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ON THE MISSION OF HOT TALKS

Darrell A. Clay

No one would choose to have sex with six to 20 men a night, especially a kid.”

As a parent, these words struck me like a dagger to the heart. They were shared during our November Hot Talk, which focused on the subject of human trafficking. Theresa Flores, one of our panelists that day, was telling the audience her own compelling, yet gut-wrenching, story. She was the kid having sex with those men.

You might think that Theresa was kidnapped and held against her will. Or that she came from a broken family, ran away, and roamed the streets doing what she had to so that she could survive.

You would be wrong. So totally and completely wrong.

In fact, during her two years as a teenage sex slave, Theresa lived at home with her parents and three brothers in suburban Detroit. Her father was a successful business executive. Her mother was a member of The Gourmet Club and participated in community theatre.

Theresa, meanwhile, was sneaking out of her house several nights a week to have sex with men. She did so because she feared that compromising photos of her, taken after she was drugged and raped by a high school classmate, would be used to ruin her reputation and that of her family.

Can you even begin to imagine the torment?

Fortunately for Theresa, her father eventually was transferred to a new city, where she no longer had to submit to the demands of her blackmailers. Still, it took her the better part of nearly three decades to come to grips with what happened to her.

Theresa’s story certainly ranks as one of the most compelling moments that has been shared during a Hot Talk. Begun earlier this year under the leadership of CMBA’s then-President Rick Manoloff, these hour-long, free, lunch-time sessions are intended to educate, to foster conversation and discussion, and to spur individual and collective action. They typically consist of brief, introductory remarks from a moderator, a 30- to 40-minute presentation from selected panelists, and then an interactive question-and-answer period.

The panelists don’t always agree, and the audience’s questions can be pointed and sometimes confrontational. That’s a deliberate choice on our part. These sessions are designed to be thought-provoking, and we want to ensure that all sides of an issue are fairly presented and equally challenged.

Hot Talks are an essential prong of our ten-year strategic vision, which posits that our association will serve as a community convener on issues impacting all of us. Through these sessions, we strive to create opportunities for the open, civil exchange of ideas and viewpoints across a vast array of subjects — both for our members and the community at large.

Hot Talks are essential prong of our ten-year strategic vision, which posits that our association will serve as a community convener on issues impacting all of us. Through these sessions, we strive to create opportunities for the open, civil exchange of ideas and viewpoints across a vast array of subjects — both for our members and the community at large.

To that end, in addition to human trafficking, our Hot Talks have addressed immigration policies, free speech in the workplace, federal budgetary priorities, sanctuary/welcoming cities, and presidential powers. Our August Hot Talk was coordinated by our Stokes Scholars, and tackled the pernicious problem of opioid addiction. During the Q&A that day, we learned of the devastating impact this plague is having throughout Northeast Ohio, including on members of our association. In September, we assembled the deans from the law schools at Case Western, Cleveland State, and Akron for a conversation about the value of a legal education in today’s world.

Each Hot Talk is broadcast live on the CMBA’s Facebook page at www.facebook.com/CleMetroBar, so if you are unable to attend in person, you can still watch. Archived videos of past Hot Talks are also available at www.facebook.com/pg/CleMetroBar/videos/.

Hot Talks are scheduled for the second Tuesday of every month, and are held in the auditorium at the CMBA headquarters. For more information about past and future sessions, please visit www.CleMetroBar.org/HotTalks. And to learn more about Theresa Flores’ personal journey out of the horror of human trafficking, read her book The Slave Across The Street.

Darrell A. Clay is the tenth President of the CMBA. He is a litigation partner at Walter | Haverfield LLP, with a practice focusing on complex civil litigation, white collar criminal defense, and aviation matters. He has been a CMBA member since arriving in Cleveland in April 1997. E-mail your CMBA-related questions or concerns to him at dclay@walterhav.com.
WHY NOT MAKE A HOLIDAY RESOLUTION TO SHARE YOUR LEGAL TALENTS?

Mitch Blair, CMBF President

Theatrical, artistic, and musical talents of lawyers abound, not only at the annual follies of the Court of Nisi Prius, but off stage too, as they tap their legal prowess to support artists, arts groups, and other grassroots nonprofits making a difference in our community.

Volunteers for the Arts (VLA) and Reach Out: Legal Assistance for Nonprofits, two Foundation-supported programs, educate income-eligible individuals and nonprofits about legal matters and offer pro bono counsel and services.

The work of these groups enriches the lives of people in our community with myriad artistic offerings and provides a range of human services, including childcare, after-school activities, clubs for youth, classes on nutrition and exercise, prisoner re-entry support, volunteer opportunities, and activities at neighborhood centers and churches.

Helping these small but vital organizations has a ripple effect, making life better for many.

Legal Side of the Arts
Lifelong artist Shannon Morris had an idea to bring affordable artist studio space to Cleveland Heights, a need in an area with a high concentration of artists. “I talked to many people active in the arts, and they all told me to reach out to VLA,” says Shannon.

Enter Steve Day, Calfee partner, chair of the VLA, member of the Reach Out steering committee, and a self-described recovering musician, along with Ed Reichek, solo practitioner and likely the longest-serving VLA volunteer for some 30 years.

“Steve walked me through each step of the 501(c)(3) process, and Ed helped negotiate our lease in the former Coventry School. We opened our doors to Artful Cleveland in March 2017, and today our studios are full, way ahead of schedule,” she adds.

A building that stood vacant for nearly a decade is now bustling with local artists who derive inspiration from each other.

Reaching Out to Lift and Launch
Patrick Fenner turned to Reach Out in starting up Shape Cleveland, an education nonprofit teaching interns photography, cinematography, web design, and social media marketing, then deploying them to create professional multimedia productions for small-budget nonprofits.

“I attended a Reach Out seminar where I met Mark Turner of the Gertsburg Law Firm, who helped us set up our nonprofit for a reduced fee,” he explains. “It was such a good feeling to have access to top-notch resources and someone I could trust.”

Since then, Shape and Gertsburg have been able to exchange services to benefit both organizations.

Diana Cyganovich, executive director of Cogswell Hall, finds interest in many of the topics covered at Reach Out seminars and likes to bring members of her staff. “We frequently attend because the speakers are knowledgeable and responsive, and the information and guidance are quite helpful to us.”

We need volunteers to strengthen our grassroots nonprofits doing good for many.

How about you?

Cogswell Hall, in the Detroit-Shoreway neighborhood, houses and assists low-income and disabled adults, offering them a permanent solution to homelessness.

Giving the Gift of Legal Knowledge
VLA presents free education sessions in artsy settings to lawyers and artists on such topics as contracts, fair use, copyright, licensing performance rights, commissioned projects, governance, and estate planning for artists.

Volunteers also are taking the program to college campuses, hosting roundtables for students in the arts.

Reach Out conducts free quarterly seminars followed by advice clinics, where nonprofits
are matched with attorneys for brief counseling sessions. They get answers to questions on nonprofit formation, employee and board issues, fundraising, risk management, compensation practices, property sales, and more.

Beyond education and brief advice, qualifying nonprofits unable to pay for legal services can apply for extended free representation. Each year on average, more than 20 applicants are referred to pro bono attorneys through VLA and Reach Out.

It takes many types of attorneys with diverse specialties, from solo practitioners to partners at large law firms, to serve artists and nonprofits, who encounter a variety of legal and business issues on their mission to do good.

We need volunteers to strengthen our grassroots nonprofits doing good for many. To volunteer, contact Jessica Paine at (216) 696-3525 or jpaine@clemetrobar.org.

Mitch Blair is vice chairman of Calfee Halter & Griswold LLP and co-chair of the Litigation Group. He tries complex disputes, with special emphasis on securities litigation, including class action defense. He is president of the Cleveland Metropolitan Bar Foundation and has been a CMBA member since 1982. He can be reached at mblair@calfee.com or (216) 622-8361.

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– Robert F. Kennedy

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EVENING AT EATON

The CMBA’s Environment, Energy & Natural Resources Section hosted a very special “Evening at Eaton” on November 2. In addition to raising funds to support their Environmental Internship fund, the Section honored Geoff Barnes with their Lifetime Achievement Award and presented Lisa Sutton, on behalf of Eaton, with the Environmental Steward award.

Special thanks to our event sponsors for their generous support!

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2017 BOB ROSEWATER AWARD

The Real Estate Law Section presented the 2017 Bob Rosewater Award for Meritorious Service to Michael D. Goler of Miller Goler Faeges Lapine LLP. Mike is a past chair of the Real Estate Law Section and the Real Estate Law Institute, as well as the founder and first chair of the Environmental Law Section. In addition to his many roles with the CMBA, Mike is active with the ABA and is a Past President of the Cleveland Hearing & Speech Center Board.

The Section is honored to recognize Mike for his commitment to the CMBA and the Cleveland legal community. At the luncheon, Mike remarked that the CMBA and our legal community are held in high regard, with our programming and volunteer efforts second-to-none.

Please join us in congratulating Mike as the 2017 Rosewater Award recipient!
Chair
Julie A. Taft
Mansour Gavin LPA
jtaft@mggmlpa.com

Regular Meeting
Second Tuesday of each month from September through May each year. New lawyers and law students interested in our practice areas are encouraged to attend.

What is your goal?
Our objective is to continue our longstanding tradition of bringing attorneys in our practice areas together to provide a collaborative forum for exchanging ideas and sharing information that is relevant to our practice areas and to promote continued learning. In order to meet this objective, our goal is to both support and retain our existing members and also to attract and encourage new lawyers and law students to join so these traditions carry forward with fresh perspectives.

What can members expect?
One benefit of our group comes from attending our monthly lunch meetings, which include legislative updates and technical presentations on various topics that are timely and relevant to our practice areas. We also have an annual tradition of inviting current Cuyahoga County Probate Court Judges to speak, which is always one of our most well-attended meetings of each year. We are thankful to Judge Anthony J. Russo, Judge Laura J. Gallagher, the Magistrates, clerks and other staff of the Cuyahoga County Probate Court for the generous amount of time they have dedicated in continuing to present to us each year.

Upcoming events/activity you wish to highlight?
Each June, after we have our last monthly lunch meeting in May, we follow with a special half-day Hot Topics Seminar. The date, featured speakers and topics will be announced in the spring. Please check the CMBA website for updates.

Spotlight on the ABA's website.
Positive Change,” which is available among our key objectives are: (1) to remove the stigma commonly surrounding mental health concerns, which impact lawyers at alarming rates; and (2) to identify and promote available resources which are plentiful. Worthwhile reading for all members of the legal community is the August 14, 2017 American Bar Association (ABA) report titled, “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” which is available on the ABA’s website.

Mental Health & Wellness Committee

Chair
K. James Sullivan
Calfee, Halter & Griswold LLP
kjsullivan@calfee.com

Regular Meeting
4th Tuesday every other month starting September 26, 2017 at CMBA offices from 12-1 p.m.

What is your goal?
Among our key objectives are: (1) to remove the stigma commonly surrounding mental health concerns, which impact lawyers at alarming rates; and (2) to identify and promote available resources which are plentiful. Worthwhile reading for all members of the legal community is the August 14, 2017 American Bar Association (ABA) report titled, “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” which is available on the ABA’s website.

What can members expect?
At a macro level, an opportunity to participate in addressing the challenges of mental health issues in the legal field. At a micro level, opportunities to provide hope and a helping hand to those suffering among our ranks.

Recent Events
Committee members supported the successful efforts to modify Ohio’s bar exam application questions pertaining to mental health issues to become fairer and ADA-compliant. The Committee also collaborated on the CMBA’s general wellness initiative, including the half-day De-Stress-Fest on November 17.

Upcoming Events
The Committee is in the process of revamping its efforts to reach its target audience and to match attorneys in need with available resources through more efficient and effective methods.

Golf Outing Committee

Chair
Phyllis A. Ulrich
Carlisle McNellie Rini Kramer & Ulrich Co., LPA
pulrich@carlisle-law.com

Regular Meeting
Selected telephonic meetings beginning in January and ending with a wrap-up in late June or early July.

What is your goal?
It is two-fold: 1) Provide the Bar Association members a golf outing for networking purposes, fun and relaxation; and, 2) Raise funds through registrations fees as well as through sponsorships for the Bar Association.

What can members expect?
The Committee members plan the actual golf outing. As a member, you can network with the other members but primarily, aid the Bar Association in presenting this awesome event to its members.

Recent Event
The 2017 Cleveland Metropolitan Bar Association Golf Outing held June 26, 2017 at Westwood Country Club, Rocky River, Ohio. The event was a sell-out, the weather was beautiful and everyone had a fantastic time.

Upcoming Event
The upcoming 2018 Cleveland Metropolitan Bar Association Golf Outing to be held June 25, 2018 at Westwood Country Club, Rocky River, Ohio.
December already? I think 2017 should be dubbed “The Year of the Blink.” Seems like we made it from January to December in just that length of time. (Yes, I know talking about years passing at warp speed puts me soundly in the “You’re middle aged, dear” camp.)

It’s been quite a year. Within the Association, we started the year with President Rick Manoloff spearheading a couple of new ventures that have proven to be critical in 2017.

