identify. Smith served in World War II, and it was in 1946 that he made his connection with Flint when he began working at the Chevrolet plant located just five blocks from where I grew up.³

While attending law school at Catholic University in Washington, D.C., a photo of Smith with United States Supreme Court Justice William O. Douglas appeared in Flint's local newspaper. That photo caught the eye of Dudley Mallory, another legendary Flint attorney and the grandson of a freed slave.⁴ Mallory graduated from the University of Michigan Law School in 1926 and settled in Flint because of the encouragement of a local African-American doctor. Mallory had a great reputation and helped local attorneys in handling matters before the Michigan Supreme Court.⁵

This photo prompted Mallory to contact Smith's family and suggest that Otis call on

him the next time he was in town. In 1951, Otis Smith joined Mallory in practice in Flint, and the two worked together for a number of years. Mallory was several years older than Smith—old enough to give wonderful mentorship and guidance in the early part of Smith's career. Smith's connection to Flint and Michigan was made permanent.

As many of you may know, Otis Smith moved on to become an assistant prosecuting attorney in Genesee County. Active in local politics, he was appointed chairman of the Michigan Public Service Commission in 1956 and became state auditor general in 1960. Throughout this time, Smith continued to display independence and competence in everything he was asked to do. Governor John Swainson recognized this and appointed Smith to the Michigan Supreme Court in 1961. After several years on the Supreme Court, Smith joined the legal staff at General Motors and became its vice president and general counsel.⁶

One can easily say that becoming a vice president and general counsel for the largest corporate entity in the world, ranking among the top nations for gross domestic product, is a significant accomplishment for any person, much less a person of color in the United States in the mid-twentieth century. However, Smith will likely be best known for becoming the first African-American justice of the Michigan Supreme Court.

To say I am impressed with Smith's accomplishments and Mallory's insight and mentorship is a gross understatement. We live in a time where diversity in our profession is still a significant issue. The legal profession has been noted recently by the U.S. Bureau of Labor Statistics to be among the least racially diverse. This observation only adds to both men's accomplishments decades ago.

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The remains of Smith and Mallory rest in a cemetery just two miles from my house. An SBM legal milestone was dedicated to Smith on the campus of my alma mater, the University of Michigan–Flint, in June 2006. Among those attending the dedication were former Justice Dennis Archer, SBM President Tom Cranmer, and Otis Smith's brother, Hamilton. The SBM milestone says this of Otis Smith:

He adhered to the highest standards of ethical conduct and expected others to do so as well. Always a gentleman, he was the consummate lawyer and personified what he called the three Cs: character, competence, and commitment. A steadfast defender of social justice, he was an advocate for all people disenfranchised by class, ethnicity, geography, and physical disabilities.⁷

I will never meet Otis Smith or Dudley Mallory. But I can say with confidence that their names will continue to be legendary for those of us in Flint and Genesee County, and their accomplishments will forever be shining examples of great leadership for all of us. ■

ENDNOTES

- Levin, *Otis Smith*, 72, *G.M. Executive And Ex-Justice*, Obituaries, The New York Times (June 30, 1994) <<http://www.nytimes.com/1994/06/30/obituaries/otis-smith-72-gm-executive-and-ex-justice.html>>. All websites cited in this article were accessed January 20, 2018.
- Please forgive the frequent references in these columns to my hometown, Flint.
- Stecker, *A Trailblazing Leader: Otis M. Smith's accomplishments are the focus of the 31st Michigan Legal Milestone*, 85 Mich B J 6, 18 (June 2006) <<https://www.michbar.org/file/barjournal/article/documents/pdf4article1016.pdf>>.
- The Mallory, VanDyne & Scott Bar Association was formed in Genesee County in 1989 in honor of three of Genesee County's earliest African-American attorneys. See generally Genesee County Bar Assoc, *Through the Years with the GCBA: A Centennial Historical Overview 1897-1997 (with updates through 2006)* <<http://www.gcbalaw.org/page.cfm?pageid=32>>.
- Sharlow, *Michigan Lawyers in History: Dudley Mallory*, 95 Mich B J 7, 38 (July 2016) <<https://www.michbar.org/file/barjournal/article/documents/pdf4article2910.pdf>>.
- Stecker, *A Trailblazing Leader*, p 18.
- State Bar of Michigan, *Michigan Legal Milestones, 31. Otis Milton Smith, Trailblazing Leadership* <<https://www.michbar.org/file/barjournal/article/documents/pdf4article1159.pdf>>.

Interest Rates for Money Judgments Under MCL 600.6013 (Revised January 1, 2018*)

I. [MCL 600.6013(8)] FOR ALL COMPLAINTS FILED ON OR AFTER JANUARY 1, 1987 UNLESS SECTION II, III, or IV APPLIES:

Interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. See interest rate chart below.

