In Memoriam

Mark D. Klimek

We grieve the loss of our partner, colleague and friend. Mark impressed us every day with his keen insight on every aspect of tax law. For 24 years at our firm, Mark was a wise teacher and mentor who was beloved by all who had the privilege of knowing him. His intellect, warmth and humor will not be forgotten.
FEATURES

12 HOW OUTSOURCING YOUR BLOG AND OTHER LEGAL RESEARCH AND WRITING WORKS
By Jill E. Shankar

14 HOW FAR SHOULD YOU GO? AUTHORIZING TRUST CREATION UNDER A DURABLE POWER OF ATTORNEY
By Ron Wayne

17 THE MIGHTY TRUST PROTECTOR
By Patrick J. Saccogna

25 PARALLELS OF SOLOING AND PARENTING
By Leigh Prugh

28 OHIO’S NEW AND IMPROVED VIRTUAL REPRESENTATION STATUTE
By Andrew W. Kirkpatrick

34 DESIGNATING CONTRIBUTIONS TO CAUSES
By Michael D. Goler

DEPARTMENTS

05 BAR SEEN
Photos from Law Day and Judy Perry Martini’s Visit to the CMBA

08 FROM THE CMBA PRESIDENT
Let’s Talk About Religion
Richard D. Manoloff

09 WRAP-UP
2017 Cleveland Mock Trial Competition

11 FROM THE EXECUTIVE DIRECTOR
I Appreciation Abounds:
#31 Ways #Only20
Rebecca Ruppert McMahon

20 BAR FOUNDATION
The Cleveland Metropolitan Bar Foundation: Year in Review: Do You Believe in Magic?!
Drew T. Parobek

22 YOUR CLE METRO BAR
New Year Ahead, Legal Directory, Auto Pay, and Updating Your Profile

25 WRAP-UP
2017 William J. O’Neill Great Lakes Regional Bankruptcy Institute

28 WRAP-UP
Medical/Legal Summit 2017

33 LEGAL AID CORNER
Porter Wright Helps Legal Aid Grow Volunteer Lawyers Program
Melanie A. Shakarian

35 WRAP-UP
Using Social Media for Legal Research?
Joseph A. Custer

36 WRAP-UP
2017 William J. O’Neill Great Lakes Regional Bankruptcy Institute

37 CLE

38 LEGAL RESEARCH & WRITING

39 CMBA CALENDARS

40 CLASSIFIEDS

43 BRIEFCASE
**LOUIS STOKES SCHOLARS COMMITTEE**

**Co-Chairs**
Ashley Edwards  
AECOM  
ashley.edwards@aecom.com

Paul W. Smith  
Bonezzi Switzer, Polito & Hupp Co., LPA  
psmith@bsphlaw.com

**Regular Meeting**  
Typically, the second Wednesday of each month at noon

**What is your goal?**  
To provide volunteer oversight to the Louis Stokes Scholars Program, a diversity pipeline program of the CMBA. The Stokes Scholars program is designed for college students who are interested in pursuing careers in the law and who have graduated from the Cleveland and East Cleveland public schools. Stokes Scholars participate in a variety of summer activities designed to introduce them, in depth, to careers in the law and to provide them with mentors who can assist them in college and beyond. Students are placed in paid summer internships and take part in many group enrichment experiences over the course of the summer program. Included each summer is a Law School Admissions Boot Camp program.

**What can members expect?**  
The Committee is made up of a diverse group of lawyers and judges who have an interest in making sure the program provides the best possible experience for the Scholars. Members serve on subcommittees: (1) Recruitment (2) Applications & Interviews (3) Program and (4) Resource/Fundraising and meet monthly to discuss all aspects of the program.

**Upcoming Events**  
This summer, the Stokes Scholars internships will start on June 5. The Committee has selected 13 Scholars who are placed at Squire Patton Boggs (US) LLP, McDonald Hopkins LLP, Tucker Ellis LLP, The Cleveland Cavs, Zukerman Daiker & Lear Co., LPA, Douglass & Associates, Court of Common Pleas, Child & Family Advocates of Cuyahoga County, Cleveland Municipal Court, Cuyahoga County Prosecutors Office and The Legal Aid Society of Cleveland.

**Recent Event**  
Brandon Brown graduated from Cleveland-Marshall College of Law in May 2017. Brandon is the first of our Stokes Scholars to graduate from law school!

**LGBT & ALLIES COMMITTEE**

**Staff Liaison**
Samantha Pringle  
spingle@clemetrobar.org

**Goals**  
Our goals are (1) to provide educational and networking opportunities for LGBT and ally attorneys and law students, and (2) to create a network of attorneys better prepared to assist the members of the Cleveland area’s significant LGBT population with the complex and unique legal issues they face.

**What Can Members Expect?**  
With the full support of the CMBA leadership, we offer attorney education often at little to no cost, networking, mentoring and volunteer opportunities for our members. We maintain an inclusive atmosphere where all are welcome to participate at the level of their choosing — ranging from basic participation to major planning and leadership roles.

**SMALL FIRM & SOLO PRACTITIONER**

**Chair**
Ashley Jones  
Ashley Jones Law Firm  
ajones@ashleyjoneslaw.com

**Vice Chair**
David Truman  
Truman Law LLC  
david@trumanlawllc.com

**Regular Meeting**  
Fourth Thursday of the Month at noon at Shula’s Steakhouse in Independence — plus several happy hour meet-ups throughout the year

**What is your goal?**  
For solo practitioners and small firm lawyers to feel connected while networking and improving business development and efficiency

**What can members expect?**  
Encouragement and camaraderie; ability to bounce ideas off other solo/small firm lawyers. Opportunities to learn how to grow your practice

**Recent Event**  
Happy Hour on May 31 and half-day CLE in conjunction with LRS on June 8

**Upcoming Event**  
All-day CLE in conjunction with the Akron Bar Association on September 15
The Ethics & Professionalism Committee was excited to host Judy Perry Martinez on Friday, April 21. Ms. Martinez, former chair of the ABA Commission on the Future of Legal Services and current special advisor to the newly created ABA Center for Innovation, was in Cleveland as the Miller Becker Center’s guest lecturer and discussed the Final Report of the ABA Commission on the Future of Legal Services. CMBA members heard about how the Commission is working to develop fresh and innovative ways for lawyers to deliver legal services to the public — especially those who are underserved.
Great leaders are made, not born. What makes Darrell a great leader is his vision of what can be accomplished, his wisdom for knowing how to get results, and his commitment to elevate the legal profession. These same traits are what make Darrell such a tenacious and effective litigator for our firm’s clients. And it’s what will help CMBA navigate its new direction and strategic plan over the next year.

We can’t wait to see all that he’ll accomplish as CMBA’s new president.

Congratulations, Darrell!
Cleveland Metropolitan Bar Journal

Betsy Rader
Firm: Betsy Rader Law LLC
Title: Managing Attorney
College: The Ohio State University
Law School: Yale Law School

WHAT DO YOU LOVE ABOUT YOUR JOB?
I love my current job because as a plaintiff’s employment attorney, I am able to help people during a very difficult time in their lives — when they have lost their jobs. They feel very powerless, and I can empower them to take control of the situation and fight for their rights. I also love having my own firm but also sharing office space with some really great women.

MOST MEMORABLE CMBA MOMENT
The International Women’s Day events that the Women in Law section has held the past two years have been a wonderful way to experience the energy of our section, which has over 400 members. This year’s panel where women judges discussed their path to the bench was inspirational to me as I was deciding whether to run for Congress.

A RECENT MILESTONE FOR YOU OR YOUR FAMILY?
We have an empty nest now since all of our children have grown up and moved out of state. Our oldest son is a professional ballet dancer in Seattle, and our daughter is a vegan chef in Seattle. Our middle son is a manager for a company in Charlotte. I loved having a house full of kids so it’s very lonely sometimes.

EAST SIDE OR WEST SIDE?
We live on the far East side, in Geauga County. We moved out here 23 years ago because we enjoyed the rural nature and the hills, but I could do without the snow! We have an 1847 farmhouse that used to be a sheep farm.

TELL US ABOUT YOUR FIRST EVER JOB?
I had the classic first job of delivering newspapers when I was 11 years old. I shared the route with my little brother. It was a great way to learn responsibility, because customers got very angry if you delivered the paper late or didn’t put the paper just where they liked it. I guess those jobs are long gone now.
Let’s Talk About Religion

I am a lawyer because of religion.

Way back in ninth grade, I was what I would characterize as a vanilla Lutheran. The girl I wanted to date belonged to a group with more fundamentalist Christian leanings. To date her, I needed to join the group. So I did. And she has been my wife for more than 25 years.

After I joined that conservative religious group, my competitive nature kicked in. I tried to memorize the most Bible verses, demonstrate the most devoutness, and convert the most people to my newfound beliefs. I encountered much support and little resistance along the way ... until I went to college.

At college, at first, I was impervious to challenges from those of other faiths that contradicted mine, as I continued my proselytization, not just on campus, but overseas. Over time, however, after pulling all-nighters to debate with friends, attending their religious events, and taking courses in religion, the walls of my belief structure came down. This permitted me to see new religious landscapes, but it left me standing there alone, feeling existentially clueless.

So I bailed on the one academic area my brain was any good at (engineering physics) and decided to major in religion in order to fully devote myself to reestablishing a meaning structure. Once I hopped off the engineering physics train, it was gone. I eventually wound my way through divinity school and government and into law. So if it wasn’t for religion (and teenage testosterone), I’d undoubtedly be an engineer somewhere, instead of writing this, my last article as President of the Cleveland Metropolitan Bar Association.

Everyone’s religious journey is unique. One of the many mighty and profound pillars of our country is that we have always been vigilant to keep all religious paths open for people to traverse upon. Under the Establishment Clause, people are not to be coerced to go down one path or another. People are to be free to run, stroll, or wander around wherever their souls may resonate. If we wonder why ours is the greatest country in the world and why people want to stay here, and move here and risk their lives to get here, I give you Exhibit A.

For all its benefits, freedom of religion and the resulting religious pluralism can present challenges in a liberal democracy such as ours. Religion encompasses more than just internal beliefs about people, the world and maybe a world beyond, but also societal implications of those beliefs. And that’s where people living together in a free society can butt heads.

Given the commonality of our human experience, we shouldn’t be surprised that people from multifarious religious and non-religious backgrounds alike can agree upon myriad elements of our social contract. But all the experience in the world doesn’t and, I assert, can’t provide unitary answers to all the fundamental questions impacting how we live and interact with each other. Religion fills in the blanks with different answers. The more important the question, stark the contrast among answers, and deeply held the underlying convictions, the more challenging it is for our democracy to manage ... and the more difficult it is for everybody to sing kumbaya.