In January, we established the Governance Committee, which may not seem like a big deal, but actually it was. While most organizations have some form of a governance committee, in the land of bar associations, ours is a near first-of-its-kind. In bar land, governance “stuff” often happens behind closed doors, with little input beyond the top leaders. In contrast, our nine-member Governance Committee is responsible for assessing and evaluating our Board’s structure and composition, as well as assisting with the engagement of our trustees. It’s also the group charged with reviewing and recommending improvements related to our organizational framework.

In his first six months as president, Darrell Clay has been driving our governance work forward, including a comprehensive review of the CMBA’s regulations which were adopted more than a decade ago when two bars became one. Now that we’re in our second decade, standing as a stronger unified bar, the time is right for a thoughtful, thorough review. Stay tuned for more information on that review in the spring of 2018.

Rick also kicked off both the Thought Leadership Committee (TLC) and our monthly Hot Talks in February. One of the pillars of our strategic plan calls for the CMBA to continue our evolution as the “go to” organization for issues of law and justice by both serving as a community convener and addressing significant issues when they arise. The TLC was created to directly pursue those goals, while the Hot Talks have given rise to a new platform for civil discussion on subjects of significance.

Under Darrell’s leadership, the TLC has continued to gain momentum. In addition to driving our Hot Talk series forward (did you see Darrell’s article this month?), the TLC is also diving into the complex waters of when and how the CMBA should speak out. To be a true thought leader whose voice is both sought out and influential, we recognize that our bar must sometimes take positions on issues that are of critical importance to our profession. But we must also exercise great caution in not speaking simply for the sake of making noise. Or opining on truly political issues. The TLC is building a framework to help assess when and how we should speak.

Meanwhile, within our Foundation, 2017 proved to be an equally successful year in different ways. At the start of the year, the buzz was BIG for Rock the Foundation 12 where President Drew Parobek presented KeyCorp CEO Beth Mooney with the 3rd Annual Richard W. Pogue Award for Excellence in Community Leadership & Engagement. Thanks to the incredible support of our Fellows, sponsors, members and friends, our signature fundraiser brought in nearly $200,000 in support of the bar’s life-changing community and pro bono programs.

As we head into the end of the year, we are eagerly anticipating President Mitch Blair’s announcement as to the 2018 recipient of the Pogue Award — a person whose commitment to our community is second to none. If your organization has not yet locked in a sponsor to our community and demonstrate the highest standards of integrity and professionalism. Those who become Fellows make leadership level contributions in support of our “Lawyers Giving Back” programs and are recognized in a variety of ways. In 2017, that meant Fellow nameplates on the seats in our auditorium (have you seen them?) and invitations to some seriously cool events like the Fellows-only reception hosted in May on the Azure Roof Top at The 9.

In the second half of 2017, Mitch set his presidential sights on raising the Fellows bar even higher. In addition to recruiting a tremendous new class of Fellows who will be announced in early 2018, he and our Fellows Committee are planning memorable ways to show our Fellows our continued appreciation. Thanks to our generous Fellows, the Foundation’s Endowment provides the backbone of future support and sustainability for our community and pro bono programs.

From beginning to end, 2017 has been a great bar year! But for the generosity of time, talent and treasure provided by all of you, our members, we could never come close to fulfilling our mission. Thank you for all that you have done to make 2017 an unforgettable year ... and thanks in advance for helping making 2018 even more sensational.

Happy holidays!

Rebecca Ruppert McMahon is the Executive Director of the CMBA and the CMBF. She has been a CMBA member since 1995. She can be reached at (216) 696-3525 or rmcmahon@clemetrobar.org.
The CMBA is proud to host the first two stages of the Ohio Mock Trial Competition in Cuyahoga County again: District trials will be held on January 26, 2018, and Regional trials on February 16.

The CMBA will again be welcoming ALL local high school teams to our District Competition, so we will need your help more than ever to support this exciting annual competition! This is Ohio’s largest academic competition and Cuyahoga County high school participation last year was among the highest yet. With the help of volunteers from the legal community in 2017, over 600 students representing 25 high schools in Cuyahoga, Geauga, Lake, and Lorain Counties were provided the opportunity to hone their communication, analytical, and courtroom skills.

Each year volunteer judges and attorneys serve as competition judicial panelists. At this done-in-a-day volunteer opportunity, volunteers have the chance to observe the region’s finest budding legal minds in an exciting afternoon of competition. Judicial panels score students based on their understanding of the case facts and applicable law, the roles of the attorney and witnesses at trial, and courtroom procedures and decorum. 2018 is the 35th anniversary of the Ohio Mock Trial program, and to mark this momentous occasion the case hypothetical tackles the most-requested topic yet: a murder trial, with a Constitutional twist!

For more about the Ohio Mock Trial Competition, visit CleMetroBar.org/OhioMockTrial.

SIGN ME UP!

☐ YES, I will serve as a judicial panelist for the Ohio Mock Trial Cuyahoga District Competition on January 26, 2018, from 11:30 a.m. to 5 p.m.

☐ YES, I will serve as a judicial panelist for the Ohio Mock Trial Cuyahoga Regional Competition on Friday, February 16, 2018, from 11:30 a.m. to 5 p.m.

☐ I will attend the volunteer orientation at noon on Tuesday, January 16.

☐ I have previous mock trial judging experience. My previous role (scoring and/or presiding) ____________________________

Name ________________________________________
Firm/Organization (if any) __________________________
Phone __________________ Fax ___________________
Email _______________________________________

Please return this sheet by email or fax. Reminders will be sent before the competition, but please save the date on your calendar.

For more information, contact Jessica Paine at (216) 696-3525 x4462 or jpaine@clemetrobar.org.
What's your favorite book?

We took a self-guided driving tour of Ireland.

Where was your honeymoon?

Coventry, started chatting, and the rest is history.

Forward a year and we ran into one another on a date and a second date seemed too awkward. Fast forward, and my roommate introduced me to him by my roommate, who was at the time dating his roommate. We had a fun double date at Sea World, Mayfield Heights, Westlake, and North Olmsted, and all sides have pros and cons.

His roommate. We had a fun double date at Sea World, Mayfield Heights, Westlake, and North Olmsted, and all sides have pros and cons.

I met my husband, Jason, in college. I was introduced to him by my roommate, who was at the time dating his roommate. We had a fun double date at Sea World, Mayfield Heights, Westlake, and North Olmsted, and all sides have pros and cons.

I love nature and travel. I hope to see as many pristine and unspoiled regions as there are left to see — the Northern Lights of Iceland, the rainforest of Madagascar, the Galapagos Islands, and Patagonia’s Andes mountains and glacial lakes — just to name a few.

My favorite Cleveland hot spot is Playhouse Square.

A recent milestone for you or your family?

I launched my career with this tremendous team!

My favorite Cleveland hot spot is Playhouse Square.

What do you love about your job?

As a Domestic Relations Attorney, I most enjoy having the opportunity to help my clients navigate through one of the most difficult times in their lives.

East side or west side?

Southwest (does that count?). I didn’t grow up in Cleveland, and so I never really got the “East versus West” battle. I live in Strongsville now, but over my years here I’ve lived in University Circle, Cleveland Heights, Mayfield Heights, Westlake, and North Olmsted, and all sides have pros and cons.

How did you meet your spouse?

I met my husband, Jason, in college. I was introduced to him by my roommate, who was at the time dating his roommate. We had a fun double date at Sea World, Mayfield Heights, Westlake, and North Olmsted, and all sides have pros and cons.

Where was your honeymoon?

We took a self-guided driving tour of Ireland.

What’s your favorite book?

I’d love to say that my favorite book is some impressive and scholarly piece of classic literature that would make me sound smart and worldly. But the truth is that my favorite books are the Harry Potter series!

Favorite Cleveland hot spot?

Progressive Field (aka Jacob’s Field aka The Jake) where I was fortunate enough to spend my summer interning.

Tell us about your pet(s) if you have any.

I have an 8-year-old German Shepard named Ava. She is the absolute best.

What’s on your bucket list?

I have oddly enough always wanted to go into a shark cage; I’ve always loved sea life.

Tell us why you love Cle (we mean Cleveland).

Being born and raised in Cleveland, I love it because it’s home! I love the sports scene, the people, the environment, and that there is always something new to do.

Favorite Broadway musical — Rent, and hope I can get tickets to the much-acclaimed Hamilton when it comes to C-town this summer.

Who has influenced you the most in life?

As I child, I watched my mother overcome one barrier after another. She attended the first school for girls in her hometown. She single-handedly brought my family to the U.S. Despite her limited education, she has a strong business mindset and work-ethic. She laid the foundation for my family’s business, which thrives today. Because of my mother, I was determined to continue to overcome barriers for women in education and pursue a legal career. My mother inspired me to be the person I am today.

Why did you become a lawyer?

Starting at a young age, I have had a passion to seek the advancement of civil and human rights for all. As an attorney, I knew that I would acquire the necessary skills to effectuate change and empower others. As a government lawyer, I advocate on behalf of the community on a daily basis. I am proud to have led the County’s effort in drafting and filing the first amicus brief in the landmark U.S. Supreme Court case concerning marriage equality. The U.S. Supreme Court recognized the amicus’ argument and the right of same-sex couples to marry, and as a consequence, to adopt children as a married couple.

When have you seen the CMBA Mission at work?

I was recently accepted into the CMBA inaugural Leadership Academy. This fellowship is one of the many ways the CMBA elevates legal professionals for the enhancement of our profession and the community.

Favorite Cleveland hot spot?

My favorite Cleveland hot spot is Playhouse Square. What an incredible Cleveland asset — the second-largest theater district in the country. Playhouse Square is a happening and vibrant place — full of life and energy. Whether attending a dance performance, musical, or play, visiting Playhouse Square re-energizes the soul. I am so looking forward to seeing my favorite Broadway musical — Rent, and hope I can get tickets to the much-acclaimed Hamilton when it comes to C-town this summer.

Christa A. Grywalsky Heckman

Title: Attorney
CMBA Join Date: 2011
College: Case Western Reserve University, School of Engineering
Law School: Case Western Reserve University, School of Law

Madeline Poll

Company: Cleveland Metropolitan Bar Association
Title: Membership Coordinator
CMBA Join Date: 2017
College: Bowling Green State University

Awatef Assad

Firm/Company: Cuyahoga County Department of Law
Title: Assistant Director of Law
CMBA Join Date: 2015
College: Cleveland State University
Law School: Cleveland-Marshall College of Law

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WHAT’S YOUR FAVORITE BOOK?

I’d love to say that my favorite book is some impressive and scholarly piece of classic literature that would make me sound smart and worldly. But the truth is that my favorite books are the Harry Potter series!
ALL PROGRAMS WILL BE HELD AT THE CMBA CONFERENCE CENTER

Below are CLE programs that offer 3.0 credit hours or more. The CMBA also offers a vast number of 1.0 hour CLE options.

Visit CleMetroBar.org/CLE for a full schedule.

DECEMBER

15  2017 Federal Practice Update Live
15  Municipal Court Update
16  Sizzling Hot Topics in Professional Conduct Video
18  Identity Theft for Law Firms Video
19  Speed CLE: Year in Review
19  Don’t Let It Be You: Professional Conduct for the Modern Practitioner
20  Estate Planning Institute Video
21 & 22  Real Estate Law Institute Video
27 & 28  O’neill Bankruptcy Institute Video
28 & 29  Sizzling Hot Topics in Professional Conduct Video
29 & 30  Labor & Employment Conference Video

Fundamentals of Practice in the Northern District: Federal Court Training Program

Friday, December 15

REGISTRATION  8:30 a.m.
PROGRAM  9 a.m. – 12:30 p.m.

Pursuant to District Court Local Rule 83.5, attorneys who wish to be admitted to practice before the United States District Court, Northern District of Ohio, must attend an approved seminar on Federal Practice. Attendance at this seminar satisfies the requirement of Rule 83.5. Further information regarding admission to practice before the U.S. District Court can be obtained from the office of the Clerk at (216) 357-7000.

Welcome & Introductions
Joseph P. Dunson, Dunson Law, LLC, Seminar Chair
Federal Practice Overview, Standing Orders and Early Case Resolution
Hon. Patricia A. Gaughan, Chief Judge, United States District Court, Northern District of Ohio
Anatomy of a Federal Criminal
Prosecution from Indictment to Sentencing
Ian N. Friedman, Friedman & Nemeck, LLC
Eric C. Nemeck, Friedman & Nemeck, LLC
Margaret A. Sweeney, United States Attorney’s Office

Perspectives from the Clerk’s Office: E-Filing, ADR and Corporate Disclosure
Vicky Mizell, Operations Manager, United States District Court Clerk’s Office

Early Civil Case Obligations: Initial Disclosure, Meet and Confer and E-Discovery
Amy Ryder Wentz, Littler Mendelson, P.C.

Personal Jurisdiction and Venue in the 6th Circuit
Jeff Krueger, J.W. Krueger & Associates

Conduct in Court and Depositions (.50 hour Professional Conduct)
Cathleen M. Bolek, Bolek Besser Glesius, LLC

Municipal Court Update: All About DUI Cases Live

Friday, December 15

REGISTRATION  3.00 CLE hours requested
REGISTRATION  12:30 p.m.
SEMINAR  1:00 – 4:15 p.m.

