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The Center for Principled Family Advocacy (CPFA)

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Since 1999, The Center for Principled Family Advocacy (CPFA) has been the leader in Cleveland, and all of Ohio, in the move away from litigation toward resolution processes that benefit families in transition. The CPFA is committed to educating the public and divorcing couples about the advantages of a “non-litigated” divorce. CPFA members (attorneys as well as financial and mental health professionals) are trained practitioners in alternative dispute resolution options including: mediation; collaborative divorce; cooperative divorce; arbitration; parent coordination; and, when necessary, litigation. To learn more, visit the CPFA website www.famad.com and contact one of our members listed below.

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BACK TO THE FUTURE
Celebrating Our Past and Preparing for Our Future

Marlon A. Primes

I. INTRODUCTION
Our theme today is “Back to the Future.” Of course, you remember the iconic trilogy of movies with the lovable and eccentric Professor Emmett Brown, his DeLorean time machine, and the unwitting time traveler, Marty McFly. Remember?

It is only fitting that in honor of our theme, we go back about 100 years ago, when a tall, determined, and handsome young man in rural Georgia began planning his path to northeastern Ohio to create a new beginning for himself and his family. It was a journey without the technology that we have grown accustomed to today and without many of the luxuries of the last century. It involved a two-day train trip to northeastern Ohio. He landed work at one of the tire factories in Akron. Although he had a menial job, he dressed impeccably because he knew that a brighter day was coming for himself and his family. Although barely literate, he sometimes visited the local courts and observed the legal proceedings. So today, about 100 years later, it is a testament to the determination, strength, and vision of George Primes, Sr., and his wife Annabelle that they could look down from heaven and see that their grandson is an attorney and see that their grandson is an attorney and their determination and foresight led them here to benefit future generations of relatives that they would barely know or never meet.

Those new residents were the muscle behind the factories of so many Fortune 500 companies that dotted our landscape — factories that made northeastern Ohio an industrial giant and the envy of other cities and regions around the world. Our companies created a number of firsts in our nation. We had the first mall in the country, located a short distance from here at the old arcade. We had the nation’s first business park, which was founded by General Electric Lighting and literally lit up the entire world. We also were the birthplace of Standard Oil, which was one of the largest companies in the world. Its founder, John D. Rockefeller, was said to be so powerful he could personally set the global price for oil.

We also have the distinction of playing an important role in establishing the national philanthropic community because the United Way and the Cleveland Foundation began in our city.

Cleveland also was one of the national leaders when it established the metroparks and a legal aid society.

Although our theme today is “Back to the Future,” you do not need Professor Emmett Brown’s time machine to understand that all of that success was, in part, because of Cleveland’s vibrant legal community. One hundred years ago, our law firms were among the largest in the country. Jones Day, Squire Sanders, Baker Hostetler, and Thompson Hine were founded in Cleveland, and they and other Cleveland firms were the national model of the 20th century law firm. Our legal community was so sophisticated that it formed a bar association in 1873, five years before the American Bar Association was founded. The leaders of our legal community also established the Ohio State Bar Association in our city.

So, if you go back to the future and look at our history in the context that each generation of Clevelanders runs a leg of a relay race in their respective era, the rich history of northeastern Ohio demonstrates that our ancestors had a very big lead when they passed the baton to us.

They gained the lead and set many national standards through a simple recipe for success: working hard at their respective places of employment to make a better day for their families and their colleagues; and working together with attorneys from different employers to create and maintain institutions to help current and future generations of Clevelanders.

Those are precisely my goals for the coming bar year and the goals of the strategic plan of our bar association. We hope to help our lawyers continue to provide the best service to their clients by providing cutting-edge legal training and networking opportunities, and work together as a cohesive legal community to maintain our bar association and other institutions for our benefit and the benefit of current and future Clevelanders.

During this bar year, we hope to reach those goals by creating a unique historical series that will honor and recognize our past accomplishments, continuing to offer programs to bring our law schools and our legal community closer together, building on our momentum to be thought leaders by creating a symposium to help us continue to improve and enhance our legal system, and continuing to promote diversity and retention.

II. PLANS FOR THE BAR YEAR
A. Honoring and recognizing our past accomplishments

1. History project
As I previously stated, we have a rich legal history in Cleveland. However, we should do a better job
sharing our story. This year in our Bar Journal, we will highlight historical Cleveland lawyers that have made our community better than they found it. The series will be coordinated by attorney John Lewis and will profile icons such as: Newton Baker, who not only founded the Baker Hostetler law firm, but also served as Cleveland’s mayor and was the modern-day equivalent of the U.S. Secretary of Defense; attorney Lloyd O. Brown, a partner at Weston Hurd who was one of the first African-Americans to serve on the Ohio Supreme Court, and who created a foundation that helped so many law students pay for their legal education; former Congresswoman Stephanie Tubbs Jones, who was one of the first African-American woman in the country to serve as an elected county prosecutor; and so many other outstanding men and women from our city that have made our community stronger. The profiles will not only share important stories about our past, but they will also inspire current and future generations of leaders in our legal community to walk in their footsteps.

B. Providing innovative ways to foster cooperation

2. Cooperation

One of the reasons our ancestors were successful in creating our bar association and so many other institutions was because of the spirit of cooperation between attorneys at different employers. We will try to replicate that spirit of cooperation by hosting one of the first receptions for law students from Case Western Reserve Law School and Cleveland-Marshall College of Law on September 13, 2018.

Our research has shown that 70 percent of the lawyers in our community went to law school locally, and our community can only benefit when future lawyers and future leaders get an early opportunity to interact with one another. Irrespective of where you went to law school, the outside world simply views us as Cleveland lawyers. So, why not promote that type of cooperation that will hopefully spread to other segments of our legal community? We all will certainly reap the benefits.

I can also tell you from my personal experience of attending law school at Georgetown that I greatly benefitted from interacting with students from other law schools in the D.C. area. It made me a better person and enhanced my knowledge and overall educational experience. We want to extend those opportunities to the future leaders of our Cleveland legal community.

C. Being thought leaders by promoting better understanding and respect for the rule of law.

3. Innovation

A simple spin in our “Back to the Future” time machine reveals that one of the past accomplishments of our community was recognizing a need and creating a new model to address the concern. That is how the United Way and other philanthropic organizations were established in Cleveland.

Similarly, in our internet and social media age, there is no better time to help our communities get an accurate view of what we do in the legal profession. We are certainly overdue for a candid discussion about what we can do to make our judicial system more just and more accessible. Consequently, in cooperation with my alma mater, the E.W. Scripps School of Journalism at Ohio University, we will hold a unique media-law summit, where we will explore how the media and lawyers can work together to develop the best practices to promote the rule of law, the fair and efficient litigation of legal disputes, and a better understanding of our legal framework.

During our summit, we will have a panel of some of the most outstanding journalists in the country, including a live remote with Pulitzer Prize winner Wes Lowery of The Washington Post, and live appearances from the former editor of The Akron Beacon Journal and journalists that cover the U.S. Department of Justice and the White House for The Washington Post and USA Today. We will also have a panel of some of my colleagues at the U.S. Attorney’s office and other outstanding litigators that will share the best practices for litigating high profile cases in the social media and internet age.

D. Promoting diversity and retention.

4. Diversity and retention

Last, but certainly not least, our “Back to the Future” time machine reveals that the unfinished business of the last century is finding new and innovative ways to promote diversity in our legal profession. We still need to make more progress in that area.

Our bar has made important strides with our outreach programs through the stewardship of our Cleveland Metropolitan Bar Foundation. We have the Stephanie Tubbs Jones Summer Legal Academy to teach a diverse group of high school students about the legal profession. Our Stokes Scholars program continues the momentum by working with college students and steering them into the legal profession.

Our minority clerkship program helps a diverse group of first-year law students obtain opportunities to work for many legal employers throughout our city.

Brandon Brown began working with the bar association when he was in seventh grade, and he was able to participate in those pipeline programs. I am so proud that Brandon has completed law school, and he has a license to practice law in Ohio. I believe Brandon is here today. Let’s give Brandon a round of applause.

As a result of our pipeline initiatives and Brandon’s outstanding example, we have 10 other students from our bar programs in law school, and we have two additional law school graduates. We look forward to all of them joining our legal profession and becoming a part of our Cleveland legal community.

In addition to our pipeline programs, we need to make sure we are doing everything we can to promote the retention of a diverse work force. With Gregory Guice, our vice president for diversity and inclusion, I have met with the presidents of the local bar associations of color and have explored ways to promote diversity and retention.

One new idea from our meeting is in regard to recognizing that we have leaders of Fortune 500 companies in New York and many cities around the country who are saying they sell products to a diverse population and want a more diverse group of attorneys to handle their legal work. Since attorneys now practice law across state lines, those companies are willing to hire diverse attorneys outside of their respective states. Our challenge with retention is to find ways to inform those companies that we have an outstanding group of attorneys of color in Cleveland who can do their legal work across the country. If our
diversity committee is successful in creating a legal directory or helping to facilitate a discussion between the general counsels of those companies and our outstanding attorneys of color, it could result in additional legal business coming to our city and provide another important incentive to promote and retain a diverse work force.

The potential project with general counsels from around our country will not be an easy project to complete. I realize that. It will be difficult, and it will certainly require the brightest minds in our diversity committee and throughout our bar to create a new national model and to make it a success. However, as we know from our “Back to the Future” time machine, ingenuity and creating new models is the story of northeastern Ohio. It is our birthright and a part of our historical DNA. So, let’s get it done this bar year!

The project is also imperative because it reflects the current reality in our legal profession. General counsels from around the country will tell you they are currently being evaluated based upon whether they are able to hire a diverse group of attorneys to handle their company’s legal cases. Therefore, to address the current reality, our diversity committee will need the support of our entire bar to create diversity programs and share best practices to help interested local firms meet and exceed the diversity requirements that general counsels are now imposing.

III. CONCLUSION
Well, today, we began our journey 100 years ago in rural Georgia. It is only fitting that we conclude by focusing on 100 years from now in Cleveland. At that time, the Cleveland Metropolitan Bar Association will be celebrating its 111th anniversary. Absent a real DeLorean time machine or a medical marvel, none of us will be there. However, when we run our leg of the relay race in our respective era with the determination to benefit our current and future relatives and colleagues and work to uplift our bar association and other institutions, we do not run alone. We are guided by the winds of our faith, and we stir the echoes of George and Annabelle Primes and your ancestors, who run beside us during our journey, while whispering the names of some of our greatest icons: Newton Baker, Lloyd O. Brown, Stephanie Tubbs Jones, and so many others. Although we may grow weary and face an occasional headwind, we can rest assured, knowing that if we follow the recipe of success of those that have gone before us, we, too, can pass the baton to a new generation of Clevelanders with our families, our employers, our bar association, and our community in a much better place than we found them.

Thank you.
Now, back to the future.

Marlon A. Primes has been a CMBA member since 1993. He previously served as: a member of the Board of Trustees, the Chair of the Litigation Section, the Chair of the 3Rs Committee, and the Chair of the Justice for All Committee. Marlon has worked as an Assistant U.S. Attorney in Cleveland for the past 26 years. He received his law degree from Georgetown University Law Center and his undergraduate degree from Ohio University’s E.W. Scripps School of Journalism. He can be reached at (216) 622-3684 or Marlon.Primes@usdoj.gov. Follow him on Twitter @MPrimesCMBA.

**preeminent** (přēˈemənənt) adj. 1. authoritative. 2. commanding great respect. 3. possessing superior wisdom and skill.

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Hennes Communications
Art Kaufman
Firm/Company: Kaufman, Drozdowski & Grendell, LLC
College: The Ohio State University
Law School: Cleveland-Marshall College of Law

WHAT WOULD YOU BE DOING IF YOU WEREN’T A LAWYER?
I taught high school English for 11 years so if I weren’t a lawyer I’d be doing that.

WHAT WOULD REALLY SURPRISE PEOPLE ABOUT YOU?
I write a blog called The Devil’s Advocate—thedevilslaw.com. It’s a humorous, often sarcastic take on the law and lawyers. When you observe what we sometimes do from a different perspective, it can be very funny and, at the same time, unconducive to your mental health.

WHAT’S THE BEST PART OF BEING A LAWYER?
I love the give and take of the law and the intellectual challenges. I find the law to be endlessly interesting.

ONE FUN FACT ABOUT YOU?
After flunking out of college I spent a year as a cab driver. I have the dubious distinction of being the only cabbie ever to get lost in a parking lot with a passenger. It’s a long story about a very big parking lot.

WHAT’S ON YOUR BUCKET LIST?
I’d like to do standup comedy focused on lawyers and law. If you look at what we do from a different perspective, it can be really funny and unfortunately, sometimes very depressing.

Kevin Donoughe
Firm/Company: Fifth Third Bancorp
Title: Attorney, Commercial Bank
College: Northeastern University
Law School: Cleveland-Marshall College of Law

WHY DO YOU LOVE YOUR JOB?
I enjoy constantly interacting with new people, and breaking down legal and regulatory issues for the roughly 250 commercial banking professionals I support, as well as their clients. Every day I am in contact with people from all over the country dealing with a wide variety of industries, so there’s always something new.

WHY DID YOU JOIN THE CMBA?
I joined to grow my network as a law student in 2013, and became Cleveland-Marshall’s representative to the Young Lawyers Section, of which I am this year’s Vice-Chair. I am also looking forward to being a part of the Board of Trustees for the Bar Foundation this year.

TELL US ABOUT YOUR FAMILY?
I got engaged in November 2017 to my lovely fiancée Christina Williams, who is an attorney with Williams, Moliterno & Scully Co., LPA in Independence. We bought a house in Lakewood earlier this year, where we live with Ziggy, our Yorkie-Poodle mix. We’re planning our wedding for Fall 2019.