Increased communication among those with different religious beliefs can help. It seems that, in this country, we tend to shy away from discussing religion and politics — but certainly religion. We seem to confuse respect for another’s religious views with avoidance of the topic. And we’re missing a lot when we do.

I am not naive enough to think that we will always agree on positions that rest on polar premises. But through exposure to, and respectful communication and interaction with others on matters that matter, we can develop sensitivity toward, and a deep understanding and appreciation of others with whom we share the planet. We just may find ourselves persuaded to think or believe differently. We just may discover some common ground between the poles. But at the least, and on the margins, we will govern ourselves better the more we all truly seek to understand each other.

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Because this is my last Bar Journal article, I would be remiss if I did not express my sincere thanks to the Bar Association for this unique opportunity to share my viewpoints, to our Executive Director, Becky McMahon, for her support and encouragement, to Jackie Baraona for her editorial expertise, and to those who took the time to read and comment on my thoughts, exhortations ... and raps.

Rick Manoloff is a partner at Squire Patton Boggs (US) LLP (or at least hopes he still is after spending a year “away” as Bar President). As of the printing of this edition, he is what all Presidents aspire to be ... a Past President. He is also a Past President of the Cleveland Metropolitan Bar Foundation, and has been a CMBA member since 1993. He can be reached at (216) 479-8331 or rick.manoloff@squirepb.com.
2017 CLEVELAND MOCK TRIAL COMPETITION

THANK YOU to all participants in the 2017 Cleveland Mock Trial! With the help of more than 40 volunteers (judges, attorneys, and other legal professionals who coached and judged), dozens of Cleveland Municipal Court staff, and more than 250 students, teachers, and other supporters, 16 teams from Cleveland and East Cleveland brought their peak game to the Justice Center May 5. Competitors argued criminal charges for a high school student accused of illegally hacking into a teacher’s computer, in a special case written by past mock trial all-star and Stokes Scholar Conner Hill.

Congratulations!

THIS YEAR’S TOP THREE TEAMS
1. John Hay – Cleveland School of Science & Medicine
2. John Marshall – Team Honors
3. New Tech West – Team #1

Special congratulations to the students who won paid summer internships at the Cleveland Municipal Court for their outstanding writing and performances as attorneys and witnesses!
• Writing Competition: Damien Rodriguez (Facing History New Tech)
• Outstanding Attorney for the Prosecution: Brian Jackson (Shaw)
• Outstanding Attorney for the Defense: Alyissa Sagoes (Bard Early College)
• Outstanding Witness: William Eatmon (Shaw)

CleMetrobar.org/ClevelandMockTrial
Photos on Facebook: @CleMetroBarFoundation
SPOTLIGHT ON:
GRACE MARIE MICLOTH
MEYERS, ROMAN, FRIEDBERG & LEWIS

In her short time since moving back to Cleveland last fall, Grace Miclot generously donated her time to several CMBA programs. Through the Pro Se Divorce Clinics, Grace has helped guide individuals seeking to file for a simple divorce but unable to pay for an attorney. The clinics give Grace a chance to put to good use her family law skills gained working as an intern and staff attorney for Ohio and Pennsylvania family court judges. Grace is also knowledgeable about immigration issues and appeared as a student attorney in Immigration Court representing clients seeking asylum and special protection under the Violence Against Women Act.

Grace coached the Cleveland Mock Trial team from Glenville High School this spring, where they won both of their trials and came in fifth place. Grace also helped staff intake sessions at Glenville as part of the Legal Clinics at the Cleveland schools (TLC at the CMSD). Grace makes herself available to CMSD students, families, and staff to sit down with them one-on-one and answer any legal questions they may have. Glenville is one of two sites hand-selected by CMSD CEO Eric Gordon and piloted this year for the program, along with Lincoln-West sessions staffed by volunteers from Legal Aid.

Grace describes why she volunteers: “I volunteer because I really enjoy meeting such special and unique people, from a ten-year-old child crossing the U.S. border from El Salvador fleeing gang violence, to a young woman attempting to change her gender marker on her legal documents from male to female to reflect her true identity. Through various volunteer opportunities at the CMBA, I gain a more inclusive viewpoint of the world across all socioeconomic groups and cultural backgrounds. I went to law school for this somewhat idealistic purpose of using my degree to make a difference and am proud to be able to use my knowledge to help such a wide variety of people. I am also extremely fortunate to be at a firm that encourages its attorneys to participate in pro bono volunteer programs and recognizes the importance of access to legal services for all.”
So did you hear we dubbed May “Membership Appreciation Month”? We did. Throughout May, Team CMBA made extra efforts to say THANK YOU to you, our members, for all you do for our Bar. We had 31 Ways in 31 Days planned to show members just how thankful we are for your countless contributions — no strings attached or fine print. We simply wanted you to know just how much we appreciate our members!

So, what did these thank yous look like? We recognized members of the day (like Jason Hillman, Debbie Yue and Judge Ron Adrian), plus we offered contests (like the “Show us your Best of Cleveland Photo Contest” won by Eric Simon of Taft Stettinius), giveaways (free tixs to the Annual Meeting!), fun events (The Rooftop at the 9 for Foundation Fellows) and more. If you didn’t have a chance to follow the excitement on social media — we are on Facebook, Twitter and Instagram — you can check out our website at CleMetroBar.org/31Ways to see a list of all the recognitions we passed around in May. It was truly a banner month.

Now that June is upon us, which of course brings the end of our membership year, I want to shift my appreciation to a different group of people. The best team in town: Team CMBA.

All year long, the dedicated professional staff of the CMBA strive to deliver experiences and opportunities for our members we hope will keep you coming back day after day, and year after year. The members of Team CMBA are among the most dedicated and proud-to-serve people you will ever meet. It is the privilege of my lifetime to have the opportunity to work with all of them — #Only20.

And so I ask for your help: next time you stop in at the CMBA, help me thank the members of my team, Team CMBA, for all that they do each and every year. To help you spot them, here they are:

**Rebecca Ruppert McMahon** is the Executive Director of the CMBA and the CMBF. She has been a CMBA member since 1995. She can be reached at (216) 696-3525 or rmcmahon@clemetrobar.org.

**Rebecca Ruppert McMahon**

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**Appreciation Abounds**

#31 Ways  #Only20

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**Jackie “Designing Queen” Baraona**
Bar Journal Editor & Graphic Designer

**Kari “Call Me Ethics” Burns**
Assistant Bar Counsel

**Sarah “Golf, Golf Baby” Charlton**
Facility Planning & Special Events Coordinator

**Carrie “Judge4Yourself” Cravener**
Legal Coordinator

**Carmen “Renew Now” Dorch**
Membership Coordinator

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**Melanie “Conference Master” Farrell**
Director, Board Relations & Facility Planning

**Mary “Fairy Godmother” Groth**
Director, Development & Community Programs

**Nestor “Money Man” Hernandez**
Financial Assistant

**Lucy “Jack of all Trades” Klein**
Director, Communications & PR

**Alla “Excel” Leydiker**
Chief Financial Officer

---

**Edel “Welcome Back” Mix-Smith**
Receptionist

**Krista “Scholar Mom” Wisnieski**
Development & Programs Assistant

---

**Katie “Lawyer Whisperer” Onders**
Manager, Lawyer Referral Service

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**Heather “Cool Hand” Zirke**
Bar Counsel
Busy lawyers are constantly looking for ways to save time, begging this question: what legal work can I outsource? As it happens, a lot: pleadings, motion practice, appellate briefs, and legal research are all ripe for subcontracting.

Legal Writing
Why outsource? Legal research and writing is solitary, quiet, and focused, and it can be difficult to tolerate for lawyers who find the work to be tedious and frustrating, even if necessary. Outsourcing these things allows lawyers who prefer to be more active — in court and/or interacting with clients — to do what they like best.

You can expect to pay around $70-$125 per hour, give or take, for a ghostwriter who is also a lawyer, but the work is probably billable to your client.

Next, do you have to meet with your ghostwriter for this kind of writing? Not really. It is nice to be able to put a face with a name eventually, but it is easy enough to email documents, or, once you trust your ghostwriter, share access to your document management system, like Clio. That said, it can help to get together to talk through complicated situations. Your ghostwriter is also a lawyer, so the opportunity for collaboration is a good thing, especially for solo practitioners.

As for how much lead-time you should provide a lawyer doing writing for you, it varies, depending on how familiar your ghostwriter is with the details of the case, and the complexity of the matter, among other things. You should be able to expect a ghostwriter to turn something around in around a week or ten days, but for things like dispositive motions, appellate briefs, or even a complaint with complicated facts, he or she may need more. The key, as always, is communication.

Blog Writing
Social media has become so important that lawyers understand the need to attend to their virtual presence. In fact, by now, most have established web sites providing clients and others with basic information about their practices, like contact information, headshots and biographies, and lists describing their areas of focus.

But blog writing, a feature that can enhance a web visitor’s sense of a firm’s sensibilities, personality and expertise, is an add-on that is easy for small firms and solo practitioners to resist; blogs are not billable, but can be distracting and time-consuming to research and write. Thus, it is reasonable to wonder whether it is possible to outsource this task, and if so, how much it costs and how it works.

Of course outsourcing your blog is feasible; some attorneys are already doing it. Regarding cost, you can expect to pay in the $70-$100 per hour range for a ghostwriter who is also a lawyer.

Naturally, the Rules of Professional Conduct apply to you and your attorney ghostwriter. Among other things, you will want to confirm that your ghostwriter will conduct a conflict check, as you will already have done prior to taking on the client. Similarly, it may be necessary for you to obtain informed consent from your client to share information with your ghostwriter.

With a loose budget in mind, and some sense of the topics you would like to cover, you and your ghostwriter can work out your strategy. The purpose of your blog is to show that you are current and knowledgeable in your practice area/s, and to inform your readers. To this end, you can adjust the length and frequency of your posts to accommodate your budget.
For instance, if you like the idea of posting weekly, the advantages are that your articles can be shorter and less detailed. Blogs explaining a recent win that you had, or a new opinion that is relevant to your practice area, for example, are suitable.

Other ideas involve articles that simplify a legal topic that laypeople do not understand. Even motions to dismiss or for summary judgment, let alone something like a motion for a nunc pro tunc order, can flummox a non-lawyer, but they are relevant maneuvers for which explanatory blogs can be very helpful. A blog like this would supplement — not replace — conversations that you have with your clients, and by offering the additional resource, you give them more reason to have confidence in your abilities.