Welcome & Introductions
Joseph D. Hada, Quinn Legal Associates, Inc., Seminar Chair

DUI Case Law Update
Ronald A. Annotico, Quinn Legal Associates, Inc.

The Tasks and Time Required for Defending a DUI Case
Jeffrey C. Kakish, Quinn Legal Associates, Inc.

Basics of Defending Breath Test Cases

ALS Appeals and Preserving a CDL
Joseph D. Hada, Quinn Legal Associates, Inc., Seminar Chair

Sizzling Hot Topics in Professional Conduct Video

CREDITS  3.0 CLE Hours Professional Conduct CLE requested

Saturday, December 16

REGISTRATION  8:30 a.m.
PROGRAM  9 a.m.

Pot Topics: Rules Regarding Representation in Medical Marijuana Matters
Motions to Withdraw
Walk the Line: Relationships with Clients
Nonrefundable Fee Agreements
Lawyer Participation in Online Referral Services

Identity Theft for Law Firms Video

Monday, December 18

CREDITS  3.00 CLE hours requested
REGISTRATION  12:30 p.m.
SEMINAR  1:00 – 4:15 p.m.

Originally presented by the Columbus Bar Association

Identity Theft: It’s Out of Control!
• Current Landscape and Recent Survey Results
• How Does Identity Theft Occur?
• Common Identity Theft Abuses
• Minimize Identity Theft Risks
• Income Tax Fraud
• Tips for Victims of Identity Theft

Identity Theft and Social Engineering:
How to Recognize Various Attacks with a Common Goal

• Latest Security Threats
• Phishing
• Ransomware
• Social Engineering
• Cloud Security
• Vendors & Service Providers
• Poor Incident Handling
• Physical Asset Security
• Risk Mitigation Tips and Techniques

Panel Discussion: Solving Problems

Speed CLE: A Year in Review of Ten Practice Areas Live

Tuesday, December 19

CREDITS  3.25 CLE hours requested
REGISTRATION  8:00 a.m.
SEMINAR  8:30 a.m. – 12:05 p.m.

ADR – Selecting the Right Alternative
Mark I. Wachter, Wachter Kurant LLC, CMBA ADR Section Chair

Social Security Disability Update
Andrew November, Liner Legal LLC, CMBA Social Security & Disability Section Chair
44th Annual Estate Planning Institute Video

Wednesday, December 20

CREDITS Submitted for 6.50 CLE Hours with 0.75 professional conduct

PROGRAM 8:30 a.m. – 4:00 p.m.

Welcome & Introductions
David M. Lenz, Schneider Smeltz Spieth Bell LLP; Institute Chair

Ohio Law Update
Litigating Claims Against Decedent’s Estates
Helping Clients Understand the Donor Registry Enrollment Form
Planning for Vacation Homes and Real Estate
Ethical Considerations for Estate Planners
(0.75 hour Professional Conduct)

Federal Law Update
Form 8971: Basis Reporting Requirements
Social Security
Navigating Difficult Trustee Succession Issues
What To Do With Old Life Insurance Policies?

43rd Annual Real Estate Law Institute Video

Presented by the CMBA and its Real Estate Law Section

CREDITS 12.75 CLE Hours

PROGRAM 8:30 a.m. – 4:00 p.m.

Welcome & Introductions
Kari L. Burns, Assistant Bar Counsel, Cleveland Metropolitan Bar Association

Ohio Law Update
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Social Security
Navigating Difficult Trustee Succession Issues
What To Do With Old Life Insurance Policies?

William J. O’Neill
Great Lakes Regional Bankruptcy Institute 2017 Video

Adding Structure to Restructuring: Strategies for Surviving Uncertain Times

Wednesday, December 27

CREDITS 6.25 hours CLE

PROGRAM 8:30 a.m. – 3:45 p.m.

Light Up or Leave me Alone!
The Current Status of the Legal Marijuana industry in Ohio
Kevin Patrick Murphy, Walter | Haverfield LLP
Rocco I. Debitetto, Hahn Loeiser & Parks LLP
David L. Dingwell, Tzangas Plakas Mannos Ltd.

Keeping It Clean: Using Social Media Professionally
Jamie A. Price, Walter | Haverfield LLP

A Year of Discipline Cases in Review:
Don’t Let It Be You
Robert J. Vecchio, Attorney at Law
Monica A. Sansalone, Gallagher Sharp
Kari L. Burns, Assistant Bar Counsel, CMBA, Moderator

The EPA’s BEN Model
James D. Paskell, Litigation and Liability Management, LLC, representing the CMBA’s Environment, Energy & Natural Resources Section

Fathers’ Rights
Kelly M. Zacharias, Law Office of Kelly Zacharias, CMBA Young Lawyers Section Chair

Criminal Law update
Anthony R. Petruzzi, Tucker Ellis LLP, CMBA Criminal Law Section Chair

Supreme Court Raises Stop Sign Against immunity
Bryan P. O’Malley, City of North Olmsted, CMBA Government Attorneys’ Section Treasurer

Estate Planning update
Julie A. Taf, Mansour Gavin, LPA, CMBA Estate Planning, Probate & Trust Law Section Chair

Recent Trends Impacting Employment-Based Immigration
Brian J. Halliday, Ritter Halliday LLP, Representing the CMBA’s International Law Section

Don’t Let It Be You: Professional Conduct for the Modern Practitioner LIVE

Tuesday, December 19

REGISTRATION 12:30 p.m.

PROGRAM 1:00 p.m. – 4:15 p.m.

CREDITS 3.00 hours Professional Conduct CLE requested

Welcome & Introductions
Kari L. Burns, Assistant Bar Counsel, Cleveland Metropolitan Bar Association

Choose Wisely: How to Screen Clients and the Business of Law
Nicholas E. Froning, Koblenz & Penvose, LLC

Keeping It Clean: Using Social Media Professionally
Jamie A. Price, Walter | Haverfield LLP

A Year of Discipline Cases in Review: Don’t Let It Be You
Robert J. Vecchio, Attorney at Law
Monica A. Sansalone, Gallagher Sharp
Kari L. Burns, Assistant Bar Counsel, CMBA, Moderator

Hello, Did Anyone See Where My Data Went?
Not in my Backyard ≠ This Land is My Land

Friday, December 22

At the Corner of Bitter and Sweet – Mixed Use Leasing
Covering Your Asset – Insurance for Dummies
In Through the Out Door: §365 Lease Rejection and Other Bankruptcy Considerations
Lunch & Presentation
Update from the Cleveland Port Authority (.50 CLE)
Navigating Borrowers Through the Looking-Glass of CMBS Financing
The Executioner’s Song: Legal Opinions in Real Estate Financing Transactions
The Underwriter’s Guide to the Galaxy: Current Developments

Cleveland’s Neighborhoods (.50 CLE)
Mineral Rights – Can You Dig It?
“Trumped” Up Changes to Wetland and Stream Permits

Thursday, December 21

Current Developments
One Size Does not Fit All: Leasing 1.0
Getting It Back: FastTrack Foreclosure Updates
Presentation of the Rosewater Award
Greater Cleveland Habitat: Revitalizing

What You Know About That?
Recent Commercial and Consumer Case Law Update
Hon. Russ Kendig, U.S. Bankruptcy Court, Northern District of Ohio
Hon. Arthur I. Harris, U.S. Bankruptcy Court, Northern District of Ohio

What To Do With Old Life Insurance Policies?

Friday, December 22

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Cleveland’s Neighborhoods (.50 CLE)
Mineral Rights – Can You Dig It?
“Trumped” Up Changes to Wetland and Stream Permits
Representation in Medical Marijuana Matters (1 hour)
Thomas G. Haren, Frantz Ward LLP and Klevis Bakiaj, Frantz Ward LLP

Lawyer Participation in Online Referral Services (1 hour)
Dan Lear, Director of Industry Relations, Avvo, Inc.
Michael P. Harvey, Michael P. Harvey Co., LPA
Jeffrey A. Brauer, Hahn Loeser & Parks LLP, Moderator

Motions to Withdraw (20 minutes)
Karen E. Rubin, Thompson Hine LLP and Dante A. Marinucci, Squire Patton Boggs (US) LLP

Nonrefundable Fee Agreements (20 minutes)
Jamie A. Price, Walter | Haverfield LLP

Sizzling Hot Topics in Professional Conduct Video
CREDITS 3.0 CLE Hours Professional Conduct CLE requested

Thursday, December 28
REGISTRATION 8:30 a.m.
PROGRAM 9 a.m.

Big Brother is Watching You: Data Privacy, Cyber-Security, and Compliance
James J. Giszczak, McDonald Hopkins LLC, Detroit
Elizabeth B. Vandesteg, Sugar Felsenthal Grairs & Hammer LLP, Chicago
Luis Salazar, Salazar Jackson LLP, Miami
Hon. Alan M. Koschik, U.S. Bankruptcy Court, Northern District of Ohio, Moderator

Lien on Me: Updating The Uniform Commercial Code
Cassandra Burke Robertson, Case Western Reserve University School of Law
Andrew L. Turscak, Thompson Hine LLP
Brian A. McMahon, Califfee, Halter & Griswold LLP

How To Get It In: Evidentiary Issues in Bankruptcy Hearings
Hon. Kay Woods, U.S. Bankruptcy Court, Northern District of Ohio
Michael J. Barrie, Benesch, Friedlander, Coplan & Aronoff LLP, Wilmington, DE
Gregory P. Amend, Buckingham, Doolittle & Burroughs, LLC
W. Timothy Miller, Taft, Stettinus & Hollister LLP, Cincinnati

Sizzling Hot Topics in Professional Conduct Video
CREDITS 11.75 hours CLE requested, with 2.5 hours professional conduct

Friday, December 29
REGISTRATION 8:30 a.m.
PROGRAM 9 a.m.

The Future of Employment Law Under President Trump: Heaven, Hell, or Somewhere In Between?
Daniel L. Messeloff, Tucker Ellis LLP

ADA Compliance: Counseling the Smaller Employer
Todd K. Masuda, Schneider Smeltz Spieth Bell LLP

From Fee to Friend: Cooperative Negotiating Strategies
Brad Levine, Voudris Law LLC

Medical Marijuana in the Workplace
Stephanie Dutchess Trueau, Ulmer & Berne LLP

Reasonability of Restrictive Covenants: Defend Trade Secrets Act
Matthew K. Seeley, Kadish, Hinkel & Webel

Workplace Investigations: How and When to Conduct: What You Can, Should and Should Not Do
Joel R. Hlavaty, Frantz Ward LLP

The Elephant in the Room: How Unconscious Bias Puts Employers at Risk
Julie Sumner, Monarch Endeavors, LLC

Saturday, December 30
Sizzling Hot Topics in Professional Conduct (2.5 hours professional conduct)

Pot Topics: Rules Regarding Representation in Medical Marijuana Matters (1 hour)
Thomas G. Haren, Frantz Ward LLP
Klevis Bakiaj, Frantz Ward LLP

Lawyer Participation in Online Referral Services (1 hour)
Dan Lear, Director of Industry Relations, Avvo, Inc.
Michael P. Harvey, Michael P. Harvey Co., LPA
Jeffrey A. Brauer, Hahn Loeser & Parks LLP, Moderator

Motions to Withdraw (20 minutes)
Karen E. Rubin, Thompson Hine LLP and Dante A. Marinucci, Squire Patton Boggs (US) LLP

Nonrefundable Fee Agreements (20 minutes)
Jamie A. Price, Walter | Haverfield LLP

Defamation in the Employment Law Context
Warren Rosman, Weston Hurd LLP

Competition and Cooperation: Attorney’s Fees and the Risks of Failure in Negotiations in Employment Disputes
Christopher P. Thorman, Thorman Petrov Group Co., LPA

Independent Contractor Misclassification Under the FLSA and Arbitration Agreements
Ryan T. Neumeyer, McDonald Hopkins LLC

Northern Ohio Labor & Employment Law Conference Video
CREDITS 11.75 hours CLE requested, with 2.5 hours professional conduct

Thursday, December 28
REGISTRATION 12:30 p.m.
PROGRAM 1 p.m.

See agenda on page 14.

Friday, December 29
REGISTRATION 8:30 a.m.
PROGRAM 9 a.m.

See agenda on page 14.

17th Annual Northern Ohio Labor & Employment Law Conference Video
THE CLEVELAND METROPOLITAN BAR ASSOCIATION PRESENTS

CAMERA CLEVELAND!
A Monthly Movie Night

CMBA CONFERENCE CENTER AUDITORIUM / INSIDE ONE CLEVELAND CENTER / 1375 E. 9TH STREET, FLOOR 2, CLEVELAND, OHIO 44114
5 – 5:45 P.M. NETWORKING / 5:45ISH – 6 P.M. SPEAKER / 6 P.M. SCREENTIME
JANUARY 3 – DENIAL / WEDNESDAY, FEBRUARY 7 – MARSHALL / WEDNESDAY, MARCH 7 – HIDDEN FIGURES
WEDNESDAY, APRIL 4 – AMERICAN WINTER (IN PARTNERSHIP WITH UNITED WAY OF GREATER CLEVELAND)
QUESTIONS? SCHARLTON@CLEMETROBAR.ORG / (216) 539-5974

NO NEED TO REGISTER
FREE
BYOB
FREE SNACKS & APPS

FREE SnackS & appS

This holiday season,
GIVE THE GIFT OF INSPIRATION.