WHAT’S ON YOUR BUCKET LIST?
I have never been to Italy and would love to eat and drink my way around the country. We are planning our honeymoon for the Amalfi Coast, so I may be checking this off the list next year!

WHAT WOULD REALLY SURPRISE PEOPLE ABOUT YOU?
I am also a classically trained vocalist.

Marisa T. Darden
Firm/Company: U.S. Attorney’s Office, Northern District of Ohio
Title: Assistant United States Attorney
College: University of Michigan, Ann Arbor.
GO BLUE!
Law School: Duke University School of Law

YOUR MOST EMBARRASSING PROFESSIONAL MOMENT?
The first time I ever went into the grand jury as a state prosecutor, I walked in through the wrong door, sat in the witness chair, and then tripped on my way out! It was a rough day, and the grand jury wardens made fun of me for YEARS. When I left the Manhattan DA’s Office, they gave me the Exit sign hanging in front of the grand jury door. I think I won them over.

IF YOU COULD GO TO DINNER WITH A FAMOUS PERSON, LIVING OR DEAD, WHO WOULD IT BE AND WHY?
Oprah! She is the ultimate American success story. I could use her help controlling my facial expressions. Have you ever seen her lose her cool during an interview? Never! Even when people say the most outrageous things… In addition, her mogul status is awe-inspiring.

WHO HAS INFLUENCED YOU THE MOST IN LIFE?
My maternal and paternal grandparents made me the person I am.

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Maniplaining.

WHAT WOULD REALLY SURPRISE PEOPLE ABOUT YOU?
I am an INCREDIBLE karaoke singer/frustrated pop star.

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Thank you to all the 2017–18 committee and section chairs for a great year!
We welcome the 2018–19 committee and section chairs!

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LITIGATION
Christopher D. Caspary
Zashin & Rich Co., L.P.A.
Marlon A. Primes

**PRESIDENT**
United States Attorney’s Office

Fun fact: I was a sprinter for the Ohio University Track and Field Team. While at Archbishop Hoban High School in Akron, I was the teammate of Harry “Butch” Reynolds, an Olympic Gold Medalist and world record holder.

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Ian N. Friedman

**PRESIDENT-ELECT**
Friedman & Nemecek, LLC

Fun fact: Living in New York, I tried out for Club MTV back in the day. I made it past the Humpty Dance but got dinged on Madonna’s Vogue.

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Joseph N. Gross

**VICE PRESIDENT**
Benesch, Friedlander, Coplan & Aronoff LLP

Fun fact: I ride a Harley, and last year rode to Sturgis, South Dakota and back.

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Ann M. Caresani

**TREASURER**
Tucker Ellis LLP

Fun fact: I enjoy ziplining, roller coasters and air yoga.

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Ryan P. Nowlin

**VICE PRESIDENT OF MEMBERSHIP**
Schneider Smeltz Spieth Bell LLP

Fun fact: I played the bass in my high school rock band.

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Gregory G. Guice

**VICE PRESIDENT OF DIVERSITY & INCLUSION**
Reminger Co., LPA

Fun fact: I was interviewed as a segment on an MTV show in high school called “Like we care.”

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Rebecca Ruppert McMahon

**SECRETARY & CHIEF EXECUTIVE OFFICER**
Cleveland Metropolitan Bar Association

Fun fact: I once pitched a no-hitter.
Awatef Assad
Cuyahoga County Department of Law
Fun fact: I am the first Arab-American woman attorney from my ancestral hometown of Beit-Hanina, Jerusalem — opening the door for other Arab-American women to seek higher-education.

Dr. Tami Bolder
PUBLIC REPRESENTATIVE
CBIZ
Fun fact: I love to travel internationally and I have had an opportunity to visit Germany, Austria, Czech Republic, Slovakia and Budapest.

Abigail A. Greiner
YLS REPRESENTATIVE
Social Security Administration
Fun fact: I love live music and you can often find me at Beachland, Grog Shop, or Music Box.

Thomas G. Haren
Frantz Ward LLP
Fun fact: I am the proud owner of a picture of the pre-Ringo Beatles signed by their original drummer, Pete Best.

Jay Milano
Milano Attorneys & Counselors at Law
Fun fact: They call me “Pilates Boy.” For years now, twice a week, it’s been Pilates.

Kathleen A. Nitschke
Giffen & Kaminski LLC
Fun fact: My family and I are amusement park fanatics and spend most every weekend in the summer and fall at an amusement park.

Honorable John J. Russo
Cuyahoga County Common Pleas Court
Fun fact: I was contemplating the Seminary before I met my wife!

John P. Slagter
Buckingham, Doolittle, & Burroughs, LLC
Fun fact: Part of me thinks I was a rockstar in a former life and have recently taken up the acoustic guitar!
Spotlight on advocacy techniques in the ADR will join to present a full-day seminar Section and the Litigation Section on October 30, 2018 the ADR bar and public. Upcoming Events ADR service of our Section members. Publishing their ADR services to the Bench and Bar through the litigation, and providing assistance to the Bench and Bar through the service of our Section members.

What is your goal? The ADR Section encourages fair, prompt, and cost-effective dispute resolution. We strive to accomplish this through training of ADR neutrals, promoting the use of dispute resolution outside of traditional litigation, and providing assistance to the Bench and Bar through the service of our Section members.

What can members expect? Our monthly meetings typically include a presentation by a Section member or guest speakers. The presentation usually has been approved for CLE credit. Members are participants in Section seminars which provide an opportunity to publicize their ADR services to the bar and public.

Upcoming Events On October 30, 2018 the ADR Section and the Litigation Section will join to present a full-day seminar on advocacy techniques in the ADR setting. Advocacy in mediation and arbitration is, in many aspects, substantially different from traditional litigation advocacy. This collaborative effort with the Litigation Section will be an opportunity for litigators and neutrals to highlight those distinctions, resulting in better service to clients by advocates, and better service to attorneys by ADR neutrals. The morning session will be dedicated to mediation and the afternoon session to arbitration.

Recent event to highlight? Members of the section recently addressed Ohio Association of Magistrates 2018 Spring Conference on ADR/Mediation & Settlement Conferences. Last fall members of the ADR Section, in cooperation with the CMBA Diversity Committee, the Norman S. Minor Bar Association, the Asian-American Bar Association, the Hispanic Bar Association and the American Arbitration Association presented a well-attended seminar titled “Breaking Into the Industry: Starting Your Arbitration or Mediation Career.” One of the primary topics addressed in the seminar was the need to encourage and promote diversity in the pool of ADR neutrals.

For information on how to join a section or committee, contact Samantha Pringle, Director of CLE & Sections, at (216) 696-3525 x 2008 or springle@clemetrobar.org

ADR Section

Chair
Mark I. Wachter, Wachter Kurant LLC, mwachter@awkkwt.com

Regular Meeting
12:00 noon on the second Tuesday of each month at the CMBA Conference Center

What is your goal? The ADR Section encourages fair, prompt, and cost-effective dispute resolution. We strive to accomplish this through training of ADR neutrals, promoting the use of dispute resolution outside of traditional litigation, and providing assistance to the Bench and Bar through the service of our Section members.

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For information on how to join a section or committee, contact Samantha Pringle, Director of CLE & Sections, at (216) 696-3525 x 2008 or springle@clemetrobar.org

Membership Committee

Chair
Ryan Nowlin, Chair and CMBA Vice President of Membership Schneider Smeltz Spieth Bell LLP<br>mowlin@sssb-law.com

Regular meeting time/location
4th Wednesday of the month, noon, at CMBA Conference Center

What is your goal? The Committee includes CMBA members who represent the many segments of the profession, including lawyers in a variety of practice settings, law students, paralegals and affiliate members. The Committee provides insight, advice and guidance to help the CMBA retain and grow its membership.

What can members expect? As the CMBA is a membership organization, what can be more important than a focus on all things membership? Committee members discuss ways that members in all practice settings and segments can better engage and develop their careers in the CMBA, tangible and intangible membership benefits, law student outreach, paralegal and affiliate involvement.

Upcoming Events
The Committee is focused on projects to further engage our local law students in the school year ahead. We are planning on taking the CMBA to the law schools, with programs aimed at 2Ls and 3Ls that will help them learn more about practice areas and career possibilities. The Committee is also taking up the good work started by the CMBA Leadership Academy’s In House Counsel project team aimed at increasing engagement of in house counsel, “In House, In Touch.”

Recent Events
Our annual Greet the Judges & GC’s members-only event in May drew a nice crowd to the CMBA. In addition to promoting introductions, conversation and networking, we welcomed our newly admitted lawyers and new members.

Family Law Section

Co-Chairs
John Ramsey<br>jdr@scsrlaw.com
Joe Lanter<br>joe@lanterlegal.com

Regular Meeting
Third Thursday of the month. Usually at the Bar.

What is your goal? To further our knowledge of the domestic relations law and to foster collegiality.

Upcoming Events
We have our lunchtime CLE’s every third Thursday usually at the Bar Association. We try to highlight timely topics that affect our practices. We also have a great end of the year party that is usually well attended and fun.

Recent Event
Everyone usually likes the Case Law Update which is presented by members of the legal department at court.
LEADING LAWYERS

Rebecca Ruppert McMahon

If you joined us for the 11th Annual Meeting on June 1, you had a chance to help us celebrate, among other things, the graduation of the inaugural class of our Leadership Academy.

Way back in September, 34 attorneys kicked off our new, 10-month Leadership Academy designed to give both Established Leaders (15+ years of experience) and Emerging Leaders (5+ years of experience), an opportunity to take a deep dive into leadership within the legal industry. In some sessions, that meant exploring the essential skills that strong lawyer-leaders exhibit. In others, the focus shifted to identifying a myriad of leadership opportunities for lawyers. In still others, class members gained practical insights on how to land the leadership roles they want.

Perhaps the best highlight from every session was the opportunity for participants to learn a little (or a lot!) about one another. From small firms to big firms, corporations, government agencies and non-profit organizations, class members represented a variety of backgrounds, experiences, viewpoints and career goals. Each month we fostered substantive opportunities for one-on-one dialogue, as well as group conversations. We also created ample time for the members of the class to network with our equally diverse slate of presenters who represented a myriad of leadership roles from judges, managing partners, general counsel, CEOs and more.

At the midpoint of the program in January, we launched a capstone experience. Class members were divided into five project teams and given CMBA programs, events or initiatives that they were charged with redesigning or creating anew. In May, the teams presented their proposals to a panel of esteemed judges comprised of Judge Joe Gross, Ray Krncevic, Irene panel of esteemed judges comprised of Judge In May, the teams presented their proposals to a panel of esteemed judges comprised of Judge Joe Gross, Ray Krncevic, Irene Geronimo, Joe Gross, Ray Krncevic, Irene Renillo, and Stephanie Trudeau. The panel evaluated each project on the basis of its:

- quality and quantity of potential collaborations inside and outside of the CMBA (Sections, Committees, Community Partners);
- creativity and innovation; and
- specificity, sensibility and sustainability.

True to competitive lawyer form, the teams developed tremendous pitches that could (and potentially will) transform different segments of our Bar. The five proposals were:

- In-House = In-Touch. Challenged with how to better engage in-house attorneys, the members of Team In-House conducted a deep dive into the needs and desires of lawyers employed by corporations and non-profits. At the core of its proposal, Team In-House — comprised of Lisa Gasbarre Black, Vesna Mijic-Barisic, Justin Monday, Matthew O’Brien, Kelli Perk, and Chris Zirke — recommended creating a stand-alone “In-House Counsel Section” that would be open only to in-house attorneys of corporate and non-profit organizations, and would provide bundles of member benefits that would directly appeal to in-house attorneys.

- Rallying our Ratings. One of the most important activities our Bar undertakes each year is rating judicial candidates as part of the Judge4Yourself coalition. Team Judge4Yourself — which included Betsy Batts, John Hofstetter, Jodi Johnson, Lori Luka, Tom Mlakar, Amanda Roe, and Justin Withrow — proposed a comprehensive education, awareness and publicity campaign for CMBA members and the general public in order to significantly increase the voting public’s knowledge and use of the Judge4Yourself ratings.

- Building Judicial Excellence. Chris Carney, Julie Cortes, Brandon Cox, Lori Kilpeck, John Lazzaretti, Scott Robinson, and Kristin Wedell — also known as Team Judicial Excellence — recommended that the CMBA bring back our Judicial Qualifications Committee in an effort to expand and improve the pool of potential judicial candidates, in addition to fostering stronger relationships between the CMBA and our local political parties.

- Representation for Everyone Project (REP). Teammates Jennifer Alexander, Kari Burns, Kendra Davitt, Christopher Dean, Dan Messeloff, Joe Saponaro, and Lori Wald took on the topic of how the CMBA might build a modest means legal program. The proposal centered on bringing together new/newer lawyers and experienced lawyers to provide legal representation for individuals who do not qualify for legal aid but find it difficult (if not impossible) to afford attorneys in the private practice.

- And finally, the project unanimously selected by the judges as best in class: Legal Inclusion and Opportunity Certification (CLIO). After digging into the details of past diversity efforts championed by various segments of the CMBA, Team Diversity & Inclusion — comprised of Awatif Assad, Monica Christoferson, Katy Franz, Andrea Kinast, Pat Krebs, Todd Masuda, and Hal Maxfield — recommended the development of CLIO as a new way to advance the CMBA’s mission to support the creation of a genuinely diverse and inclusive legal community. Through this certification process, law firms, in-house legal departments, courts, public agencies and other legal employers could be recognized for the adoption of best practices in six key areas:
  - Internal Strategy, Infrastructure and Policies
  - Training, Mentoring/Sponsorship, and Professional Development
  - Measuring and Tracking
  - Pipeline Programs
  - Recruitment and Hiring
  - Community-Based Diversity & Inclusion Partnerships.