On the other hand, a bi-weekly or monthly blog can be useful in its own right by providing a more detailed, in-depth platform for educating your clients. One option is to provide a roundup of sorts, describing what has occurred in a given practice area, or court, since the last article you posted.

With respect to the substance of your articles, it is likely easier for you to let your ghostwriter research and select the topics. This is part of what you can be paying him or her for, and your ghostwriter will learn by experience what resources yield interesting topics for your blog. Alternatively, you could simply tell your ghostwriter what subject you would like to cover for each blog, or, you can point your ghostwriter to a topic when you see something you like, and let him or her figure it out the rest of the time.

To reach the point where your blog process runs like clockwork, you do not need to meet very regularly, or even at all, with your ghostwriter; that is part of the beauty of this kind of outsourcing. Prompt communication is sufficient, and emails and phone calls usually work perfectly well.

Finally, as noted above, the Rules of Professional Conduct apply, so you need to be sure you do not cross any of those lines.

In the end, while it is true that outsourcing your research and/or writing is not free, it should be a net gain for you. But no need to take my word for it, just try it.

Jill E. Shankar is a solo practitioner focusing on research and writing for other lawyers. She graduated from Cleveland-Marshall College of Law in 2009, cum laude, and also has a Master of Business Administration from Weatherhead School of Management. Jill has been a member since 2010. She can be reached at (216) 375-0809 or jill@shankarresearch.com.
How Far Should You Go? 
Authorizing Trust Creation Under A Durable Power of Attorney

BY RON WAYNE

This year marks the fifth anniversary of Ohio’s adoption of the Uniform Power of Attorney Act. The Act provides clear guidance regarding the fiduciary duties of agents and many protections for vulnerable principals. Under the right conditions it permits an agent to create, modify or terminate trusts on behalf of the principal. The Act is intended to prevent many of the abuses which occurred under less stringent prior versions of the law and contains a user-friendly statutory form with built-in safeguards.

In 2017, the estate planning community also celebrates the tenth anniversary of the Ohio Trust Code. It is an upgraded version of the Uniform Trust Code and is a welcome and common sense aggregation of various statutes, case law and best local and regional practices in Ohio relative to trust creation and administration. The Code provides bright line direction on what is permitted, what is required and what rights are afforded to trust beneficiaries.

Coincidentally, this year also marks the fifth anniversary of the Trust Code’s often-used and well-written decanting provisions. Decanting may sometimes be used to pour new life into stale, inefficient or undesirable trusts. When taken together with the Code’s user-friendly provisions on judicial and non-judicial modification of trusts, the Code provides practitioners and end-users with many tools to fix broken trusts and gain desirable results.

Like all legislation, certain provisions of these laws have caused conversation amongst practitioners as to what constitutes best practices. For example, some of these more interesting provisions in the Trust Code permit oral trusts, allow for the informal titling of assets into the trust, and require annual accountings to certain classes of beneficiaries even if the trust instrument instructs and begs the trustee not to do so. However, the vast majority of amendments to the Trust Code over the last ten years have been well conceived and well received, including Section 5802.02 (F).

Creating Future Estate Planning Flexibility

Section 5804.02(F) (“Section F” of the Trust Code) gives estate planning practitioners a valuable opportunity to build flexibility into a client’s estate plan by permitting a principal to use a power of attorney to create a trust for an incompetent principal subject to certain guidelines. It provides as follows:

(F) An agent under a power of attorney may create a trust for the principal, whether or not the principal has capacity to create the trust and indicates an intention to create the trust, but only as provided in sections 1337.21 to 1337.64 of the Revised Code, including sections 1337.42 and 1337.58 of the Revised Code and their limitations on creation of trusts and on gifts of property of the principal and the duty of the agent to attempt to preserve the principal’s estate plan.

Correspondingly, the Ohio’s Uniform Power of Attorney Act (UPAA) permits an agent under
a power of attorney to create, terminate or modify a trust if that specific authority is granted under the power and if an existing trust so permits. The UPAA also authorizes an agent to make gifts on behalf of principal only as the agent determines “is consistent with the principal's objectives” if known. If these objectives are unknown, the agent must also consider the nature and value of the principal's property, his foreseeable obligations and maintenance needs, the minimization of taxes, possible qualification for benefits or assistance programs and the principal's history of making gifts. Taken together these provisions permit an agent to create and fund a trust for an incompetent principal.

Further Protections Under UPAA

The ability of an agent to create, amend, revoke or terminate a trust for her principal is one of seven “hot powers,” referenced in the Ohio Uniform Power of Attorney statute at 1337.42. These hot powers are real game changers when it comes to modifying an estate plan and must be specifically stated in the power of attorney for the agent to be able to execute these powers. The other hot powers include the power to make gifts, create or change rights of survivorship, change beneficiary designations and delegate authority granted under the power. As a further protection, absent specific authorization in the power of attorney, a nonfamily member agent cannot make gifts to himself, his relatives or dependents. Obviously, the drafting attorney must carefully counsel her clients on which of these powers to include and which to avoid. There are no always-right or always-wrong choices; it all depends upon the overall circumstances and the client objectives.

As a further safeguard, UPAA section 1337.36 permits a variety of persons to obtain judicial review to construe a power of attorney or review the agent's conduct during his tenure before all of the cookies have left the cookie jar. These interested parties include the principal or agent, a spouse, parent or descendant, presumptive heirs, or any other person that demonstrates sufficient interest in the principal's welfare. Specifically, a beneficiary of a trust created by or for the principal is a member of this class. Such review could likely determine if a newly created trust satisfies the standards set forth in the statute. It seems possible for a cautious principal or potential trustee to initiate such a review to obtain a judicial blessing of the terms of a newly created trust.

Unlike prior law, the UPAA provides that the appointment of a Guardian for an incompetent person does not terminate the agent's authority under a durable power of attorney unless the Court order specifically limits, suspends or...
terminates the power. Consequently, an agent under a power of attorney which has not been terminated by a Court guardianship proceeding may consider creating a trust on behalf of an incompetent principal which supports the efforts of a guardian of the person.

**Practical Applications**

In many cases, Section (F) will be used to simply help an incompetent individual avoid probate by creating a trust consistent with the principal’s wishes, funding the trust and distributing the assets at death under the trust instrument rather than through the probate process. This could save post-mortem expenses and create privacy.

In other cases, Section (F), when coupled with an appropriate gifting power under a durable power of attorney may permit an agent to attempt Medicaid qualification planning through the creation and funding of an irrevocable trust to start the look back period to begin running.

In some estates, the agent may create and fund irrevocable trusts consistent with the principal’s overall estate plan but provide certain protections for addicted or disabled beneficiaries, such as the creation of an Ohio Wholly Discretionary Trust to prevent the disqualification of a disabled beneficiary from assets or income tested government benefit programs.

In large estates, the agent may want to make annual exclusion gifts into a trust for the benefits of the principal’s children, grandchildren or even more remote lineal descendants in order to reduce the magnitude of the decedent’s taxable estate or take advantage of generation skipping opportunities. Even gifts into trust which are large enough to consume the principal’s remaining lifetime gifting exclusion amounts may make sense in certain cases. Many other productive uses of this planning opportunity will certainly occur.

Any attempt, however, by an agent acting under a power of attorney to create a trust which benefits the agent over either the interest of the principal or other beneficiaries will fail under the existing safeguards of the new and previously existing statutes. Beneficiaries may be unhappy when an otherwise outright distribution would now be held in trust, becomes subject the attainment of certain ages or educational achievements, or is conditioned upon the beneficiary remaining drug-free. Agents contemplating creating such trusts on behalf of their principals may be able to obtain judicial approval before creating such a trust for an incompetent principal.

**Planning For the Future**

Given the vicissitudes of life, providing your trusted agent under a durable power of attorney with the ability to create a new trust or modify an existing trust is probably a good idea to address future uncertainties. These uncertainties include changes in levels of wealth, health conditions, tax laws, beneficiary circumstances and qualification for government assistance programs. Under the Trust Code, many existing irrevocable trusts can be modified using the Trust Code’s modification and decanting provisions. Coupling an appropriate gifting power with the possibility of future thoughtful trust creation or modification under your durable power of attorney can keep your estate plan humming along even if a subsequent incapacity befalls you.

Ron Wayne is a partner in the Trusts and Estates Practice Group in the Cleveland office of Buckingham, Doolittle and Burroughs, LLC. He is an OSBA Certified Specialist in Estate Planning, Trust and Probate law, is listed in Best Lawyers in America and has earned the Accredited Estate Planner designation. Ron uses his Ohio and Florida law licenses to help individuals, families and business owners sleep well at night by helping them understand and meet the challenges that face them. He has been a CMBA member since 1978. He can be reached at (216) 615-7349 or rwayne@bdblaw.com.
The Mighty Trust Protector

BY PATRICK J. SACCOGNA

Donald J. Trump’s historic victory in the 2016 United States presidential election sent shock waves throughout the country, and will undoubtedly continue to have major ramifications during his tenure as President. This is certainly true in the estate planning arena, where he and congressional Republicans have proposed dramatic, sweeping changes to transfer tax laws.

These changes could fundamentally alter the practices of estate planners and the planning of their clients for years to come. Because no one yet knows what tax reform will bring or when the new tax laws will become effective, uncertainty in estate planning has become the new reality. And with that uncertainty comes the call for flexibility in estate planning. Enter the Mighty Trust Protector!

Who are you and what are you doing here?
A Trust Protector is typically equipped with very broad “Super Hero” powers to police the Trustee, watch over the trust’s beneficiaries, and carry out the settlor’s intentions. The Trust Protector is usually an independent individual to whom the trust settlor gives wide latitude to take “settlor-type” actions that the settlor cannot take directly and that a beneficiary cannot take for tax reasons.

There exists no “rule of thumb” as to the nature or magnitude of a Trust Protector’s powers, and perhaps such powers are only truly limited by the settlor’s imagination. Common examples include the powers to:

- Appoint, remove, and replace trustees;
- Add co-trustees and divide and subdivide the trusteeship;
- Appoint, remove, and replace other fiduciaries, including “special” trustees and trust advisors;
- Consent to, veto, and/or direct investments and other transactions;
- Review and approve the trust’s account statements, accountings, tax returns, and other documentation;
- Amend the trust instrument in order to accomplish, well, just about anything, including (i) change the trustee (and other fiduciary) succession and compensation provisions, (ii) change the trust’s governing law, (iii) respond to changes in tax and other laws affecting the trust, the trustee, and the beneficiaries, (iv) change the tax treatment of the trust and the beneficiaries, and (v) correct scriveners’ errors (R.C. 5808.08(C));
- Consult with the trustee and beneficiaries and mediate disputes among them;
- Consent to, veto, and/or direct distributions to the beneficiaries, and change distribution standards;
- Grant powers of appointment to one or more beneficiaries or other parties;
- Add beneficiaries (including charitable organizations and other non-family members), delete beneficiaries, and otherwise alter the beneficial interests of the trust; and
- Terminate the trust (R.C. 5808.08(C)).