Your year-end gift to the CMBF will support our partnership programs serving youth in the Cleveland and East Cleveland city schools.

Help us change lives, one student at a time. Donate online at CleMetroBar.org/AnnualFund
Contact Mary Groth at (216) 539-5975.
Charitable giving can take a variety of forms, and a considerable number of clients have the desire to support philanthropic causes. One option for charitable giving that may be overlooked or misunderstood is the charitable family foundation.

Most of us have heard of prominent family foundations, such as the Bill & Melinda Gates Foundation, the Lilly Endowment, or the Annie E. Casey Foundation. However, a charitable family foundation may be both feasible and desirable for families of more modest means, depending upon their goals, desired level of involvement, and willingness to operate within the required parameters. It may be an appropriate option to discuss with philanthropically-minded clients.

The Charitable Purpose: Define the “Why”
First, your clients need to explore their charitable purpose. What do your clients want to accomplish? Is their primary goal tax-avoidance? Do they have a “pet” project or cause in mind? Do they plan to directly engage in charitable activities, or do they plan to provide funds to support other charities? How involved do they want to be in the management and ongoing operation of the foundation? How much involvement do they anticipate from other family members? The answers to these questions will guide your planning.

Once they have arrived at their “why,” help your clients determine how their charitable purpose fits into one of the “buckets” set forth in Section 501(c)(3) of the Internal Revenue Code. Section 501(c)(3), (26 U.S.C. §501) lists allowable purposes for tax-exempt corporations and foundations. These include:

- Religious
- Charitable
- Scientific
- Testing for public safety
- Literary or educational
- Fostering national or international amateur sports competition
- Preventing cruelty to children or animals

The descriptions are broad enough to encompass most any truly benevolent purpose.

The Form of Entity: What Kind of Charity?
Once the charitable purpose has been defined, setting up the foundation itself involves several decisions: selecting the form of entity, determining whether to operate as a private foundation or a public charity, and deciding whether to function as an operating or non-operating foundation.

A charitable family foundation may be organized as a corporation (including a limited liability company), or a trust. The trust structure allows for greater control by the founder over future activities, while the corporate structure allows for greater flexibility and decision-making by directors. Directors of a corporation must act in accordance with the business judgement rule, while the actions of trustees are held to the higher fiduciary standard.

Regardless of the form of entity, the IRS will scrutinize the organizing documents. The trust agreement or articles of incorporation must clearly state the organization’s charitable, or exempt, purpose, and contain a provision directing that, upon dissolution, any remaining assets must be used for exempt purposes. 26 U.S.C. §501(c)(3), I.R.C. §501(c)(3). If the entity will be a private foundation, then additional, specific provisions, affirming the prohibition of certain proscribed activities, must be included in the organizing documents pursuant to 26 U.S.C. § 508(e), I.R.C. §508(e).

A charitable family foundation can be either a private foundation or a public charity. The Internal Revenue Service presumes that exempt organizations under §501(c)(3) are private foundations unless information is presented to show otherwise. 26 U.S.C.§ 509(a), I.R.C. §509(a).
A public charity may be one of several specific designations (church, hospital, etc.) or one that receives a substantial portion of its funding from public charities, the government, or the general public. A public charity receives more favorable tax status, including a reduction in excise taxes, but has more onerous reporting requirements. The choice between operating as a public charity or private foundation should be evaluated in the context of the clients’ overall goals and charitable purpose.

A family foundation that directly carries out charitable activities is an operating foundation. A foundation that only funds those activities is a non-operating, or grant-making foundation. The same charitable purpose could be accomplished by either an operating or non-operating foundation, depending upon the goals of the clients.
The Board of Directors or Trustees: Who Will Run the Foundation?
Explore with your clients how they anticipate the foundation evolving over time. A charitable family foundation can provide a wonderful opportunity for younger family members to learn principles of investing, business decision-making, and philanthropic values from more senior family members. It also provides a meaningful way to keep family members connected with a common purpose.

The Trust Agreement or corporate Bylaws should describe the internal governance of the foundation and how officers, directors, and/or trustees are selected and compensated. It is recommended that a conflict of interest policy be adopted, and that it be consistent with the example provided as an appendix to IRS Form 1023.

Applying for Exempt Status: When Can the Giving Begin?
Once the preliminary steps of defining the charitable purpose, deciding upon a form of entity, and determining how the foundation will operate have been completed, the process becomes more concrete.

Corporate documents must be prepared and filed with the state. The foundation must obtain a federal Employer Identification Number, even if it will have no employees. The most daunting step in the process is the preparation and filing of Form 1023: “Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.” The form is both lengthy and complex. It requires detailed disclosures, explanations, and financial projections.

One critical section of Form 1023 is the narrative description of activities. This section tells the story of the foundation: its past, present, and planned future activities. It allows the founders to explain in narrative form just what it is they plan to do with their foundation, and how it will accomplish its stated charitable purpose.

Note that if non-profit status is approved, this narrative will be available for public inspection.

The foundation is required to disclose all financial arrangements with officers, directors, and highly compensated independent contractors. The IRS is particularly interested in the arm’s length nature of such transactions, and the methods that will be employed to ensure that only fair market value is paid for services. Complete financial disclosures of revenues and expenses must be included for the current year, and for either the three prior years, or projected for the next two years.

In evaluating an application for exemption, the IRS will evaluate both how the entity is organized and how it will operate. Assuming the governing documents have been properly drafted to include required language, the IRS will more closely evaluate how the foundation will operate. It will examine the financial data and narrative description of activities, along with the organizing documents and other submissions. The principal activities of the foundation must advance the stated exempt purpose, there must be an insubstantial number of activities that do not advance the exempt purpose, and there must be no activities that are prohibited, such as intervening in political campaigns or attempting to influence legislation, among others.

Form 1023 must be filed within 15 months of the inception of the foundation, although an automatic extension is available. The Determination Letter by the IRS (if issued) will be retroactive to the date of formation of the foundation, so long as Form 1023 was timely filed. This means that funding the foundation need not wait until approval by the IRS and receipt of the Determination Letter.

Operating the Foundation: How it Comes Together
Once funded and determined to be exempt, the foundation must adhere to certain rules as it operates or it will be subject to excise taxes,

PROVIDING PEACE OF MIND FOR YOUR CLIENTS
With Our LIFE CARE PLAN:
We provide more than Medicare, Medicaid and Veterans Benefits applications
We coordinate private and public resources to pay for care
We help find the appropriate level of care
Specializing in Elder Law since 2006
The difference is care.

Helping you navigate through difficult financial issues.
Our experienced financial experts will help your clients with:

- Economic Damages
- Fraud Investigation & Deterrence
- Valuations for Estate & Gift
- Business Valuations
- Insolvency & Restructuring

Jeff Firestone, CPA, CFE, CVA
Director of Litigation Services
PHONE 440-892-8900 ext. 113
EMAIL jeff@mcmanamonco.com
WEB www.mcmanamon.com

McMANAMON & Co., LLC
CERTIFIED PUBLIC ACCOUNTANTS
beyond the usual 1-2% of earnings. These are set forth in U.S.C. §§4940-4945. Notably, the IRS assumes a 5% rate of return on assets and expects that amount to be distributed. Failure to distribute such income will result in an excise tax.

The foundation must adopt clear and consistent operating processes and keep meticulous financial records. It will be required to file a Form 990 (or 990PF) annually. If the foundation is a trust, then a trust tax return will be required. If it generates unrelated business income, then a 990T must be filed. Finally, an annual excise tax return, Form 4720, must be filed. Other filings may be required, depending upon the activities of the foundation.

Pros, Cons, and Alternatives
A private family foundation provides maximum control to a donor, both in terms of giving and in terms of investing funds. For a philanthropic family, it can provide a central clearinghouse to receive and evaluate all requests for donations, thereby relieving individual family members from responding to numerous personal solicitations. A charitable family foundation also creates a strong legacy of giving among the family and in their community.

There are drawbacks to private foundations. Donors are limited (generally) to deducting only up to 30% of their adjusted gross income, as opposed to up to 50% for gifts to public charities. These percentages vary based upon the specific type of donation, but are consistently lower for private foundations. The costs associated with setting up the private family foundation are significant, and the ongoing reporting requirements can be quite burdensome.

Attractive alternatives include donor advised funds, either associated with community foundations or maintained by investment companies. These allow a donor to make a lump-sum donation, which is invested, and then to direct donations of varying amounts at various times, to individual causes of his or her choice. Other forms of charitable trusts, such as charitable remainder trusts, are also viable options, although they may offer less flexibility to the donor.

For the right clients, who are committed to a cause and willing to adhere to the IRS rules, a charitable family foundation can be a very rewarding endeavor.

Meg Pauken is an attorney with The Gertsburg Law Firm in downtown Chagrin Falls. Meg serves clients in the areas of Elder Law, Estate Planning, Special Needs, and Probate. She joined the CMBA this year. She may be reached at (440) 571-7542 or mp@gertsburglaw.com.
Helping your clients achieve their philanthropic goals is an important service you can offer whether they’re engaged in retirement, estate or tax planning. As your partner, the Cleveland Foundation can help you and your clients identify the areas of greatest need and the giving vehicles that deliver the most impact.

You serve as the primary point of contact as your clients explore philanthropic giving, and we provide resources and offer meaningful strategies to help your clients achieve the greatest return on charitable investment. By collaborating with the Cleveland Foundation, you can help your clients give with purpose so the causes they feel passionate about can grow and prosper in perpetuity.

For more on the advantages of working with the Cleveland Foundation, please contact our Advancement Team by calling 877-554-5054 or emailing GiveNow@CleveFdn.org.
For results that resonate, change the equation.
Partner with Glenmede, an independent, privately-owned trust company offering investment and wealth management services. Founded in 1956 by the Pew family to manage their charitable assets, we provide customized solutions for families, endowments and foundations. To learn how our culture of innovation and experienced thinking can help you make your unique imprint on the future, contact Linda Olejko at 216-514-7876 or linda.olejko@glenmede.com.

GLENMEDE

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Debunking Eight Gift Tax Myths

BY STEPHEN H. GARIEPY

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everyone makes gifts, whether it’s a birthday present motivated by love and affection or stock in the family business motivated by tax planning goals. The gift tax, when it applies, is a flat rate of 40%. But few know the ins and outs of the gift tax rules. Eight prevalent myths deserve debunking.

Myth #1: The recipient of a gift must pay income tax on the gift. Generally, not true. There’s a specific exclusion of gifts from income tax. And it makes no difference whether the gift is in the form of real estate, an automobile, jewelry, stock or cash. However, a gift by an employer to an employee is taxable income unless made entirely for personal reasons not related to past or future services.

Myth #2: The donor pays gift tax if annual gifts to a recipient exceed $14,000. Almost never the case. Although a donor is limited to an annual gift exclusion of $14,000 per recipient per year ($15,000 in 2018), a donor is also entitled to a large lifetime gift exemption of $5,490,000 ($5,600,000 in 2018). For example, if a donor makes a $100,000 gift in 2017, the donor uses the $14,000 annual exclusion and $86,000 of the lifetime exemption. Further, the annual exclusion and lifetime exemption can be doubled for married donors if both spouses take the required steps to “split” their gifts. Certain payments for tuition, medical care and health insurance do not count as gifts at all. There’s also an unlimited gift tax deduction for qualifying gifts to a spouse. This gift tax marital deduction means there’s never an excuse for skimping on a wedding anniversary present.

Myth #3: The lifetime gift exemption is a hard ceiling. The ceiling can be punctured. There are sophisticated estate planning strat-
egies that can leverage the gift tax exemption many times over. For example, a $5,000,000 gift can cover a $50,000,000 transfer, totally free of gift tax. There are even devices that can zero-out the gift tax on the future appreciation on large holdings. Just ask Sheldon Adelson (Las Vegas Sands), Mark Zuckerberg (Facebook), Lloyd Blankfein (Goldman Sachs), and Charles Ergin (Dish Network), who have transferred millions, even billions, free of gift tax.

**Myth #4: A gift always saves estate taxes.** Not with an estate exemption that matches the lifetime gift exemption of $5,490,000 ($5,600,000 in 2018). Only one-tenth of one percent of estates are subject to estate tax in the first place. Moreover, if a donor dips into the lifetime exemption it’s a wash because it reduces the estate exemption dollar-for-dollar. Ways a donor can come out ahead include leveraging the exemption, paying gift tax (the same 40% rate as the estate tax but it’s tax-exclusive), taking advantage of valuation discounts for lack of marketability and control, shifting ownership but not income tax responsibility, and gifting assets that appreciate in value between the date of the gift and the date of death.

