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Design Patents and Graphical User Interfaces
# Cleveland Metropolitan Bar Journal

## November 2017

### CONTENT

<table>
<thead>
<tr>
<th>Page</th>
<th>Department</th>
<th>Title</th>
<th>Author(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>05</td>
<td>FROM THE CMBA PRESIDENT</td>
<td>On Taking A Stand In Favor Of Workplace Equality</td>
<td>Darell A. Clay</td>
</tr>
<tr>
<td>09</td>
<td>FROM THE EXECUTIVE DIRECTOR</td>
<td>Enough is Enough</td>
<td>Rebecca Ruppert McMahon</td>
</tr>
<tr>
<td>10</td>
<td>BAR FOUNDATION</td>
<td>Wanted: More Volunteer Lawyers To Assist More Families in Need</td>
<td>Mitch Blair</td>
</tr>
<tr>
<td>26</td>
<td>YOUR CLE METRO BAR</td>
<td>Follow Us On LinkedIn, CMBA Text Notices, CLE Season, Hot Talks, and Destination CLE</td>
<td></td>
</tr>
<tr>
<td>39</td>
<td>JUDGES CORNER</td>
<td>New Help Center Brings Efficiency To Domestic Relations Court Filings</td>
<td>Judge Rosemary Grdina Gold Anjanette Whitman</td>
</tr>
<tr>
<td>12</td>
<td>IT TAKES A VILLAGE</td>
<td>By Brandon Brown</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>BOOKS &amp; RECORDS REQUESTS: A 19TH CENTURY REQUEST BECOMES A 21ST CENTURY LITIGATION TOOL</td>
<td>By Jon Oebker</td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>BITCOIN: WHAT LITIGATORS SHOULD KNOW</td>
<td>By Julie Crocker</td>
<td></td>
</tr>
<tr>
<td>20</td>
<td>AN INDISPENSABLE RESOURCE: “BUSINESS AND COMMERCIAL LITIGATION IN FEDERAL COURTS,” FOURTH EDITION, ROBERT L. HAIG, EDITOR</td>
<td>By Hugh McKay</td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>TC HEARTLAND: RESURRECTING VENUE IN PATENT CASES</td>
<td>By Kyle B. Fleming</td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>DOES A RARE SURNAME MAKE A GOOD BRAND NAME?</td>
<td>By Deborah Wilcox</td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>DESIGN PATENTS AND GRAPHICAL USER INTERFACES</td>
<td>By D. Peter Hochberg</td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>GENTLY USED DATA FOR SALE?</td>
<td>By Mandy B. Willis</td>
<td></td>
</tr>
<tr>
<td>36</td>
<td>LEGAL AID AT THE CLEVELAND PUBLIC LIBRARY</td>
<td>By Todd Masuda</td>
<td></td>
</tr>
<tr>
<td>38</td>
<td>VETERAN’S COURT</td>
<td>By Judge Michael E. Jackson</td>
<td></td>
</tr>
<tr>
<td>07</td>
<td>THE SCOOP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>08</td>
<td>SECTION/COMMITTEE SPOTLIGHT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>VOLUNTEER SPOTLIGHT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>NEW MEMBERS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>LEADERSHIP ACADEMY SPOTLIGHT</td>
<td></td>
<td></td>
</tr>
<tr>
<td>40</td>
<td>CLE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>45</td>
<td>CAP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>47</td>
<td>CMBA CALENDARS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>48</td>
<td>CLASSIFIEDS</td>
<td></td>
<td></td>
</tr>
<tr>
<td>51</td>
<td>BRIEFCASE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

**Departments**

- Baum Blaugrund, LLC
- Benesch
- Cavitch Familo & Durkin
- Cuy. County Common Pleas Veterans Treatment Court
- Fay Sharpe LLP
- Franz Ward LLP
- Hennes Communications
- Kastner, Westman & Wilkins, LLC
- McMammon & Co, LLC
- Meaden & Moore
- Micro Systems Management
- Murray & Murray
- Oswald Companies
- Renner Onito
- Shoda Minotti
- Thacker Robinson Zinz LPA
- Thomas Repicky
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ON TAKING A STAND IN FAVOR OF WORKPLACE EQUALITY

Darrell A. Clay

Recent events in the news have underscored the unfortunate, but seemingly inescapable, truth that discrimination persists in many forms in our community. As someone who is not in any protected class, I can't claim to know what it's like to be denied an opportunity — educational, vocational, or social — because of gender, race, religion, disability, or sexual orientation.

That doesn't mean I don't abhor the very idea of such things. As the grandchild of Portuguese immigrants who arrived in America in the early 20th century looking for a place to make a better life, and the child of parents who never attended college, I am truly living the American dream: work hard, get an education, be judged on your merits, and success will ensue.

Why shouldn’t that same promise be available to every one of our fellow citizens, regardless of where they come from, what they look like, where they pray (or don't), who their significant other is, or any consideration other than individual merit?

As the collective voice of the unified bar in Cuyahoga County, CMBA is staunchly committed to the principle of non-discrimination. Indeed, as lawyers who take an oath of office to support the Constitution and its guarantee of equal protection, we have an obligation to be out in front, combating this pernicious issue. We need to lead not just by words, but through real, tangible action.

That’s why CMBA — acting on the recommendation of the Public Advocacy and Endorsement Committee, and following a unanimous vote of the Board of Trustees — recently jumped at the opportunity to join Ohio Business Competes, a non-profit consortium of more than 240 businesses, non-profit organizations, universities, and law firms from throughout Ohio who are committed to achieving non-discrimination policies inclusive of sexual orientation and gender identity or expression. In so doing, CMBA joins esteemed company: Thompson Hine; Climoaco, Wilcox, Peco, Tarantino & Garofoli; Huntington Bank; Taft Stettinius & Hollister; Porter Wright; Chandra Law; Eaton Corporation; Great Lakes Brewing; Squire Patton Boggs; Sherwin-Williams Co.; KeyBank; E&Y; Vorys, Sater, Seymour and Pease; Lubrizol; Ulmer & Berne; LexisNexis; TimkenSteel; the Ohio State University; and many other familiar names are also members.

Ohio Business Competes believes that state-wide non-discrimination policies that are inclusive of LGBT citizens will help attract and retain the best and brightest in all areas, and thereby help grow Ohio’s economy. Of immediate concern is that although 21 states currently have non-discrimination laws protecting employees and consumers from being denied jobs, housing, and services based on their perceived sexual orientation or gender identity, Ohio is not one of those states. Ohio Business Competes aims to change that.

And for good reason. We all remember the black eye North Carolina sustained when the legislature passed the infamous Public Facilities Privacy & Security Act (a/k/a HB2), requiring that transgender persons use the public restroom corresponding with the gender listed on their birth certificate. The NBA didn’t hesitate to act, and relocated the 2017 All-Star Game. An anticipated $100 million in economic benefits ended up going to New Orleans. But that’s only the tip of the iceberg. North Carolina is projected to lose an astounding $3.76 billion over the next dozen years because of HB2.

As Cleveland joins the hunt for the second headquarters for Amazon.com, we are primed to follow a different path, one blazed by Fort Worth, Texas. In 2015, when Facebook was considering where to locate its fourth data center, Fort Worth’s LGBT non-discrimination ordinance, adopted in 2000, proved a critical decision point for the company. The net result was a billion-dollar capital investment that will produce dozens of jobs and millions of dollars in tax revenues for years to come.

Thankfully, Cleveland has its own non-discrimination ordinance, which bars discrimination on the basis of an individual’s race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, or Vietnam-era or disabled veteran status in offering goods, services, facilities, or accommodations to the public. The Ohio General Assembly should follow suit and adopt a state-wide non-discrimination law of general application. CMBA, as part of Ohio Business Competes, hopes to help bring about that needed change.

If your law firm or organization wants to take a stand against discrimination and in favor of workplace equality, please consider lending your support to Ohio Business Competes. More information is available at www.OhioBusinessCompetes.org. Please also consider joining CMBA’s LGBT & Allies Committee, which convenes networking and educational opportunities for LGBT and allied attorneys, business professionals, and law students.

Darrell A. Clay is the tenth President of the CMBA. He is a litigation partner at Walter | Haverfield LLP, with a practice focusing on complex civil litigation, white collar criminal defense, and aviation matters. He has been a CMBA member since arriving in Cleveland in April 1997. E-mail your CMBA-related questions or concerns to him at dclay@walterhav.com. Follow him on Twitter at @DClayCMBA.
We here at the CMBA are meeting planners ourselves, so we know how many details go into executing a successful event. We do our absolute best to make sure every experience is seamless. You forget an easel, or need an extra registration table? We got you covered, free of charge. Our “all inclusive approach” lets you deal with one contact for all set up, AV, and catering needs. We can host board meetings, trainings, receptions, staff retreats, yoga, the list goes on. Best of all, our doors are open to all of Cleveland, whether or not you are part of the legal community. If you are someone who needs space, we have it. Check us out today!

Contact Melanie Farrell at (216) 539-3711 or mfarrell@clemetrobar.org.
The Scoop
CMBA Member Q&A

David N. Truman
Firm/Company: Truman Law, LLC
Title: Attorney
CMBA Join Date: 2008
Undergrad: Bowling Green State University
Law School: Akron Law

WOULD YOU GO ON A ONE-WAY MISSION TO MARS?
My wife Sarah and I like to joke about one of us taking a long trip to get a break from our kids. But the joke is that the one left behind would go crazy without help and support. So, exciting as that sounds, I’d have to pass.

TELL US ABOUT YOUR PET(S) IF YOU HAVE ANY.
We have a new black lab named Zoey. She is about 16 weeks old and getting bigger by the day. She is losing teeth now and making friends with our neighborhood deer.

CAN YOU PLAY AN INSTRUMENT?
No, but I consider myself among the top 1% of whistlers worldwide.

HOW DID YOU ASK YOUR WIFE TO MARRY YOU?
At Sans Souci. Down on one knee. My now-wife spaced out while I was proposing and I had to say, “so will you?”

TELL US ABOUT YOUR FIRST EVER JOB?
Working for my dad at his machine shop, cleaning steel chips out of lathes and drill presses and sweeping floors.