Got power? The Mighty Trust Protector does!
At least two state courts have recently recognized the role and authority of Trust Protectors, even where the parties were in disagreement. See, e.g., In Re Living Trust of Eleanor Pierce (Marshall) Stevens, 159 So. 3d 1101, 2015 BL 40941 (La. Ct. App. 2015) (upholding a trust protector’s removal of the trustee after the trustee pursued his own legal fees as his primary goal in a matter involving disputed gift taxes); and Minasian v. Rachins, 152 So. 3d 719, 2014 BL 338543 (Fla. Dist. Ct. App. 2014) (blessing the trust protector’s retroactive amendment of a trust instrument to the detriment of the beneficiaries in a case involving a battle between the trustee and the beneficiaries).

An increasingly popular planning response to future change, and an alternative to other methods for changing irrevocable trusts
Given the ever increasing need for flexibility in estate planning and the ability to make changes to long-term irrevocable trusts, the use of Trust Protectors has grown dramatically recently. But one might ask, “Why use a Trust Protector when Ohio law provides for so many other methods by which to modify an irrevocable trust?” These other methods include the statutory private settlement agreement (PSA) (R.C. 5801.10(C)), the non-statutory (or common law) private settlement agreement (PA) (R.C. 5801.10(N)), a trust decanting (R.C. 5808.18), and a judicial modification or reformation (R.C. 5804).

The answer is that a Trust Protector offers the kind of flexibility that cannot otherwise be achieved without court involvement and/or trustee and beneficiary consent. The facts and circumstances of a particular situation often render one or more of these other methods unavailable, impractical, or otherwise undesirable. For example, a PSA is impossible if its terms would violate one of the requirements for a valid PSA (e.g., the proposed modification in a PSA cannot defeat a material purpose of the trust, shorten the duration of the trust, or change the beneficial interests in the trust). While a PA can change an irrevocable trust instrument in ways that a PSA cannot, the trustee may be uncomfortable entering into a PA without a court order, which, of course, would defeat the purpose of the PA.

Furthermore, a PSA or PA designed to amend an irrevocable trust instrument requires the agreement of the trustee and at least one of the beneficiaries. This agreement may not be achievable. And even if it were, it would only bind the parties (and not any holdouts) to the agreement.

And, while the trustee’s exercise of a trust decanting power does not require the agreement or participation of the beneficiaries,
An estate needs a plan like a house needs a foundation.

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it does require certain tests to be met in order for the trustee to properly exercise such power. It also necessitates having a trustee who is willing to exercise the decanting power. Finally, who wants to take the time and pay for the expense involved in a judicial modification or reformation? The parties involved usually only pursue such a procedure as a last resort.

Estate planners are thus more frequently using a Trust Protector to end-around the issues and practical difficulties encountered with these other options. Accordingly, employing a Trust Protector often affords the settlor a heightened sense of control and peace of mind, because the Trust Protector is armed with the power to make important changes to the trust without anyone else’s involvement.

To be or not to be ... a fiduciary?
One important question is whether or not (and if so, to what extent) the Trust Protector is a fiduciary. The answer depends upon the terms of the trust instrument and applicable state law.

The Ohio Trust Code follows both the Uniform Trust Code and the Restatement (Third) of Trusts by providing that, except to the extent otherwise provided by the terms of a trust instrument, a person other than a beneficiary who holds a power to direct (i.e., a Trust Protector), including, but not limited to, a power to direct the modification or termination of a trust, is presumptively a fiduciary who, as a fiduciary, is required to act in good faith with regard to the purposes of the trust and the interests of the beneficiaries. R.C. 5808.08(D). Thus, under Ohio law, if, as is often the case, the Trust Protector is given a power to direct the trustee, then, unless the trust instrument expressly provides otherwise, the Trust Protector is liable for any loss that results from its breach of a fiduciary duty. Id.

Correspondingly, Ohio law also provides that, unless otherwise provided in the trust instrument, a directed trustee is not liable for losses resulting from certain actions or failures to act when a Trust Protector is granted certain powers with respect to the administration of the trust. See R.C. 5808.08(B) and R.C. 5815.25.

Thus, with respect to Ohio trusts, it is up to the settlor to decide to what extent the Trust Protector should serve in a fiduciary (or non-fiduciary) capacity. The settlor could, for example, decide to go “all the way” in one direction, or bifurcate the duties of the Trust Protector by specifying which powers (say, powers over administration) should be exercised in a fiduciary capacity and which (say, powers to alter the beneficial interests) should be exercised in a non-fiduciary capacity. (Ohio law is unclear as to the standard of conduct for a Trust Protector who is not serving in a fiduciary capacity. Therefore, it is important for the drafter to clearly set forth the desired standard of conduct for a non-fiduciary Trust Protector.)

Still no estate planning panacea
As viable and vibrant as a Trust Protector can be made to be, the concept does not by any means provide an estate planning panacea. First of all, who in the world should be given the ability to essentially assume the role of a souped-up, “super hero” (read: tax-immune) settlor? Normally, the trustee is the settlor’s most “trusted” party. Who can override that, anyway? Essentially, the settlor needs to find someone to serve as the Trust Protector whom the settlor believes to be even more trustworthy and more capable than the trustee, and then develop Trust Protector succession provisions. No easy task!

Secondly, as is the case with any amendment to an irrevocable trust instrument, the income, gift, estate, and generation-skipping transfer (GST) tax ramifications of using a Trust Protector must be thoroughly examined and dealt with appropriately. More specifically, does a Trust Protector’s ability to change the dispositive provisions of a trust instrument create tax issues for the settlor, the Trust Protector, other fiduciaries, or the beneficiaries? For instance, if the IRS attributes to the settlor the powers of the Trust Protector under an implied (or an express) agreement or promise, and the Trust Protector can amend the dispositive provisions and beneficial interests of the trust, then the remaining assets of the trust could be included in the settlor’s gross estate at the settlor’s death for federal estate tax purposes under IRC Sections 2036 and 2038. Many planners are not concerned with this attribution issue when using independent trustees and independent Trust Protectors, but the IRS has not yet issued any reliable guidance in this area.

Patrick J. Saccogna is a partner in the law firm of Thompson Hine LLP, where he is a member of its Personal & Succession Planning practice group. He focuses his practice on counseling individuals, families, fiduciaries, and businesses in a wide range of personal, charitable, fiduciary, and business succession planning matters. He is also a Certified Public Accountant (CPA). He has been a CMBA member since 1994, and served as Chair of the CMBA’s Estate Planning, Probate & Trust Law Section from 2006 to 2007. He can reached at (216) 366-5761 or Patrick.Saccogna@ThompsonHine.com.
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The Cleveland Metropolitan Bar Foundation: Year in Review

Do You Believe in Magic?!

I

think even the greatest cynic would have to agree: the past 12 months have been a magical year in The Land. The Cavs brought home our first world championship in more than half a century. We hosted a historic Republican National Convention with an impact that continues to reverberate. Yours truly scored his first hole-in-one on the same day a million of us honored the Cavs with a parade that will never be forgotten. The Tribe came ever-so-close to landing a World Series title, falling short in extra frames to a likable franchise quenching an even longer drought. And, the Cleveland Metropolitan Bar Foundation set a few records of its own in the areas of impactful program support, growing community outreach, and opening doors to education, mentoring, legal services and access to justice — changing the lives of many in Greater Cleveland and beyond. Time flies when you’re having fun. We’ve all had a blast making a little magic and participating in the transformation of our city into the Believeland it is today. In my last column as President, I am honored to report on the Bar Foundation’s magical year.

Our Magical Special Events

As is becoming a welcomed habit, our special events exceeded expectations in terms of both fundraising and fun. Our annual Franklin A. Polk Public Servants Luncheon was an especially touching tribute to the unsung heroes who make our court system run. We couldn’t do our jobs without them. Their smiles, and sincere appreciation for this small token of our gratitude, are infectious. Our 15th Annual Halloween Run for Justice, led by honorary starter Mayor Frank Jackson, saw over 600 runners conquer a new, scenic downtown course. The event was made even more memorable by the Cavs’ Scream Team and the irrepressible Moondog. Our social calendar culminated in our most important fundraiser: Rock the Foundation 12. Rock is not only the Bar Association’s biggest night out, it is truly one of the social events in all of Northeast Ohio. Great food, terrific music, interesting libations (Drew’s Moscow Mule a/k/a the “Drewl”) and a perfect world-class venue (the Music Box Supper Club) made for a fun and successful event; the presentation of the Richard W. Pogue Award for Excellence in Community Leadership and Engagement to Cleveland business leader and community icon, Beth Mooney, made for an exceptional, unforgettable one. Fundraising, and fundraising. Lawyers Giving Back, Lawyers Having Fun. That sums up Rock the Foundation for me. All in, our special events and other fundraising initiatives raised over $251,200 in support of the CMBA’s programs.

Our Magical, Meaningful Programs

It would take literally volumes of Bar Journal articles to even remotely capture the impact that the CMBA programs we support have on our young people, our arts and nonprofit communities, and deserving persons in our community seeking access to our justice system who need our assistance. Numbers are not insignificant in measuring the success of our mission. In partnership with the Cleveland Metropolitan School District and the Richard W. Pogue Award for Excellence in Community Leadership and Engagement to Cleveland business leader and community icon, Beth Mooney, made for an exceptional, unforgettable one. Fundraising, and fundraising. Lawyers Giving Back, Lawyers Having Fun. That sums up Rock the Foundation for me. All in, our special events and other fundraising initiatives raised over $251,200 in support of the CMBA’s programs.

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As I noted, numbers do matter, but lives matter more. At our last board meeting, a remarkable young lady, Tiana Bohanon,2 told us what our programs have meant to her. I wish I had taken better notes and could adequately convey the self-assuredness and sincere gratitude in her eloquent message to our board. In short, Tiana told us how our programs provided education, mentoring and guidance that her loving parents, without a college education, could not. Our programs instilled an interest in the law and helped transform a lower early high school GPA into a generous, well-earned, law school scholarship. Tiana deserves the credit for these accomplishments, but it’s gratifying to know that our programs played a part. Indeed, we can and do make a difference to exceptional people like Tiana and the many other members of our community who are touched by our programs.