Over the coming months, different segments of the CMBA — from our Board to our Sections and Committees — will be considering these proposal and determining how best to leverage the recommendations that have been generated. The insights and ideas generated by our Leadership Academy have given us much to consider.

Interested in learning more? Come Meet us at the Bar!

Rebecca Ruppert McMahon is the CEO of the CMBA. She has been a CMBA member since 1995. She can be reached at (216) 696-3525 or rrmcmahon@clemetrobar.org.
Inspired by the “Back to the Future” theme of this year’s annual meeting, my thoughts turned to the past and future of my personal journey as a lawyer. Looking back, I became a lawyer in 1982 when I was sworn into the Ohio Bar. Looking to the future, my oldest daughter Jacqueline became a lawyer this year when she was sworn into the New York Bar after graduating from Harvard Law School. It seems particularly apropos that the past and the future have come full circle for my family in the year when “Back to the Future” is the theme under which I begin my term as President of the Cleveland Metropolitan Bar Foundation.

There are similarities and differences between the ceremonies for the past and future lawyers. Some are expected; some are not. The law school dean who handed me my diploma was a man. The dean of Harvard Law School who handed my daughter her diploma was a woman. There are photos of me taking the oath in Columbus. There are no photos of my daughter taking the oath in New York City because pictures were emphatically prohibited! In both 1982 and in 2018, the newly minted attorneys were admonished to adhere always to the rules of professional responsibility. For every ceremony, past and present, my husband John was there. His medical school graduation was the day before my law school graduation; fortunate timing for us both. We were excited back then about the future. We are excited about the future now.

Lawyers are attracted to the profession because of a desire to help people solve problems and provide the best possible outcomes for the future. This extends beyond our families. By investing our ideas, time, energy and capital, we want to make the future better for our community. Lawyers are not alone in pursuing this goal. The desire
for a successful future is common across many industries. My younger daughter, Leandra, is an environmental and public policy double major devoted to making the future better through her work conserving the earth's resources and protecting children from environmental toxins.

Like many of you, my past is deeply connected to my future. As I embark on this new chapter, I find that the work of the Foundation is strongly aligned with my personal goals. Building better futures for children, for the homeless, for veterans, for families, and for students is what the Foundation does through the "Lawyers Giving Back," public outreach and pro bono legal services programs designed to support underserved populations.

Now, I invite you to join me in looking back on your personal journey and then looking toward the future as you choose your path in supporting the Cleveland Metropolitan Bar Foundation's efforts to make the future better and brighter for us all.

Stephanie is a partner at Ulmer & Berne LLP and former law clerk in the United States District Court. She is President of the Cleveland Metropolitan Bar Foundation and has been a CMBA member since 1985. She can be reached at strudeau@ulmer.com.

Leadership in practice.

Ulmer applauds our partner, Stephanie Dutchess Trudeau, as the 2018-2019 Cleveland Metropolitan Bar Foundation President and congratulates all incoming Officers and Trustees. Your leadership and outstanding dedication consistently raise the bar of excellence in the legal community.
Gaining Traction: Driving Your Small & Solo Practice Forward

Friday, September 28
Embassy Suites Independence

For more information, please visit CleMetroBar.org or call (216) 696-2404

Caution: Merger ahead

Looking for a seasoned guide to help you navigate acquisition and divestiture activity? Clark Schaefer Hackett's Transaction Advisory team regularly and seamlessly works with attorneys, bankers and private equity firms to achieve successful outcomes for clients.

Our capabilities include:

» Financial & tax due diligence
» Tax structuring
» Carve-out assistance
» State & local tax evaluation

» Forecasts & projections
» Transaction accounting
» Global tax services
» Initial public offering support

Scott McRill, CPA
Shareholder
Transaction Advisory Services
slmcrill@cshtco.com
216.526.8125

Keri Boergert, JD
Principal
Tax & Transaction Advisory Services
kboergert@cshtco.com
440.213.1423

CSH welcomes Scott McRill and Keri Boergert to our Cleveland Transaction Advisory team.
The 3Rs: Rights • Responsibilities • Realities

I feel like **The 3Rs is my armor** so I’ll be prepared for a lot of situations, and I’ll have that structure to keep me in check — certain phrases to say, what my rights are — I have that armor to keep me covered.

– Shaw student

I can definitely say I learned new information. I **loved how open the volunteers were about their experiences.** It seems like whenever they had a chance to share personal information they did.

– John Marshall student

The 3Rs opened up my eyes on how and why police handle some situations.

– Cleveland Early College student

**It was amazing,** they explain everything step by step and answer all the questions with patience.

– Max Hayes student

Every lesson was so interesting, I **just wanted to keep learning more.** I’m thankful to experience this with my classmates and meeting lawyers.

– Lincoln-West student

The volunteers do such a **phenomenal job** with our students. I am truly honored to be a part of the 3Rs program.

– Jimmy Hronek, 2017–18 Teacher of the Year Honorable Mention
Thank you, 3Rs volunteers, teachers, and supporters!

2017-18 was one of the best 3Rs years since the program began 12 years ago.

With more than 400 volunteers from all corners of the legal world, we were able to match teams with every open 11th grade U.S. Government class in the Cleveland and East Cleveland schools. Through your help, 3Rs students learned about the U.S. Constitution & the rule of law, explored their options for post-high school education and career planning, and passed their end-of-year U.S. government proficiency exams at higher rates than any other subject tested.

Because of YOU we have connected with:

78 classes
1,800 students
21 high schools

Who are our volunteers?
Judges (appeals, juvenile, federal, and city)
Law firm teams
Corporate counsel
City attorneys
Solo practitioners
Law students
Paralegals
Nonprofit attorneys
AUSA
Law professors
Public defenders
Prosecutors
Stokes Scholar alumni
Cleveland and East Cleveland graduates … and more!

We are COMMITTED

78 of this year’s volunteers have been with the program for 5 or more years

48 have been with us a decade or longer

Join us in 2018-19!
While we are proud of our achievements, our work is not yet done! Every year there is more demand for the program – to ensure we continue to touch the lives of every one of our local, urban schoolchildren, we need your help. Sign up today to volunteer in the fall at CleMetroBar.org/3Rs, or use the sign-up form on the following page. Through your dedication to these students, The 3Rs is truly making a difference.

SPOTLIGHT ON 3Rs+
On May 14, 50 3Rs students from Shaw High School visited Cleveland-Marshall College of Law as part of the 3Rs+, expanding students’ experiences outside the classroom through field trips, mentoring, and other opportunities. Volunteers participated in three interactive sessions that sparked a lively debate about police encounters and First Amendment issues in the context of real-life scenarios. Speakers from the ACLU, Cleveland police, FBI, courts, public defender’s office, along with C-M law school professors and members of the Black Law Students Association, also shared their perspective on careers in the law.

Join us as a 3Rs+ volunteer in the fall as we explore other programs to help students prepare for life after high school and learn more about the law! Further details at CleMetroBar.org/3Rs.
On June 7, we were pleased to host a gathering of 50 3Rs volunteers and CMBF Fellows at the Music Box Supper Club, in appreciation of their support throughout the year. Cleveland Metropolitan School District CEO Eric Gordon stopped by to share his thanks for: "The 3Rs’ unprecedented and unique partnership, now entering its 12th year.

The 3Rs succeeds in large part thanks to the teachers of Cleveland and East Cleveland who welcome volunteers into their classroom every year. In the words of 3Rs Chair Dave Lenz, “3Rs teachers are truly shaping the future of our city, and we recognize that we are but invited guests joining with them to participate in that work in a small way. While each of our teachers has been a gracious host, taking time from their normal routine to prepare their students for our visits, each year we ask our volunteers to help us identify teachers who went above and beyond in making the 3Rs partnership a success in their classrooms.

3Rs Teacher of the Year

Milena Wick
LINCOLN-WEST HIGH SCHOOL

Nominated by:
Hon. Dan Polster
U.S. DISTRICT COURT

2017-18 3Rs Teacher of the Year
Honorable Mentions:

James Hronek, Jr.
LINCOLN-WEST SCHOOL OF SCIENCE & HEALTH

Kristen Miller
JOHN MARSHALL SCHOOL OF INFORMATION TECHNOLOGY

Jonathan Demagall
WHITNEY M. YOUNG LEADERSHIP ACADEMY

COUNT ON ME FOR THE 2018–19 SCHOOL YEAR!

NAME ____________________________________________

FIRM/COMPANY (If any) ____________________________________________________________

PHONE __________________________________________ E-MAIL __________________________________________

TEAM CAPTAIN(S) ______________________________________

TEAM MEMBERS ______________________________________

For more information, contact Jessica by email or at (216) 696-3525 x4462.

Sign Up Online! CleMetroBar.org/3Rs
since the earliest days of American history, lawmakers have enacted cus
dodial laws that reflect the fluid social and economic circumstances of our nation's families and children. While colonial Americans granted fathers immediate and full custody of the household's children following divorce, the rise of the Industrial Revolution and global influence of the tender years doctrine brought favor to mothers. Mothers were deemed more critical than fathers to the child's development.

Since the latter part of the 20th century, Ohio and other states have strived for stasis, enacting statutes that favor neither parent in custodial disputes. Instead, they are intended to advance the best interests of the children. Today, with the majority of divorce agreements establishing joint physical and legal custody and granting both parties parenting time, the rights of each parent are less clear. And the nebulous nature of the new order requires domestic and private attorneys to vigorously educate their clients about their parental rights at home and within the school environment.

A nuanced understanding of the Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232g; 34 CFR Part 99, and key elements of Chapter 33 of the Ohio Revised Code will enable domestic practitioners to mitigate additional conflict and possible civil action between parties; equip school officials to achieve and maintain neutrality and follow best practices; and above all, minimize emotional distress for students.

Enacted in 1974, FERPA provides clear guidance on protecting the privacy of and ensuring appropriate parental access to student educational records. The legislation defines "parent" as a natural parent, guardian, or an individual acting as a parent in the absence of a parent or guardian. 34 C.F.R.§99.3 "Parent" can refer to either parent, except in cases of separation or divorce when "parent" is the residential parent and legal custodian.

It is important to note that, under FERPA, both parents are granted equal access to their child's academic information, regardless of their designation as a custodial or non-custodial parent or residential or non-residential parent. This holds true unless the school district is provided with evidence of a court order, state statute or legally binding document that specifically revokes these rights. 34 C.F.R.§99.4

When a court issues an order or decree allocating parental rights and responsibilities and designating a residential parent and legal custodian of the child, including a temporary order, the residential parent is required to notify the child's school of those allocations. A certified copy of the order or decree must be presented to the person in charge of admissions. R.C. 3313.672(B)(1). In the absence of such documentation, school districts will demonstrate adherence to FERPA by allowing both custodial and non-custodial parents the same access rights to their children's educational information during the school day. In practical terms, the non-custodial parent is entitled to engage in conferences with a child's teachers and attend Individualized Education Program (IEP) meetings. Outside of academic discussions, the non-custodial parent may also chaperone field trips, volunteer in the classroom, attend athletic events, concerts,
plays and performances and participate in a full range of school-sanctioned activities.

Determining residency for the purpose of selecting a child’s school is another potential source of considerable contention between divorcing parents. Under Ohio Revised Code 3313.64, a child will be admitted to and attend for free the school located in the district where his or her parent resides. If a shared parenting order designates both the mother and the father as the residential parent, then the child may attend school in the district where either parent resides. This right of attendance can only be altered by court order, not by affidavits or notarized statements, with the exception of the grandparent caretaker law. That law provides grandparents the power to achieve caretaker rights when a grandchild is living with them, and the parents are incarcerated, seriously ill, homeless or cannot be located, among other circumstances. R.C. 3109.51

Beyond developing a comprehensive understanding of laws pertaining to children in domestic relations cases, practitioners must also be fluent in legislation affecting children who are also homeless or victims of domestic violence. Enacted in 1989, the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq, was crafted to ensure homeless children receive “equal access to the same free, appropriate public education (FAPE) as other children.” The act also eliminates barriers that prevent homeless children from fully participating in the educational process. Under Ohio Revised Code 3313.64(F)(13), all school districts are required to comply with the McKinney-Vento Homeless Assistance Act. Amendments to the federal law in 2002 further strengthened the rights of homeless children, which include a number of key mandates:

• Homeless students must be enrolled immediately in their school of choice, including during pendency of any disputes surrounding placement.
• The student must be provided transportation to the school upon request, even if it is located in another school district.
• Homeless students are exempt from residency and attendance rules and may participate in school sports and other extracurricular activities of their choosing.
• Students will not be made to attend separate schools or experience other stigmatizing practices.
• School districts must designate liaison officers to advocate for and represent the interests of homeless children within the school environment.
• In cases where domestic violence is a factor in domestic proceedings or otherwise, school districts can be relied upon to ensure the safety and well-being of child victims of domestic abuse, including:
• Children currently residing in a domestic violence shelter must be educated within the regular school program.
• Children will not be required to attend school in transitional classrooms in shelters while being assessed or awaiting records.
• Districts must take all necessary measures to protect children who are victims of domestic violence, including protecting the child’s identity in school database systems; arranging for anonymous pick-up and drop-off locations for school buses; enrolling affected children in a different school if needed; providing staff
training on confidentiality laws; sensitizing school staff and bus drivers to the child’s circumstances; and helping families file copies of protective orders with schools.

U.S. law has evolved for centuries to meet the ever-changing needs of our nation’s children and continues to progress today in response to the dynamic and sometimes transient nature of the contemporary American family. A deep understanding of and ability to articulate relevant laws to all parties will enable domestic and juvenile practitioners to best serve the interests of parents, school administrators and the many children whom these statutes have been constructed to protect.