**Myth #5: There’s no tax disadvantage to making a gift.** A trap for the unwary. In the case of a gift of an appreciated asset, such as stock, the recipient takes over the donor’s low cost basis and the recipient pays capital gain tax on a later sale. On the other hand, if there is no gift and the asset passes on the donor’s death to the recipient, the recipient takes a stepped-up basis equal to the asset’s then market value and all pre-death appreciation escapes capital gain tax. Always compare the projected estate tax savings to the income tax cost.

**Myth #6. If the estate tax is repealed, the gift tax would be too.** The estate tax was repealed once before, but the gift tax wasn’t. And for good reason. The gift tax is a backstop not only to the estate tax but also to the income tax. Repealing the gift tax would open the floodgates to transferring appreciated assets subject to capital gains tax to family members in lower income tax brackets. Retention of the gift tax would be all the more important if, as often proposed, repeal of the estate tax is coupled with either a repeal of the step-up in basis to fair market value at death or levying a capital gains tax triggered at death.

**Myth #7. If the estate tax is repealed, making use of the gift tax exemption to save estate taxes becomes irrelevant.** That assumes any repeal would be permanent. In 2010 the estate tax was repealed, but just one year later, in 2011, was reinstated. Countering the calls for repeal of the “death tax” in the 2016 presidential election were proposals to increase the tax. Those proposals included reducing the estate exemption to $3,500,000, reducing the generation-skipping-transfer (GST) exemption to $3,500,000, reducing the gift exemption to $1,000,000, and increasing the top gift, GST and estate tax rates to 70%. The estate tax laws will continue to be subject to change with the shifting political winds.

Why continue to make use of the gift tax exemption, even if repeal of the estate tax is on the horizon or in fact enacted? We are living in the golden age of estate planning. We enjoy the most generous-ever exemptions. The most advanced estate planning strategies, though on the IRS radar screen, have not yet been curtailed by Congress. Making use now of the gift tax exemption can lock in the gift tax and GST tax exemptions at their current historic highs, leverage the exemptions to cover significantly larger transfers, divert future appreciation from the taxable estate, and take advantage of valuation discounts. Estate planning transactions entered into prior to or during any estate tax repeal are likely to be grandfathered from estate tax if the tax is reinstated. If any repeal of the estate tax turns out to be only temporary, doing nothing during the lull may result in missed opportunities to get significantly ahead before asset valuations increase, exemptions decrease, valuation discounts disappear, and estate planning strategies are legislatively closed. In cases where potential estate taxes are at stake, estate planning should continue on a proactive course.

**Myth #8: The most important gifts are material.** Not if we step back to look at the big picture. The most valuable gifts — family, friendship, health, the wonders of nature, peace — are all priceless — and tax-free.

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Significant expansion of the federal estate tax exclusion has dramatically changed how estate planning professionals plan for married couples. In 2000 when the federal estate tax exclusion was merely $675,000 and federal tax rates peaked at 55%, bypass trusts or “credit shelter trusts” were a popular means of sheltering wealth to preserve assets for a surviving spouse and children. Today, however, the exclusion amount has grown to an astounding $5.49 million per spouse, which is now “portable” and can be carried over to the surviving spouse’s estate. Thus, significant changes in recent years have compelled estate planning attorneys to consider the concept of portability versus bypass trusts.

What Is a Bypass Trust?
Bypass trusts are historically an effective tool designed to minimize estate taxes by sheltering wealth into a trust. The concept is pretty straightforward: every individual is afforded an exemption amount that permits their estate to transfer to a surviving party without suffering loss to federal estate taxes. Conversely, before portability, married couples would lose one of these exemptions at the death of the first spouse. At the death of the second spouse, if the value of the estate exceeded the surviving spouse’s exemption, it would be taxed at the federal estate tax rate. For example, when the exemption amount was $675,000 in the year 2000, a person dying with $1 million in his or her estate would result in $178,750 in federal estate taxes because the remaining $325,000 over the exemption is taxed.

Married couples could avoid these tax implications by directing some of their estate to a bypass trust that would support the needs of the surviving spouse, while also sheltering that portion of the estate from unnecessary taxation. This may be accomplished by dividing the estate into two portions. Instead of leaving the entire estate to a surviving spouse, the deceased spouse leaves assets for their children in one trust account and a separate trust account for the surviving spouse’s benefit. Assets placed in the separate trust account for children reduce, if not eliminate, estate taxes entirely.

Advantages for Larger Estates Using Bypass Trusts
With larger estates, bypass trusts may be a better planning option when considering the financial and tax implications for married couples. By far the greatest advantage is that appreciation of the trust assets and undistributed income will not be subject to federal estate tax upon the surviving spouse’s passing. This is especially important for assets in the decedent’s estate that may appreciate drastically before the surviving spouse’s death. In addition, if intergenerational planning is important, bypass trusts are likely a better option over portability because they allow for use of the generation-skipping tax exclusion of the first spouse to pass. Portability is not available for the generation-skipping tax exemption thus, portability would simply not work.

Providing Asset Protection
Aside from the tax implications, asset protection will sometimes compel the need for establishing a bypass trust over portability. If properly drafted, the trust creates a certain level of asset protection for children and a surviving spouse. Coupled with credit shelter spendthrift provisions, the trust may preclude the assets from being attacked by the creditors of trust beneficiaries. This form of asset protection is particularly important and commonly used for beneficiaries who are in a “shaky marriage” and/or who have spending issues. While a surviving spouse may not have obvious significant creditor or litigation risks (like being a surgeon or professional athlete), creditor protection should always be on the horizon. When compared to portability, the fact remains that estate planning using bypass trusts can remain relevant at nearly all levels of net worth if the driving reason for the trust is a non-tax concern.

Disadvantages
Bypass trusts serve an important and necessary purpose to preserve an estate against creditors and divorce. However, for smaller estates, this protection comes with taxable consequences. Unlike the use of portability, there is no second step-up in basis at the death of surviving spouse. For smaller estates, this could leave beneficiaries paying a great deal in income tax upon the disposition of the asset. Further, undistributed income of the trust can be subject to higher income tax rates than individuals. In addition, although minimal, there may be an added annual expense of filing a trust tax return. Finally, the use of bypass trusts will require the retitling of assets which can sometimes be tedious and relatively costly.

What is Portability?
The American Taxpayer Relief Act of 2012 has been a game-changing concept when planning for married couples. Since the Act, portability is now a permanent part of the federal estate tax system, which means each spouse’s estate tax exclusion that is unused at death is portable and can be carried over to the surviving spouse. It has effectively doubled the exemption amount for combined assets of married couples to over $10 million. With portability, assets are stepped up in basis at the death of the first spouse, and then are stepped up again at the death of surviving spouse. For families with larger retirement assets, portability has proven to have several advantages.

Advantages of Portability
The biggest advantage for using portability, especially for smaller to medium estates, is the use of step-up in basis. This is in contrast to using a bypass trust, where the assets are stepped up again at the death of the surviving spouse.

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up at the death of the first spouse, but not at the death of the second spouse. Compared with bypass trusts, there is no need to retitle assets or divide assets into separate trust shares when using portability. For the most part, portability is simple and can be utilized even in lieu of estate planning prior to death.

**Downside to Portability**

If the client’s goal is to protect assets of beneficiaries from remarriage, creditors, and/or divorce, then portability is probably not the only planning tool that should be considered. With portability, a portion of inherited assets are subject to the surviving spouse’s present and future creditors, as well as creditors in bankruptcy and, if the surviving spouse remarries and then divorces, to ex-spouses. Additionally, portability is not available for the generation-skipping tax exemption. Although retitling of assets is not required, the use of portability is not automatic. Timely estate tax returns must be filed and may require additional cost from tax professionals.

**A Quick Comparison**

Let’s assume Ken and Kathy have a combined net worth of $10.98 million. Ken dies in 2016 and Kathy dies in 2026. During this 10-year period we will assume the federal estate tax rate will be 40% and they live in a state with no estate or income tax.

**Using Portability**

Ken forgoes setting up a trust and instead relies on portability. Let’s assume that over the 10-year period after Ken’s death, the total estate grows at a modest 5% annually. This would yield a total combined estate of $17.88 million when Kathy dies in 2026. Not taking into account inflation, Kathy’s total estate tax exclusion will be both Ken’s unused portion plus her own, totaling $10.98 million. Consequently, the total amount subject to estate tax is $6.9 million ($17.88m - $10.98). At a 40% tax rate, the possible resulting federal estate tax is $2.76 million.

**Using Bypass Trust**

Now let’s assume that Ken created a bypass trust which at death would become irrevocable and funded the family trust account to its maximum of $5.49 million. When Kathy dies 10 years later, all of the appreciation within the family trust will escape estate tax. Here, the resulting taxable estate is $3.45 million opposed to $6.9 using portability. Kathy still maintains her $5.49 exclusion resulting in the total estate tax of $1.38 million.

In sum, portability has the benefit of simplicity and $5.49 million of a portable exemption. For smaller estates without intergenerational or asset protection concerns, portability appears to be the better option. On the other hand, regardless of the size of the estate, bypass trusts remain effective at all levels of net worth if the driving reason is non-tax related. Estate planning goes well beyond the comparison of portability versus bypass trusts and careful consideration of the client’s needs should be implemented into every plan.

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**PORTABILITY**

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**BYPASS TRUST**

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Dan A. Baron has dedicated his legal career to the areas of estate planning, elder law, and business litigation. Dan and his team strive to provide seamless client service while considering asset protection, client control, and tax savings with every estate plan. Mr. Baron graduated with honors from Cleveland Marshall College of Law and the University of Akron, cum laude. He is a member of ElderCounsel, the West Shore Bar Association, and has been a member of the CMBA since 2015. He can be reached at (216) 573-3723 or at dan@baronlawcleveland.com.
The following situations may be familiar to many attorneys:

- A colleague’s parent has a medical crisis and they reach out for help with the legal issues related to their parent’s long-term care;
- Long-term clients that you have done estate planning for are now in their 70s, and while they are healthy and have capacity, after seeing friends decline and need long-term care, they now want to make appropriate plans for their own care;
- A friend has a child diagnosed with autism and is concerned about what will happen when they are no longer around to care for their child.

The simple fact is that as a society, we are aging and are living longer. Statistics show that from now until 2030, an average of 10,000 people a day are turning 65. Many attorneys see this trend in the needs articulated by clients, colleagues, friends and their own families. While it is natural for attorneys to want to assist with these legal needs, particularly if they are familiar with estate planning, it is important to keep in mind that legal issues that relate to older individuals and those with special needs may often be different from younger healthy individuals. Planning that makes sense for someone in their 30s, 40s or even 50s may not be adequate for someone in their 60s, 70s or 80s. Those who dabble in elder law without understanding the unique legal issues related to this area may do themselves and their clients a disservice and can even open themselves up to potential liability. Attorneys wishing to assist others in this area need to either familiarize themselves with issues related to Medicaid, government benefits, and planning for long-term care, or they should find an attorney to align with or to refer such cases.

**Consider Elder Law Issues in your General Estate Planning Documents**

While many attorneys practicing in the estate planning field will usually recommend a handful of estate planning documents that all adults should have, some of these basic documents can be improved with elder law specific additions, even when drafting for younger clients, as we know that incapacity can strike at any age. Durable financial powers of attorney (DPOA) are crucial documents when clients lose capacity. When looking at a client’s existing DPOA for an aging parent or spouse, significant problems in elder law planning can arise if a few key powers are missing. A common issue is a DPOA that does not include the ability to create, modify or fund a trust. The creation of trusts can play a key component in Medicaid asset protection planning. If the client no longer has capacity to create a trust, having an agent under a DPOA who has the ability to create and fund a trust can make all the difference.

This issue became even more relevant when Ohio switched from being a §209(b) state for Medicaid purposes to a §1634 state in August 2016. When Ohio switched to being a §1634 state, individuals could no longer spend down excess income, and instead all Medicaid applicants and recipients with income over the monthly income cap (currently $2,205 a month) were now required to set up a Qualified Income Trust (QIT) to address excess income. While there are some work arounds when the Medicaid recipient no longer has capacity and a previously executed DPOA does not specifically authorize the agent to establish trusts in general and QITs in particular, having those items specifically provided for in a DPOA can save time and money down the road, especially when dealing with the banks that house the accounts funded under these trusts.

A DPOA that limits gifting by the agent to the federal-gift-tax exclusion amount or limits self-dealing to an agent who is a spouse or child can limit some critical elder law planning techniques. Some DPOAs that do not address the ability to buy and sell real estate, or limit real estate transactions to currently owned property may also limit or complicate elder law planning if the client no longer has capacity.

While elder law attorneys are often hyper-focused on the myriad of “what-ifs” that can happen to clients, and include contingency planning for beneficiaries who may be receiving public benefits now or in the future, the reality is all attorneys who are doing estate planning should be thinking about how they can add such contingency planning discussions to meetings with their clients. For example, your clients, in their 50s or 60s, tell you that when they are both gone, they want to divide everything equally between their three children. A simple follow-up question regarding any health issues for the adult children could alert you to the possibility of a beneficiary being a recipient of government benefits either now or in the future. You may determine that it makes sense to include contingent special needs trusts language so that if the beneficiary is receiving government benefits at the time of distribution, his or her share can go into a wholly discretionally special needs trust and therefore not disrupt...
any potential government benefits. A failure to inquire about and plan for such a scenario could cost the potential beneficiary in lost benefits and may also curtail the ability to leave portions of that inheritance to subsequent beneficiaries.