Our Magical Board of Trustees and Committees

I have been reminded by many that I have the lawyer’s gift of verbosity and that the Bar Journal, unlike the Russian novel, is not free from page limitations (how’s that for grandiloquence?)
With this in mind, it is simply impossible to adequately thank our board for its hard work and unwavering support of the Foundation. Our board is incredibly strong, comprised of lawyers from virtually every sector of the legal community as well as essential community trustees. I am especially proud of, and grateful to, our committees. They ran with the initiatives developed at our August board retreat and skillfully got them to the proverbial finish line. Our Communications and PR Committee (Kevin Donahue and Rosanne Aumiller) created a comprehensive strategic plan that will guide our fundraising efforts within and outside the legal community now and into the future; the committee also contributed to our best-ever annual Impact Report. The Endowment Committee (Ginger Mlakar) continued to build on our incredible success through its collaborative efforts with InBloom Consulting and our trusted investment advisor and great supporter and friend, Huntington National Bank. The Finance Committee (Rosemary Sweeney and John Kostelnik) steered us to another profitable year and a flawless audit. The Fellows Committee (David Paris, John Lebold and Hugh McKay) exceeded its goal of adding 50 new Fellows to our roster, enhancing our endowment by more than $130,000; the committee continues to work hard to deliver well-deserved recognition and benefits to our Fellows in return for their unfailing generosity. The Governance & Nominating Committee (Debbie Yue and Bethany Murray) undertook an exhaustive study of what constitutes the ideal Foundation trustee and board, and came up with a stellar slate of new officers and trustees. The Grant Committee (Stephanie Trudeau and Kerin Kaminski) thoughtfully evaluated our programs, their impact, and their funding needs; committee liaisons to all programs are now in place. Finally, my Executive Committee was a fount of information and ideas; it was a true sounding board, not always in agreement, but invariably with the best interests of the Foundation in mind.

Our Magical Multi-Talented Staff
Everything I have written about thus far — indeed, every Foundation accomplishment over the past 12 months — would not have been possible without our Executive Director, Becky McMahon, and her outstanding team. You know the old saying: There is no “I” in “team.” Becky and her colleagues exemplify the concept of team: hard work, skill, preparation, selflessness, and tireless dedication to the Foundation and its mission. All of this accompanied by an ever-present smile. They were the icing on the cake of my presidency.

Our Magical Future
We’re making a difference and we’ve accomplished much, but there is more to do. From a financial standpoint, our effort to grow the Endowment to a level where it sustains our programs with minimal reliance on additional fundraising remains a long-term, achievable goal. From a people perspective, we need to deliver our message outside the legal community. After completing one of my radio interviews, Grace Roberts of The WAVE simply said, “Wow! I had no idea what the Foundation was or what it did, but now I want to get involved!” We have a great story to tell. When people hear it, they’ll want to get involved. I hope you do, too!

My Most Excellent Magical Year
This has been a truly magical year for me personally, full of special people and special memories. I can’t possibly recall them all, but on the memory side, the radio and TV interviews, the many speeches, my Halloween Run video (proving that I can still throw a spiral with a football, although not very far), and donning my dad’s black and gold jacquard tux jacket for Rock 12 are all high on the list. The Bar Leadership Conference in San Francisco (confirming that we’re a national leader amongst bar associations and foundations) and detour to Napa and Sonoma on a personal frolic with First Lady Rachel weren’t bad either. Thank you are a little more dangerous because when your list is long, you risk omitting some who are deserving of your gratitude. With that caveat, thanks to my counterpart, CMBA President Rick “Hold the Espresso” Manoloff. My working partnership with Rick was surpassed only by the partnership of the organizations we’ve led. Rick has made our Bar, our community and our world a better place. Thanks to incoming CMBF President, Mitch Blair, for his steady counsel, no matter the issue or the hour; to Rosemary Sweeney, who has been an excellent Treasurer and a good friend for many years; and to our Vice-President of Special Events, Pat “The Velvet Hammer” Krebs, for his countless hours of behind-the-scenes hard work so vital to the financial success of all of our special events. A special thanks to Tom Anderson and his team at Huntington for their extraordinary service, expertise and generosity to our Foundation; also for picking up the bar tab when a cold beer was needed. Thank you to my law firm; Vorys has been my professional home for over 30 years, and a real blessing in my life. Thanks to my incredible family of every generation (I hope you enjoyed learning a little bit about us), and to Rachel, the love of my life. Finally, thanks to you for the honor and privilege of serving as President of the Bar Foundation. The experience has shown me that we’re all members of an extraordinary bar who are blessed to live in such an incredibly generous and giving community. I hope the experience has made me a better, more empathetic and at least slightly wiser person, with a fuller appreciation of what is truly important. In all ways, it has been a magical experience for me!

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Each month, these pages will be dedicated to highlighting just some of the activities and programs of your Cleveland Metro Bar.

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Is the Lawyer on the Other Side Getting in the Way of the Clients?

Contact the Professionalism Conciliation Panel

The Professionalism Conciliation Panel was formed to help improve the deportment of lawyers in Cuyahoga County in their interaction with each other and the courts. The Panel uses the Statement of Professionalism issued by the Supreme Court of Ohio in 1997 and the Lawyer’s Creed of Professionalism adopted by the CMBA in 2013 as the guiding principles for the program. Our goal is to intervene to constructively assist in the orderly and professional resolution of the conduct or dispute preempting any actual grievance.

A lawyer or judge who believes that the conduct of a lawyer, or of multiple lawyers, has been inconsistent with the Principles of Professionalism and that the assistance of the Panel may help alleviate the situation may email or call Bar Counsel Heather Zirke at (216) 696-3525.

The distinguished panel members appointed to carry out the purposes of the panel are:

Marvin L. Karp (Chair), Deborah A. Coleman, Frank R. DeSantis, Barbara K. Roman, Karen E. Rubin, Niki Z. Schwartz, Roger M. Synenberg, Adrian D. Thompson and Michael N. Ungar
When you make the leap from working with a firm or company context to flying solo, it can seem daunting. There is no longer a large, multifaceted organization to provide helpful things like administrative assistance, organizational management, and just simply a semblance of structure. (And colleagues’ leftover Halloween candy.) You really are alone. You have to figure things out on your own, for the most part. You do the work to get your own clients, You keep all the records for traveling, billable time, invoicing, revenues and expenses, etc. These burdens and more fall directly on your shoulders. Some of them can be outsourced, but you still need to manage how well your outsourcing options are working.

Not all solos come at practice from the same circumstances. Some have come from a thriving firm practice and have an established book of business. Some have built up enough revenue that they’re able to outsource several facets of the practice. And some, like myself, are doing it all alone. Building from the ground up, starting with nothing. This might seem foolish, or at best inadvisable. But I have come to discover that if you’re a parent, you have developed some of the same skills and general experience that come into play as a solo practitioner.

I’ve been practicing as a solo attorney for approximately one year. I’ve been a parent for over eight years. My three daughters are ages eight, seven, and three. Even if you’re not a single parent—which thankfully I am not—the parallels of solo practice to parenting are still widely applicable. There are bound to be times when the other parent of the household is absent. And there are certainly times were he or she may as well be.

Here are some of the parallels I’ve observed:

1. **When clients come to see you, they are, for lack of a better word, unhappy.**

   Understandably, a client who needs to speak with an attorney is generally doing so because something negative has happened. A lawsuit has been filed, a business arrangement has broken down giving rise to a potential litigation, the person has experienced a job-related problem, the person was charged with a crime, etc. Some clients seek out attorneys for a contract review or creation of a business. Yes, these are more positive experiences. But truth be told, people tend to see it as more of a chore to retain the services of an attorney than an exciting partnership or collaborative opportunity. In short, client meetings are not happy, pleasant, monuments of jubilation.

   Similarly, your children often tend to approach you when they are unhappy. In fact, much of the time when he or she seeks you out, the matter spans the range of a minor annoyance to “the biggest problem in the universe.” (Multiple exclamation points omitted.) And often paralleling a client...
matter, the child has experienced a social breakdown with another person. Invariably, it is one of their siblings, who has made this child the unfortunate victim of some egregious social injustice. Oh the humanity.

2. When clients seek you out, they do not want to interact with anyone but you.

Also understandably, your clients have developed a relationship with you. They trust the work you’ve done so far. They know who has contacted them in the past concerning their matter. You are who they want to continue their conversations with. Speaking to an office assistant or other staff person is not optimal for your clients. These other people don’t know their cases like you do, aren’t aware of the often very serious stakes, etc.

This is also often true of children. (Not the serious stakes part.) Your child must interact with you and you alone, because you are the only person in existence who can address the urgent matter that will create imminent misery for your child unless you alone intervene. Suggestions to seek advice from another person, e.g. “why don’t you go ask __other parent__,” are met with protests of that person’s inadequacies, often delivered in high-pitched expressions of significant displeasure.

3. Try though you may, sometimes there is nothing you can tell your client to improve their feelings on their matter, or how it causes them to interact with you.

This is perhaps one of the most challenging aspects of client interaction. Clients are not attorneys, and they cannot be expected to have the knowledge and experience to know how a matter will resolve. They may, for example, be unsure why you might advise them to enter a no contest plea over a guilty plea in a criminal matter. Or they may question why their case is taking so long to resolve. And while criminal cases may be resolved in months, they move light years faster than civil cases, which make take years. Moreover, clients may not understand why the information they provide you could prove to be inadmissible in court. They don’t fully grasp legal theories. They have difficulty realizing that an appeal does not allow them to essentially retry their case. As a result, their expectation levels may be a degree off from what you, as a seasoned attorney, understand will realistically happen. And this can cause difficulty if they were hoping for a different outcome. As a solo attorney, you alone are tasked with managing these delicate client communications. Sensitivity to the client’s feelings and empathy for their situations are vital. If the result is not what the client had hoped for, taking on the role of a problem solver and offering another or several alternate options has always been welcomed in my experience.

How does this parallel with parenting? Our kids want to bring their toy collections into the bathtub; they want straight chocolate frosting for dinner, or else they want pizza every single night; they want ATMom to shell out cash for them whenever they feel like it; they want an unsupervised weekend road trip with their 16-year-old friends, to another state. These, and countless other scenarios, can similarly create expectation levels that are several degrees off from what you, as a rational adult, understand will realistically happen. Of course they’re hoping for a different outcome from being told “no.” And then it falls to you to manage angry outbursts, crying, pouting, tantrums, etc. But here, I’ve similarly seen that it’s been helpful for me to again take on the role of a problem solver — try to negotiate down the request to something that’s more acceptable. (Truth be told though, the motivation in the
back of my mind is almost always “Anything to get them to shut up.”)