Diane Chapman
Firm/Company: Baker Hostetler LLP
Title: Partner
CMBA Join Date: 1978
Undergrad: Duquesne University
Law School: Cleveland-Marshall College of Law

WHY DID YOU JOIN THE CMBA?
When I joined Baker Hostetler in 1978, our lawyers were active in different committees at the Bar Association. Dick Hollington, Jack Wilharm, Bill Falsgraf, Paul White and Randy Solomon, to name a few, introduced us to the Bar’s initiatives for juvenile justice, education on key issues, access to the courts and bar-bench communications. Gale Messerman, president of the Bar, worked to promote women in all areas. The Bar Association helped me develop close and deep friendships in our legal community.

MOST EMBARRASSING MOMENT IN COURT?
I tried my first case before Judge George McMonagle of the Court of Common Pleas, Cuyahoga County. There were multiple parties, but I was the only woman representing a client. Judge McMonagle worked hard on his cases. He liked to keep things moving for the jury. The evidence was tricky, and he tried that for the third time, he asked the court to refer to us as “all counsel” or “gentlemen and Ms. Chapman.” The judge was respectful, and he tried that for the next hour. Then he went back to “Gentlemen, approach the bench.” The judge looked at my face and said to the jury, “I know Ms. Chapman is going to remind me that I should use her proper title, but I am going to ask you, the jury, if you will forgive me if I make a mistake, because I am doing my best here.” The judge smiled, the jury laughed. My client won the case, and I developed enormous respect and affection for one of the great trial judges.

IF YOU COULD GO TO DINNER WITH A FAMOUS PERSON, LIVING OR DEAD, WHO WOULD IT BE?
Newton D. Baker, a brilliant lawyer, mayor of Cleveland, secretary of war during WWI, a passionate advocate for the League of Nations and generous in spirit. In 2016, we celebrated the 100th anniversary of our law firm. Mr. Baker took office in 1912 as the mayor of Cleveland. During his administration, he supported the establishment of the Cleveland Museum of Art and what is known today as the Cleveland Orchestra. After two terms of service, he turned to private practice. Jan. 1, 1916, marked the start of Baker Hostetler & Sidlo. On March 5, 1916, President Woodrow Wilson invited Baker to accept the position of secretary of war. Baker’s service in that role was impressive. General John Pershing described Baker as the ablest secretary of war the nation had ever known. Baker returned to his practice in 1921. The greatness of this brilliant leader and statesman never diminished his humanity or his authenticity. According to one of his partners, “You could walk into [Baker’s] office at any time of day… He would always look up with a friendly smile. Whatever your problem might be, you always came away feeling he had helped.”

WHAT’S THE BEST PART ABOUT BEING A LAWYER?
Wonderful clients, challenging work, great partners and colleagues, close friendships, travel, a unique perspective on how we can impact our community and justice system, and a sense of honor because of those who have come before us and those who will follow us.

WHAT’S THE WORST PART ABOUT BEING A LAWYER?
Lawyering is both rewarding and demanding. Striking a balance between professional demands and a personal life can be stressful. Law firms and bar associations have adopted policies that provide lawyers with options. In my firm, the ongoing dialogue advances our goal for a diverse group of lawyers who can find personal fulfillment.
3Rs Oversight Committee

Chair
David M. Lenz
Schneider Smeltz Spieth Bell LLP
dlenz@sssb-law.com

William Eadie, Vice Chair
Eadie Hill Trial Lawyers
william.eadie@eadiehill.com

Regular Meeting
Last Wednesday of the month at noon at the CMBA

What is your goal?
The 3Rs Oversight Committee provides direction to The 3Rs (Rights • Responsibilities • Realities) and The 3Rs+, both partnership programs with the Cleveland Metropolitan and East Cleveland School Districts. Members work yearlong to meet program needs, from recruiting and training volunteers to refining the curriculum based on school input and feedback. Through their efforts, the program stays relevant to 11th-grade students, fostering appreciation and understanding of the U.S. Constitution and rule of law.

What can members expect?
The 3Rs Oversight Committee provides direction to The 3Rs, the oversight committee’s goals are: to ensure the program helps students prepare for graduation requirements in social studies and guides them on their path to success after high school, and to maintain and expand the pool of 3Rs volunteers.

Past & Upcoming Events
The first 3Rs lesson of 2017–18 took place for most teams on Oct. 27 in the Cleveland and East Cleveland schools, wherein volunteers introduced themselves and initiated discussion about students’ career goals. We look forward to future lessons on the judicial branch and free speech in coming months, as well as 3Rs+ activities such as mentoring and advice about higher education from alumni to students interested in attending their alma mater.

Litigation

Chair
Daniel L. Messeloff
Tucker Ellis LLP
daniel.messeloff@tuckerellis.com

What is your goal?
Our goal is to support and enhance the community of litigators in Cleveland.

What can members expect?
We have monthly Section meetings that offer regular opportunities to socialize with and learn from other litigators.

Upcoming Events
Our upcoming meetings with feature speakers on recent changes in the discovery rules, corporate depositions, environmental litigation, and additional topical issues. Recent event to highlight? Last May, we hosted our annual Litigation Institute, “Courtroom 2030: An Interactive Look at the Future of Litigation.” The event featured cutting-edge discussions and was attended by more than 80 people. Our 2018 Institute will be May 9.

Intellectual Property Law

Chair
Daniel L. Messeloff
Tucker Ellis LLP
daniel.messeloff@tuckerellis.com

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OCTOBER WAS QUITE A MONTH FOR NEWS ... IN ALL THE WRONG WAYS.

It seemed as though every day brought a new round of allegations of sexual misconduct involving one successful, powerful man after another. Producer Harvey Weinstein. Film-makers Jim Toback and Brett Ratner. Former Fox News Anchor Bill O’Reilly. NPR’s former top editor Michael Oreskes. Chicago Democratic Senator Ira Silverstein. Actors Dustin Hoffman and Kevin Spacey. The list continues to grow as we go to press.

I don’t know any of these men, but over the course of my nearly 25-year career, I’ve worked alongside a couple men who sound a lot like them. They were smart, accomplished men of influence who had the ability to make or break careers. Attorneys who relished opportunities to flex their power by targeting younger, more junior or otherwise potentially vulnerable women. They were masters of sexual innuendos and “harmless jokes.” They “accidentally” groped and laughed. They physically intimidated. And when they didn’t get what they wanted — and sometimes even when they did — they belittled, undermined and sabotaged.

Far from a secret, the actions of these couple of men were generally known to others within the organizations where they worked. From the support staff to the senior leadership, people knew. Not everyone, but many, including people in positions of power.

I saw that the higher up the power rung a “Harvey” stood, the more his actions were normalized. He was just kidding. She should be flattered. He didn’t mean it that way. He had a couple of drinks. She’s being overly sensitive. It wasn’t personal. He’s hard on all the new associates.

In my experience, the women targeted by these acts usually elected to keep the events private, for fear of being ridiculed, blamed or further targeted. That silence, while understandable, often came at a price. Serious self-doubt. Lack of advancement. Quick moves to inferior jobs. Abandonment of the legal profession.

The October avalanche has given rise to a new voice in the discussion of sexual harassment: #MeToo. More than 2 million #MeToo Tweets have launched across more than 85 countries. In those messages, women of all ages, professions and backgrounds are sharing details of their individual experiences with sexual harassment and assault. And many are choosing to name names.

This social media conversation feels different than other posts that have gone viral. Maybe the difference lies in the power of women speaking out specifically because other women have chosen to speak out. With each new incident described, women seem to be saying, “Enough is enough.”

Of course, sexual harassment isn’t limited to Hollywood, TV and politics. It’s here, in Cleveland, in our legal community — just as it is in other professions and industries. Fortunately, the vast majority of men are NOT abusive. The vast majority of men would never think — let alone act — in ways that the “Harveys” of the world act. Never.

But how many men know a “Harvey” ... or think they know a “Harvey” ... and have looked the other way?

It seems clear from the media reports that Harvey Weinstein and his alleged victims weren’t the only ones who knew about his abhorrent behavior. Think what a difference could have been made if those who knew about Weinstein’s serial harassment — which appears to have gone on for decades — had done something.

Think what a difference we could make in our community if instead of putting the burden of coming forward on the shoulders of those who are victimized, we step up ourselves.

If you see something, do something. Enough is enough.

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.
**WANTED:**
MORE VOLUNTEER LAWYERS
TO ASSIST MORE FAMILIES IN NEED

Mitch Blair, CMBF President

**The words “thanks” and “giving” combine perfectly to describe the sentiment of the season upon us. Appreciating our own blessings at Thanksgiving kindles the desire to give back to others.**

Answering the call to serve is a devoted group of legal professionals who share the gift of their legal know-how with the vulnerable in our community — individuals and families without a primary residence.

These volunteers go to shelters, social service sites, and Cleveland public schools to bring help and hope to the homeless with compassion and dignity.

We are grateful to them for bettering the lives of some of our neediest citizens.

**Volunteers change lives**
Daniel Thiel of the Law Office of Daniel Thiel runs monthly legal clinics at Bishop Cosgrove Center downtown. “I’m amazed how much good comes from sitting and listening and giving people your time. It’s what they crave most.

“Sometimes, just by making a phone call or completing a form,” he adds, “I can easily help in the limited time I have and possibly make a big difference.”

The Cleveland Metropolitan Bar Association partners with Catholic Lawyers Guild and Legal Aid Society of Cleveland to operate drop-in legal clinics where the homeless and those in danger of becoming homeless can receive free advice and referrals.

**Legal fixes help in many ways**
Since the program’s inception in 2001, a core group of 45 dedicated volunteers has aided some 4,200 individuals and families. They deliver a range of services, assisting with record expungement, driving privileges, tenant rights, landlord responsibilities, eviction, bankruptcy, divorce, and access to veteran and other benefits.

Tucker Ellis’s Nicole Braden Lewis, a volunteer for more than 15 years at the Women’s Shelter, observes that many of these clients don’t realize there may be a legal solution to their problems.

“The trained eye of the lawyer, law student, or legal assistant can spot issues we can address with a modest amount of intervention from one of us in the legal field.”

For example, her efforts have stopped eviction actions enabling a client to remain in his apartment, and led to a monetary settlement for a woman whose possessions were stolen in a bailment case.

**Hard to study when you’re homeless**
Families are the fastest growing segment of the homeless population, a problem undermining the education of more than 2,600 students in Cleveland schools. Frequent moves by children destabilize their ability to learn and put them years behind classmates. Early intervention before eviction helps everyone.