Medicaid Planning
While elder law issues can arise in basic estate planning as discussed above, when clients are seeking advice for Medicaid planning, there are many nuances that can quickly lead to significant problems for attorneys who are merely dabbling in elder law. Sometimes the problems arise from doing no planning at all. Some clients are told that if they have a smaller amount of assets, maybe $90,000 in liquid assets and a house, that there is not much that can be done for planning and that the client will likely have to private pay for long-term care until they run out of money, and only then apply for Medicaid. The reality is that there are a number of tools available to preserve some assets and qualify the client for Medicaid, including the creation of irrevocable trusts and spending the available assets on exempt resources. For clients who served or whose spouse served in the military during specified “war times,” monthly VA pension payments may be available that can allow the client to stay in their home or move to an assisted living facility. Additionally, just encouraging aging clients to plan ahead while they are still healthy and have capacity makes additional planning possible and can allow clients to preserve their assets, initially for their own long-term care needs, but ideally to pass on to loved ones as well. Many people are aware that Medicaid has a five-year look-back for “improper transfers” that may result in a penalty period in which the individual has to privately pay for their care. By conducting advanced planning with the goal of making it through the five-year lookback period without applying for benefits, clients can effectively preserve assets. While situations may change before that five-year window is up, like most estate planning, the more proactive the planning, the more options that are available to the client.

Understanding Gifting
One of the largest misconceptions that attorneys have when giving their clients advice has to do with gifting. Many confuse the $14,000 per person per year gift tax exclusion that is allowed under IRS regulations with transfers for Medicaid purposes. While allowable for tax purposes, such gifting is almost certainly going to be considered an improper transfer for Medicaid purposes resulting in a period of ineligibility. Other times, individuals have contemplated, sometimes on the advice of friends and neighbors, transferring assets outright to an adult child in order to try to protect these assets when qualifying for Medicaid. While the plan may be for the child to have those assets available in case the parent does not qualify for Medicaid, those assets may not be available when the time comes. If the child dies before the parent, the funds could be distributed as part of the child’s estate. If the child divorces, the funds could be identified as marital assets and divided as part of the settlement. Unfortunately, this type of outright gifting does not offer any assurances that the money will be there should a parent need to pay for long term care during a penalty period. With proper guidance, strategies can be put in place to address excess resources and plan for any potential period of ineligibility.

THANKS FOR A GREAT START TO THE SCHOOL YEAR, 3RS VOLUNTEERS!

This fall we kicked off the 12th year of the award-winning 3Rs program in the Cleveland and East Cleveland schools with Lessons One and Two, introducing the program and teaching students about the judicial branch of the government. Thanks to the incredible support of over 400 judges, lawyers, law students, and paralegals, we’re proud to say that we have come closer than ever to reaching our goal of volunteer coverage for EVERY 3Rs-eligible class in 2017–18! This fall we were also pleased to spread the word about The 3Rs with Crane’s Cleveland Business, which published a feature article about the program in early November. Check out The 3Rs at CleMetroBar.org/The3Rs.

We also deeply appreciate the financial support of volunteers who donated to The Friends of The 3Rs, which helps fund the program through the Cleveland Metropolitan Bar Foundation:

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• Bryan Evans
• Lisa Forbes
• Amy Herman
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• Robert McCaleb
• Susannah Muskovitz
• Lara Nochomovitz
• Krithika Rajkumar
• Zachary Robock
• Lorysa Winterhalter Wojnicz

For more about The 3Rs, including how you can donate to be a Friend of the program, please visit CleMetroBar.org/3Rs or contact Jessica Paine at jpaine@clemetrobar.org. Thank you for your support!
Timing
Timing is often critical when conducting elder law and special needs planning and is often case specific. For example, if a substantial transfer has been made during a five-year lookback period, it might be beneficial to delay applying for Medicaid until after that five-year period has passed. On the other hand, if your planning includes gifting and paying through a penalty period, you will need to apply for Medicaid in order to start the penalty period. When conducting special needs planning, some trusts must be established and funded before the individual turns 65. Understanding these timing issues can be the vital in securing benefits for clients.

Because elder law touches on many areas of law and is constantly changing, it can be an intimidating area in which to practice, but it can also be incredibly rewarding. As the legal needs of our aging society continue to grow, attorneys may want to consider adding an elder law component to their practice. The key is not merely applying general estate planning principles to situations involving older clients, but being committed to understanding the legal issues particular to this ever-expanding demographic.

Dawn McFadden and Christina Bushnell are both sisters and law partners at McFadden Bushnell LLC where they help clients with elder law planning, special needs planning and general estate planning. Ms. McFadden has been a CMBA member since 2005 and Ms. Bushnell since 2007. They can be reached at (216) 714-0090 or www.mcfaddenbushnell.com
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A DAY IN THE LIFE...
A law office phone rings. An adult child named Belle is calling because she came home to Cleveland from Los Angeles for a family holiday party and discovered that Mom and Dad are having a difficult time living alone. Her parents are bruised from falling, are not paying their bills, the refrigerator has mostly spoiled and expired food in it, and they haven't showered in weeks. Belle, realizing that she legally has no power to help, calls you for advice. Belle doesn't know how or where to start in solving this dilemma, but she knows for certain she needs legal counsel. Belle's parents are refusing all help and she needs to plan for their future. Belle is unsure if her parents should be living alone or if they need to be placed in a care facility.

Even experienced Elder Law Attorneys do not have the training or the experience to deal with the medical, psychological and social issues that are necessary when planning for clients who have physical and/or mental disabilities. As an attorney, it is difficult to give excellent legal advice unless you have a good understanding of the clients' future needs which include health and wellness solutions. Attorneys have come to rely on Geriatric Care Managers (GCMs) to assess their clients and assist with the education and development of a holistic care plan.

Many older adults are now living into their 90s, and it is becoming more common for adult children to live great distances from their parents. Meeting the needs of aging parents who live far away can be overwhelming; however, a good place to start is with a professional Geriatric Care Manager.

WHAT IS A GERIATRIC CARE MANAGER?
When people do not have the support systems in place or the support system is overwhelmed with the care of their loved one, a professional GCM can be an asset: providing an all-encompassing team approach to estate planning that includes plans of care for clients as they age.

Geriatric Care Management, also known as Aging Life Care,™ is a holistic, client-centered approach to caring for older adults facing ongoing health challenges. Working with families, the GCM provides answers at a time of uncertainty. Their guidance leads families and their attorneys to the actions and decisions that ensure quality care and an optimal life for the older adult, thus reducing worry, stress and time off of work.

The Process of Care Managing
Beginning with a comprehensive assessment of the senior's needs, the professional GCM makes a plan of care in consultation with the family and attorney to address wellness. The GCM provides seniors and their families with education about reputable local resources that help maintain a senior's independence. GCMs often assist with placement in a facility. Careplan Geriatric Care Managers in Cleveland, Ohio will try to keep older adults in their home for as long as possible, as research proves this is where seniors do best. If home is not the best option, Careplan's experience and knowledge about local care facilities will help narrow placement options by matching the individual's needs to the strengths of a particular facility. In addition, Careplan provides ongoing monitoring, attends medical appointments and advocates for wellness in the absence of family. Care managers provide recommendations and resources for mental and physical wellbeing.

For the adult children of aged parents, the Care Manager is an extension of the family, keeping them informed about changes as time goes on. GCMs are a great resource for adult children that work or live out of town.

A certified GCM provides referrals to appropriate professionals for necessary legal assistance in connection with the client's care. GCMs will often refer clients to attorneys for assistance with Medicaid, power of attorney, living will and guardianship execution.

GCMs Supporting the Client and the Law Firm
Geriatric Care Management, while not a new profession, is frequently overlooked by estate planners and other law professionals. Pulling from skill sets that include nursing, gerontology, social work, counseling, and healthcare administration,
GCMs are equipped to manage family conflict and bring neutrality to a dysfunctional family relationship. Their expertise makes them valuable members of the estate planning team due to the GCM’s ability to make recommendations about the proper care of an older or disabled adult. Through comprehensive assessments that examine health & wellness, memory & mental health, social support networks, and financial resources, GCMs craft long-term care plans to ensure the estate plan matches the reality of the client’s situation. GCMs provide the resources to enable an older adult to live at their highest level of functioning. Resources may include: home health, companion care, meal services, transportation, physical therapy, occupational therapy, speech therapy, adult day care centers, pet care, referrals to attorneys, medical doctors, assisted living centers, nursing homes, and VA benefits.

Advocacy
As older adults age, attempts to hold on to independence can be at odds with well-intentioned suggestions from their adult children. They want to be cared about, but fear being cared for.

Many families have difficulty getting the older adult to agree to care inside or outside of the home. GCMs take the time to understand the older adult’s concerns. Often an adult child has difficulty speaking with their parents about care alternatives, as it is a difficult system to navigate complicated by the sensitivity of the subject. GCMs take the legwork out of navigating this process, they save time and money for the adult child allowing them to remain at work and not at their parent’s home. They are able to stay focused on dealing with their own personal issues, such as balancing child care and work obligations. Often, an older adult is more comfortable discussing their personal challenges with an unrelated professional third party such as a GCM. In most circumstances, the GCM is a welcomed entity by the resistant older adult.

THE LAWYER AND GCM WORKING TOGETHER

Guardianship
The reasons for guardianship vary considerably from person to person but generally involve physical or mental conditions that impair a person’s ability to make good decisions. Guardianship is considered by many to be a part-social, part-legal relationship. While guardianship can only be established through a legal proceeding, the duties of the Guardian are usually carried out in a social service context making the GCM a perfect fit.

A GCM’s comprehensive assessment can be vital in determining if or when a guardianship is appropriate to be pursuing. The GCM will look for red flags found during the assessment such as mental status, nutrition, environmental and physical functioning issues.

GCMs often act as a health care advocate for older adults who have a guardian, frequent monitoring ensures that the older adult is receiving the appropriate care so the guardian can make informed decisions as they age.

Mediation
Having family members who do not get along may present road blocks in the firm. When managing family conflict and disagreements about the care of a client, attorneys can call on the GCM to provide an unbiased, objective position on what is best for the older adult. GCMs can act as a mediator. GCMs who are social workers rely on their counseling skills to facilitate difficult discussions; this process enables families, GCMs and attorneys to move together more quickly on a plan.

One.
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Abuse
In recent years, the financial exploitation of the elderly has become a huge concern as the most common form of elder abuse. Elder consumers are typically more vulnerable than younger consumers because they are often lonely, declining cognitively, and have health problems that make it more difficult for them to recognize such dangers. The elderly population is also an easy and dependable target for predators as the elderly are more likely to have assets and/or a dependable source of income.

GCMs are knowledgeable about strategies for preventing abuse including financial, physical, and emotional. GCMs know the warning signs to look for: the GCM’s ability to help when family is absent provides a protective barrier for the client. Many older adults are abused in their own homes, and even in facilities responsible for their care. GCMs can be the eyes and ears protecting against abuse in or out of the home, and can provide regular visits to wards on behalf of attorneys, providing a cost saving for the client.

Placement Service
The GCM will help evaluate and select appropriate level of care and residential options; ensure a smooth transition from hospital to home or to a new residence; and assist seniors to live independently in the least restrictive setting. GCMs provide unbiased recommendations based on past and current client experiences.

Aging in Ohio
With 2.4 million individuals age 60 and over, Ohio ranks 7th in the nation in the size of its older population. Today just over 200,000 older Ohioans experience a severe physical and/or cognitive disability requiring long-term assistance. Estimates indicate that the older population with severe disability (defined as individuals who meet the state’s nursing home level-of-care criteria) will grow to 249,000 by 2020 (25% increase); and by 2040 the number will nearly double in size (400,000).

With the expected increase in the older population in Ohio, coupled by the increasing intricacies involved with estate planning, we can expect that the need for a multidisciplinary team approach will be necessary. Referring to a Certified Geriatric Care Manager will ultimately enhance that law firms plan, bringing with it extra value, credibility and peace of mind for all involved.

Bridget Ritossa is the owner of Careplan Geriatric Care Managers and serves as a Midwest board member for The Aging Life Care Association™ formerly known as The National Association of Geriatric Care Managers. Bridget is the Cleveland Unit Leader for ALCA. She joined the CMBA this year. She can be reached at (440) 476-9534 or bridget@careplangcm.com
Many lawyers often wonder why the Ohio Legislature passed certain laws and how those laws may have changed over time. When the answers matter to their clients, lawyers can ask law librarians for help in locating both prior versions of statutes and resources that explain the intent behind enactments, amendments, and even repeals. Despite what some people think, Ohio is pretty good compared to most states when it comes to providing resources for historical versions of statutes and accompanying legislative intent. Together, these resources are often referred to as “legislative history.” What resources lawyers will need to use for their research will depend on how far back they have to go.