### 4. As a solo attorney, you are a master multi-tasker.

Court appearances, motion writing, client meetings, document drafting, administrative tasks, marketing, website management, networking meetings, time tracking, bookkeeping, etc. And so much more, that I haven’t included. You do it all when you’re a solo.

Help with walking, cleaning up messes, reading to your kids, teaching them to ride a trike/bike, teaching letters/numbers/colors, soccer practice, softball games, ballet lessons, help with homework, track meets, packing lunches, figuring out dinner, etc. And so much more, that I haven’t included. You do it all when you’re a parent.

The parallels aren’t perfect, but the point is clear. I would like to say that being a solo attorney and being a parent have made me better at both. In fact, that is not the case; they have both just made me exhausted. If nothing else, it was fun to write this article.

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Leigh Prugh is a solo attorney practicing in mental health, criminal defense, probate, appellate advocacy, and small business matters. She has been a CMBA member since 2015. She can be reached at (216) 798-6261 or lprugh@prughlawllc.com.
Ohio's New and Improved Virtual Representation Statute

BY ANDREW W. KIRKPATRICK

The Ohio Trust Code (the OTC) has generally made trust planning more flexible. This is particularly true with irrevocable trusts that were set in stone once the relationship was defined in a written instrument. However, the ability to make change is perhaps irrelevant without an external demand for change. The relatively high federal transfer tax exemption amounts, the “turnover” of the baby boomer generation, and the number of births that tend to dilute multi-generational trusts (or at least divide them into smaller trusts) are driving demand for change. As the rate of transition increases, the mechanisms embedded in the OTC are perhaps more relevant than ever. And if the Federal transfer tax system is changed by the current Presidential administration and Congress, the rate of change is very likely to accelerate.

One important tool available to help trustees and fiduciary counsel accommodate change is Ohio’s virtual representation statute (RC Chapter 5803). Most changes to an irrevocable trust requiring an act of fiduciary discretion will be evidenced by a written agreement signed by the Trustee and as many beneficiaries as possible. Ohio’s virtual representation statute fills the gap when a particular beneficiary does not have the capacity to sign because they are too young, have not yet been born, or his or her interest is subject to a power of appointment (discussed below). Indeed, it is hard to imagine modifying a trust, terminating a trust, or performing some other transaction without considering who might second guess the fiduciary decision. Making sure current beneficiaries, permissible appointees, and takers in default are bound by the agreement or decision is critical. If a court is involved, lingering fiduciary risk is less of a concern because of required notice procedures and the possibility of a guardian. However, the OTC encourages not going to court all the time and allows for alternative mechanisms such as private settlement agreements, decanting, receipt and releases, consents, giving notice, and other tools so long as enough of the parties are willing to participate.

The issue of who should sign a particular agreement or receive a given notice is fundamental and requires a current understanding of Ohio’s virtual representation statute. RC Chapter 5803 was adopted in 2007 as part of the OTC and was amended for the first time in 2008. A second amendment became effective as of April 6, 2017 as part of HB 432. The “new” RC 5803.02 makes the distinction between a general testamentary power of appointment (GPOA) and a testamentary or presently exercisable limited power of appointment (LPOA) and defines who can be bound by the holder of a LPOA. The rights of the holder of a presently exercisable general power of appointment are governed by RC 5806.03.

The GPOA provisions of RC 5803.02 remain unchanged. To the extent there is no conflict of interest between the holder of a GPOA and the persons represented, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise are subject to the power. As such, if the person holding a GPOA signs an agreement or receives notice, it is probably not necessary to have the permissible appointees or takers in default participate.

However, before foregoing the decision to have “unnecessary” beneficiaries participate (because his or her interest is subject to a GPOA), consider the family dynamics. Some beneficiaries may appreciate the transparency, feel included in the decision making, and will eagerly participate if the planning makes sense. In other cases, explaining the transaction may cause objections to surface, and confronting these issues upfront may be helpful in the long run. In any case, the upside of relying on RC 5803.02 (fewer signatures if the holder of a GPOA signs) must be carefully evaluated in the context of the specific individuals and the transaction at issue. For example, consents for a small trust termination where the family is generally functioning well may be one situation where getting everyone’s participation makes less sense compared to using the holder of a GPOA to bind the takers in default.

The revisions in HB 432 define who can be represented and bound by someone holding a LPOA. Specifically, to the extent there is no conflict of interest, the holder of a LPOA may represent and bind persons whose interests as possible appointees are subject to the power. This should make things easier for the broadest LPOAs where the class is anyone other than the power holder, his or her creditors, his or her estate or creditors of his or her estate. A friend refers to this as a “kitchen sink” LPOA because it is as broad as possible from a flexibility perspective without becoming a general power for transfer tax purposes. However, interestingly, the takers in default cannot be bound by the holder of a LPOA under RC 5803.02.

My sense is to treat a kitchen sink LPOA in the same manner as a GPOA for the purposes of our virtual representation statute (I am of course too late). Pennsylvania follows this approach. The distinction between the two types of powers is really a federal tax distinction rather than an OTC distinction. Further, RC 5803.02 treats a GPOA and a kitchen sink LPOA consistently with respect to the permissible appointees; it makes sense to let the power holder bind the permissible appointees because the class is so inherently broad and getting the world to participate is nonsensical. With respect to the takers in default, the same consistency between a GPOA and a kitchen sink LPOA is absent from RC 5803.02.

Let’s consider more narrow LPOAs and assume a particular appointee is also a taker in default.
Innovation lies in the heart of a visionary willing to take risks. It’s about revolutionizing the way we practice law for our clients’ growth and success.
In either case, having the power holder bind whether someone holds a GPOA or a LPOA. The first issue for the fiduciary to resolve is or receive notice when using RC 5803.02, happen to wear. be considered bound regardless of which hat they given individual can receive the property (or not). sense that it respects the two different capacities a distinction. This is perhaps the “fair” result in the taker in default? The statute clearly maintains this sense. The same is also usually appropriate when the permissible appointees are named unless there is a “cosmetic” benefit to having a particular appointee participate directly. The next issue to consider is how to bind the takers in default. When a GPOA exists, RC 5803.02 offers solid statutory protection for the fiduciary unless there is a conflict which is a tricky factual analysis. When a LPOA exists, the power holder cannot bind the takers in default under the statute.

Lastly, consider whether a power holder can bind a current beneficiary. The unknown permissible appointees makes sense. The same is also usually appropriate when the permissible appointees are named unless there is a “cosmetic” benefit to having a particular appointee participate directly. The next issue to consider is how to bind the takers in default. When a GPOA exists, RC 5803.02 offers solid statutory protection for the fiduciary unless there is a conflict which is a tricky factual analysis. When a LPOA exists, the power holder cannot bind the takers in default under the statute.

Lastly, consider whether a power holder can bind a current beneficiary. In the context of a LPOA, the statute specifically says that only permissible appointees can be bound by the holder of a LPOA (testamentary or presently exercisable). Would the holder of a GPOA (testamentary) be able to bind the current beneficiaries? In the context of a GPOA (testamentary), the interest of the person represented must be subject to the power under RC 5803.02. The current beneficiary’s interest cannot be appointed away until the power holder’s death. Does this mean the current beneficiary’s interest is not subject to the GPOA (testamentary) while its holder is alive? Also consider the cross reference to RC 5806.03(B) with respect to presently exercisable general powers. One interpretation is that the holder of a presently exercisable general power is treated like the settlor of a revocable trust and could therefore probably bind a current beneficiary. However, from a pragmatic point of view, it makes sense to consider other ways to include the current beneficiaries (i.e., not with a power holder).

From a “best practices” perspective, it makes sense to consider, as a starting point, the pros and cons of getting as many signatures as possible from the current beneficiaries, the takers in default and the permissible appointees. This initial list can be shortened to the current beneficiaries and the holder of a GPOA (testamentary) if there is one willing to sign. If the holder of a LPOA exists and is willing to sign, the permissible appointees can be taken off the initial list of participants but the takers in default will remain (along with the current beneficiaries and the holder of the LPOA). The one caveat here is to consider the potential “cosmetic” benefits of having a particular person sign even if not necessary under the statute. In conclusion, navigating the takers in default will continue to present some redundancy in the sense that the same person needs to be bound twice (once as a permissible appointee and once as a taker in default). However, the ability for the holder of a LPOA to bind the permissible appointees is a notable improvement.
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Porter Wright Helps Legal Aid Grow Volunteer Lawyers Program

Legal Aid’s Volunteer Lawyers Program is able to create meaningful experiences for pro bono attorneys because of support from the CMBA and numerous law firm and individual donors who designate funds to support Legal Aid’s volunteer management.

One key supporter that helped Legal Aid’s expand its volunteer program is the law firm of Porter Wright Morris & Arthur. With six offices throughout Ohio, Washington, D.C., and Florida, Porter Wright has built a legacy of philanthropy and pro bono work serving the communities in which it practices. Porter Wright’s Cleveland location continued this spirit of generosity in 2015 with a $50,000 grant spanning five years to The Legal Aid Society of Cleveland.

With Porter Wright’s support, Legal Aid has been able to bolster legal education and support volunteer attorneys as they work to protect the safety, economic security, and safety of low-income clients.

“Our legal system and ultimately our society depend on access to justice for all — regardless of a person’s lot in life,” says Hugh E. McKay, Partner-in-Charge of Porter Wright in Cleveland. “There’s a moral imperative for lawyers to step up and do whatever they reasonably can do to make sure the scales of justice are balanced. In Cleveland, this means supporting Legal Aid Society of Cleveland.

The firm’s generous grant has done much to promote justice by engaging and supporting retired attorneys in their volunteer work with Legal Aid. The financial support Legal Aid has received from Porter Wright allowed for the hiring of dedicated Volunteer Lawyers Program support staff, who curate portable resource libraries stocked with essential materials for volunteer lawyers at clinics. The libraries include client brochures, information packets, and common legal forms. Volunteer attorneys reference these “Law in a Box” materials, which travel with Legal Aid to regular outreach events held throughout Northeast Ohio, as well as to other Legal Aid sites helping low-income veterans and families of Cleveland Public School children. With these resources readily available, volunteers have experienced increased comfort levels and willingness to take more pro bono cases, and are empowered to provide excellent representation to clients.

"Legal Aid has demonstrated remarkable dedication, efficiency, creativity, and effectiveness in making the most of limited resources to fight the good fight for access to justice," McKay said. "Porter Wright is proud to do our part to advance Legal Aid’s mission, upon which we depend."