Last year, the Association responded to a request from Cleveland Schools CEO Eric Gordon to consider opening legal clinics in the schools to provide families another access point to pro bono consultations. Known as TLC in the CMSD, pilot legal clinics are operating now at Lincoln-West and Glenville high schools and George Washington Carver (K-8) and are likely to expand to more schools.

“The friendly environment and walkable location of neighborhood schools is ideal for reaching families with children facing homelessness,” says Matt Mendoza, Calfee partner and new volunteer in the new school-based clinics.

For people in crisis in our community, a safe, stable place to sleep is the foundation for delivering more human services. And a caring lawyer willing to listen and offer much-needed assistance is a blessing.

**Can you help the neediest in our community?**

Shelter is a basic human need, especially in Cleveland’s winter climate. Those seeking shelter deserve the best investment of our time and talents.”

– Nicole Braden Lewis

**WE NEED MORE VOLUNTEERS!**
Contact Katie Onders at konders@clemetrobar.org or (216) 539-5979.

Mitch Blair is vice chairman of Calfee Halter & Griswold LLP and co-chair of the Litigation Group. He tries complex disputes, with special emphasis on securities litigation, including class action defense. He is president of the Cleveland Metropolitan Bar Foundation and has been a CMBA member since 1982. He can be reached at mblair@calfee.com or (216) 622-8361.
Xavier and Dairian are two of the Louis Stokes Scholars Program's shining stars, who this summer and fall volunteered to create, research, and draft the 2018 Cleveland Mock Trial Competition case hypothetical. Both scholars have a passion for writing and legal research. Building on the Stokes concentration this summer, this year's hypothetical examines whether a promising track star is liable for a classmate's opioid overdose.

Dairian earned her B.A. in English from Georgetown College, and plans to practice Entertainment Law. Before joining the Stokes Classes of 2013 and 2017, Dairian participated in the CMBA's High School Internship Program. In 2010, she earned Best Overall Attorney in the Cleveland Mock Trial. As an avid reader and writer, she creates poetry and is currently working on a novel. Dairian enjoys exercising her talents by coaching students at her alma mater, Cleveland Early College HS. Her mantra is to “Be the change you hope to see in the world”; it's her belief that by incorporating this mantra she will not only grow in her personal and professional life, but also be a change agent in her community.

Xavier is a Whitney Young HS alumnus, graduating valedictorian in 2013, followed by attending OSU and majoring in Political Science. Xavier was active in the OSU Undergraduate Student Government and the University's conduct board before graduating magna cum laude in 2016. Xavier is an alumnus of the Stephanie Tubbs Jones Summer Legal Academy in 2012, and a two-time alumnus of the Stokes Scholars program, where he interned for the Cuyahoga County Court of Common Pleas in 2014 and the Prosecutor's Office in 2015. Currently, Xavier is busy studying for the LSAT and completing applications for law school next fall. Xavier enjoys listening to music and reading political and historical books. He hopes one day to become a federal judge.

2018 marks the second year in which bright, talented Stokes alumni have been the driving force behind the Cleveland Mock Trial case, a natural fit since a majority of Stokes Scholars gave award-winning performances in high school just a few years prior. Having Stokes Scholars create the case materials provides yet another example to Cleveland and East Cleveland students of how they can succeed and grow post-high school.
It Takes a Village

BY BRANDON BROWN

It takes a village to raise a child. I have been blessed to have a strong village around me. Since 13 years old I have had the honor of having the Cleveland Metropolitan Bar Association as a part of my village. As a student at John Hay Early College High School, I remember when three attorneys from Tucker Ellis came into my classroom to teach the class about our legal rights, responsibilities, and realities. At the time, I did not know that the 3Rs program or the CMBA would set me on a path that would lead me to pursue and graduate law school.

The 3Rs program was a gateway into the legal profession I doubt I would have otherwise found. I knew few professionals in my life at the time, and no attorneys. Although I always saw myself as having a bright future, I wasn’t sure which direction I wanted to take my career. Having the chance to speak face-to-face with real attorneys who understood the law and the way we as citizens operated within the law was a powerful tool for a young man. Especially a young Black man. I was empowered by the knowledge imparted to me through those few sessions a month. Ultimately, that empowerment is what drew me to pursue the legal field as a profession.

After 3Rs left the classroom, my thirst for the law only increased. Fortunately, the volunteers from 3Rs also volunteered to help our inaugural Cleveland Mock Trial Team. In the same year that the New York Giants pulled off the improbable upset of the powerhouse New England Patriots, our mock trial team won the championship in its first year. The experience of winning was unforgettable, but what I most remember was most was the attorneys that came to help us. Their confidence and expertise was undeniable. Those volunteers helped shape my own confidence in my abilities, which eventually led to my first internship at Tucker Ellis.

Through the CMBA’s High School Internship Program, I worked at Tucker Ellis for the summers between my high school years. While many of my peers were working in restaurants or camps, I developed a feel for what it meant to be a professional. I gained the experience of working with real attorneys in a respected firm in Cleveland. I gained more members and supporters in my village. I built relationships that have lasted to this day. As I look back, that all started with 3Rs, and the time people were willing to invest in me.

Growing up, my parents taught me that everyone should invest in the next generation. They taught me that I owed it to the people who have invested in me to reach back once I achieve my goals. Inevitably, our hard work today will be in the hands of the generation of tomorrow. It is our responsibility as professional and role models to both build ourselves and guide our youth. From a young age, I took those words to mean that I should take advantage of every opportunity presented to me, to gain a level of success that will allow me to reach back and help another. The 3Rs program embodies those same ideals my parents instilled in me: mentorship and scholarship. Now, as a recent law school graduate, I have the chance reach back.

It is no secret that throughout the country, particularly in minority communities, there is a lack of trust in the justice system. It is our responsibility as legal professionals to help repair the damaged reputation of our field. That starts at home, in our own communities. The CMBA has continued to show their commitment to community growth by continuing programs such as 3Rs and the Louis Stokes Scholars Program.

Once I graduated from high school, I attended Oberlin College. While there, I maintained contact with the CMBA and, after my second year of college, I was accepted into the inaugural class of the Louis Stokes Scholars Program. The Louis Stokes Scholars Program is a pipeline initiative created for students graduating from the Cleveland and East Cleveland School Districts. The program affords the students selected the opportunity to work in law firms, courts, legal aids, and businesses. Being selected for the program afforded me another chance to build my village. Throughout my three summers in the program, I worked for Tucker Ellis, the Cuyahoga County Court of Common Pleas, and the Eighth District Court of Appeals. Each of those experiences gave me a unique and fresh view of the legal profession. Additionally, each gave me experience that I leaned on throughout law school, and will continue to carry into my legal career.
As I applied for law schools, I had a level of insight into the legal community above that of my peers. That insight led me to Cleveland-Marshall College of Law. While there, I still leaned on and continued to cultivate my relationship with the Cleveland-Metropolitan Bar Association. After my first year in law school, I was selected to be a part of the Minority Clerkship Program, and had the opportunity to work at Reminger Co., LPA. This opportunity provided me with another layer of experience. Ultimately, a lot of my legal experience and knowledge I have today stems directly from my interactions with the CMBA.

As I reflect on how far I’ve come, from a classroom at John Hay Early College, to a graduate of Cleveland-Marshall College of Law, I am grateful for all the opportunities afforded to me, and the time that people have invested in me over the years. Every young person needs someone to invest in them. The Bar Association has created programs that invite volunteers to make a difference in a young person’s life. I encourage all who can become involved in some way.

It takes a village to raise a child, but my village at the CMBA has helped me well into adulthood. My journey is not over. As my job search continues, I plan to continue to use the Bar Association as a resource for networking and cultivating ideas. I hope that my story inspires all attorneys to get involved in the CMBA, as mentors and members. Young and aspiring attorneys should take advantage of the various programs and opportunities to build a stronger and more inclusive legal community. Seasoned attorneys should look at the Bar Association as a chance to past along their vast arrays of knowledge to younger attorneys. All attorneys should get involved as mentors of youth. Mentorship is critical to the continued success of our communities.

The CMBA continues to be my village and support system. I look forward to seeing what they come up with next.

Brandon Brown was born and raised on Cleveland’s east side. While at John Hay Early College High, Brandon took part in the Cleveland Mock Trial Competition and had the opportunity to work for Tucker Ellis LLP. During the summers at Oberlin College, Brandon worked at the 8th District Court of Appeals and the Cuyahoga County Court of Common Pleas through the Louis Stokes Scholars Program. Brandon graduated from C|M Law in May 2017 and passed the July 2017 Bar Exam. He is currently seeking employment. He has been a CMBA member since 2015. He can be reached at (216) 543-1103 or brown.oberlin14@gmail.com.

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BOOKS & RECORDS REQUESTS
A 19th Century Request Becomes a 21st Century Litigation Tool

BY JON OEBKER

In the 1800s, if you held shares in an Ohio company, you had a right to inspect its corporate books and records. It’s not hard to imagine a shareholder making the journey by horse and buggy to downtown Cleveland to visit the corporate offices on Public Square and paging through the leather-bound corporate ledger of the company. This right of a shareholder to review the corporate books has since been codified in Ohio law and endures to this day; however, what began as a basic right to monitor an investment has evolved into a 21st century harbinger and tool of corporate litigation.

Ohio common law has long recognized that the right of a shareholder to inspect the “books and records” of a corporation is a fundamental “incident to ownership of stock” and rests “upon the broad ground that the business of the corporation is not the business of the officers exclusively, but is the business of the stockholders.” Cincinnati Volksblatt Co. v. Hoffmeister (1900), 62 Ohio St. 189, 199. Ohio codified this common law right in Ohio Revised Code § 1701.37.

Different states have different rules as to which shareholders are entitled to request inspection. For example, in Nevada, the shareholder must own at least 15% of the stock, and Maryland requires at least 5% ownership. In California, only a shareholder of record has the right to inspect corporate books, while in contrast, Delaware extends the right of inspection to beneficial owners if they produce documentary evidence of ownership. The Ohio statute, which simply refers to “any shareholder,” does not limit the right to record shareholders or have a minimum ownership requirement.