Prior Versions of Statutes

The easiest place to find earlier versions of current statutes is by using an online database. The simplest method involves browsing historical versions of the Ohio Revised Code Annotated online by year. As an example, Westlaw provides this option back to 1993. A great, fee-based resource for prior unannotated Ohio Revised Code (also O.R.C.) sections is Hannah Capital Connection, which goes back to 1997. Members of the CMBA enjoy free access to Fastcase, which archives O.R.C. versions back to 2012, and members of the Ohio State Bar Association (OSBA) can access prior versions back to 2003 on Casemaker. For older research, lawyers can check a local law library for superseded copies of the Ohio Revised Code Annotated. For even older research, lawyers will want to check Ohio’s General Code or the Revised Statutes of Ohio, both of which preceded passage of the 1953 Ohio Revised Code.

Both Lexis® and Westlaw® also support easy searching by O.R.C. section number. Beneath the text of a statute on either platform is a list of all prior versions in either chronological or reverse chronological order. Importantly, both resources provide hyperlinks to the official versions of earlier laws as they were enacted by the Ohio General Assembly back to at least 2000–2001. These original documents called Session Laws were eventually organized or “codified” into what lawyers know as the Ohio Revised Code. Law libraries may provide Hannah Capital Connection for access to Session Laws back to 1997 or Session Laws since inception through HeinOnline or in bound volumes called Laws of Ohio.1

Many databases also offer searching by the House or Senate Bill number that was assigned to proposed legislation when it was introduced in Columbus. The best free web site for searching Ohio Bills by number, sponsor, or keyword back to 1997 is the Archives page of the Ohio Legislature: http://archives.legislature.state.oh.us/search.cfm#special_session. Additional sources include Lexis back to 1991 and Hannah Capital Connection back to 1989.

Legislative History

Although prior versions of statutes show changes over time, legislative intent is often the key to why statutes were passed, amended, or repealed. Intent can often be derived from a number of resources, but the Analyses that are prepared by the Ohio Legislative Service Commission (LSC) are often the best places to start. As Bills progress through the Ohio House and Senate toward passage, the Ohio LSC prepares summaries at various Committee stages to help to explain why the Bills were introduced or modified. These Analyses are a treasure trove for motives behind legislative action, including responding to case law, closing a loophole in an existing law, standardizing the law across Ohio, or providing additional protections for Ohio citizens. Free Analyses back to 1997 are available at the Ohio General Assembly’s web site: http://archives.legislature.state.oh.us/search.cfm#special_session. The Analyses are also available online on Westlaw back to 1997 and Hannah Capital Connection back to 1989. For older Analyses, some law libraries maintain copies on microfilm back to 1961.

The next best resources for legislative intent often include Committee and Conference Synopses, the latter of which are available at the link above back to 1997 and on Westlaw back to 2001. Committee Reports and Committee Testimony (not verbatim) back to 1989 are available on Capital Connection, and the Ohio Channel has published online videos of Ohio House and Senate Debates back to 1997. In addition, House and Senate Journals, which are often available online or in archival law library print collections, can show the text of floor amendments, voting records, and vetos. For budget bills, lawyers will also want to check the LSC’s Fiscal Notes which are available online on Westlaw back to 1997.

In addition, contemporaneous news articles, treatises, and law reviews may quote testimony, contain interviews with legislators, or provide other insights into why a law was passed. Finally, in rare cases, the Ohio History Center in Columbus may possess additional historical documents that are not available elsewhere.

1 The Ohio Secretary of State ceased publishing the Laws of Ohio in print in 2007.

Kathleen M. Dugan serves as the head Librarian of The Cleveland Law Library. She has been a CMBA member since 2003. She can be reached at (216) 861-5070 or kdugan@clelaw.lib.oh.us.
When Is a Breach of Duty Not a Breach of Contract? Timeliness of Claims Between Parties to a Contract

BY GEORGE CARR

Ohio has adopted many statutes of limitation applicable to civil actions. Given a choice, Ohio courts apply the limitations period that most specifically applies to the dispute. “[T]he well established rule is that a special statutory provision which relates to the specific subject matter involved in litigation is controlling over a general statutory provision which might otherwise be applicable.”

But the “most specific” limitations period can be unclear, because Ohio has several approaches to the limitation of claims. Some limitations statutes apply because specific parties are involved, because particular legal theories are asserted, or because of the types of damages claimed. With these overlapping statutes, “Ohio courts have been repeatedly called upon to analyze the nature of the action and of the injuries claimed in order to determine which statute of limitations should be applied.” This is “prompted by frequent attempts to avoid the [shorter] statute of limitations on such actions and benefit from the longer statutes of limitations applicable to alternative theories of recovery.” Indeed, a single claim may be governed by more than one limitations period, if the resulting damages fall into multiple categories.

Between parties in contractual privity, claims of breach of contract are commonly pled, at least in the alternative. But Ohio courts are not inclined “to allow a party to transform tort claims into a breach of contract action for the sake of extending the statute of limitations.” Instead, parties’ pleadings can be freely recharacterized, if “the essential character of [the] claims” differs from what has been pled.

In fact, an existing contract between the adverse parties does not necessarily mean that their conduct is governed exclusively by the contract. In fact, “a tort may be dependent upon, or independent of, contract.” In deciding whether the action sounds in tort or contract, consideration will be given to the nature of the injury, the language of the complaint and the legal relationship between the parties. Thus, claims between parties to a contract, even alleging the breach of duties arising from the contract, may nonetheless sound in tort.

Ohio courts give the greatest weight to the type of injury asserted, regardless of whether a claim is pled as a breach of contract. “The character of the loss determines whether a commercial party may recover in tort. If the loss is an economic one, a cause of action will lie only in contract.”

“Thus, whether a suit is brought in contract or tort, when the ‘essence’ of an action is wrongful harm to person or personal property, the [two-year] statute of limitations is the appropriate one to apply.” Similarly, claims for damage to real property can be subject to the tort limitations period, even where the property owner is in contractual privity with the tortfeasor.

However, Ohio courts also give significant weight to the source of the allegedly breached duty. “Where the duty allegedly breached by the defendant is one that arises out of a contract, independent of any duty imposed by law, the cause of action is one of contract.” But in the absence of a specific contractual warranty, or a provision describing the allegedly breached duty, a contract implies nothing more than the “duty imposed by law on all persons to exercise ordinary care.”

Consider a hypothetical office-building owner that enters into two contracts. The first is a contract for inspection services, pursuant to which the inspection company promises to “inspect and evaluate all critical building components,” and “promptly prepare written report(s) and recommendations for replacement, repair, and maintenance,” in exchange for payment. The second is a contract for cleaning services, by which the cleaning company promises to perform its services “in accordance with industry standards.”

The inspectors and the cleaners both visit the property on the same day, and both notice a leaking and corroded pipe in a top-floor bathroom. Neither reports the leak to anyone, at least not immediately. Later that week, the leaking pipe bursts, causing extensive damage to the building. Five years later, after a lengthy process of repairs and insurance claims, the owner files suit against both the inspectors and the cleaners, alleging breach of contract and negligence in failing to timely report the leak. Both defendants are in contractual privity with the owner, but what statute of limitations applies?
Under current law, the cleaning company should succeed on a limitations defense, because its contract did not include any express warranties, or expressly require the cleaning company to report any observations, such as the imminent failure of a building component. It may seem odd that the owner’s claim against the cleaning company sounds in tort instead of contract, especially as it only discovered the leaking pipe while performing the contract. However, because its contract imposed no duty to warn or report, the cleaning company owed only a duty of ordinary care. The breach of this duty sounds only in tort, and the tort statute of limitations governs.

In contrast, the inspection company will have greater difficulty achieving the same result. Because the contract expressly required it to “promptly” report any problems with the building, its breach of duty arose from a duty imposed by contract, not common law. However, the inspection company may still prevail by arguing that the resulting injury was to real property, thus subject to the four-year limitations period.

As these examples show, potential claims should be evaluated early: claims between parties in contractual privity may nonetheless sound in tort, and even contract claims may be barred by other limitation statutes, depending on the parties to the case and the types of damages asserted. Think through these issues carefully!

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4. Kay v. City of Cleveland, 8th Dist. No. 81099, 2003-Ohio-171, ¶ 21-22 (two statutes of limitation apply when plaintiffs’ alleged damage is to both real and personal property).
6. Doe v. First United Methodist Church, 68 Ohio St.3d 531, 536, 1994-Ohio-531, 629 N.E.2d 402, 407 (determining applicable statute of limitations from “the essential character of [the] claims” and “the fundamental nature of [the] causes of action”); Hamilton v. R.G. Barry Corp., 12 Ohio St.3d 179, 183, 465 N.E.2d 1298, 1302 (1984) (“in determining which limitation period will apply, courts must look to the actual nature or subject matter of the case, rather than to the form in which the action is pleaded. The grounds for bringing the action are the determinative factors, the form is immaterial.”).
Andrianos, supra, at 51, 97 N.E.2d at 552 (“No matter what form is adopted, the essence of the action is the wrongful injury, and that it arose from the breach of an express or implied contract is immaterial.”); Krause, supra, at *6 (“when a cause of action seeks to recover for injury to a person, the fact that the action is brought under a contract does not alter the tortious nature of the claim, and it is therefore subject to the applicable statute of limitations under tort law.”).


Ressallat v. Burglar & Fire Alarms, Inc., 79 Ohio App.3d 43, 49, 606 N.E.2d 1001, 1005 (3d Dist. 1992); see also Shorter v. Neapolitan, 179 Ohio App.3d 608, 2008-Ohio-6597, 902 N.E.2d 1061 (7th Dist.), ¶ 18 (“claim for damage to her personal property is governed by the two-year statute of limitations in R.C. § 2305.10, regardless of whether it is framed as a tort claim, a contract claim, or a warranty[] claim.”); Andrianos, supra, at 51, 97 N.E.2d at 552.


Schwartz v. Bank One, Portsmouth, N.A., 84 Ohio App.3d 806, 810, 619 N.E.2d 10, 13 (4th Dist. 1993); see also Gillette, supra, at 126, 65 N.E. at 870 (“If a contract imposes a legal duty upon a person, the neglect of that duty is a tort founded on contract; so that an action ex contractu… may be brought….”); see also Commonwealth Real Estate Investors v. Paolone, 7th Dist. No. 09 MA 51, 2010-Ohio-751, ¶ 18 (shorter limitations period “is applicable … where the plaintiff does not assert a breach of any express contractual provisions”).

Let’s put Resilience in the Curriculum

When I arrived at law school in the autumn of 1979, I knew the course load would be daunting, the academics challenging, and that my fellow students were probably all a little smarter than me. What I wasn’t prepared for was the way the law school curriculum left no space for uncertainty, self-doubt and especially vulnerability. There were difficult questions from my professors and clever retorts from fellow students who all appeared to be a lot less intimidated than me. The idea, as I interpreted it, was to shatter any semblance of incertitude that might exist in me and if that was not possible, second best alternative was to scuttle any part of that kind of temperament into the deepest recesses of my psyche, so deep that neither my fellow students nor my professors would ever suspect I was only pretending to be secure and confident.

Had I been less tenacious, I would have quit. But I stayed, practicing my poker face in the mirror, never grasping what I lacked was an alternative to help me regain balance after facing adversity.

Years later, a friend offered me an opportunity to learn about mindfulness meditation and I accepted. The takeaway was that sitting still in a focused, intentional way allowed me to approach my vulnerability with compassion, courage, and kindness and that, my friends, would have come in mighty handy during my law school years. The swampy aftermath of confrontation is a fertile breeding ground for self-doubt and the spinning of unkind stories repeated over and over until we’re completely convinced of their truth. Through a mindfulness meditation practice, I have learned to observe my thoughts, untangle myself from them and be more open to the possibilities of the present moment.

As it happens, some law schools have changed things up. When a 3L at Northwestern Pritzker School of Law told me about his professor, Len Riskin, who as part of a Conflicts Negotiation class instructed his students on mindfulness meditation, something clicked. I thought — huh, I’m a lawyer. I have a meditation practice. What if I were to bring the practice of mindfulness meditation to the legal community?

I emailed Professor Riskin and he gave me advice that went something like this: All you really have to do to get started is to get a law school to agree to let you talk in front of their students. After a few twists and turns, my alma mater, Case Western Reserve University School of Law, gave me a chance to stand in front of a group of their students and talk about mindfulness meditation. At the end of my talk, I guided the students through a meditation. When they opened their eyes, they sat around for a loopy few minutes before they filed out of the room. Many of them thanked me. From there, I went on to get a gig at a law firm, then to teach a continuing legal education class and eventually become a board member of the Mindfulness in Law Society, where Professor Riskin is also on the board.

Now, the task gets tricky. As it turns out, lawyers tend to be skeptical and are excellent at holding up their resistance to trying this practice. I say this lovingly. I’m a skeptic myself and I understand the drawbacks to an activity that will result in zero billable time.

Law school is the place where I was taught to think like a lawyer, something for which I am forever grateful. The analytical skills I learned there proved invaluable not just for representing clients, but for dealing with any tricky situations that might arise. But the lesson that vulnerability was something to be shunned and avoided at all costs, not so valuable. My school had no Professor Riskin to broach the subject of mindfulness and the way a mindfulness meditation practice can bolster resiliency and help promote focus, composure and clarity. When you find yourself at your most tender and vulnerable, there is a way to acknowledge this and to also acknowledge that yes, it’s a brutal place to be but it’s a temporarily brutal place and soon enough there’s going to be another place and then another and then another and to be mindfully aware of all the thoughts that tend to dismantle your emotional scaffolding.