Kathryn I. Perrico is a partner at the law firm of Walter | Haverfield. She focuses her practice on special education law, school law and labor and employment. Ms. Perrico provides counsel to boards of education in relation to special education and Section 504, student services, student discipline as well as residency and custody. She has been a CMBA member since 2008. She can be reached at (216) 928-2948 or kperrico@walterhav.com.

CLEVELAND BRIDGE BUILDERS:
CLASS OF 2018 LEADERSHIP ACTION PROJECT TEAM

The CMBA responded to the Cleveland Bridge Builders RFP for 2018 Class Projects, specifically seeking assistance from a Leadership Action Project Team to help develop an outreach plan to parents and families of Cleveland Metropolitan School District students to promote more engagement in the new free legal clinics in the CMSD program. The Legal Clinics (“TLC”) in the CMSD, our pilot legal clinic program, is a partnership effort with the Legal Aid Society of Cleveland and the Cleveland schools aimed at providing access to justice with brief advice clinics in the schools.

We were thrilled that our project was selected and we could not have been more pleased with the Leadership Action Project Team assigned to our project: Sonny Ali, Toshiba Business Solutions; Emily Bacha, Western Reserve Land Conservancy; Karen Cook, The MetroHealth System; Jonathan Dittrich, Grant Thornton LLP; Lola Garcia Prignitz, Ulmer & Berne LLP; Austin Link, Forest City; Kara Porter, United Way of Greater Cleveland and Naomi Worthington, Grants Plus.

This talented group of leaders from a wide variety of professions dedicated over six months of volunteer time to our project. They attended clinics, interviewed stakeholders, conducted town hall meetings and visited community influencers, primarily in the Glenville neighborhood as Glenville High School has been a pilot school clinic model for the past two school years. They delivered a final report to the CMBA that provides excellent advice and recommendations to be incorporated into our 2018-19 school year clinic model.

Thank you to these dedicated volunteers from the Bridge Builders Class of 2018 and to the Cleveland Leadership Center for its support of the Leadership Action Projects. The CMBA’s engagement with Bridge Builders this year could not have been a better experience!
We want to officially recognize our inaugural class, the 2017 – 2018 CMBA Leadership Academy. We are so proud of our participants who showed tremendous effort, over 10 months, to realize their potential. We look forward to seeing how they develop as future leaders of our Association, our Foundation, and our community. Class members participated in team projects where they were challenged to take on a Bar initiative and develop a plan for ways to engage and potentially transform our membership. All projects were evaluated on the basis of the quality and quantity of collaboration contemplated by the proposals, their creativity and innovation, and the specificity, sensibility and sustainability of the proposed plan. We congratulate the winner of the project presentation, The Cleveland Legal Inclusion 2020 Plan, consisting of team members Awatef Assad, Monica Christofferson, Katy Franz, Andrea Kinast, Pat Krebs, Todd Masuda and Hal Maxfield. There will be more details shared regarding their project ideas in the future, and particularly their proposed certification program. Stay tuned!

Emerging
Jennifer A. Alexander
Elizabeth A. Batts
Kari Ann Lilbridge Burns
Monica Christofferson
Julie C. Cortes
Brandon D. Cox
Kendra Davitt
Christopher G. Dean
Katy M. Franz
John William Hofstetter
John D. Lazzaretti
Todd K. Masuda
Justin L. Monday
Matthew W. O’Brien
Amanda M. Roe
Justin C. Withrow
Established
Awatef Assad
Lisa Gasbarre Black
Christopher J. Carney
Jodi Spencer Johnson
Lori R. Kilpeck
Andrea R. Kinast
Patrick J. Krebs
Lori Ann Luka
Harold O. Maxfield, Jr.
Daniel L. Messeloff
K Vesna Mijic-Barisic
Tom Mlakar
Kelli Kay Perk
Scott J. Robinson
Joseph M. Saponaro
Lori Wald
Kristin L. Wedell
Christopher Zirke
2018 LOUIS STOKES SCHOLARS AT WORK

Our 2018 class of Stokes Scholars have started their summer internships. In addition to their internship assignments, they have participated in a variety of group activities, including field trips to the 8th District Court of Appeals, Bankruptcy Court and U.S. District Court. They are working on a group project related to the epidemic of mass shootings. Recently, they had an impactful session with the Coach Hall Foundation for the Protection of Our School Children. They met with Coach Frank Hall, Bill Cushwa, Tim Armelli and Doug Snyder, three of whom were faculty members at Chardon High School during the shooting there in 2012, for a wide-ranging discussion on school safety in light of the epidemic. They learned about the power of advocacy and new Ohio legislation aimed at defining the role and professional training that should be required of School Resource Officers.

GREET THE JUDGES & GCS

Our Annual “Greet the Judges and GCs” event, held on Thursday, May 17 was a blast! We were joined by many honored members of the judiciary from our federal, state, and local courts as well as general and other in-house counsel from many diverse organizations. We also celebrated the newest class of Ohio attorneys who were sworn in by the Supreme Court in early May. Congratulations to those who are joining the group of outstanding lawyers who make Northeast Ohio a world-class center of professional excellence!

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CAP CELEBRATES OHIO PARALEGAL DAY

The Cleveland Association of Paralegals, Inc. (CAP) celebrated Ohio and Cleveland Paralegal Day on May 17 with a half day seminar and CAPpy Hour following the program. CAP has played a vital role for paralegals in Cleveland since 1975. The most important opportunities CAP provides to its members are: education, networking, leadership, and mentoring.

CAP wished all paralegals a Happy Paralegal Day and commended them for their continued excellence to the profession.

To learn more information about CAP, please contact CAP’s President Becky Kerstetter President@capohio.org or visit CAP’s website: www.capohio.org

JUNE’S HOT TALKS


With the spotlight on the surprising ways platforms like Facebook are using your data, we assembled a panel of leading experts to shed light on how your organization can be affected. Bryan Smith, FBI, Aaron Mendelsohn, Chief Data Privacy Officer, Ingram Micro, Inc. and Emily Knight, Tucker Ellis LLP discussed current cybersecurity and data privacy risks that can face individuals and businesses alike. As technology continues to develop, our panelists believe that threats to privacy and data will increase as well.

“You can’t have strong data privacy without strong informational security” – Aaron Mendelsohn

Hot Talks are free and open to the public, every second Tuesday of the month. They are broadcasted live on our Facebook and available to view on our YouTube Channel.

Next Hot Talks: August 14 from 12 – 1 p.m. Learn more at CleMetroBar.org/HotTalks
Overcoming “Anchoring”  
A Mediator’s Empirically-Based Approach to Helping the Parties Make the Right Offer and Demand  

BY PEGGY FOLEY JONES & DENNIS MEDICA

This case will never settle.” “I can get more at trial than what’s being offered here.” Sound familiar? I hear these statements every day from attorneys and parties during mediation sessions. While the majority of cases I mediate settle, I often wonder why it takes an entire day to resolve a case. Yes, it is important that the parties discuss emotional, legal and other issues that are important to them. But too often, once the focus turns to the “numbers,” the parties engage in unhelpful “anchoring” behaviors and waste a lot of time trying to get to a reasonable settlement range. After mediating over a thousand civil cases, I began to wonder about the correlation among the initial demands, offers and the ultimate settlement number. Are defendants right that plaintiffs’ demands are “excessive”? Are plaintiffs right that defendants are making “low ball” offers?

To try and answer these questions, I began tracking the initial offers, demands and settlement numbers on the cases that I mediated. My goal was to do an empirical analysis to determine the relationship between them and to use this information in assisting the Parties to overcome “anchoring” and positional bargaining early on in the mediation.

This article will examine: 1) the correlation between the demand and settlement amount; 2) the correlation between the offer and settlement amount; 3) whether the settlement percentage at mediation is higher for cases that were filed in court versus cases that were mediated pre-suit; and 4) the percentage of cases that settle in mediation.

A. METHODOLOGY
I reviewed the demand, offer and ultimate settlement amount for 223 civil cases I mediated from 2013 to 2017. Some of the cases were mediated pre-suit, but the majority of the cases had been filed in court. The cases were put into one of four categories: employment, tort (e.g. medical malpractice, product liability, car...
accident, and wrongful death cases), nursing home tort, and commercial. Dennis Medica, a CPA and Forensic Accountant, reviewed and analyzed the data in order to answer the four questions above.1

B. ANCHORING

Anchoring in decision making is a term used in Psychology to describe the common human tendency to fixate too heavily on one aspect of information when making decisions.2 I have encountered varying degrees of anchoring behaviors during mediation; however, the parties are most likely to spend a disproportionate amount of emotional capital anchoring around the initial offer and demand.

C. ANALYSIS

1. Settlement rate. As predicted, a majority of the cases (85.2%) settled at the mediation. As seen in Chart 1, the settlement rate varied somewhat according to the case type. Specifically, 92% of nursing home tort, 88.7% of tort, 82.9% of commercial and 78.3% of employment cases resolved at the mediation.

2. Relationship of Demand, Offer and Settlement

On average, cases settle for approximately one-third of plaintiff’s demand and six times more than the defendant’s offer. Specifically, as seen in Chart 2, commercial cases settle for 37% of the demand; tort cases settle for 36% of the demand; nursing home tort cases settle for 33% of the demand and employment cases settle for 32% of the demand amount.

As seen in Chart 3, commercial cases and nursing home tort cases settle for 6.2 times the offer amount, torts for 6.1 times the offer amount and employment cases for 5.6 times the offer amount.

Based on the above results, demands are significantly closer to the ultimate settlement amount than are offers; however, this suggests that both parties need to reevaluate how they formulate their opening offers and demands.

3. Settlement by Venue

Surprisingly, pre-suit cases had the highest settlement rate at 90%, as compared to the cases filed in court. The second highest settlement rate occurred in cases filed in Summit County Common Pleas Court at 89.5%, then cases filed in United States District Court for Northern District of Ohio at 87.5% and finally Cuyahoga County Common Pleas Court at 85.5%. (Chart 4)

4. Less than 1% of cases are resolved via jury trial

When the parties are approaching an impasse during mediation, I ask them for their BATNA (Best Alternative to Negotiated Settlement).3 A common response is “I’ll take my risk and go to trial.” While every party has a right to have his her day in court, only a small percentage of
cases actually go to trial. In the United States District Courts, for the 12 month period ending September 30, 2017, only 0.9% of the 236,270 civil cases resolved via court action went to trial.4 For the United States District Court for the Northern District of Ohio, of the 3,674 civil cases requiring court action, only 0.5% of the cases reached trial.5 Finally, for Ohio state courts, in 2016, of the 119,344 total civil case dispositions, only 0.3% went to a jury trial.6

Several years ago, I learned the eventual jury verdict entered in one of the cases I mediated that failed to settle. I realized that the jury awarded the plaintiff over five times more than the plaintiff’s mediation demand and 143 times more than the defendant’s mediation offer. I became curious about the verdicts in cases that proceeded to trial after not settling in mediation. I found the study below on decision error in unsuccessful trial after not settling in mediation. I became curious about the verdicts in cases that proceeded to trial after not settling in mediation. I found the study below on decision error in unsuccessful settlement negotiations to be very informative. In an article written in the Journal of Empirical Legal Studies in September 2008,7 the authors quantitatively evaluated the incidence and magnitude of errors made by attorneys and their clients in unsuccessful settlement negotiations. The study analyzed 2,054 California civil cases which proceeded to arbitration or trial after unsuccessful settlement negotiations. The study revealed that the incidence of decision error (receiving a less favorable result at trial than the other side’s last offer) for plaintiffs is higher than for defendants, but the cost of the decision error is higher for defendants than plaintiffs. In the sample of cases, plaintiffs committed decision error in 61% of the cases. By contrast, defendants made a decision error in 24.3% of the cases. Nonetheless, there is a substantial difference in the mean cost of error between plaintiffs and defendants ($43,100 and $1,140,000). The study concluded that, given the relatively large discrepancy between the parties’ mean cost of error; it is not surprising that the expected cost of error is greater for defendants by a factor of 10.8

D. IMPLICATIONS FOR PRACTICE
This analysis taught me several things. Foremost is that most cases settle rather than fail in mediation. Also, on average, monetary settlement amounts are closer to the plaintiff’s initial demand than the defendant’s initial offer. And as noted in the Journal of Empirical Legal Studies article above, plaintiffs received jury awards less than the defendant’s last offer in 61.1% of the cases, while defendants paid more than plaintiff’s last demand in 24.3% of cases. However, the magnitude of defendants’ errors vastly exceeded that of plaintiffs’ errors.

Finally, “anchoring” around the initial offer or demand causes distress, mistrust of the opponent, and makes for a long day. A mediator can diffuse “anchoring” by having the parties create a reasonable settlement bracket which will inoculate them from taking overly high positions that make it harder for them to descend in order to make a deal. Traditionally, mediators were taught to use the bracket as a last resort to save mediation. But why wait? Mediators can be proactive in getting the parties into the right frame of mind (especially by mitigating anchoring) and encouraging them to develop a more collaborative spirit. A new approach will, in my experience, make mediations shorter and more successful.

1. To protect the confidentiality of the parties and the attorneys pursuant to the Uniform Mediation Act/Ohio Mediation Act, Mr. Medica was only provided the type of case, venue, offer, demand, and, if the case settled, the settlement amount.
5. Id.
8. Id. at 566.

Special thanks to Tina Rhodes of Giffen & Kaminski for her assistance and insight in writing this article.

Peggy is a Partner at the firm of Giffen & Kaminski where she practices in the areas of arbitration, mediation, and private judging. She is a popular speaker and author on trends and topics in ADR, a member of a several national ADR panels, and is also active in the CMBA Dispute Resolution Section and the ABA’s Dispute Resolution Section. Ms. Jones has been a CMBA member since 1991. She can be reached at pfjones@thinkgk.com.