While the right of a shareholder to inspect the corporate books is well established, a shareholder still must have a valid reason for the request. In Ohio, a shareholder must have a “reasonable and proper purpose” to justify the request. R.C. 1701.37. This hurdle is easily satisfied. The Ohio Supreme Court explained that, in order for a shareholder to exercise his right of inspection, “[n]othing more is required than that, acting in good faith for the protection of the interests of the corporation and his own interests, he desires to ascertain the condition of the corporation’s business.” Lake v. Buckeye Steel Castings Co. (1965), 2 Ohio St.2d 101, 104. Examples of reasonable proper purposes include investigating suspected corporate mismanagement and ascertaining the financial health of the corporation. Notably, even a competitor who holds stock in a company can have access to a company’s books and records as long as the demand presents a reasonable and proper purpose.

Celina Mut. Ins. Co. v. Am. Druggists Ins. Co. (1977), 52 Ohio App. 2d 304, 308 (competitor of Am. Druggist Ins. (ADI) who also owned stock in ADI made a reasonable and proper demand to inspect ADI records in order to determine whether the competitor wished to purchase more stock in ADI). The committee notes to R.C. 1701.37 further explain there is a presumption that a shareholder’s written statement of purpose has been made in good faith and the corporation has the burden of rebutting the presumption by proving that the shareholder’s actual purpose is improper or unreasonable. In order to carry its burden to establish that a shareholder inspection request is improper, a corporation opposing a shareholder request must establish the request is made in a “capricious, irresponsible or hostile way or in such a manner as to depreciate the assets of the company and the value of the stock of the other shareholders.” Celina Mut. Ins. Co., 52 Ohio App. 2d at 310.

While a shareholder’s right to inspect has existed for well over a century, the items available and format for the production to shareholders have predictably evolved. The early versions of these requests often simply sought access to corporate ledgers and lists of fellow shareholders. Upon codification, the Ohio statute allowed shareholder access to the following items specifically listed in the statute: articles of the corporation, regulations, books and records of account, minutes, records of shareholders, and voting trust agreements. Over time, courts have permitted shareholder access to an increasing list of items under the category of “books and records of account.” For example, a recent appellate case permitted shareholder access to the following: ledgers; journals; payroll ledgers; contracts, including employment and consulting contracts; financial statements and reports; leases; securities and other investments of the company; guarantees; expense reports; records of salaries; records of transfers or loans; employee expenses requested and expenses paid by the company; and loan applications. No-Burn, Inc. v. Muratti, 2011-Ohio-5635. And in addition to the growing list of corporate records available to shareholders, Ohio follows the majority rule allowing shareholders to inspect the records of a wholly owned subsidiary of the corporation in which they own stock when the parent corporation “so controls and dominates the subsidiary that the separate corporate existence of the subsidiary should be disregarded.” Danziger v. Luse, 2004-Ohio-5227, ¶ 20. Finally, the shareholder’s right to the “records of shareholders” under the statute includes the so-called “NOBO” list (non-objecting beneficial owners who own the stock through a brokerage, but do not object to the release of their names to the company upon request) as long as the list already exists. Luxottica Grp. S.p.A. v. U.S. Shoe Corp., 919 F. Supp. 1091, 1092 (S.D. Ohio 1995).
In light of the fact that Ohio corporate law tends to follow trends from Delaware, recent rulings from the Court of Chancery foreshadow an expanding list of items available in a books and records request. For example, recent Delaware cases have ordered the production of corporate documents containing attorney-client privilege and work product information, *Wal-Mart Stores, Inc. v. Indiana Electrical Workers Pension Trust Fund IBEW*, 95 A.3d 1264 (Del. 2014), and corporate emails, *Amalgamated Bank v. Yahoo! Inc.*, 132 A.3d 752, 763 (Del. Ch. 2016). When faced with such broad requests, corporate counsel are wise to consider whether the items requested in the books and records request are overly broad and unrelated to the stated proper purpose. *Khanna v. Covad Communications Group, Inc.*, No. 20481, 2004 WL 187274 (Del. Ch. 2004) (rejecting a shareholder request to produce all e-mails, letters and communications between the stockholder and the company and between the company’s directors because the request was “overly broad,” “excessive,” and the plaintiff had not shown any necessity for the information. Id. at *9*).

While the litigation over books and records requests can be innocuous, they are often harbingers of larger disputes and more litigation. While it is not uncommon for shareholders contemplating a proxy dispute to use a books and records request to obtain a corporation’s list of shareholders, the Delaware Supreme Court has gone further and recognized that books and records requests are “an important part of the corporate governance landscape” and a “tool” that should be employed before filing a derivative action. *Seinfeld v. Verizon Commc’ns, Inc.*, 909 A.2d 117, 120 (Del. 2006).

Because these requests are so closely tied to future litigation, the corporation’s directors and officers liability insurance carrier should be informed as soon as a books and records request is received. In fact, while D&O insurance traditionally does not cover books and records requests because the insurer views the costs as a corporate operating expense, the prevalence of books and records requests as a precursor to litigation has resulted in some carriers being willing to cover the expense of a books and records request as a defense expense or at least to amend their policies to provide coverage for such requests. *Kevin LaCroix, D&O Insurance: Securing Coverage for Books and Records Requests, The D&O Diary, July 20, 2017.*

Indeed, while corporate records are now held electronically instead of within dusty leather-bound ledgers, a shareholder’s fundamental right to review corporate records has essentially remained unchanged for over a century. But while the right to this information existed before the advent of the automobile, the corporate information available and the use of these requests as a litigation tool are much more modern.

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Bitcoin is a complex and intriguing development that has captured the attention of investors, consumers, entrepreneurs, and governments. Although bitcoin has been in existence since 2009, bitcoin transactions are not ubiquitous and cases involving bitcoin, and other cryptocurrencies, are still incredibly rare. Bitcoin has, however, received increased attention recently, in part because of the significant growth experienced in 2017, with all-time highs in bitcoin value being reached in the last few months.

In order to properly advise clients and handle business disputes involving bitcoin, it is helpful to have a basic understanding of this virtual currency, how it is purchased and sold, the advantages and disadvantages of its use, and the ways that bitcoin can become part of, or relevant in, litigation.

What is Bitcoin?
Bitcoin is the term used to refer to both the digital payment system or network and the system’s virtual currency or unit of account. As described by its creator, it is a “peer-to-peer version of electronic cash” that allows “online payments to be sent directly from one party to another without going through a financial institution.” (Satoshi Nakamoto, Bitcoin: A Peer-to-Peer Electronic Cash System, https://bitcoin.org/bitcoin.pdf.) Bitcoins are similar to money in that they have value and can be used as a form of payment, but they have no physical form, are bought and sold primarily online, and are not part of any government or banking system. Bitcoins can be used to purchase goods and are also bought and sold as investments.

Buying and Selling Bitcoins
Bitcoins can be acquired in two ways: (1) through purchase at an exchange (either an online exchange or an in-person exchange); and (2) through “mining.” Coinbase is one example of an online exchange where one can buy and sell bitcoins. Using Coinbase’s app or website, one can sign up for a bitcoin account and create a digital currency wallet to hold bitcoins. You can then connect that bitcoin account to a bank account that can be used to purchase the desired number of bitcoins. (See https://www.coinbase.com/buy-bitcoin.) Once the bitcoins are purchased and in your digital wallet, they can be used to make purchases at places where bitcoins are accepted.

Another option for purchasing bitcoins is via an in-person sale. The website LocalBitcoins.com connects bitcoin sellers and buyers in the same geographical area. A buyer generally meets the seller and provides cash and the bitcoin address to which the buyer wants the bitcoins to be sent. The seller then transfers the purchased bitcoins to the buyer’s bitcoin address.

“Mining” bitcoin is another option for acquiring the virtual currency. Mining is the process by which computers perform complex algorithms on the bitcoin network to obtain bitcoins. In order to perform bitcoin mining, a bitcoin miner needs the appropriate software and a computer that is compatible with the mining software. Once the bitcoin algorithm is solved using mining software, the individual using the software receives a bitcoin or a portion of a bitcoin.
When a bitcoin is received through mining, or a sale or transfer among parties, that transaction is recorded in the bitcoin blockchain. The bitcoin blockchain is an electronic ledger of all bitcoin transactions that have ever occurred.

After the purchase or receipt of bitcoins, they can be exchanged for other currencies if the bitcoin owner no longer wants them. Certain online exchanges (like Coinbase noted above) allow account holders to sell their bitcoins for U.S. currency.

Advantages and Disadvantages of Bitcoin
Because bitcoin is completely digital, one can transfer bitcoins more easily than using a bank and usually with fewer or no fees. The bitcoin system also makes it possible to quickly transfer bitcoins from person to person over the internet using the bitcoin network.

Another commonly cited advantage of bitcoin is that it is a completely anonymous system. All bitcoin transactions are done electronically and one's personal information is never made public or connected to a user's virtual wallet or bitcoin exchange. The bitcoin blockchain contains a record of all bitcoin transactions, but information identifying the transacting parties is not included in the blockchain. Thus, anyone viewing the blockchain can see that a bitcoin payment has occurred, but cannot identify the payer or payee. Proponents of bitcoin also argue that the blockchain allows users to distinguish legitimate bitcoin transactions from attempts to re-spend bitcoins that have already been spent elsewhere. (See https://www.bitcoinmining.com/what-is-blockchain.) Said another way, users can verify on the blockchain whether a particular bitcoin exists and is valid.

The anonymity associated with bitcoin's use also means that the virtual currency has facilitated illegal activity. For example, it has been used to launder money and pay for illegal products and services. (See, e.g., Christopher Burks, Bitcoin: Breaking Bad or Breaking Barriers?, 18 N.C. J.L. & Tech. On. 244, 250 (2017).) Bitcoin was also used on the infamous online black market website "Silk Road," which was a platform for selling illegal drugs. As a result of the illegal activity connected to bitcoin (and made possible because of it), it has caught the attention of government agencies and regulators who are attempting to curtail illicit uses of bitcoin and other virtual currencies.

Although the list of legitimate merchants and retailers who accept bitcoins is increasing, it still remains an uncommon form of payment. A few well-known companies accept the virtual currency (generally through a bitcoin processing partner), including Microsoft, Dish Network, and Overstock.com, but it is primarily accepted by more obscure and smaller companies. (Jacob Davidson, No, Big Companies Aren't Really Accepting Bitcoin, January 9, 2015, http://time.com/money/3658361/dell-microsoft-expedia-bitcoin.)