Also a result of Porter Wright’s support of Legal Aid’s mission, the nonprofit law firm was able to attract an even greater number of volunteers by offering CLE credit for pro bono work. Porter Wright’s gift helps Legal Aid focus staff time on outreach related to the 2014 Ohio Supreme Court rule change, which allows volunteer attorneys to earn Continuing Legal Education credit for pro bono work. Attorneys receive one hour of CLE for every six hours of pro bono time. Legal Aid Volunteer Lawyer Program administrative assistants provide volunteers with a transcript of all their hours, and then submit certified transcripts to the Ohio Supreme Court. The added support has paid off: In 2016 alone, 158 attorneys took advantage of this program, earning 310 hours of credit (with 20 attorneys earning the 6-credit maximum) while serving the region’s most vulnerable.

“This gift from Porter Wright is a vote of confidence in Legal Aid and in the value of our pro bono partners. Volunteers have a huge impact on our clients’ lives. They need and deserve Legal Aid’s support. Porter Wright will make it possible for even more volunteers to serve clients,” says Legal Aid Executive Director Colleen Cotter. “Legal Aid will leverage this gift with thousands of volunteer hours, impacting thousands of clients.”

Melanie A. Shakarian is an attorney and the Director of Development & Communications at Legal Aid. In her next life, she’d like to come back as a Legal Aid volunteer because she knows how well volunteers are treated by the awesome Legal Aid staff! Those interested in joining Porter Wright in their support as a volunteer or donor should visit www.lasclev.org to learn more. Melanie has been a CMBA member since 2003. She can be reached at (216) 861-5217 or Melanie.shakarian@lasclev.org
If your clients have a passion for a cause, they are more likely to support that cause financially. They may attend fundraising events, drop a donation in the mail, or purchase goods that contribute a percentage of the purchase price back to the organization. And if they have a personal connection to a cause, they are much more likely to want to continue to support that cause far into the future.

For example, as an attorney, I am keenly aware of the importance of communication. Having dealt with stuttering since third grade, I found my way to Cleveland Hearing & Speech Center (CHSC) soon after my son was born. I worked for many months with a speech therapist and learned techniques I still use today to manage my stutter. In the process, I gained a passion for this very special organization whose mission provides programs and services for people with special communication needs.

I have turned that passion into service and support so that others could benefit from various services offered by the same wonderful agency that helped me. Over time I realized I wanted to make certain that support would continue long after I’m gone. Therefore, I made a personal commitment in the form of a planned gift. The gift is unrestricted and is to be used to support and strengthen the agency in carrying out its mission.

I encourage my clients, regardless of his or her age or family situation, to have an estate plan (which could be just a will but may also include one or more trusts if appropriate), and to consider a philanthropic gift to the charity of their choice as part of that will or trust. Inclusion of a philanthropic gift in your will or trust is easy to do and offers these main benefits:

**Simplicity:** Just a sentence in the will is all that is needed. For example:

“I give and bequeath the (sum or description) of my estate to (charity name, location) a not-for-profit corporation, for its general charitable purposes.”

**Flexibility:** Because the gift is not received until the end of a lifetime, it can be changed many times. The gift can be increased or decreased according to changes in situations.

**Versatility:** The will can be structured to leave a certain amount or a percentage of the estate.

**Tax relief:** If the estate is subject to estate taxes, the gift may be entitled to an estate tax charitable deduction for the gift’s full value.

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**Leadership is about making others better as a result of your presence and making sure that impact lasts in your absence.”**

- Sheryl Sandberg
The Bankruptcy & Commercial Law Section held its annual William J. O’Neill Bankruptcy Institute on May 4 and May 5 at the CMBA’s Conference Center.

This year’s O’Neill had it all — two days of CLE featuring local and national experts, networking opportunities, the popular IWIRC networking reception, a lunch honoring recently retired Judge Morgenstern-Clarren, the presentation of this year’s Sicherman Award and even a stand-up routine by local comedian Mike Polk.

Thanks to co-chairs, Phyllis Ulrich of Carlisle McNellie Rini Kramer & Ulrich Co., LPA, and Chris Wick of Hahn Loeser & Parks for leading this year’s planning committee to an excellent program.
Thank You!

More than 200 attorneys and physicians gathered at the CMBA Conference Center for the 2017 Medical/Legal Summit, co-sponsored by the CMBA’s Health Care Law Section and the Academy of Medicine of Cleveland and Northern Ohio. Many thanks to Marlene Franklin of MetroHealth (attorney co-chair) and Dr. Robert Hobbs (physician co-chair) for their efforts in coordinating, and our planning committee and speakers for their participation.

We gratefully acknowledge the support and continued commitment of our sponsors.

High Stakes: The Impact of Gambling on Clients and Practitioners
Tuesday, June 20
CREDITS 3.00 CLE requested
REGISTRATION/BREAKFAST 8:30 a.m.
SEMINAR 9 a.m. – 12:15 p.m.
Raising Awareness Through Storytelling: A Client’s Perspective
Brian Borczia
Lisa Foisel, LPC, Agency Clinician at Recovery Resources
The Basics of Gambling Addiction: Signs, Treatment and Obstacles
Michael Buzzelli, MA, MPH, OCPSA
The Impact of Gambling on Clients
Michael Hennenberg, Dinn, Hochman & Potter, LLC

Managing Risk: Tools for Building an Effective Risk & Crisis Management Program
Wednesday, June 21
CREDITS 3.75 CLE requested
REGISTRATION & BREAKFAST 8:30 a.m.
SEMINAR 9 a.m. – 1 p.m.
Hypothetical Risk Scenario
Crisis Management – An Overview – Kevin J. Donahue

Introduction to Gambling Law in Ohio
Carla M. Tricarichi, Deputy Director, Government and Community Relations, Ohio Lottery Commission (invited)

The Impact of Gambling on Practitioners (1.00 Professional Conduct)
Richard S. Milligan, Milligan Pusateri Co, LPA

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2018 Summit: April 13 & 14
Interested in helping with planning or presenting? To get involved, contact Samantha Pringle at springle@clemetrobar.org
Meet us at the Bar for lunch, networking, and CLE. Check out these one-hour CLEs, sponsored by our Sections.

**June 21**
Government Attorneys Section Annual Meeting & Guest Presentation
View from the Bench (no CLE)

**June 27**
Environmental Law Section
In the Crosshairs: The Targeting of Building and Consumer Products by California’s Green Chemistry Initiative and Other Regulations Focusing on Environmental Exposure to Toxins

All programs are held at noon at the CMBA Conference Center, unless otherwise noted.

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**Social Security Disability:**
**The Advanced Practitioner’s Guide for an Evolving Climate**

**Thursday, June 22**

**CREDITS**
3.00 CLE requested

**REGISTRATION & LUNCH**
12 p.m.

**PROGRAM**
1 – 4:15 p.m.

Welcome & Introductions
Andrew S. November, Liner Legal, LLC
Chair, CMBA Social Security & Disability Section
Michael A. Liner, Liner Legal, LLC, Vice Chair, CMBA Social Security & Disability Section

Attorney Fees at the Administrative Level and Federal Court
Matthew Shupe, Paulette F. Balin & Associates, LLC

The Five Day Rule
Erin Schmidt, Bevan & Associates LPA, Inc.

Opinion Evidence: Understanding the New Law
Rebecca R. Gillissie, Wilson & Gillissie, LLC

Estate Planning and Social Security Disability
David S. Banas, Hickman & Lowder Co., LLP

Question & Answer session featuring all speakers

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**Quick Bites**

- Philosophy and Best Practices
- Crisis Preparedness Steps
  - Risk & Vulnerabilities Analysis
  - Crisis Management & Communications – Structure and Plan
  - Tabletop Exercise/Drill and Training
- Risk Management – An Overview – Kirk Walsh
- Best-In-Class Risk Management Practices
- Understanding Organizational Risk Within Each Business and Corporate Function
- Steps to Lower the Total Cost of Risk TCOR; Insure Against Risk

Legal and Liability Issues and Roles – Brent M. Buckley
- D&O Liability and the Fiduciary Duty to Prepare
- Protecting Privilege
- GC and Outside Counsel Roles

Tabletop Exercise – Kevin Donahue facilitates
- Hypothetical Scenario - Breakout Teams Share Issues, Actions, Messages

Review Parking Lot Issues

**FACULTY**

Brent M. Buckley, Managing Partner; Buckley King
Kirk Walsh, COO and Executive Vice President, Director; Risk Management Practice Group, Risk International
Kevin J. Donahue, Senior Vice President and Managing Director; Reputation Risk & Crisis Management Group, Falls Communications

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Using Social Media for Legal Research?

In their first year of law school students learn the fundamentals of how to search primary legal sources in addition to gaining exposure to the more traditional secondary sources, such as legal encyclopedias, American Law Reports, law reviews, and treatises. When I teach advanced legal research I tell my students that any legitimate secondary resource can, mattering on the topic, be a potential source for legal information. I encourage students to be imaginative in the consideration of resources.

A lawyer who doesn’t consider all available research tools is at a disadvantage.

How about social media tools? Is a lawyer who is not using his or her social media resources as a potential legal research tool putting their clients at a disadvantage? Perhaps. The social media tool with the most legal research potential in my opinion is Twitter. Twitter has a search home you can use even if you aren’t signed up at http://twitter.com/#!/search-home. The search protocol is a form of Boolean similar to what many lawyers learned in law school to search classic Westlaw or Lexis before being dumbed-down with Google-like WestlawNext and Lexis Advance searching. There is no guessing as to what Boolean logic Twitter prefers because it supplies the various parameters up front under the term "operators."

A legal researcher can also use the advanced search Twitter protocol to create more sophisticated searches. Using either the search or advanced search tool, a lawyer can search results in any legal area. Just enter your keywords describing your practice (e.g. motorcycle accidents) into the search box to locate hundreds of individual tweets from just the last month.

The use of hashtags is a big part of Twitter use. For those unfamiliar, hashtags (represented by the number sign, #) have become ubiquitous to Twitter. The origin of hashtags is from some esoteric computer programmer language used outside the United States. In her February 2015 Colorado Lawyer article, #Legal Research: Using Twitter for Legal Research, Stephanie A. Noble stated that two incidents in October 2007 led to the prominent use of hashtags on Twitter. One was the use of #sandiegofire in tweets by a web application creator, Nate Ritter, in keeping people informed and updated on the raging wildfires in the San Diego area. The other, happening at roughly the same time, was the hashtag #downto being used by Republicans to keep Congress in session to vote on an energy bill.