Dennis has over 25 years of experience assisting senior executives, board of directors and legal counsel with complex financial issues requiring forensic accounting expertise. Dennis has extensive experience in financial analysis of complex commercial disputes involving intellectual property, business interruption, professional negligence, business valuation, acquisition and divestiture, employment and various other breach of contract matters. He has been a CMBA member since 2007. He can be reached at (216) 357-2646 or dmedica@medicacpa.com.

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Chart 4

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4. Id.
7. Id. at 566.
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How Can Parent Coordinators Help High Conflict Families?
How to Avoid Death by a Thousand Cuts

BY JOHN READY

For a number of high conflict families after divorce, repeated trips to court yield nothing more than deeper wounds, more firmly entrenched positions, chaos and retaliation, resulting in a never ending spiral of emotional and financial damage to all concerned. And while some high conflict families eventually learn to coexist (by parallel parenting for example) and some eventually learn to cooperatively coparent their minor children, there are a number of high conflict families who never learn to get out of the cycle of provocation and reaction. In Ohio, domestic relations court judges and magistrates have an effective intervention to pull out of their tool box to help these families escape repeated unnecessary trips to court. Ohio courts can order that these parents use a Parenting Coordinator.

What do I mean by provocation and reaction?
Meet our example high conflict family.
Parent A is chronically late returning the children, thus interfering with Parent B’s plans, or simply the efficient and reliable timing of what transpires in Parent B’s household. Parent A asks Parent B to trade weekends so that Parent A can attend a family wedding with the minor children. Parent B simply does not respond to Parent A’s texts, emails, or telephone calls, until after the scheduled event, frustrating Parent A’s weekend plans to attend the wedding with the minor children. These high conflict parents in our example family also naturally have ongoing disagreements regarding payment of unreimbursed uninsured medical expenses. Some weeks after the wedding, which the children did not attend, Parent B asks Parent A if Parent B can have the children early on the day that Parent B is scheduled to commence vacation, to accommodate Parent B’s travel plans, and flight arrangements. Parent B also needs Parent A to provide the children’s passports or else the children cannot fly on vacation as planned. Parent A refuses to accommodate Parent B’s travel request, and further refuses to give up the passports. Parents B’s travel plans are ruined as a result. Does this sound typical?

While any of these aggravations in isolation are unlikely to lead either party to go back to court to seek relief, the situation is, as I have described in my lectures to the bench and bar as “death by 1,000 cuts.” Little by little, bit by bit, these parents are driving each other crazy; making each other miserable, broke, late, etc.; and, the never-ending cycle of provocation and response results in the children being collateral damage. The children suffer emotionally and sometimes physically and are constantly in the middle of the battle between warring parents.

When one party or the other eventually files a motion to, for example, modify child support, the other party will inevitably file a motion to have the other parent held in contempt of court for every conceivable violation of the parenting plan that ever occurred (like those described above), or worse, ask the court to terminate the shared parenting plan and award sole custody (which courts are loathe to do). The other parent naturally files their counter motion, asking for the same relief, or worse, relying upon all of the horrible things done to that parent and the minor children as the basis for the court to grant them the relief they seek.

How can a Parent Coordinator prevent return trips to court? Can the Parent Coordinator affect change for this family?
For high conflict families, the inclusion of a Parent Coordinator as an alternative to litigation prevents the vast majority of high conflict families from ever returning to court. The Parent Coordinator can help the parents “be there best selves” by helping resolve these conflicts before they escalate, and before retaliation takes place. The Parent Coordinator can foster cooperation between the parties. When the parties are unable to reach an agreement, with the help of the Parent Coordinator, the Parent Coordinator may be authorized by court order to make decisions for the parties, in specific areas which are identified in the court order appointing the Parent Coordinator, and which can be tailored to the needs, and issues faced by the family in question.

In other words, when one of the parties initiates contact with the Parent Coordinator to help resolve an issue, the Parent Coordinator, after consultation with both parents, will discuss options, and help identify the underlying interests at play (in the same way that the underlying interests are identified in mediation, or collaborative divorce). The Parent Coordinator is often able to identify options that the parties, in the heat of their high conflict ongoing disagreements after divorce, are unable to identify.

In rare instances (which I would anecdotally estimate to be less than 5% of the time) the Parent Coordinator is called upon to actually issue a decision for the parties. This means, that in the overwhelming majority of cases (once again anecdotally estimated to be over 95% of the time) the Parent Coordinator is able to help these very high conflict parties achieve a negotiated resolution of their disagreement.

When the Parent Coordinator is called upon in those rare instances to actually issue a decision for the parties, the Parent Coordinator’s decision is filed with the court and has the same binding effect as a court order, subject to either party’s right to object, or appeal that decision, to the court that granted the parties their divorce.

I have been actively engaged in doing this work as a Parent Coordinator since 2003, and eventually, all of these families learn that there
is no longer a benefit to engaging in the cycle of provocation and retaliation, because there is an immediate, swift mechanism in place to address the provocation, or retaliation, which does not rely upon either party invoking the continuing jurisdiction of the court, hiring attorneys, engaging in discovery, filing motions, missing work, or any of the other barriers to resolution and peace.

One of the goals and challenges of the Parent Coordinator is to help the parties communicate better, by helping them identify the shortcomings in their communication efforts and style that contribute to the breakdowns in their communications. There are a number of interventions and techniques that we have developed over the years that remove ineffective or negative, provocative communications as a hurdle preventing the successful implementation of shared parenting.

Most high conflict parents, once deprived of the opportunities to provoke, or retaliate, actually do learn and employ skills necessary to cooperatively coparent with each other. For those parents who do not learn the skills necessary to coparent with the other parent, Parenting Coordination provides a mechanism where parallel parenting can and does occur with improved communication and prompt resolution of emergent issues.

For our example high conflict family, prompt resolution of emergent issues means that there is no longer the opportunity to interfere with the other parent’s family wedding; or opportunity to disrupt a vacation by simply ignoring a request for temporary modification of the schedule or by withholding the child so the family cannot make a flight or by withholding the passport so the vacation travel plans blow up. The presence of the Parent Coordinator means that steps can be taken proactively to prevent these “1,000 cuts” from occurring.

The Ohio Supreme Court adopted Superintendence Rules for Parenting Coordinators and courts (Rules 90 through 90.12) and courts throughout the state have implemented local parenting coordination rules governing the qualifications, appointment, and utilization of Parenting Coordinators.

The children in these highest of high conflict families deserve and need the courts to take a look at better utilizing this effective, proven, efficient ADR option more often. Will this additional tool in the court’s tool box cure all ills and be the panacea for every high conflict family? Of course not; but there have been enough longitudinal studies undertaken in various jurisdictions which prove conclusively that the overwhelming majority of high conflict families and their children can be rescued from ongoing conflict by utilizing parenting coordinators in those cases.

John J. Ready is an OSBA Certified Specialist in Family Relations Law. His practice has included serving as a Parenting Coordinator since 2003. He is a domestic relations litigator, guardian ad litem, mediator, arbitrator and collaborative divorce practitioner. He is a frequent lecturer on continuing legal education topics including domestic relations; domestic violence; alternative dispute resolution (ADR); guardian ad litem representation; parent coordinator practice and the examination of expert witnesses. He has been a CMBA member since 1988. He can be reached at (440) 871-4000 or jready@readylaw.com.
When my law partner (and first chair of the CMBA Social Security & Disability Law section) Andrew November dreamed up the idea for starting a group to represent our practice area within the CMBA, he did so with the vision that it would be a “union” of sorts for practitioners within our niche. As we wrote in our first column for the Bar Journal in October 2017, because we have our own hearing office and our own ALJs, being a disability lawyer can sometimes feel like being stuck on an island, apart from the rest of the local legal community. With our first year as a section now in the books, I could not be prouder of what our group, still in its infancy, has accomplished. Two half-day CLE seminars and multiple breakfast- and happy-hour meetings (including a joint happy hour with the Workers’ Compensation section) have generated excitement within the CMBA, and offer a glimpse of what lies ahead as our section grows.

Another year one accomplishment was successful lobbying by section leadership, encouraging the Cleveland Plain Dealer to publish a series of articles raising awareness of problems within social security disability programs. For several years national media reporting on social security disability has tended to focus on the sexier stories of the few bad actors that have blemished the reputation of the programs (Google the name “Eric Conn”, if you are curious). However, our local newspaper was one of the first in the country to share the truth about disability the way members of our section see it every day from the trenches. In articles published this past December and January, several of our section members were quoted. Plain Dealer reporter Brie Zeltner told the story of the long and painful wait time most disability applicants in Northeast Ohio face to have their claim heard by an Administrative Law Judge, and separately penned an article giving tips for a successful disability application.

Progress has definitely been made, but at least one important story remains untold which section leadership hopes finally to raise awareness. Without any reasonable explanation, the approval rates by ALJs at the Cleveland disability hearing office are markedly lower not only than the national average, but even compared to the Akron hearing office just 40 miles south. To provide some statistics, the “real approval” rate (calculated by removing dismissed claims from an ALJ’s total dispositions) in the first quarter of FY 2018 for ALJs in the Cleveland hearing office was 41%. Compare that figure to the national average of 54.9%, and the Akron hearing office at 59.5%, and the numbers present a real dilemma for disability applicants in Cleveland. Even scarier is the number of “outlier” ALJs hearing cases locally. An outlier ALJ is one whose real approval rate is 35% or below, which is 33% below the national average.
Of the 17 ALJs currently employed at the Cleveland hearing office, six were outliers in Q1 FY18 (three had real approval rates of 22% or below), and there surely would have been a seventh ALJ on that list had one ALJ in particular with a historically-low approval rate issued more decisions to provide a more accurate sample size.

The problem is actually deeper than numbers, and requires individual stories to be told. I currently represent a woman who worked for 29 years as a NICU nurse (saving babies!) at University Hospital, and who developed multiple sclerosis which has crippled her vision, among other physical challenges. At her first ALJ hearing in February 2017 (after a two-year wait), the ALJ declared on the record that she would be approving my client’s application for benefits. After the ALJ fell ill and was unavailable to issue the decision she announced, a second ALJ, who happens to be one of the six outlier ALJs mentioned above, held a new hearing, and subsequently denied the nurse’s case in December 2017. Same client, same medical records, same definition of what constitutes “disability”; the only difference which might have triggered the denial was the not-so-hidden politics of the second ALJ reviewing the claim. The case is currently pending with the Appeals Council in Falls Church, Virginia, and my client, whose health is deteriorating, faces another long wait ahead. Disability programs should not work like the game show “Wheel of Fortune”, with claimants taking a spin at the wheel to see which ALJ their claim gets assigned to. There must be consistency in the decisions so that, if one ALJ explicitly states on the record the claimant is disabled, another ALJ subsequently reviewing the same evidence should come to the same conclusion.

We certainly have our work cut out for us in year two ahead, but with the amazing group of individuals in our section, we can certainly accomplish great things together!

Michael Liner is vice chair of the Social Security and Disability Section. He is the founder of Liner Legal, LLC. He represents disabled individuals across the U.S. before the Social Security Administration. He has been a CMBA member since 2011. He can be reached at (216) 282-1773 or mliner@linerlegal.com.
FEATURE

Cleveland Housing Court’s Absolutely Essential Dispute Resolution

BY C. DAVID WITT

The Great Recession expanded the economic turmoil within the City of Cleveland generating more than 11,000 eviction cases filed each year in Cleveland’s Housing Court, between the years of 2010 and 2015. The number has since declined to just more than 8,500 in 2017, but the context remains much the same. Those struggling with limited income face loss of housing and a disruptive social experience, a situation well documented by Matthew Desmond in his Pulitzer Prize winning book, Evicted: Poverty and Profit in the American City. Desmond’s publication has recently received much attention in Cuyahoga County including an appearance by the author himself. And landlords themselves have, of course, experienced additional problems in the wake of the Recession.

The late Housing Court Judge Raymond Pianka and his successor, current Housing Court Judge Ronald J. H. O’Leary have risen to the occasion, and have introduced case management techniques that have provided a positive outcome for both landlords and tenants. One of the most successful: mediation and settlement conferences, collectively referred to herein as “dispute resolution.”

Dispute resolution utilizing mediation is an expanding resource, and a positive one: When Housing Court cases are referred to mediation, either by the Judge, a Magistrate, or at the request of parties, 85% of those cases settle rather than go to trial.

Why do so many cases settle?
Mediation offers flexibility, the trial system does not. It examines the positions set forth in the pleadings but also explores personal interests — often something more than the mere pursuit of trial for recovery of possession and dollars and cents on the part of a landlord and opposition on the part of the tenant. Certainty of outcome can be an essential interest on the part of a landlord. Not every eviction going to trial ends automatically in favor of a landlord. Evidence is determinative as in every other case. Compliance with legally required notices, past performance by landlords and tenants regarding payments, and principles of equity can impact the outcome of a case. Even the evolution of a case from filing to judgment to enforcement can be time-consuming and problematic. Trials can be delayed by discovery and by jury demand; even the actual enforcement of judgments can be stayed by motions and appeals. A tenant’s interest, as Desmond has documented, is not only in the immediate disposition of the eviction case, but avoiding hardship as well, including the long term consequences of a judgment being taken against him. A judgment can stain the tenant’s record, affecting his credit status and his ability to qualify for housing with other landlords. Most importantly, tenants who have enjoyed the benefit of a federal or state housing subsidy, in the wake of an adverse judgment may face a devastating consequence: the preclusion of future eligibility for subsidies, a loss of benefit that over a lifetime may amount to tens or even hundreds of thousands of dollars.