Another disadvantage associated with the use of bitcoin is the lack of consumer protection. If an individual purchases goods using bitcoins, and the seller never sends the purchased goods, nothing can be done to reverse or undo the transaction. Unlike with credit or debit card disputes, there is no financial institution that a consumer can contact regarding a disputed or unauthorized transaction. In addition, because bitcoin is entirely electronic, if a user's hard drive crashes or the user's virtual wallet is corrupted, bitcoins can be lost forever. Hackers who might attempt to break into the bitcoin system are also risks that bitcoin users face.

Bitcoin in Litigation
There are very few civil cases addressing bitcoin. The published civil cases that do involve bitcoin generally relate to the sale of bitcoin mining computers or attempts to recover money after the collapse of the Mt. Gox bitcoin exchange. (See, e.g., Morici v. Hashfast Technologies LLC, et al., No. 5:14-CV-00087-EJD, 2015 WL 906005 (N.D. Cal. Feb. 27, 2015) (plaintiff alleged that he failed to receive bitcoin mining computers when promised); Greene v. Mizuho Bank, Ltd., et al., 206 F.Supp.3d 1362 (N.D. Ill. 2016) (plaintiffs alleged that defendants were responsible for financial losses arising from the collapse of Mt. Gox).) These cases primarily address preliminary or procedural issues and do not delve into the substance of bitcoin or how the currency and the network relate to and/or impact a party's claims.

If the use of bitcoin continues to grow, practitioners and the judiciary will likely see more complex cases involving bitcoin, such as cases stemming from a fraudulent sale of bitcoins or sales of bitcoin hardware and software that failed to perform as promised. Cases such as these would likely require
extensive forensic investigations to trace bitcoin sales and purchases and to determine or refute the extent of a party’s damages.

Cases against bitcoin exchanges — such as those against the Tokyo-based Mt. Gox — may also become more common. During its existence, Mt. Gox was the world’s largest bitcoin exchange, but it shut down after claiming it “lost” approximately 850,000 bitcoins (worth at the time approximately half a billion U.S. dollars). Mt. Gox subsequently filed for bankruptcy protection and its CEO was arrested for embezzlement and data manipulation. (See, Samuel Gibbs, Head of Mt. Gox Bitcoin Exchange On Trial for Embezzlement and Loss of Millions, July 11, 2017, https://www.theguardian.com/technology/2017/jul/11/gox-bitcoin-exchange-mark-karpeles-on-trial-japan-embezzlement-loss-of-millions.) If bitcoin exchanges engage in fraudulent activity similar to that alleged against Mt. Gox, or if they experience a similar scandal or loss, attorneys should expect an increase in the number of civil actions against bitcoin exchanges and their officers.

Finally, bitcoin and other virtual currencies should be taken into consideration when settling a case. If a client or adverse party does not have enough U.S. currency to make a desired settlement payment, but possesses bitcoins and the parties are in agreement, bitcoins can be used to satisfy all or a portion of a settlement payment. As noted above, there are substantial risks with receiving bitcoins as a form of payment, all of which should be made known to a client prior to agreeing to such a settlement.

Conclusion
Predictions regarding the value and longevity of bitcoin vary widely, but for the time-being bitcoin is a hot topic in the cyber world. Having an understanding of bitcoin and how the bitcoin network functions are essential to effectively and appropriately represent a client who is inquiring about the virtual currency or who is involved in a dispute regarding bitcoin.

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AN INDISPENSABLE RESOURCE


BY HUGH MCKAY

ack when Wright & Miller and Moore’s Federal Practice ruled the earth, the commercial litigator in federal court had a few, limited resources to turn to for guidance. Since 1998, “Business and Commercial Litigation in Federal Courts” has established itself as the definitive comprehensive treatise for commercial litigators in federal court. Now, with the publication of its fourth edition, with 25 new chapters and substantial expansion and updating of its existing chapters, this state-of-the-art treatise has solidified its place as an indispensable resource for commercial litigators.

The treatise boasts 296 authors of all experience levels, all of whom are renowned experts in their fields of litigation, from leading law firms in the country, along with 27 distinguished federal judges. We Clevelanders can proud that among the authors are Judge Solomon Oliver, Jr., as well as Thomas Collin and Matthew Ridings of Thompson Hine.

The treatise is a true gift to practitioners, young and old, because of its remarkable practical value and its focus on the realities of commercial litigation in the federal courts, from the pre-litigation phase and avoiding litigation, through all phases of trial and appeals. The treatise is also remarkable for its depth of analysis and practical guidance on myriad issues which arise for the practitioner. A focus on practical analysis permeates every chapter and makes it consistently user-friendly. Key to the treatise’s practical utility is the presence in every chapter of specific checklists on procedural and substantive pitfalls and focal points the practitioner needs to keep in mind. These checklists alone, even apart from the remarkable substantive analysis, make this treatise invaluable.

Typical of the relevance and currency of this treatise is its attention to litigation technology and the discovery of electronically stored information (ESI). Chapter 26 “Discovery of Electronically Stored Information” is written by a renowned expert in this area, the Honorable Shira A. Scheindlin, along with Johnathan M. Redgrave. They provide an exhaustive yet focused, and practical, analysis of ESI, in terms of strategy and preliminary considerations, practical application of the applicable federal rules, issues relating to preservation duties and spoliation, proper approach to disclosure and production. Most helpful is the inclusion of six different key checklists for the practitioner. Judge Scheindlin’s analysis of ESI is noteworthy for its emphasis on pre-litigation planning and “information governance”. This substantive and practical focus on the often intimidating world of ESI, written by a true expert in the field, is typical of the value of this treatise.

The treatise is also particularly valuable to practitioners who need to know what they don’t know and who need to obtain essential knowledge in the areas where they may not have been experienced already. A good example is the treatment of criminal issues that can arise in federal litigation relative to white collar crime, FCPA and other areas where the practitioner may need an effective and efficient means of issue spotting and issue avoidance in areas where they may not typically practice.

Similarly, the value of the treatise to practitioners who find themselves faced with a specific area that may not be familiar to them is exemplified by Chapter 129 on Franchising, which provides a comprehensive guide to the issues surrounding franchisor-franchisee relationships and related litigation. Our local luminaries from Thompson Hine, Thomas Collin and Matthew Ridings, are extremely insightful in their analysis of franchise litigation, highlighting unique problems for both franchisor and franchisee.

Of particular importance is the practical advice offered throughout the chapter. The authors meticulously analyze common claims against franchisors and advise on litigation strategies in each situation. Overall, the chapter is exhaustive in its examination of franchise litigation and provides useful advice for attorneys, and does so with such depth and practicality as to make even this franchising neophyte reviewer feel competent to deal with such a case.

The treatise’s thoroughly useful treatment of important issues in commercial litigation is well illustrated by Chapter 31 on Summary Judgment. Our own Northern District’s Judge Solomon Oliver, Jr. analyzes the summary judgment process for both the moving and nonmoving party and offers insights that even the most experienced practitioner will find compelling. Judge Oliver’s in-depth analysis of the Federal Rules of Civil Procedure and case law on summary judgment — including a step-by-step exploration of timing for summary judgment, the standard in Fed. R. Civ. P. 56, burden of proof, and submission of supporting materials. Another key feature of this chapter is its discussion of motions for summary judgment in specific areas of the law — particularly in antitrust, intellectual property and contract cases.

Beyond discussion of substantive law, Judge Oliver provides an excellent focus on practical considerations related to motions for summary judgment. He discusses strategies to assess the viability of a summary-judgment motion, and avoiding common mistakes. This section also discusses the interplay between motions for summary judgment and other dispositive motions. The chapter concludes with a practice aid checklist and collapsed forms that any litigator will find helpful when dealing with the inevitable
motion for summary judgment. Like the rest of the treatise, this chapter seamlessly blends a cogent discussion of substantive law with useful practice tips.

The broad scope of the treatise is seen in Chapter 66 on Litigation Technology. This chapter highlights the boom of technology use, and issues, in all stages of litigation — from pretrial through appeal. Renowned practitioners David Boies and Stephen Zack describe with great insight how attorneys can use new forms of technology in all phases of litigation, and they provide great practical advice on emerging issues of technology. Additionally, the authors effectively discuss the relationship between the Federal Rules of Evidence and the Federal Rules of Civil Procedure to illustrate issues involving electronic evidence. There is a helpful focus on issues of computer-generated evidence. The chapter details electronic exhibits and their use as either substantive evidence or pedagogical aids, and explains the steps a party needs to take to properly introduce electronic evidence. The chapter closes with an important, and often overlooked, dialogue about the ethical issues that arise from the expanded use of litigation technology.

Chapter 67 on Social Media is another comprehensive but concise, easy-to-navigate account of a burgeoning and rapidly evolving area of law. It identifies and discusses the novel legal issues posed by our widespread social media use, while also providing practical advice and clear answers to important questions. The chapter’s attention to detail is best illustrated by its discussion of social media as evidence. It outlines how social media evidence can be discovered under the Federal Rules of Civil Procedure, details relevant cases, and identifies points of uncertainty like the distinction between “private” and “public” social media accounts. The authors provide creative, practical suggestions to overcome discovery issues resulting from the private status of a witness’s social media accounts.

The thoroughness of this chapter is also shown by its analysis of issues that arise outside litigation, namely in the employment context. This section will serve as an invaluable resource for employment attorneys. For instance, it discusses the thorny issues of termination of an employee because of the employee’s social media postings. It also exhaustively discusses issues involving companies’ social media accounts, workplace harassment, executives’ use of social media, and ethical use of social media by attorneys — all in four pages. This synopsis of social media in the employment context will save lawyers time and their clients money.

In short, “Business and Commercial Litigation in Federal Courts” is highly recommended to all commercial litigators. It is exhaustive, practical, well-written and easy to navigate, making it a wonderful time-saving resource for attorneys dealing with complex commercial issues. It allows litigators to easily learn or refresh themselves on virtually any conceivable issue that might arise, and update themselves on new developments. Editor-in-chief Robert Haig and the remarkable array of contributing luminaries are to be commended for their exemplary work. It is not only the only such treatise in existence, but it is difficult to imagine the creation of a better one.