Essentially Twitter uses the hashtag to organize tweets like a library uses the call number to organize books by subject. With more than 500 million tweets a day, individual tweets would just disappear under the sheer numbers unless there is an organizing construct bringing similar tweets together in topical threads.

The question for the legal researcher becomes what are some good hashtags for law that the lawyer can search? An effective use of legal hashtags is to think of practice areas such as intellectual property and then try to think of the most used terms in the area, such as #IP or #patent. Some other popular practice hashtags to try are #personalinjury, #divorce, and #bankruptcy. You get the idea. Another important area for attorneys to search is the government. Courts are a good start with the highest court sending tweets at #SCOTUS. There are circuit-court hashtags like #SixthCircuit. The Department of Justice also tweets at #DOJ.

To use these or other legal hashtags, the first step is to go to the search home identified above with the url http://twitter.com/#!/search-home or better yet, if you are already registered, enter your search hashtag into the search box at the very top of the page to your right. After you type your term into the search box you will get, along with the results, the words “Search filters” displayed at the upper left of your page. Here simply click on “Search filters” and the advanced search option pops up. If #personalinjury is your hashtag, as you type, Twitter will provide suggestions for similar topics, content and/or people related to the topic. You can scroll down the list and click on one of the suggestions or simply continue with #personalinjury. You can also choose to look at your news feed under the topic.

You can tailor your search to the news sources, topics, and people you want to search along with imposing a time-line if desired. It’s important, however, to remain vigilant in evaluating your sources because Twitter itself is not a source of authoritative legal information. Like Google, it can be used effectively as a means to accessing legal information, but the researcher needs to be discriminating as to the source links. Unless you are aware of the source, be careful. It’s best practice to find at least one other reputable corroboration because even very reputable media sources in the current climate have passed on fake news. If the lawyer is looking for academic and scholarly legal sources, he or she will usually find them but many search results will lead only to blogs and news sources, which may be fine mattering on what information is sought.

You may or may not decide to add Twitter to your legal research toolbox. If this short column entry has left you with some remaining apprehensions, Mashable has put together a useful beginner Twitter guide at http://mashable.com/2012/06/05/twitter-for-beginners/#IR4YXZopsZqi to get you onboard. Twitter also has “The Basics” url at https://support.twitter.com/articles/71577.
### June

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<td>Grievance Committee Insurance Law Section</td>
<td>Board of Professional Conduct – 8 a.m. CMBA Board of Trustees Meeting</td>
<td>Board of Professional Conduct – 8 a.m. Law School Admissions Boot Camp – 4 p.m.</td>
<td>Pro Se Divorce Clinic – 10 a.m. (Cleveland Law Library)</td>
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All events are held at the CMBA Conference Center at noon unless otherwise noted. Information is current as of publication date.
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.

**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.

55 Public Square Building – Large corner office, 17th floor; Beautiful Lake Views, Secretary Space Available, Call Jim or Kevin at (216) 696-0600.

55 Public Square – Office available in nicely decorated suite with receptionist, fax and copier. (216) 771-8084.

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.

Leader Building – Office space available in elegant suite with several other attorneys, receptionist, optional secretarial space, library/conference room, fax, copier, telephone system, kitchen. (216) 861-1070 for information.

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 – Landmark Centre, large &/or small offices for attorney(s) and/or assistant/associate, conference room, telephone/ copier/fax/scanner/internet included, furniture available. (216) 771-8400.


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 – New at LaPlace, above Cedar Creek Grill, Corner 3 Window Office, all amenities available, including assisted area. Free underground parking. Contact (216) 292-4666 or limlaw@sbcglobal.net.

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

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

Chagrin Falls – Furnished office 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.

Highland Heights – Fantastic offices available. Includes receptionist, waiting area, conference room, kitchen, phone, printer/copier/fax, Internet. Space available for paralegal/secretary. Contact Annette at (440) 720-0379 or asamber@henderschmidlin.com.

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 Ganley Building for $50 or $150 per month. Possible legal referrals. (440) 526-6411, ask for Laurie.

Parma/North Royalton – Office spaces in modern suite available now. Contact Paul T. Kirner at (440) 884-4300.

Seven Hills – Law office for rent – Rockside Road; Seven Hills Corner office in prime location with Internet, copy, fax, scanner, telephone, receptionist. Two conference rooms. $1,000 per month. Call Anthony at (216) 401-7763.

**Suburbs – West**

Avon – New office space with multiple professionals. Great for networking. Desirable location across from Avon Commons on Detroit Road. Many included amenities. Contact Doug: (440) 937-1551.

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

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.

Business Appraiser/Forensic Accounting – For shareholder disputes, domestic relations, ADR, estate planning, and probate – Terri Lastovka, CPA, JD, ASA – (216) 661-6626 – www.valueohio.com

Careplan Geriatric Care Managers, Inc. – Providing in-home assessments, coordination of care, advocacy and assistance with placement outside of the home. Short term consultation and ongoing monitoring. Phone: 440-476-9534 www.careplangcm.com

Certified Divorce Financial Analyst – Financial Affidavit, Budget, Cash Flow Projections, Executive Compensation Valuation, Separate Property Tracing, etc. Contact Leah Villalobos, CDFA, MAFF at (216) 328-2113; leah@greatlakesdfs.com.

Commercial Real Estate – Premier Development Partners – Highly experienced professionals in business real estate acquisition/dispositions and development. Brian Lenahan (216) 469-6423 or brian@premierdevelop.com.

Experienced Attorney willing to co-counsel cases in Cleveland and all municipal courts – Contact Joe at (216) 363-6050.

Experienced Expert Witness for probate, estate planning or related matters. ACTEC Fellow since 1994, Harvard Law. EPC “Planner of Year 2006.” Herb Braverman at hblaw@aol.com.

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

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

MarcoAuction.com – Court: Estate and Probate, Divorce, Power of Attorney; Real Estate: Residential and Commercial: Appraisals: Insurance, Jewelry and Antiques; and Chattel Items: Farming equipment – Marco Marinucci, Auctioneer – (440) 487-1878 or RealEstateAuctions39@yahoo.com

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

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

Video Conference, Deposition Facility – Plaza West Conference Center, Rocky River offers conferencing and remote video, “smart” whiteboard conference facilities for 5–33 participants. plazawestcc.com (440) 333-5484.
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*All prices include appropriate Ohio sales tax.
Collins and Scanlon announced that Kenneth Callahan, a former Cuyahoga County judge and litigator, has been named a partner with the law firm. Callahan specializes in the complex commercial litigation, receivership, guardianship, white collar criminal defense and internal investigations areas.

Littler has appointed Bonnie Kristan as office managing shareholder of the firm’s Cleveland office.

Brouse McDowell is pleased to announce that Caroline L. Marks has been named co-chair of the firm’s Insurance Recovery Practice Group. Terry W. Vincent has been named chair of the firm’s Tax Practice Group, and Michael P. O’Donnell has been named co-chair of the firm’s Litigation Practice Group.

Premier Development Partners is pleased to announce that the company is continuing to grow and is welcoming a new member of the team, Brian Lenahan. Brian is a seasoned and well respected commercial real estate broker with 20 years of industry experience.

Gallagher Sharp LLP is pleased to announce that Joseph Monroe II has joined the firm as an Associate.

Arthur (Art) E. Gibbs III will join Wickens Herzer Panza Cook & Batista Co. as a Shareholder and Chairperson of the Probate & Estate Planning Department.

Walter | Haverfield is pleased to welcome Patrick A. Hruby to the northeast Ohio law firm.

The law firm of Davis & Young is proud to announce that Matthew P. Baringer has been made a Partner and Lauren M. Paige has been promoted to Senior Litigator.

Frantz Ward is proud to announce that Marc A. Sanchez, Partner in the Construction Practice Group, is the recipient of the Volunteer of the Year Award from El Barrio Workforce Development Program.

Ulmer & Berne LLP is pleased to announce that Howard Groedel has been appointed to the Board of Directors of the Cleveland Institute of Art.

Patrick M. McLaughlin has been appointed by the Supreme Court of Ohio to a 3-year term as a Commissioner, Board of Professional Conduct. A former United States Attorney, Patrick is the founding partner of McLaughlin Law, LLP.

Ulmer & Berne LLP announces that partner Bill J. Gagliano has been elected to the Gordon Square Arts District’s Board of Directors.

William J. O’Neill, a member and general counsel at McDonald Hopkins LLC, has been appointed by the Supreme Court of Ohio to serve a five-year term as a member of the Board of Bar Examiners.

Jerry Weiss, founder of Mediation Inc. was the featured speaker at the Annual Conference of the Ohio Mediation Association, held in Columbus on May 19. Jerry was a panelist at the ABA Annual Spring meeting of its Dispute Resolution Section held in San Francisco on April 21. The topic was “The Art of Recognizing Transformative Moments in Mediation.” He was a moderator at the annual Winkler Institute held in Toronto on May 11. Jerry’s panel is entitled “Understanding the Bigger Picture in Mediating Human Rights Disputes.”

Frantz Ward attorney, Christina E. Niro, a member of the firm’s Labor & Employment Practice, has earned certification in the OSHA 30 Outreach Training Program.


Taft’s Diversity & Inclusion Committee is pleased to announce that six Midwest law school students have been awarded fellowships in Taft’s 2017 Academic Diversity and Inclusion Fellowship Program. In August 2016, the Fellowship Program was announced, with $30,000 to be awarded in the first round of funding.

Roetzel is pleased to announce two recent successful client transactions that will boost the respective Northeast Ohio neighborhoods of Cuyahoga Falls and Alliance. A concerted effort between Alpha Phi Alpha Homes, Inc. and Roetzel attorneys, led to the $5,941 million loan closing for Friendship Terrace Apartments in Cuyahoga Falls and the $8.2 million renovation of Newsom Tower in Alliance. Alpha Phi Alpha Homes, Inc. served as developer for both projects.

E.V. Bishoff Company is happy to unveil its Baseline/Flex Program as part of its office leasing offerings. The program gives companies with expanding and contracting headcount unparalleled levels of flexibility to increase and decrease their rent, something currently not available in a traditional office lease.

The Northeast Ohio law firm of Davis & Young is proud to announce that the law firm’s new Testamentary Trusts & Estates Practice is now open for business.

The Cleveland Metropolitan Bar Journal is happy to announce that it has been named co-person of the Year by the Cleveland Bar Association’s Awards Committee.

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Send brief member news and notices for the Briefcase to Jackie Baraona at jbaraona@clemetrobar.org. Please send announcements by the 1st of the month prior to publication to guarantee inclusion.
16th Annual
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Saturday, October 28, 2017
Jacobs Pavilion at Nautica