How can these divergent interests be addressed?
Dispute resolution is the answer. A mediator can explore positions and personal interests in collective meetings and in caucuses. A mediator can be facilitative in taking proposals from one side to the other. And a mediator can be evaluative in explaining the potential risk and benefit of proceeding to trial. This is especially beneficial in the context of a court where some landlords and a majority of tenants are unrepresented by counsel, and may not be educated regarding landlord-tenant law and the immediate and long-term consequences of pressing forward to trial.

Most importantly, a Cleveland Housing Court mediator can do more than simply engage in facilitative and evaluative techniques, classic standardized concepts of mediation. A Cleveland Housing Court mediator can also be creative, drafting and offering a range of structured settlements that will meet the needs of the parties. An Agreed Judgment Entry incorporating the terms of settlement can be far more expansive than a judgment itself. For example, a landlord and tenant may avoid trial and enter into an Agreed Judgment Entry, signed by the parties and the Judge. The tenant agrees to vacate by a certain date, and the case is set for a status hearing immediately thereafter. If the tenant has vacated, the case will be dismissed, the landlord having recovered possession with certainty and the tenant realizing a graceful exit, avoiding a judgment that could have a negative future consequence. The landlord also enjoys an additional benefit: With a graceful exit there is a heightened probability that a possession judgment will not have to be enforced, avoiding the cost of a writ and movers. In another case, the agreement can preserve the relationship...
between the parties from the time of filing of the case to the time of disposition, the tenant sometimes agreeing to pay modest amounts of rent on a weekly or monthly basis, with an accelerated court-supervised move out if payments are not timely made. The Court will remain vigilant in monitoring the tenant’s performance by establishing a series of status hearings, the parties not having to appear at the status hearing if commitments are met. In a few instances, an even more positive structured settlement can be crafted involving a long term restoration of tenancy by agreement of the parties conditioned upon payments being made by the tenant for both current rent and past due rent, the Court again remaining vigilant to monitor the tenant’s performance. Agreements may include modification of conduct by the parties beyond rent payment, as well (e.g., agreements about parking, noise and access to laundry facilities are common).

There are other structured settlements. Money claims, exclusive of eviction proceedings, can be incorporated into a work out plan where a judgment is deferred conditioned upon a schedule of payments over a period of time. Such settlement agreements respect the reality of economic diversity; extended incremental payments are more achievable than a single lump sum payment. The settlement agreement can enhance the probability of collection of rent by the landlord and provide the tenant with the incentive to make payments to avoid a judgment on his record.

Landlords also can benefit by making their own commitments. Rent deposits are sometimes initiated by tenants based on claimed deficiencies within the rental properties. Mediation is invoked by the Court to create a solution. Many times, with the assistance of the mediator, the parties are able to construct timetables for repairs and for the release of rent predicated upon re-improvement of the properties. Such efforts can predate and help to avoid the filing of a formal civil claim seeking the release of the rent deposits.

Dispute resolution through mediation or settlement conference is not limited to residential landlords and tenants; the Court has found that landlords and tenants of commercial properties — particularly struggling local businesses — have successfully resolved their disputes in this manner, sometimes repairing the landlord-tenant relationship, clarifying or redrafting the rental agreement. At other times, a settlement conference has assisted both the parties and the Court’s bailiffs by specifying the
circumstances under which the tenant will leave the property, including arrangement for removal of business property or equipment, a topic generally not addressed in a win/lose decision from a trial.

Not all cases resolve at an initial mediation conference. Discovery can re-animate discussion. And parties sometimes need time to reflect on what has been said at an initial conference. Housing Court mediators remain available, both personally, and through technology, to re-engage with the parties. Some cases have resolved by agreement post-trial but before the rendering of a judgment, or even after the judgment has been issued. Legal counsel should regard the mediator as a resource; the mediator has a vast array of possible structured settlements approved in the past by the Court.

In the Housing Court, concepts established by mutual agreement of the parties can be conveyed to the mediator who then can assist in drafting a proposed Agreed Judgment Entry for their consideration.

Dispute Resolution represents an increasingly useful tool, given the existence of Cleveland Housing Court in a land of more “have-nots” than “haves,” with many parties unrepresented by counsel and facing traumatic circumstances. Other courts have other contexts. But a mutual solution with the assistance of a mediator — rather than a court-dictated outcome — represents an ever-expanding, self-empowering Twenty-First Century judicial technique that is finding increased application in other courts, complete with new technology to support the effort. “Alternative” Dispute Resolution? A term that should be relegated to the past. Today and looking toward the future, Dispute Resolution, including mediation and settlement conferences, is an absolutely essential judicial component, trial itself now being the last true “Alternative,” a necessary process to conclude a case — dictated by another human being — when self-empowered settlement has not been achieved.

C. David Witt is an ADR Specialist with the Cleveland Housing Court and an adjunct professor at Case Western Reserve University School of Law. He has been a CMBA member since 2014. He can be reached at (216) 664-6105 or wittc@cmcoh.org.

A few days after writing this article, the author set off to the big island of Hawaii. Attorney Witt observes “Trial is a last resort, ADR is a better second to last resort and Hawaii is a first resort — but I find myself having to mediate with Fire Goddess Pele!”
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31  Professional Conduct 2018: Super Scary Subjects in Professional Conduct

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1:00 – 4:15 p.m.
A critical decision in preparing for mediation is whether to give an opening statement. Opinions on the utility of opening statements are mixed, ranging from “a complete waste of time and counterproductive” to “essential to the process, as it is your one and only opportunity to talk directly to the other side.” I have worked with a number of mediators recently who have encouraged their use. And while opening statements are not always appropriate in mediation, there are times when presenting one can add value and make settlement more likely. Following are factors to take into account as you consider whether to make an opening statement or skip to private caucus sessions in the mediation process.

**Educating the Mediator**

An opening statement offers the most efficient means to educate the mediator on the nature of the dispute and the issues that need to be addressed to achieve settlement. Exchanging information through the mediator during a series of caucus sessions by slowly dribbling out critical facts and theories may require too much time and create a risk of miscommunication. Making an opening statement helps “cut to the chase” and arms the mediator with arguments he or she can use in the caucus sessions with the other party. Likewise, an opening statement can bring to life for the mediator issues that may not have been clear during the premediation conferences or in written submissions.

Yet, you should consider if the information the mediator needs to resolve the case can just as effectively be conveyed through written submissions. For example, issues in the case may already have been thoroughly briefed in the litigation, and the briefs can be submitted to the mediator. The mediator may also allow briefing prior to the mediation session, including ex parte mediation statements. Well-prepared briefs and mediation statements may be sufficient to give the mediator enough information to understand the issues and impediments to settlement in advance of the mediation session. An opening statement, however, will not be educational nor worth the cost incurred if it is simply a regurgitation of what is presented in mediation statements or other submissions.

**Educating the Opposing Party**

An opening statement also provides an opportunity to advocate your position directly to the opposing party, who may be hearing the strengths of your client’s position for the first time. This is particularly germane where you sense that the opposing lawyer is failing to communicate both the pros and cons of the case to their client. Or worse yet, he or she is embellishing and exaggerating the strength of the client’s case, and, thus, has created unrealistic expectations for what is a fair settlement. In any event, it is rare for any lawyer to be as effective in articulating the opposing party’s case, and it is often beneficial for a party to observe the strength of the opposing party’s advocacy. An opening statement at the mediation will allow you to present the issues directly to the other side and, likewise, to expose your client to the other party’s lawyer and his or her presentation.

This approach, however, can fail if the opening statement is constructed with the sole purpose of trying to persuade the opposition of the correctness of your position rather than to educate them about the evidence in the case, the differing legal theories and the risks of further litigation. You need to get the right balance between making an effective presentation as an advocate for your client’s position while, at the same time, communicating an openness to discussion and settlement. Done right, an opening statement can ensure that both sides are educated on the issues and starting the negotiations based on a common understanding.

**Personalizing Your Client**

In many cases, the mediation may be the first and only time the parties have the opportunity to meet face-to-face. The opening statement can be an opportunity to personalize your client and demonstrate that your client has a rational view of the dispute, and is not out to destroy the other side — that there are real concerns involving real people at stake in the mediation. The type of case can impact this consideration. But even in a business dispute it may be important to show that your client representative has a rational view and empathy for the other side’s position.

One method of using the opening statement is to have your client take part in the presentation. This could give your client the opportunity to speak directly to the other party without the opposing lawyer or the mediator filtering the message. You should decide whether your client will speak on his or her own behalf during the opening statement and, if so, if the client will present all or only a portion of the statement. Both strategies can help humanize your client, but it must be done effectively or will it be counterproductive in the joint session setting.
Recognizing the Parties’ Feelings
An opening statement likely will be ineffective if emotions are running high and personality conflicts exist between the parties and/or lawyers. Indeed, if the underlying litigation has been particularly hostile and having the parties in the same room is nearly impossible, then the costs of giving opening statements far outweigh any benefits. In those cases, the goal of resolving the dispute is probably better served by the mediator, not the attorneys, explaining the parties’ respective strengths and weaknesses as a neutral observer during the private caucuses.

But in certain instances, opening statements can be used to assuage the parties’ negative emotions. For example, mediation provides an opportunity for parties to be heard and air their grievances, which may be therapeutic and more important to achieving resolution than the magnitude of a settlement payment. Likewise, it may be advantageous to address negative emotions — distrust, anger, resentment, jealousy — head-on in the opening statement to clear the air. It can demonstrate to the other side that your client recognizes that emotional scars need to be healed as part of the mediation process and that it is in the parties’ best interests not to let these feelings cloud their ability to resolve the case. Thus, an effective opening statement can defuse negative emotions and start the mediation on a positive note.

Setting the Tone
Finding the right tone for the mediation is beneficial to achieving settlement by making it clear to the other side that your client is not at the mediation to fight but to resolve the case. Recognizing the differing viewpoints in the case establishes an atmosphere for cooperative negotiation. The best way to set the tone in the opening statement is to make conciliatory statements and focus on areas of agreement between the parties. Likewise, if there are weaknesses in your client’s case, acknowledging them develops credibility with both the mediator and the opposing party. An opening statement during the joint session may provide great value if it can be used constructively to get the other side to lower its guard and listen.

But be sure your rationale is sound. An opening statement should not be used if it is impossible to strike the right tone. A hostile statement utilizing courtroom theatrics will not get the parties on a path to settlement, but will back the other side into a corner and polarize the proceedings. Indeed, an opening statement is pointless if your client firmly believes the case is frivolous or without evidence or merit. In such circumstances, it is nearly impossible to give an opening statement that is not going to inflame the opposition. However, candidly showing the other side what you will present at trial if the case is not resolved and utilizing a matter-of-fact tone and soft words can be effective.

Considering the Timing
One factor in determining the utility of an opening statement is when the mediation occurs relative to the stage of the underlying litigation. An opening statement may be more valuable when the mediation occurs early in the case. If the mediation occurs before the case is even filed, an opening statement is almost essential. If, however, mediation is being conducted after or near the close of discovery, there may be little new information gleaned from an opening statement. At that point in the litigation, the mediation is focused more on arriving at a monetary settlement. This is not to say that because a mediation comes later in the judicial process, an opening statement is not of value because, in certain circumstances, it may still make sense. Thus, a key consideration is whether the mediation is being conducted as part of an attempt at an early resolution or after the parties’ positions have been communicated via pleadings, motions, and discovery in the litigation.

Conclusion
Whether to present opening statements at a mediation is an important decision that the parties should not take lightly. There is no bright-line test for when to give an opening statement; it can set the stage for a successful resolution of the dispute or it can backfire and spoil the possibility of settlement. Addressing the factors discussed above on a case-by-case basis can help you determine whether there is value in presenting an opening statement.

Tony Rospert is a partner in Thompson Hine’s Business Litigation Group. His practice focuses on complex business and corporate litigation involving financial service institutions, commercial and contract disputes, indemnification claims, shareholder actions, business transactions, and D&O litigation. Although Tony has an impressive record of courtroom achievements, he seeks to optimize case outcomes while managing the costs, time, and stress of a lawsuit by regularly using arbitration, mediation, and other forms of ADR. He has been a CMBA member since 2003. He can be reached at (216) 566-5861 or Anthony.Rospert@ThompsonHine.com.
Baker & Hostetler, originally known as Baker, Hostetler & Sidlo, has been in the forefront of community advancement since its founding in 1916. It was the first of Cleveland’s traditional, large law firms to add a Jewish partner when Norman A. Sugarman joined the firm in 1954, and it was the first to add an African-American partner when Paul D. White came aboard in 1968. The firm helped organize and has provided legal counsel to and been a pace-setter for United Appeal (now United Way) since 1957.

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But if you wanted to pick just two firm members who made a lasting impact on this community, the choices would likely be two of its founders, Newton D. Baker and Thomas L. Sidlo.

Newton D. Baker began his career in the administration of revered Cleveland Mayor Tom L. Johnson, a leader of the early 20th century progressive movement. Baker first captured attention with his ability to captivate audiences with his political speeches. Mayor Johnson appointed him assistant law director, and a year later head of the department. When that became an elective office a year later, Baker was overwhelmingly elected to the post. A few years later, he was elected Mayor, defeating the man who had ousted Mayor Johnson. He served two terms, and those years saw an explosion of civic development unmatched in the city’s history.

Most of the development plans formulated during Johnson’s administration were resurrected or came to fruition under Baker, including the Group Plan, home rule and a municipal electric company. The Group Plan called for the construction of a public building district in downtown Cleveland, including a new city hall and county courthouse opposite a 40-acre mall bordered by similar stately buildings, and a central railroad terminal as the tall centerpiece at the north end of the mall. Everything except the railroad terminal got underway during Baker’s administration.