Hugh McKay is Partner in Charge of the Cleveland office of Porter Wright and has been a commercial litigation attorney for 36 years. He is a former President of the CMBA and CMBF. He grew up in East Cleveland and attended Brown University (B.A.) and University of Pennsylvania (J.D.). He has been a CMBA member since 1982. He can be reached at (216) 443-2580 or hmckay@porterwright.com.
In *TC Heartland* the Supreme Court revitalized the venue analysis in patent infringement actions, likely triggering a redistribution of where cases are filed and, also, giving would-be defendants opportunities to avoid suits in plaintiff-friendly venues. *TC Heartland LLC v. Kraft Foods Grp. Brands LLC*, — U.S. —, No. 16-341 (May 22, 2017).

The venue statute for patent infringement cases, 28 U.S.C. § 1400(b), provides:

*Any civil action for patent infringement may commence-only:
1. where the defendant resides, OR
2. where the defendant has both
   a. committed acts of infringement AND
   b. a regular and established place of business.*

The Federal Circuit long held that venue was proper against a corporation in any district in which it is subject to personal jurisdiction. *VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F. 2d 1574 (Fed. Cir. 1990). The Federal Circuit reasoned that 1988 amendments to the general venue provision that corporations “reside” wherever personal jurisdiction exists also applied to § 1400(b). See 28 U.S.C. §1391(c) (“for purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.”) The Federal Circuit’s broad, accommodating approach rendered superfluous the second part of § 1400(b) and collapsed venue into personal jurisdiction. It also greatly expanded venue choices for plaintiffs, fueling the growth of patent litigation tourism and destinations like the Eastern District of Texas.

But in *TC Heartland* the Supreme Court rejected this expensive approach to venue, reaffirming its 1957 *Fourco* decision that the general venue definition of “reside” for corporations does not apply to the patent venue provisions. *Fourco Glass Co. v. Transmirra Products Corp.*, 353 U.S. 222 (1957). Therefore, under § 1400(b) a corporation “resides” only in its state of incorporation and venue is proper only:

1. where the defendant is incorporated; OR
2. where the defendant has both
   a. committed acts of infringement AND
   b. a regular and established place of business.

The unanimous Supreme Court decision is succinct, simple ... and unsurprising. First, there had been a growing sense that Congress or the courts needed to “do something” about forum shopping and the appetite of certain districts for patent cases. Second, *TC Heartland* is just one of a series of cases from the Supreme Courtretreating from the broad, permissive jurisdiction and forum decisions of the last century. See, e.g., *Bristol-Myers Squibb Co. v. Superior Court of Cal.*, — U.S. —, No. 16-466 (June 19, 2017) (limiting specific jurisdiction); *Daimler AG v. Bauman*, — U.S. —, No. 11-965 (2014) (limiting general jurisdiction); *Goodyear Dunlop Tires Operations, S. A. v. Brown*, 564 U.S. 915 (2011) (limiting jurisdiction over foreign subsidiaries).

**The Empire (Eastern District of Texas) Strikes Back.**

A quick response came from Judge Gilstrap in the Eastern District of Texas who, unsurprisingly, set out a venue-expansive framework for “regular and established place of business” that reclaimed what the Supreme Court had taken away. Judge Gilstrap endorsed a holistic consideration of factors to see whether a defendant had a suitable “presence” in the district:

1. Some sort of presence in the district, such as an employee, store, warehouse or other facility.
2. The extent to which defendant represents, internally or externally, that it has a presence in the district.
3. The extent to which the defendant derives benefits from its presence in the district, such as sales revenue.
4. Targeted interactions within the district.

Notably, a physical location in the district is not required, and venue could exist over defendants with a regular and established **online** presence in the district—pretty much every business with a website.

Under these factors—which echo the “sufficient minimum contacts” test of personal jurisdiction from *International Shoe*—Judge Gilstrap reasoned venue was proper because a Cray single sale representative lived in the district and worked from home. While Cray did not pay for his home office nor require him to live in the district, Judge Gilstrap reasoned that Cray benefited from his presence and that venue would be fair under the circumstances.

The Federal Circuit granted Cray’s petition for a writ of mandamus, finding Cray’s presence in the district insufficient and Judge Gilstrap’s factors inappropriate:

The statutory language we need to interpret is “where the defendant ... has a regular and established place of business.” 28 U.S.C. § 1400(b). The noun in this phrase is “place,” and “regular” and “established” are adjectives modifying the noun “place.” The following words, “of business,” indicate the nature and purpose of the “place,” and the preceding words, “the defendant,” indicate that it must be that of the defendant. Thus, § 1400(b) requires that “a defendant has” a “place of business” that is “regular” and “established.” All of these requirements must be present. The district court’s four-factor test is not sufficiently tethered to this statutory language and thus it fails to inform each of the necessary requirements of the statute. *In re Cray*, Inc., — F.3d —, No. 2017-129 (Fed. Cir., Sept. 21, 2017). The Federal Circuit proceeded to offer some guidance on each of the required components of §1400(b). First, a place of business:

The district court erred as a matter of law in holding that “a fixed physical location in
the district is not a prerequisite to proper venue.” Transfer Order, WL 2813896, at *11. This interpretation impermissibly expands the statute. The statute requires a “place,” i.e., “[a] building or a part of a building set apart for any purpose” or “quarters of any kind” from which business is conducted. William Dwight Whitney, The Century Dictionary, 732 (Benjamin E. Smith, ed. 1911); see also Place, Black’s Law Dictionary (1st ed. 1891) (defining place as a “locality, limited by boundaries”). The statute thus cannot be read to refer merely to a virtual space or to electronic communications from one person to another.

While the “place” need not be a “fixed physical presence in the sense of a formal office or store,” Cordis, 769 F.2d at 737, there must still be a physical, geographical location in the district from which the business of the defendant is carried out. The Federal Circuit continued:

The second requirement for determining venue is that the place “must be a regular and established place of business.” The district court’s test fails to recognize that the place of business must be “regular.” A business may be “regular,” for example, if it operates in a “steady[,] uniform[,] orderly[,] and] methodical” manner, Whitney, supra, at 5050. In other words, sporadic activity cannot create venue.

The “established” limitation bolsters this conclusion. The word contains the root “stable,” indicating that the place of business is not transient. It directs that the place in question must be “settle[d] certainly, or fix[ed] permanently.” Establish, Black’s Law Dictionary (1st ed. 1891) ... while a business can certainly move its location, it must for a meaningful time period be stable, established. On the other hand, if an employee can move his or her home out of the district or the storing of materials at a place .... Marketing or advertisements also may be relevant, but only to the extent they indicate that the defendant itself holds out a place for its business.

The Federal Circuit also highlighted that the “place” must be the defendants, not merely an employee’s home — even if the employee might work from there:

As the statute indicates, it must be a place of the defendant, not solely a place of the defendant’s employee. Employees change jobs. Thus, the defendant must establish or ratify the place of business. It is not enough that the employee does so on his or her own.

Relevant considerations include whether the defendant owns or leases the place, or exercises other attributes of possession or control over the place. One can also recognize that a small business might operate from a home; if that is a place of business of the defendant, that can be a place of business satisfying the requirement of the statute.

Another consideration might be whether the defendant conditioned employment on an employee’s continued residence in the district or the storing of materials at a place .... Marketing or advertisements also may be relevant, but only to the extent they indicate that the defendant itself holds out a place for its business.

The district court is correct that a defendant’s representations that it has a place of business in the district are relevant to the inquiry. Potentially relevant inquiries include whether the defendant lists the alleged place of business on a website, or in a telephone or other directory; or places its name on a sign associated with or on the building itself .... But the mere fact that a defendant has advertised that it has a place of business or has even set up an office is not sufficient; the defendant must actually engage in business from that location. In the final analysis, the court must identify a physical place, of business, of the defendant.

While future cases will explore the parameters of these statutory elements, TC Heartland drastically limits venues available against many accused infringers. Importantly, businesses keen to avoid being sued in specific districts can take affirmative steps to arrange operations to reduce the chances of having “a regular and established place of business” in those districts. Businesses can also structure contracts and transactions to avoid “acts of infringement” in those districts by having sales and other potentially infringing events occur in a preferred state.
Finding a brand name for goods and services can be an exhausting process. Among the “pool” of brand names are surnames. Individuals and companies often identify their family names as their brand names. An obvious issue, though, is that there are often millions of people with the same surname. What about a rare surname? Is that a good brand? Recent rulings in the Trademark Office suggest it can be an uphill battle to protect a rare surname through registration.

Trademark Selection and Clearance
It is important to check the proposed brand for availability to use it nationwide, and to register it in the United States Patent & Trademark Office (USPTO). The process is even more involved if you are looking for a brand to use in any other countries. Add to this process the search for a matching and available “.com,” creating yet another layer of clearance and registration.

Unless you are interested in making up a new word, it is often best from a marketing standpoint to choose a trademark or service mark tied closely to the goods or services, so consumers can identify what the offering is without a lot of thought. Of course, others may already be using those or similar terms in the marketplace, and then it is back to the drawing board to find something more distinctive. This clearance process often takes several attempts before landing on a term with some panache, but with close enough ties to the goods or services to make it sufficiently easy for consumers to understand qualities or characteristics about those goods or services.

A rare surname, though, may not even be recognized by consumers as a name. Rather, a rare name may appear to consumers to be a coined, or made-up term. A rare surname may thus appear to be an excellent choice for a brand.

A Surname Usually Needs Acquired Distinctiveness To Be a Protectable Trademark
Many people do not realize, though, that a surname is considered to be an inherently weak trademark, at least in its initial stages of use. In contrast, using your full name, or a combination of surnames like “BakerHostetler” results in an inherently distinctive trademark.

A single surname is considered so weak that at the moment of first use with the goods or services, it is not even considered to be a viable brand. Under Section 2(e)(4) of the Trademark Act, 15 U.S.C. §1052, the USPTO must reject an application for a term which is “primarily merely a surname.” Whether a term is primarily merely a surname depends upon the “primary significance of the mark as a whole to the purchasing public.” There is an argument that a rare surname would not be recognized by consumers as a name and therefore, should be immediately protectable, but that is only one factor to consider.

The Principal and Supplemental Registers
Before delving further into the specifics of surnames as brands, it is important to understand the two-tiered registration system in the United States. The Principal Register is reserved for inherently distinctive trademarks. The Supplemental Register is for terms which are not sufficiently distinct to serve as a trademark at that point in time, but which have the potential to develop a secondary meaning as a distinctive brand. This “acquired distinctiveness” is developed over time through extensive use of the brand in connection with the applied-for goods or services. Consumers eventually come to recognize the term as a brand — that is, goods or services emanating from a single source.