For law students and for lawyers, stressful events cannot be avoided, but we can learn to expand our options as to how we respond to the stressful events. Resiliency is the ability to get back in balance after facing adversity and a mindfulness meditation practice is simply a method where you pause, observe your thoughts and also observe where you get stuck in your own story. There are many alternatives in moments of uncertainty and adversity and through some mindfulness training those alternative become accessible.

Before she learned to meditate, Lori Wald practiced law for about 20 years. She now teaches meditation workshops for lawyers and other people with busy brains. She has been a CMBA member since 2015. You can read her musings on meditation at Intentionallawyer.com. She can be reached at (216) 236-3739 or loriwald1@gmail.com.
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Seven Hills – Law office for lease – Broadview Road just north of Pleasant Valley Road. Busy intersection. Not far from I-77, 3,000 square feet, move-in ready, immediate occupancy. Reasonable rent. Contact Michael Kulick at (440) 503-9685 or staff@kulickdds.com to schedule a visit.

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Experienced Process Server – Super competitive prices – flat rate $50/address within Cuyahoga County. First attempt within 24 hours. Pente Legal Solutions (216) 548-7608 or lisa.vaccariello@pentellc.com

MarcoAuction.com – Court: Estate and Probate, Divorce, Power of Attorney; Real Estate: Residential and Commercial; Appraisals: Insurance, Jewelry and Antiques; and Chattle Items: Farming equipment – Marco Marinucci, Auctioneer – (440) 487-1878 or RealEstateAuctions9@yahoo.com

Security Expert – Tom Lekan – tlekan@gmail.com – (440) 223-5730

Trial Attorney – Experienced trial attorney in business litigation, personal injury, and complex family law. (25+ trials). Federal and State. stephen@neebittinger.com; (440) 782-7825.

Video Conference, Deposition Facility – Plaza West Conference Center, Rocky River offers conferencing and remote video, “smart” whiteboard conference facilities for 5–33 participants. plazawestcc.com (440) 333-5484.

Advertise Here! First 25 words are free for members ($1 per additional word, all words $2 for non-members). Contact Jackie Baraona at jbaraona@clemetrobar.org.
The rain and chill didn’t dampen the spirits of the hundreds of intrepid runners, walkers, friends and family at the Cleveland Metropolitan Bar Foundation’s 16th Annual Halloween Run for Justice on October 28.

The terrific new venue — Jacobs Pavilion at Nautica — kept everyone dry all morning. The Cavalier Girls and Scream Team pumped up our runners and walkers, while D.J. Wolfe, Flower the Clown and a create-your-own-GIF booth provided entertainment for the whole family. We awarded some very special prizes donated by the Cleveland Browns to those wearing costumes displaying our marine life theme, best couple and best group costumes. Our new and exciting 1-Mile, 5K and 5 Mile courses took participants through the West Bank of the Flats, Ohio City and the up-and-coming Gordon Square neighborhood.

Through the generosity of our event sponsors and participants, we raised over $45,000. All event proceeds are used by the CMBF to fund our many “Lawyers Giving Back” pro bono and public service programs, including The 3Rs, that make a positive difference in our community.
It takes a fantastic team to put together a successful special event. We offer many thanks to our 2017 event dream team:

- Hermes Sports and Events-Cleveland
- Nautica Entertainment Complex
- Jason Hillman, Margaret Foy, Tracy Marek, Heather Cox, and the Cleveland Cavaliers for their commitment and enthusiastic participation
- CMBF’s Halloween Run Committee, including Pat Krebs, Jack Kluznik, Mitch Blair and co-chairs Jon Leiken, Matt Secrist and Bart Bixenstine
- Our race day volunteers, and CMBA staff and their families and friends who staffed the event both on the course and at Jacobs Pavilion

Visit us on Facebook at @CleMetroBar to enjoy more event photos. For Run results, visit HermesCleveland.com.

SAVE THE DATE!
Please join us for our 17th Annual Halloween Run for Justice on Saturday, October 27, 2018.
The CMBA recognizes and applauds Judge Deanna O’Donnell for her contagious, positive demeanor and willingness to mentor those in her community and the greater legal community. Judge O’Donnell recently received recognition from Chief Justice Maureen O’Connor in her video remarks at the Lawyer to Lawyer Give Back for Justice event held last month at the CMBA Conference Center, along with featured volunteers Judge John J. Russo, George Carr, Nicole Braden Lewis, and Greg Feldkamp. In her remarks, Chief Justice O’Connor commended Judge O’Donnell and her fellow volunteers for creating a culture of pro bono and for giving back to fellow attorneys through mentoring.

Judge O’Donnell brings compassion and professionalism to her position as an elected judge on the Parma Municipal Court, where she has served since November 2007. She is the recipient of the Parma Bar Association’s Donald Reiman Award for Professionalism and has been a guest speaker at Baldwin Wallace College, as well as dozens of area schools in Parma’s jurisdiction. Judge O’Donnell works with the Leadership for Tomorrow program in Parma schools which brings 4th and 5th grade students into the court for a mock-trial where a defendant is put on trial for failure to do homework. The students, teachers and court personnel have fun putting the case together. In her interactions with the community, Judge O’Donnell provides information to citizens about the judicial system and encourages them to visit the Parma Justice Center which she sees as being their court.

She has served as Chairwoman of the CMBA Municipal Update Seminars, and this past spring was a panelist at the CMBA’s CLE on International Women’s Day. Judge O’Donnell graciously provided insight on how she navigated her way through the legal world and onto the bench, sharing personal stories of starting her legal career while having young children and how she knocked on doors and met with citizens while campaigning.

Judge O’Donnell is an excellent example of how compassion and professionalism work together to create positive experiences for everyone who participates in our judicial system. We thank Judge Deanna O’Donnell for her commitment and willingness to help others in the legal community!
### December

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<tr>
<td>CMBA CLE Video – Identity Theft – 1 p.m.</td>
<td>Speed CLE – 8:30 a.m. Professional Conduct – 1 p.m. Estate Planning, Probate and Trust Law Section Grievance Committee Meeting</td>
<td>Estate Planning Institute Video – 8 a.m. CMBA Board of Trustees Meeting Pillars Program</td>
<td>Real Estate Law Institute Video – 8 a.m.</td>
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<td>O’Neill Bankruptcy Institute Video – 8 a.m.</td>
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<td>O’Neill Bankruptcy Institute Video – 8 a.m. Professional Conduct Video – 1 p.m.</td>
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<td>Labor &amp; Employment Conference – 8 a.m. Professional Conduct Video – 9 a.m.</td>
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<td>Labor &amp; Employment Conference – 8 a.m.</td>
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### January

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<td>Office Closed</td>
<td>CMBF Executive Committee Meeting – 8 a.m. Grievance Committee Mtg.</td>
<td>CMBA Board of Trustees Meeting</td>
<td>YLS Council Meeting Bar Admissions Appeal Hearing – 1 p.m.</td>
<td>CMBA CLE Video Replay – 9 a.m.</td>
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<td>JFA Meeting</td>
<td>ADR Section</td>
<td>CMBA Executive Committee Meeting UPL Meeting WIL Section Meeting Louis Stokes Scholars Committee Meeting YLA Committee Meeting</td>
<td>CMBA CLE Video Replay – 9 a.m. Ethics Committee Meeting Real Estate Law Section</td>
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<tr>
<td>Office Closed</td>
<td>Estate Planning, Probate and Trust Law Section Grievance Committee Meeting</td>
<td>CMBA Board of Trustees’ Meeting</td>
<td>Family Law Section Meeting &amp; CLE</td>
<td>CMBA CLE Video Replay – 9 a.m.</td>
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<td>Mental Health Meeting CMBF Endowment committee Meeting – 4 p.m.</td>
<td>CMBA CLE Video Replay – 8:30 a.m. CMBA Membership Committee Meeting</td>
<td>Thought Leadership Committee Meeting – 8 a.m. CMBA Leadership Academy – 11 a.m. Court Rules Committee Meeting</td>
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<td>Ohio Mock Trial Cuyahoga District Competition (Justice Center &amp; CC Courthouse)</td>
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<td>CMBA CLE Video Replay – 8:30 a.m. JRs Committee Meeting</td>
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All events are held at the CMBA Conference Center at noon unless otherwise noted. Information is current as of publication date.
Tailored Risk Management and Insurance Solutions

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INSURANCE
New Associations & Promotions

Gallagher Sharp LLP is pleased to announce that Rema A. Ina has joined the firm as an Associate.

Frantz Ward LLP is pleased to announce that partner Ian H. Frank has been named Chair of the firm’s nationally-ranked Construction Practice Group, a robust group of nearly a dozen attorneys devoted solely to the construction industry.

Hahn Loeser & Parks LLP is proud to announce that nationally recognized construction attorneys Andrew J. Natale and Aaron S. Evenchik have joined the firm’s Construction Team.

Honors

Walter Haverfield is pleased to welcome Rita Russo and Max Rieker to the Northeast Ohio law firm.

Hickman & Lowder Co., LPA, is pleased to announce that attorney Janet Lowder was recognized by Celebrating Women as a 2017 INSPIRE Award Honoree.

Bob and Bobby Rutter were included in the 2018 Edition of The Best Lawyers in America® for Insurance Law in Cleveland.

Fisher Phillips announced that the law firm has been named to the 2018 Best Law Firms by U.S. News – Best Lawyers®. The firm received “Tier 1 Rankings” for its Employment and Labor Law Practices, as well as its Labor and Employment Litigation Practice. Additionally, the firm’s Cleveland office received “Metropolitan Tier 1 Rankings” for Employment Law and Labor Law. The firm has been included in every edition of the prestigious rankings since its inception in 2010.

Ogletree Deakins, one of the largest labor and employment law firms representing management, is pleased to announce that the firm has been named a “Law Firm of the Year” for the seventh consecutive year by U.S. News – Best Lawyers® “Best Law Firms.”

Reminger Co., LPA is pleased to announce that Michelle J. Sheehan has been named to the the 2017 Irish Legal 100, an annual compilation of distinguished legal professionals in the United States who share one common bond: pride in their Irish roots.

Reminger Co., LPA has been ranked in the 2018 “Best Law Firms” list by U.S. News & World Report and Best Lawyers®. Two practice areas were ranked nationally including Transportation Law and Insurance Law. Many practice areas were also ranked at the metropolitan level, including the following “Metropolitan Tier 1” rankings in Cleveland: Appellate Practice, Elder Law, Insurance Law, Legal Malpractice Law – Defendants, Litigation – Trusts & Estates, Medical Malpractice Law – Defendants, Personal Injury Litigation – Defendants, Product Liability Litigation – Defendants, Professional Malpractice Law – Defendants, and Transportation Law; and “Metropolitan Tier 2” rankings in Cleveland: Commercial Litigation, Construction Law, Corporate Law, Litigation – Intellectual Property, and Trusts & Estates Law.

Reminger Co., LPA is pleased to announce that Mike Rode was recently honored by Management Recruiters International, Inc. at its annual Global Conference with a Lifetime Achievement Award.

Elections & Appointments

Reminger Co., LPA is pleased to announce that Compliance Officer Eileen M. Bitterman has been selected to serve on the 2017–18 ACA International Member Attorney Program Committee.

Announcements

Davis & Young, LPA is recognized by the members of the Senate of the 132nd General Assembly of Ohio on its memorable occasion of its 95th anniversary. Although situated in Cuyahoga County for the greater portion of its history, in February 2017 Davis & Young established new roots at its newest location on Chardon Road in Willoughby Hills of Lake County.

E.V. Bishoff Company is unveiling a new office suite concept named Presto! Office Suites. These fully furnished office suites range from 1,000 – 15,000 sq. ft. and accommodate head counts of 10 to 100 people. The Cleveland Presto! Office Suites are located in — the Superior Building at 815 Superior Ave., downtown.

A Cuyahoga County jury recently awarded a sizeable verdict in favor of Buckingham client, Studiothink, LLC. The suit involved claims filed by Studiothink against a Cleveland-area distribution company, Unitrex, Ltd., which is wholly owned by a Japanese company, Entrex, Inc.

Frantz Ward attorneys, Nora E. Loftus and Allison Taller Reich, members of the firm’s Construction Practice Group, co-authored Chapter 7, “Changes in the Work,” of the newly published American Bar Association Forum on Construction Law’s A201 Deskbook.

Fisher Phillips announced plans to move its Northeast Ohio office from a Broadview Heights suburban office park to a larger space at 200 Public Square in downtown Cleveland.

Something To Share?

Send brief member news and notices for the Briefcase to Jackie Baraona at jbaraona@clemetrobar.org. Please send announcements by the 1st of the month prior to publication to guarantee inclusion.
Get ready to Rock! Join us for fabulous food, open bars, live music provided by Nitebridge, dancing, great raffle prizes and more!

CleMetroBar.org/RockTheFoundation