Baker also played a key role in expanding the right of Ohio cities to govern themselves. Prior to his election as mayor, he helped author the “home rule” amendment to the Ohio constitution, which allows charter cities to operate with significant autonomy. The constitutional amendment passed in 1912, and Cleveland’s home rule charter passed a year later during Baker’s first term as mayor.

During Baker’s time in office, local civic leaders decided that Cleveland should have its own classical orchestra. Baker threw his support and a grant of public money behind this effort, which developed into the Cleveland Orchestra, one of the pre-eminent classical orchestras in the world for the last several decades. The magnificent Cleveland Art Museum also got its start during his administration. Mayor Baker was the first person to address The City Club of Cleveland, the “citadel of free speech” that has hosted multiple Presidents, Senators and Supreme Court Justices,
The home had acquired land in the village of University Heights to build a residential facility, but the village blocked the construction by declining to grant the permit required under its zoning law. The basis for the refusal was concern that the school system would have to educate the facility’s residents and that it did not “serve the public welfare to have in any school a heavily prepondering race, nationality or creed where such a condition can without inconvenience be obviated.”

Attacking the zoning as unconstitutional as applied, Baker succeeded at both the district court and sixth circuit, and the Supreme Court declined review. The result was one of the first post-Ambler Realty cases to successfully challenge a zoning law on an “as applied” basis.

Another case of abiding interest in which Baker protected the local community was the so-called “Chicago Water Steal case” where a coalition of states sued the City of Chicago for illegally diverting water from the Great Lakes to flush its sewage down to the Mississippi River. The outcome placed severe restrictions on the diversion of water from our invaluable Great Lakes.

A retrospective written by Plain Dealer editor Philip W. Porter nearly 25 years after Baker’s death gives a glimpse of his impact on generations of lawyers he worked with. Porter had covered Baker for years while Porter was the politics writer at The Plain Dealer. He listened to hundreds if not thousands of political speeches, and identified Baker as one of only two men he actually enjoyed hearing. ("His words held you spellbound, yet he spoke entirely without notes.") Then he described a man whose impact on the community transcended his accomplishments, and set a standard of conduct for others to reach: “Like all truly big men, Baker was always approachable, would give freely of his time, was never high-hat. He was totally devoid of self-importance and pomposity. He always had time . . . He was always willing and anxious to encourage young men particularly those in whom he saw much promise.”

Less well-remembered today than Baker was his partner Thomas L. Sidlo, whose impact in the Cleveland arts community was almost as profound as Baker’s impact in the civic arena. In addition to his role as general counsel to the E.W. Scripps newspaper empire, Sidlo was a partner in Baker Hostetler who concentrates his practice on the resolution of complex employment, labor and regulatory disputes, including the defense and oversight of class action litigation and appellate practice. He is the Chair of the Legal Legacy Project. He has been a CMBA member since 1981. He can be reached at (216) 861-7496.
A t the beginning of a mediation hearing, I sometimes feel like a referee at the start of a boxing match. The parties sitting around the table are the boxers, and I'm the referee laying out the ground rules with my mediator's opening statement. The parties’ opening statements are the equivalent of the boxers bumping gloves and sizing each other up. They go to their corners, known as the caucus rooms, and wait for the bell. When I walk into a caucus room, its like the dinging of the bell, and the match starts. The parties' minds are agile, like a boxer’s feet. The initial offer (used in this article to mean initial demands and offers) is like the first punch.

Unlike boxing, the goal in mediation is not to try to beat the opponent into changing his position. Instead, the purpose is to use information to persuade the other side his interests are best met by accepting your offer, and to be receptive to new information that could change your perspective. For this reason, the negotiators that throw the most effective “first punch” are those that are able to convincingly support their offer with the specific facts of the case. Although their initial offer is aspirational, it also indicates a realistic view of the facts and the other options available to all the parties. Some negotiators, however, choose to base their initial offer on “policy limits” or “nuisance value,” even if the facts clearly suggest otherwise. Presenting an aspirational yet realistic first offer helps create a positive tone for the negotiation, increases the efficiency of determining if the parties have a zone of potential agreement and allows the offeror to better manage any anchor effect.

Creating a Positive Tone for the Negotiation
Picture yourself in a mediation caucus room. The mediator walks in and wants to present the other side's initial demand. The mediator speaks, and the demand is outside the range of what you consider possible. What questions do you ask yourself? “Is opposing counsel prepared?” “Is he bargaining in good faith?” As a mediator, I’ve heard these questions and more. These concerns most often come up when opposing counsel can’t understand the basis of the proposal, even after viewing the facts in a light favorable to the offeror. While having a history of a positive working relationship with opposing counsel can minimize the negative effect of an unrealistic first offer, it still can cause problems. Attorneys try to glean a lot from initial offers, including how likely it is the case is going to settle that day. If opposing counsel determines an initial offer is unrealistic, she frequently loses her desire to spend the time and energy necessary to try to identify more realistic settlement options.

Put yourself back in the mediation caucus room. What if the initial offer is aspirational, but also reflects a realistic view regarding the facts of the case? Sure, you might chuckle at the aspirational view, but you may also be thinking, “Opposing counsel came prepared, we might be able to get this done” or “I don’t agree with that number, but maybe we can get close enough to find some common ground.” Starting a negotiation with these thoughts maintains or increases a desire to explore settlement options. While the goal of an initial offer is not to please the other side, the goal should be to promote a productive negotiation process. This goal can be achieved by determining, before the mediation, where the line is between aspirational and unrealistic, and developing a fact-specific initial offer that falls on the aspirational side.

Identifying a Zone of Potential Agreement
Another advantage to proposing an aspirational and realistic initial offer is it promotes an efficient process for determining whether there is a zone of potential agreement (ZOPA) between the parties. A ZOPA exists when the parties’ interests overlap to the point that there is a potential agreement that would benefit each party more than pursuing other options. Assume, for example, I sell Cavs’ merchandise, and I want to sell 2018 Eastern Conference Champion t-shirts. I’m willing to pay up to $4.00 a shirt for you to manufacture them, but offer you $3.00. You’re willing to sell them for $3.00 a shirt, but respond with $5.00. A zone of potential agreement exists between our bottom lines.

Unrealistic initial offers, however, hinder the identification of a ZOPA. When one party hears an initial offer she considers unrealistic, the mediator can spend the first hour (or more) trying to convince that party it’s still worth discussing interests and options, even though the party thinks the other side is bargaining in bad faith. If parties aren’t willing to talk about their interests and alternative options with the mediator, it’s not likely he can help them identify a ZOPA. Even if the parties do identify a ZOPA, the additional time it took to do so can matter. Using more energy and time to identify a ZOPA means everyone has less energy to negotiate the specific terms of an agreement. Parties and their counsel are less willing to use skills like active listening and endure processes like incremental bargaining. Also, while it’s a mediator’s job to be the most optimistic person in the room and have the negotiation endurance equal to a marathoner’s running endurance, it’s harder to access these skills after several hours mediating. A well prepared initial offer can create momentum early. Momentum keeps parties focused and creative. With momentum, parties work toward the common goal of resolving any remaining issues, instead of viewing the issues as a reason why an agreement won’t be reached.

Managing an Anchor Effect
Finally, presenting an aspirational and realistic initial offer can help manage the anchor effect. In 1974, Amos Tversky and Daniel Kahneman published the paper Judgment
under Uncertainty: Heuristics and Biases, which discussed the cognitive mistakes people commonly make when they assess the probability of uncertain events. One of the decision-making errors that commonly occurs is that a person insufficiently adjusts to an initial piece of information. This insufficient adjustment results in a response that is biased toward, or “anchored” to, the initial piece of information. This error occurs even if the initial piece of information is not relevant to the problem at hand. Tversky and Kahneman reached this conclusion after conducting several experiments.

In one experiment, participants were asked to estimate the percentage of African countries in the United Nations (UN) after being given a number between 0 and 100. The number each group received resulted from the spinning of a “wheel of fortune.” The groups that were given a higher number guessed a higher percentage of African countries belonged to the UN. Participants that were given the number 10 guessed a median percentage of 25% while participants that were given the number 65 guessed a median percentage of 45%.

Many people use their initial offer in a negotiation to try to create this anchor effect. One example that illustrates this technique is when car dealers put the Manufacturer Suggested Retail Price (MSRP) sticker on cars they're trying to sell. The MSRP is the initial piece of information, and a car buyer's counter offer is often biased toward that price. The negotiation is then anchored to the MSRP instead of focusing on other factors that may more accurately determine the market value of the car. A negotiator's preparation, however, can help him manage the anchor effect. According to “What is Anchoring in Negotiation,” a Harvard Project on Negotiation blog post from May 15, 2018 by Katie Shonk, an initial offer is most likely to create an anchoring effect when the person making the offer has greater knowledge than the other side regarding the zone of possible agreement. So, using a fact-based initial offer that takes into consideration the other options available to the parties increases the chance the offer will create a positive anchoring effect for the offeror. At a minimum, it will decrease the chance someone else's initial offer will have an anchoring effect on your response.

Closing
Presenting an aspirational and realistic offer in mediation does not guarantee that the case will settle; however, it can help ensure the process is beneficial. Starting with realistic offers will put the parties in a more positive frame of mind and help create momentum. It will help the parties identify potential differences in how they value the case early on. It will help the parties manage any anchor effect if they do start discussing the specific terms of a potential agreement. Also, even if an agreement is not reached, the parties can walk away knowing they thoroughly explored settlement options and determined an agreement was not in their best interest.

John is a civil mediator and director of the Foreclosure Mediation Program at the Cuyahoga County Common Pleas Court. He received his J.D. from The Ohio State University Moritz College of Law and his undergraduate degree from Ohio Northern University. He's been a member of the CMBA since 2014. He can be reached at (216) 698-7138 or jminter@cuyahogacounty.us.
Parental alienation is a phrase that attorneys may have heard of, but may not be able to define. Perhaps, like Justice Potter Stewart said, you know it when you see it. Parental alienation is the estrangement of a child from a parent, mainly due to the actions of one parent manipulating the child against the other. These behaviors or actions can lead to a severing of a relationship between a parent and a child. Attorneys need to do more than just recognize that parental alienation is a problem. Parental alienation is an under-recognized family law issue that has the potential to destroy family relationships, and I believe attorneys have an obligation to try to ensure that we are not helping to perpetuate this behavior.

There is a clear distinction between parental alienation and parental alienation syndrome (PAS). PAS is an attempt to have the behavior of parental alienation recognized as a mental health syndrome or disorder, and proponents have been pushing for its classification since at least the mid-1980s. Attorneys need to be mindful of the distinction. The scientific community will not recognize it at the present time. PAS does not appear in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM-V), because it is viewed more as a collection of relationship behaviors as opposed to a mental health issue. Certainly, these behaviors can lead to mental health concerns in children and alienated parents, as well as damaging the relationship between the child and an alienated parent. There are no court systems at the present time that recognize parental alienation as a syndrome, either. Generally speaking, there is a difference between a parent protecting a child from abusive or dangerous behaviors committed by the other parent, and a parent's conscious efforts to undermine the parent-child relationship and promote estrangement. Proponents of categorizing PAS as a syndrome list several defined characteristics of parental alienation: (1) a campaign of denigration against the target parent; (2) inconsistent, illogical, weak, or absurd rationalizations given by the child for rejecting the target parent; (3) the child's use of phrases, terms, or scenarios that do not reflect the child's experiences or are developmentally inappropriate; (4) the child's lack of ambivalence towards either parent; (5) the contention that the decision to reject the target parent is the child's; (6) the child's unconditional, automatic support of the alienating parent; (7) the child's significant lack of guilt over exploitation of the targeted parent; and (8) spread of animosity and danger to include the extended family of the targeted parent.

Attorneys must keep in mind that these symptoms are not exclusive to parental alienation. Certainly, many attorneys have handled cases with a stubborn teenager who is entrenched in a position with no alienation on either side. There are other causes of a child's estrangement from a parent. The child's rejection of the target parent must be without justification for the child to be considered alienated. If a parent has abused or neglected a child, the child's rejection of that parent is understandable and does not constitute parental alienation.

This is obviously not an exhaustive list. These characteristics, while not definitive of a disorder or a diagnosis, are a good starting point for identifying alienating behavior. If attorneys can recognize these behavior patterns and other factors, it may result in more clearly defined needs to address in a case. Some other aspects to be aware of are child-related factors, including (a) the child's age, (b) the child's cognition, (c) the child's development level, (d) the child's relationship with each parent, (e) the extent of child/adolescent rebellion, and (f) the psychological vulnerability of the child. A critical component to whether or not the child will become alienated is found in the child's age, cognitive capacity, temperament, and vulnerability. Some sources believe that children under age 7 are less likely to become alienated because they are less able to maintain
their resistance to the alienated parent when they are with that otherwise-rejected parent. Older children, however, can easily become alienated and will often take a strong position primarily because of these factors. Attorneys need to evaluate family issues such as the adversarial level of the divorce or custody proceeding, remarriage issues, and dynamics between siblings.

Many of these factors can be determined in the course of a custody or divorce case, and attorneys on these cases are in a unique position to identify and evaluate some of these behaviors. Whether as counsel for one of the parents or as a Guardian ad Litem (GAL) on the case, attorneys can gather tremendous information through interviews with either parent, or in the case of the GAL, interviews with the child. While counsel for a parent may have less opportunity for evaluation than the GAL, another chance to assess these factors is in observing the interactions between the child and the parents. Review of prior records and cases may also provide insight into some of these behaviors.