If rejected on the Principal Register, the applicant of a surname trademark may move the pending application to the Supplemental Register, assuming that the mark is already in use. The owner of such a registration can use the ® designation, but is not afforded certain other rights granted to a Principal Registrant: there is no presumption of validity, the registration is not prima facie evidence of ownership of the mark, and is not an acknowledgment of its continuous and exclusive use.

In short, one way of looking at the Supplemental Register is that it is a place to file a “brand-in-waiting.” Without the presumption of validity it can be difficult to enforce the rights against others who similarly attempt to use the surname as their brand, so that is a major issue when deciding upon whether to invest in such a mark.

The good news is later, once the owner of a Supplemental Registration believes it has acquired distinctiveness — sometimes presumed after five years of uninterrupted use — it can file a new application on the Principal Register claiming acquired distinctiveness. Note that it is not possible to “move” a registration once issued on the Supplemental Register to the Principal Register; the only option is to file a new application.

Do Rare Surnames Also Require A Showing of Acquired Distinctiveness?
When is a term primarily merely a surname, thus requiring a showing of acquired distinctiveness? The USPTO considers the following questions of fact: (1) whether the term is the surname of anyone connected to the business; (2) whether the term has any recognized meaning other than as a surname; (3) whether evidence shows that...
the term has the structure and pronunciation of a surname; and (4) whether evidence shows use of the term as a surname is rare. In re Eximius Coffee, LLC, 102 USPQ2d 1276 (TTAB 2016) [precedential]. In making that determination, considerations also include whether the mark may be perceived as a meaningless, coined term. In re Benthin Mgmt. GmbH, 37 USPQ2d 1332, 1333-34 (TTAB 1995).

• Rare Surname ALDECOA Not Registrable on Principal Register

The owner of the trademark application in the case of In re Eximius Coffee, LLC filed for the rare surname ALDECOA on the Principal Register for the goods “coffee, caffeine-free coffee, instant coffee, single serve coffee.” The USPTO examining attorney rejected the application finding that, when viewed in relation to the goods, the primary significance to the purchasing public of the term “Aldecoa” is that of a surname, even if it is a rare surname.

The applicant appealed to the Trademark Trial and Appeal Board (Board). The Board, however, affirmed the refusal under Section 2(e)(4) of the Trademark Act. As to the first factor, the applicant's website identified “de ALDECOA” as the surname of the founder of the applicant, as well as the applicant's current generation of coffee brewers. The applicant's label featured the phrase “Premium Family Coffee” below “ALDECOA.” The Board therefore found the applicant itself had linked the family name to the goods, so consumers were likely to perceive Aldecoa primarily as a surname.

For the second factor, the evidence showed that the term has no other recognized meaning other than as a surname; “aldecoa” is not a word in the Spanish dictionary. The evidence as to the third factor was lacking in the record.

Turning to the last factor, rarity, the 2000 U.S. Census showed just 233 people were named Aldecoa; in 2014 public records showed only 950 listings for that name. There was no doubt that Aldecoa is a surname rarely encountered by the consuming public — so the applicant argued consumers would not view such a rare term as primarily merely a surname.

Despite this rarity, on balance, the Board determined that Aldecoa would not be perceived as anything other than a surname in the United States, and thus affirmed the refusal to register the term on the Principal Register.

• Rare Surname ADLON Not Registrable on Principal Register

Shortly after this decision, the Board also found that the even rarer name Adlon was primarily merely a surname and affirmed its rejection. The dissenting judge opined, though, that consumers would likely perceive this extremely rare surname as a made-up term. In re Adlon Brand GmbH & Co. KG c/o FUNDUS FONDS-Verwaltungen GmbH, 120 USPQ2d 1717 (TTAB 2016) [precedential].

In that case, Adlon Brand GmbH & Co. KG filed for ADLON as a mark for goods and services ranging from wine to night club and spa services. The evidence showed that the name is not listed in dictionaries, has no meaning in foreign languages, and is not a geographic term. Only 75 U.S. residents are named Adlon, which makes it extremely rare. The Board found that the ways in which consumers have been exposed to the use of Adlon as a surname of particular people, though, further supported the Section 2(e)(4) rejection — for instance, Pamela Adlon is an award-winning actress, and eight individuals on social media have the surname Adlon.

The majority panel of the Board thus reaffirmed the rule from In re Eximius Coffee, LLC, to find that even a rare surname is unregisterable if its primary significance to purchasers is a surname.

The dissent looked to the context of the use of ADLON and found nothing to suggest to consumers that the term functioned primarily merely as a surname, noting, “I think it just as likely (or even more likely) that a consumer will consider the extremely rare surname to be a term whose meaning is unknown, that is, as a fanciful or arbitrary term, rather than as a surname.”

Conclusion

In sum, using a rare surname for a brand name for goods and services can be an excellent marketing choice, but in the early stages of use, the name might be difficult to protect from a legal standpoint. Once the surname has acquired distinctiveness through widespread use such as through nationwide advertising and sales, it can be a strong brand.

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DESIGN PATENTS AND GRAPHICAL USER INTERFACES

BY D. PETER HOCHBERG

When most patent lawyers consider design patents, they generally think of the way that an article looks. A design patent is defined by statute as follows:

> Whoever invents any new, original and ornamental design for an article of manufacture may obtain a patent therefore, subject to the conditions and requirements of this title. 35 U.S.C. § 171

This statutory definition refers to the design for an article. It includes surface ornamentation as an ornamental design, as well as the configuration of goods.

It is the appearance that is the subject of a design patent. A design patent application can relate to the configuration or shape of an article, to the surface ornamentation as applied to the article or to the combination of configuration and surface ornamentation. Manual of Patent Examining Procedure (MPEP) 1502.

Jobs introduced GUIs into Apple’s software for its personal computers. Today, design patents on GUIs are the fastest growing area in design patent applications at the U.S. Patent and Trademark Office (USPTO). The patentability of icons was established in Ex parte Strijland et al., 26 U.S.P.Q. 2d 1259 (USPTO 1992). In that case, the ornamental design for which protection was sought, was as the ornamental design for an information icon for display screen of a programmed computer system.

The patent examiner had rejected this on the grounds that the design was not an “ornamental design for an article of manufacture...” The Patent Trial and Appeal Board (PTAB) ruled that a picture standing alone is not protectable by a design patent,” but gave the inventors an opportunity to amend the application to add dotted lines indicative of the screen.

The USPTO has developed guidelines for the protection of GUIs which set forth in MPEP 1504.01(a) “Computer-Generated Icons.” The USPTO guidelines state that computer-generated icons are “statutory subject matter eligible for design patent protection...if an application claims a computer-generated icon shown on a computer screen, monitor, other display panel, or a portion thereof...”

These guidelines make it clear that animations can be covered by design patents. The first design patent that covered an item in motion was one directed to a water fountain. In In re Hruby, the Court of Customs and Patent Appeals (CCPA) decided in 1967 that water moving in a fountain could be covered by a design patent even though the water was moving. While the fountain was running, the design was in effect, fixed. Design patents cover animations. For example, in U.S. Design Patent No. D457,164, a window on a screen expands from a small rectangle to an enlarged three sided figure. The simulation of a page turning by screen protected by U.S. Design Patent No. D670,713, as shown below.

Design patents have traditionally been very easy to obtain. The grant rate of design patent applications is about 90%. A design patent application is pending in the USPTO for a relatively short period of time, lasting a little more than a year. Indeed, most design patent applications are never rejected based on prior art. This holds true for GUI patent applications.

In order for a design patent examiner to reject a design patent application, the patent examiner must find
prior art which either anticipates the design in the application, meaning that it shows a virtually identical design, or that the design is obvious from the prior art. As was noted in the recent Supreme Court decision in Apple Inc. v. Samsung Electronics Co., Ltd. (discussed below), the court said that the examiner must find a single reference that is basically the same as the claimed design.

The test at the USPTO whether a design is obvious it is extremely permissive. The examiner would have to find an earlier design that is almost the same as the design of the design patent application before the examiner can even commence using the analysis.

GUIs have become very significant economically. It is estimated that companies have invested millions of dollars in developing GUIs that are functional and aesthetic. GUIs include screens for smart phones, icons, mobile applications, operating systems, gaming devices, etc.

One of the most publicized cases involving GUIs this Apple Inc. v. Samsung Electronics Co., Ltd. Apple had sued Samson for infringing Apple’s U.S. Design Patent No. D604,305, as shown below.

Each of Apple and Samsung had screens for their respective smart phones. The tests which had to be applied to determine whether or not Samson’s screen design infringed that of Apple was whether the ordinary observer would believe that the screen of Samsung is the same as that of Apple. Gorham Co. v White, 81 U.S. (14 Wall) 511,528 (1871) The test was not whether the two screens were identical.

Apple brought a design patent infringement suit against Samsung on April 15, 2011 for the alleged infringement of three of Apple’s design patents that were used on smart phones and tablets. Apple Inc. v. Samsung Electronics Co., Ltd., 909 F. Supp. 2d 1147 (N.D. Cal. 2012). A tremendous amount was at stake with respect to the meaning of the 1887 statute, 35 U.S.C. § 289 that enables the owners of design patents to recover from the infringers total profit from an article of manufacture that contains the infringing design. One of the questions faced was whether the “article of manufacture” is the entire smart phone or only the screen to which the design patents relate.

Apple amended its complaint to accuse Samsung of infringing three of its design patents, including U.S. Design Patent Nos. D618,677; D593,087 and D604,305.

Apple had sought the total profits made by Samsung for its sale of the infringing smart phones whereas Samsung stated that it should only be required to pay damages for the design portion of the smart phones. At the district court level, a first jury found that Samsung had infringed all three of the above-mentioned Apple design patents. The jury had awarded Apple total profits that Samsung had received from its sale of the infringing smart phone spirit. After further court proceedings, Apple was awarded $929 million. Samsung filed a notice of appeal.

The United States Court of Appeals for Federal Circuit (CAFC) affirmed that the finding of the jury that Samsung had infringed Apple’s design patents. 786 F. 3d 93, 1002 (Fed. Cir. 2015), and affirmed the district court’s award of damages. The U.S. Supreme Court granted a writ of certiori petitioned by Samsung, Justice Sotomayor delivered the Court’s opinion on December 6, 2016 stating:

Section 289 of the Patent Act provides a damages remedy specific to design patent infringement. A person who manufactures or sells “any article of manufacture to which [a patented] design or colorable imitation has been applied shall be liable to the owner to the extent of his total profit.”