II. [MCL 600. 6013(7)] FOR COMPLAINTS FILED ON OR AFTER JULY 1, 2002 THAT ARE BASED ON A WRITTEN INSTRUMENT WITH A SPECIFIED INTEREST RATE:

Interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. If the rate in the written instrument is a variable rate, interest shall be fixed at the rate in effect under the instrument at the time the complaint is filed. The rate under this subsection shall not exceed 13% per year compounded annually.

III. [MCL 600. 6013(5 and 6)] FOR COMPLAINTS FILED ON OR AFTER JANUARY 1, 1987, BUT BEFORE JULY 1, 2002 THAT ARE BASED ON A WRITTEN INSTRUMENT:

Interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually, unless the instrument has a higher rate of interest. In that case, interest shall be calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

Notwithstanding the prior paragraph, if the civil action has not resulted in a final, nonappealable judgment as of July 1, 2002, and if a judgment is or has been rendered on a written instrument that does not evidence indebtedness with a specified interest rate, interest is calculated as provided in Section I above.

IV. ADDITIONAL CONSIDERATIONS:

If the complaint was filed before January 1, 1987, refer to MCL 600.6013(2)–(4).

Interest is not allowed on future damages from the date of filing the complaint to the date of entry of the judgment. [MCL 600.6013(1)]

The amount of allowable interest may be different in certain settlement and medical malpractice case scenarios. [MCL 600.6013(9-13)]

Effective Date	Average Certified by State Treasurer	Statutory 1%	Interest Rate	Effective Date	Average Certified by State Treasurer	Statutory 1%	Interest Rate
Jan. 1, 1987	6.66%	1%	7.66%	Jan. 1, 2003	3.189%	1%	4.189%
July 1, 1987	7.50%	1%	8.50%	July 1, 2003	2.603%	1%	3.603%
Jan. 1, 1988	8.39%	1%	9.39%	Jan. 1, 2004	3.295%	1%	4.295%
July 1, 1988	8.21%	1%	9.21%	July 1, 2004	3.357%	1%	4.357%
Jan. 1, 1989	9.005%	1%	10.005%	Jan. 1, 2005	3.529%	1%	4.529%
July 1, 1989	9.105%	1%	10.105%	July 1, 2005	3.845%	1%	4.845%
Jan. 1, 1990	8.015%	1%	9.015%	Jan. 1, 2006	4.221%	1%	5.221%
July 1, 1990	8.535%	1%	9.535%	July 1, 2006	4.815%	1%	5.815%
Jan. 1, 1991	8.26%	1%	9.26%	Jan. 1, 2007	4.701%	1%	5.701%
July 1, 1991	7.715%	1%	8.715%	July 1, 2007	4.741%	1%	5.741%
Jan. 1, 1992	7.002%	1%	8.002%	Jan. 1, 2008	4.033%	1%	5.033%
July 1, 1992	6.68%	1%	7.68%	July 1, 2008	3.063%	1%	4.063%
Jan. 1, 1993	5.797%	1%	6.797%	Jan. 1, 2009	2.695%	1%	3.695%
July 1, 1993	5.313%	1%	6.313%	July 1, 2009	2.101%	1%	3.101%
Jan. 1, 1994	5.025%	1%	6.025%	Jan. 1, 2010	2.480%	1%	3.480%
July 1, 1994	6.128%	1%	7.128%	July 1, 2010	2.339%	1%	3.339%
Jan. 1, 1995	7.38%	1%	8.38%	Jan. 1, 2011	1.553%	1%	2.553%
July 1, 1995	6.813%	1%	7.813%	July 1, 2011	2.007%	1%	3.007%
Jan. 1, 1996	5.953%	1%	6.953%	Jan. 1, 2012	1.083%	1%	2.083%
July 1, 1996	6.162%	1%	7.162%	July 1, 2012	0.871%	1%	1.871%
Jan. 1, 1997	6.340%	1%	7.340%	Jan. 1, 2013	0.687%	1%	1.687%
July 1, 1997	6.497%	1%	7.497%	July 1, 2013	0.944%	1%	1.944%
Jan. 1, 1998	5.920%	1%	6.920%	Jan. 1, 2014	1.452%	1%	2.452%
July 1, 1998	5.601%	1%	6.601%	July 1, 2014	1.622%	1%	2.622%
Jan. 1, 1999	4.8335%	1%	5.8335%	Jan. 1, 2015	1.678%	1%	2.678%
July 1, 1999	5.067%	1%	6.067%	July 1, 2015	1.468%	1%	2.468%
Jan. 1, 2000	5.7563%	1%	6.7563%	Jan. 1, 2016	1.571%	1%	2.571%
July 1, 2000	6.473%	1%	7.473%	July 1, 2016	1.337%	1%	2.337%
Jan. 1, 2001	5.965%	1%	6.965%	Jan. 1, 2017	1.426%	1%	2.426%
July 1, 2001	4.782%	1%	5.782%	July 1, 2017	1.902%	1%	2.902%
Jan. 1, 2002	4.14%	1%	5.14%	Jan. 1, 2018	1.984%	1%	2.984%
July 1, 2002	4.36%	1%	5.36%				

*For the most up-to-date information, visit <http://courts.michigan.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.