But how do we address this problem? This is critical, because many severely alienated children never reconnect with the alienated parent. Unfortunately, there are as many potential solutions as there are commentators. The majority of the solutions recommend that treatment services by trained service providers (including reunification services) may be one of the only ways to restore the relationship between children and targeted parents. Therapy for the child is usually focused on reducing the child’s rigid thought processes and helping the child to separate their feelings from those of the alienating parent. Therapists who work with these high-conflict families may need specialized training to understand the dynamics involved. Appropriate therapeutic intervention should be supported by court orders. When families have more than one therapist involved, the therapists should coordinate treatment to make sure that the goals are consistent and focused on reducing the alienation. Many of these families will need the services of a parenting coordinator.

Some theories suggest limiting contact with the alienating parent, or removing the child from the alienating parent. The original proposal of PAS was associated with the solution of removing the child from the alienating parent and placing with the estranged parent. This has been hotly debated. A more appropriate method may be a re-alignment of time with each parent. A study by the American Bar Association reported posi-
Attorneys may have problems with the assertion that we need to try to resolve these issues instead of keeping the focus on the divorce or custody case. But I believe that we, as attorneys, have an obligation to our clients that is as important as advocating for their wishes. As the Supreme Court says in the introduction to the Commission of Professionalism’s *Professional Ideals for Ohio Lawyers and Judges*, “Professionalism requires lawyers and judges to remain mindful that their primary obligations are to the institutions of law and the betterment of society, rather than to the interests of their clients or themselves.”

An attorney for the alienating parent may be able to work with their client to help develop insight into their behavior and recognize how damaging it is to the child. The client may not even realize what results their actions are causing—because they may be so focused on the actual legal case. Parent education and participation in therapy might be helpful. Attorneys may also need to evaluate their own behaviors in a case that displays parental alienation factors. Attorneys in high conflict cases may be mirroring the opposition of the parents in their relationship with opposing counsel.

There is no easy solution for this difficult problem. Until the legal community and the mental health community have a better idea about how to resolve this devastating issue, attorneys in these Domestic Relations and Custody cases should be flexible and mindful of the issues relating to parental alienation. Being willing to look for solutions to fix these problems from the beginning may yield fewer post-decree motions and fewer motions to show cause. With the number of cases before the Courts at the present time, a re-alignment of how attorneys approach parental alienation cases may be beneficial for both clients and the Courts.
### August

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<tr>
<td>1  WIL Section Meeting</td>
<td>2  PLI – 8:30 a.m.</td>
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<td>PLI – 1:30 p.m.</td>
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<td>6  PLI – 8:30 a.m.</td>
<td>7  PLI – 8:30 a.m.</td>
<td>8  Stokes Scholars Committee Meeting</td>
<td>9  Ethics Committee</td>
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<tr>
<td>CMBF Executive Committee – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>Workers’ Comp Section Meeting (State Office Building)</td>
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<td>Grievance Committee Meeting</td>
<td>VLA Committee Meeting</td>
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<td></td>
<td>Judge4Yourself Leadership Meeting – 3 p.m.</td>
<td>Board Outing – 2 p.m. (Merwin’s Wharf)</td>
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<td>13</td>
<td>14  PLI – 8:30 a.m.</td>
<td>15  CMBF Board of Directors’ Meeting</td>
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<td>20</td>
<td>21  ADR Section Meeting</td>
<td>22  Membership Committee Meeting</td>
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<td>22  Hot Talks</td>
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<td>39  Public Servants Merit Awards Luncheon</td>
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<td>23  CMBA BOD Mtg. – 1 p.m.</td>
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<td>24  Diversity &amp; Inclusion Committee Meeting</td>
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<td>39  Diversity Career Fair</td>
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<td>25  Grievance Committee Meeting</td>
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<td>28  Membership Committee Meeting</td>
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<td>29  Fee Dispute Hearing – 9 a.m.</td>
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<td>30  3Rs Committee Meeting</td>
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All events held at noon at the CMBA Conference Center unless otherwise noted.

### September

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<td>5  PLI – 8:30 a.m.</td>
<td>6  YLS Council Meeting</td>
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<td>18  Estate Planning, Probate &amp; Trust Law Section</td>
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<td>20  PLI – 8:30 a.m.</td>
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Employment

Schraff & King Co., LPA is accepting applications for a Probate and Medicaid paralegal position. Please send resume and cover letter to John Thomas at jthomas@schraffking.com.

Job posting for Director of Offender Services, Summit County Court of Common Pleas. Go to http://www.summitcpcourt.net/default.aspx for application information.

Law Practices Wanted/For Sale

Established workers’ compensation firm looking to increase client base by taking over an existing book of clients. If interested in discussing this, please call (216) 990-7951.

Looking to slow down or starting to think about retirement? Attorney with established probate/estate planning/small business practice looking to expand current practice; (216) 245-8861

Office Space/Sharing

Downtown

820 W. Superior Ave – 2 large offices available in existing suite with 4 other attorneys. Full amenities. Support staff space available. Call (216) 241-3646.


Downtown Cleveland – Rockefeller Bldg. @ W. 6th & Superior. Exceptional office space, exceptional value. All window space, no interior offices. Contact Ben Cappadora or Therese Manos at (216) 696-3929.

IMG Center – E. 9th and St. Clair – Office space available in suite with several other attorneys. Telephone, receptionist, fax, copier, secretarial available. Referrals possible. Contact Ty Fazio at (216) 589-5622.

Terminal Tower – Law offices available in prime location with reception area, secretarial space, conference room, copier, fax and kitchen. Reasonable rent. Call (216) 241-2022.

Unique Cleveland Warehouse District – Executive and Associate Offices with available full services, amenities, and referrals. Convenient to courthouses, restaurants, and parking. Call Pam MacAdams (216) 621-4244.

Suburbs – East

Beachwood – office space. Inside parking. Small office/windows. Reasonable. Some possible overage. (216) 244-3423

Beachwood – Green Road near Chagrin. Prime office space. Also small to large office suites in Class A building. Receptionist, Westlaw, conference room, office furniture included. Up to 6 offices available. $500 –$750 per office inclusive. Possible legal referrals. (216) 514-6400, ext. 324.

Beachwood – Office for lease, either fully furnished or vacant (216) 856-5600


Beachwood – LaPlace – corner of Richmond and Cedar Road. Large windowed office with amenities and free underground parking. Reasonable rent. For more information, call or email (216) 292-4666 or limlaw@sbcglobal.net.

Bedford – Law offices available with conference room/library, kitchen, receptionist, and mentoring from CJM grad with 40+ years legal experience. (440) 439-5959

Chagrin Falls – Furnished office available with other attorneys in eastside law firm. Chagrin Falls location with parking. $500/month includes office, WiFi, kitchen and conference room. Contact lawfirmchagrinfalls@gmail.com.

Chardon Square – Offices and large conference room in prime storefront location on Main Street opposite Geauga County Courthouse for possible space sharing or partial sublease. Contact Bill Hofstetter at (440) 285-2247.

Mayfield Heights – Beautiful office space available with conference room, receptionist, all necessary law firm amenities, complementary practices. Rent negotiable. (440) 473-5262.


Mentor – Two offices available at Carrabine & Reardon. Expense sharing arrangement is negotiable. Great location! Contact Jim Carrabine at (440) 974-9911.

Suburbs – South

Brecksville – Conference room and mailing services available in the Garley Building for $50 or $150 per month. Possible legal referrals. (440) 526-6411, ask for Laurie.

Suburbs – West


Avon – Office space – One newly furnished office in attractive two attorney suite with conference room and reception area. Historic building. Excellent location with free parking. Please contact mschroth@schroth-law.com for details.

Crocker Park/Westlake area – Deposition, Video-Ready-Conferencing & Meeting Rooms for rent. Hourly, weekly rates available. Secure Network. Reliable WiFi. Easy I-90 access. Contact Aimee at aimee.lennox@msmtech.com or (440) 892-9200 x 111.

Fairview Park Office Space – Beautifully renovated. Many amenities included. As low as $475 per month. Call (440) 895-1234 to schedule a visit.

Lakewood – Furnished office available in nicely decorated suite. $500/month includes office, WiFi, utilities, conference room and free parking, (216) 246-1392.


Rocky River – 5 individual offices available in signature Rocky River Law Building. First class public space, conference room, and interview office included. Reduced rates for lawyers < 5 years. Contact Debby Milano (440) 356-2828, dm@milanolaw.com.

Westlake – One/Two offices in Gemini Towers across from Crocker Park includes phones, fax, copier, wi-fi, receptionist, conference room. Call (440) 250-1800 to schedule a visit.

For Rent

Lake Erie Rental – Upscale 2 bedroom/2 bath house on Lake Erie in Willowsides. Beautifully furnished, wifi and air conditioning, fire pit and patio. Rent for getaway weekend or week. (440) 725-1224

Vacation Rental – Quaint Vermilion waterfront 2-bedroom cottage. Boat docking may be available. Call Sue (216) 392-4802.

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New Associations & Promotions

**Ulm & Berne LLP** is pleased to announce that **Gregory C. Djordjevic** has joined the firm in the firm’s Business Litigation Practice Group.

**Frantz Ward LLP** is pleased to announce that **John C. Rowland** has joined the firm as Director of Technology Support Services, a redesigned role to position the firm for future growth.

The law firm of Elk & Elk is pleased to announce that **Partner James (Jay) Kelley III** has been named Co-Managing Partner of the firm, along with **Arthur M. Elk,** the current Managing Partner. **David J. Elk,** Arthur’s brother and co-founder of the firm, will continue in his role as Senior Partner.

**Tucker Ellis LLP** is pleased to welcome **Courtney Mendelsohn** as counsel in the firm’s Business Litigation Group.

**Sutter O’Connell** is proud to announce the addition of new associates to the firm. Chelsie Palecek and Ashley Wakefield.

**Ulm & Berne LLP** is pleased to announce that **Shipra K. Rege** has joined the firm’s Cleveland office, reinforcing Ulmer’s highly ranked Financial Services & Securities Litigation Practice Group.

The law firm of Landskroner Grieco Merriman, LLC is pleased to announce that **Hannah Markel Klang** has joined the firm as an associate. Hannah is a 2013 graduate from Cleveland-Marshall College of Law. She has been recognized as a 2017 and 2018 Ohio Super Lawyers Rising Star for her work in individual and business liability claims including premises liability, sexual assaults, criminal activity, fraud, motor vehicle accidents and disciplinary investigations.

**Justin C. Withrow** joined the law firm of Flannery Georgalis, LLC, which was founded by two former Assistant United States Attorneys Chris Georgalis and Paul Flannery approximately 10 months ago. Since opening their doors, they have experienced substantial growth in such a short period of time, now employing three Associate lawyers, two law clerks, a paralegal/office manager; and looking at more additions.

**Tucker Ellis LLP** is pleased to welcome **William Stavole** as a partner in the firm’s Business Litigation Group. Mr. Stavole has broad experience in all aspects of business litigation and creditors rights. He has handled all types of business disputes, including those among partners and shareholders. As part of his litigation practice, he also handles cases in the areas of probate, real estate, construction and securities law.

**Lynn Rowe Larsen** has joined Taft as a partner in the Litigation practice. She is experienced in commercial litigation, bankruptcy, and restructuring and creditors’ rights matters. Larsen represents global companies and closely-held entities in a variety of business disputes, including breach of contract, UCC, commercial claims, trust and fiduciary litigation, licensing, and sales commission claims, shareholder disputes in closely-held companies and real property actions.

**Honors**

Chambers USA recognized Ulmer & Berne LLP as a leading law firm. Practices and individual attorneys receiving recognition from Chambers USA in 2018, include: Corporate/Mergers & Acquisitions: **Evelyn K. Holmer** and **Peter A. Rome**; Employee Benefits & Executive Compensation: **Patricia A. Slonsky**; Litigation: General Commercial: **Frances Floriano Goins** and **Michael N. Ungar**; and Real Estate: **Bill J. Gagliano** and **Mary Forbes Lovett**.

In the newly released BTI Brand Elite 2018: Client Perceptions of the Best-Branded Law Firms, BTI Consulting Group identifies Ulmer & Berne LLP as a firm that takes an innovative approach to creating value for clients.

Ulmer & Berne LLP congratulates Associate **Georgia Hatzis,** who was recently named as a Greek America Foundation “Forty Under 40” honoree.

Ulmer & Berne LLP is honored to announce that the firm has been named one of the “Top Workplaces in Northeast Ohio” by The Cleveland Plain Dealer, as well as one of the “Best Workplaces in Ohio” by Ohio Business Magazine.

**Kaman & Cusimano, LLC,** a firm whose practice is devoted to Ohio condominium and homeowner association law, has been recognized by The Plain Dealer as a Northeast Ohio Top Workplace for 2018. The Plain Dealer named 150 companies and organizations in a variety of industries for this listing, which is based solely on employee surveys about their respective workplaces. The survey asked employees to determine how their workplaces fared in the following categories: alignment, effectiveness, connection, and management.

Ulmer & Berne LLP is proud to announce that Partner, **Daniel A. Gottesman,** has been recognized by Cleveland Jewish News in its inaugural list of top young, Jewish leaders and influencers. Daniel is one of 12 individuals selected, from more than 100 community nominations, for Cleveland Jewish News and Ganley Bedford Imports’ 12 Under 36: Members of the Tribe.

**McGlinchey Stafford’s** Cleveland office has moved to 3401 Tuttle Road, Suite 200 in Cleveland, Ohio in the Van Aken District.

**Something To Share?** Send brief member news and notices for the Briefcase to Jackie Baraona at jbaraona@clemetrobar.org. Please send announcements by the 15th, one and half months prior to the publication month. (i.e. March Bar Journal due January 15th) to guarantee inclusion.
17th Annual Halloween Run for Justice

5K & 5-Mile

Saturday, October 27, 2018
Jacobs Pavilion at Nautica