The only question we resolved today is whether, in the case of a multi-component product, the relevant “article of manufacture” must always be the end product sold to the consumer or whether it can also be a component of that product.

... the term “article of manufacture” is broad enough to embrace both a product sold to a consumer and a component of that product, whether sold separately or not. Thus, reading “article of manufacture” in §289 to cover only an end product sold to a consumer gives too narrow a meaning to the phrase. Apple Inc. v. Samsung Electronics Co., Ltd. clearly shows an advantage of protecting GUIs with design patents, and the damages that can be awarded for the infringement of such patents. Copyright law is
usually insufficient since it requires that a design be copied in order to violate the copyright protection. The problem between trade dress protection and design patent protection is that design patent protection is more clearly defined than is trade dress protection. There have also been suggestions that trademark law would be appropriate, but this would require that the GUIs indicate the source of the GUI, which could be difficult to establish.

Design patent protection seems to be the preferred way to protect GUIs. For one thing, a design patent is statutorily presumed valid, and the infringer would have to prove that the design patent is invalid. As indicated in Apple Inc. v. Samsung Electronics Co., Ltd., damages could be very high under design patent law since it is the infringer’s profits that are at stake. The term of design patents is presently fifteen years from the date of grant, but GUIs in almost every instance do not last for fifteen years so this should not be a problem. As opposed to trademarks, a design patent owner would not have to use expensive surveys to establish either infringement or damages.

There are numerous other issues which remain with respect to GUIs which have not been discussed, or had not been discussed in detail. Nevertheless, this is an important and developing area, and the law will have to develop as rapidly as the technical advances are being made in order to provide fair and protective laws with respect to the owners of GUIs and those attempting to produce new GUIs.
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The Second Circuit is set to render a decision in the coming weeks that will clarify the meaning of a digital music file — as it relates to “phonorecords” defined in the Copyright Act — and the scope of control that a consumer has over a lawfully acquired digital copy of the file. At the center of the dispute is ReDigi — an online marketplace for used digital music — and Capitol Records (Capitol). In 2013, Capitol charged ReDigi with copyright infringement, alleging that distribution and reproduction of digital music files to ReDigi’s server infringes Capitol’s exclusive copyrights. While multiple courts have addressed issues related to file sharing and the transfer of digital media over networks, ReDigi’s is the first court to address whether a transfer constitutes a reproduction when only one file exists before and after the transfer. The district court held that it does.

I. History of Digital Music, Storage and Distribution
When the copyright laws were written, the complexity of digital media and its ease of proliferation were unimaginable. Prior to 1990, the available storage space on a CD greatly exceeded the amount of storage on a home computer. However, significant advancements were made to computers in the 1990s, paving the way for the CD’s decline. By the late 1990s, a personal computer, having adequate hard drive space for storing music files, could be found in most homes.

In the 2000s, the emergence of file sharing or file-distribution programs, such as peer-to-peer (P2P) networks provided for the free exchange of music files. Whether that “free exchange” was lawful or not was an issue addressed by multiple courts in the early part of the century. Many file-sharing networks (e.g., Napster) were shut down for copyright violations. However, legal file-sharing stores (such as iTunes) emerged, allowing consumers to buy songs and build personalized music libraries. By 2007, legal downloads had largely replaced CDs and all other audio formats.

II. ReDigi’s Business Model
While other forms of physical media (music, movies, books) can be resold in a second-hand marketplace, ReDigi — short for Recycled Digital Media — recognized that there was no common way to resell a digital media object. Targeting the resale market, ReDigi developed software for redistributing previously owned digital media. Launching in October 2011, ReDigi markets itself as “the world's first and only online marketplace for digital used music.” Through its website, ReDigi allows users to sell their lawfully acquired music files to recoup value from their unwanted music. Users download ReDigi’s software onto their computers. The software allegedly identifies lawfully acquired music files on the user’s computer that is eligible for resale. Music ripped from a CD or another file-sharing website is ineligible for resale.

ReDigi’s system architecture comprises a server that is in communication with user computers via the Internet. A user can migrate eligible music files from a personal computer to a dedicated storage area on the server. Every music file stored in ReDigi’s server is associated with a user’s account. While on the server, the music files are available for personal use. When a music file is offered for sale, allegedly all copies are purged from the owner’s devices. A transaction occurs when ReDigi matches the music file with a user searching for the same. The music file does not move. It is simply reallocated to the new owner’s account. When the user sells the music file, the user is allegedly divested of all current and future copies until it buys another.

III. Copyright Law in a Nutshell
Copyright is a form of protection granted in the United States Constitution for original works of authorship including musical works that are fixed in a tangible medium.
The Copyright Act confers exclusive rights on the copyright owner:

1. to reproduce the copyrighted work in copies or phonorecords;
2. to prepare derivative works ...;
3. to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership ...;
4. to perform the copyrighted work publicly;
5. to display the copyrighted work publicly; and
6. in the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.¹

“Phonorecords” are material objects in which sounds, ..., are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.”²

An action for copyright infringement may arise when a party violates the exclusive right(s) granted to copyright owners.

However, the Copyright Act also confers exclusive rights on the owner of a lawful copy of a copyrighted work. Known as the First Sale Doctrine or the First Sale Defense, the owner of a particular copy or phonorecord lawfully made has the rights, “without the authority of the copyright owner, to sell or otherwise dispose of the possession of that copy or phonorecord.”³

IV. District Court Ruling
Capitol Records brought the suit against ReDigi on January 6, 2012. It alleged the sale of digital music files on ReDigi’s website infringes Capitol’s exclusive rights of reproduction and distribution under §§ 106(1) and (3) of the Copyright Act.

The district court found that the embodiment of a music file on a new hard disk is a reproduction within the meaning of the Copyright Act. According to the court’s interpretation, the creation of a “new” material object and not an “additional” material object defines the reproduction right. The court reasoned that a reproduction had occurred when the file moved from one material object — the user’s computer — to another — ReDigi’s server. The court ruled on summary judgment that ReDigi infringes Capital’s copyrights.⁴

The court also found that ReDigi’s website infringes Capitol’s exclusive right of distribution. ReDigi argued that distribution is protected by the first sale defense, but the court held that the first sale doctrine is unavailable because ReDigi cannot satisfy the statutory requirements that permit the owner of a “lawfully” made phonorecord to dispose of that “particular” phonorecord.

The court noted certain policy justifications for not importing the first sale doctrine into the digital domain. Namely, physical copies of works are less desirable for resale because they degrade over time and with use, while digital information can be reproduced without degradation.

V. Pending Appeal
ReDigi appealed the district court’s ruling. The decisive issue in the Appeal will be what constitutes the “phonorecord” embodying Capitol’s copyrighted sound recordings as applied to the distribution of music files over the Internet. ReDigi takes the position that a “phonorecord” is the music file or download. Capitol takes the position that the “phonorecord” is the computer hard drive embodying the sound recording. In simplest terms, Capitol argues that, to satisfy the “material objects” requirement of the Copyright Act, the phonorecord must be a physical object, like a CD. ReDigi argues that the Copyright Act does not impose “physical limitations” on the materiality requirement; rather, materiality refers to the medium in which the sound recording is “fixed”.

Citing the Audio Home Recording Act and the Digital Performance Right Sound Recording Act, ReDigi argued that Congress affirmatively recognized that electronic music files satisfy the “material objects” requirement of the Copyright Act, which has provisions that expressly exclude computer hard drives from satisfying the definition of “phonorecords.” ReDigi also argued the Court itself confirmed that electronic files can satisfy the materiality requirement in earlier cases.
In its Reply Brief, Capitol argued that the Copyright Act makes clear that a “phonorecord” cannot be raw data divorced from the physical object in which it is stored. A “music file” or “download” must be embodied on a hard drive or some other physical medium. Capitol pointed out that, while being uploaded, a music file cannot be perceived until it is reassembled and embodied in some physical object, such as a disc or server. Therefore, it cannot qualify as a phonorecord.

While ReDigi argued it transfers exclusive ownership of music files without making reproductions of the transferred files, Capitol countered that there would be no need to delete anything on the original owner’s computer unless a separate copy or phonorecord had been made on ReDigi’s server.

VI. Who Owns the Bits?
The Second Circuit’s decision will likely clarify what a consumer of digital media is really buying. Regardless, this dispute and others can be avoided if the music industry would simply treat music files like software, which is a license to use. If the music industry is only offering a license to listen, then why not call it such?

Interestingly, a similar issue involving e-books is being considered by a European court leaning toward an opposite ruling. In 2014, Tom Kabinet launched a website for trading second-hand e-books. Members must provide a download link of their lawfully acquired e-book and declare that they deleted the e-book at their end before the e-book can be offered for purchase.

The plaintiffs in the Netherlands asked the court to find that Tom Kabinet infringes the copyrights of Dutch publishers and authors, arguing that Tom Kabinet makes unauthorized reproductions of the copyrighted e-books when it keeps copies on its server after sales of the same to members. The Hague District Court referred the questions regarding “distribution” to the European Court of Justice (ECJ), which provides advice on points of European law. The ECJ is set to advise the Court on whether European law allows for the transfer between successive acquirers of an e-book.

2 Id.
3 Id. at § 109(a).

Mandy B. Willis is an attorney with Fay Sharpe LLP and has built her practice around IP prosecution and IP litigation. Mandy counsels small entities and large corporations to help secure and maintain rights in patents, trademarks and copyrights. She joined the CMBA this year. She can be reached at (216) 363-9176 or mwillis@faysharpe.com.
Our Leadership Academy cohorts are moving along with their programming.

For November, we have an all-star panel sharing their insights on rainmaking, landing clients and driving a career path in “Building Relationships that Provide an ROI.”

Hon. Frankie Goldberg, Cuyahoga County Domestic Relations Court
Sherri L. Dahl, Dahl Law LLC
Jonathan Leiken, Diebold Nixdorf
Darrell A. Clay, Walter | Haverfield LLP, CMBA President, Moderator

Our established leaders will tackle “Vision-Driven Strategic Planning,” led by David Kantor, Kantor Consulting Group.

Coffee and Conversation: Joseph R. Leonti, VP, General Counsel and Secretary of Parker Hannifin Corporation and Bruce G. Hearey, Shareholder of Ogletree, Deakins, Nash, Smoak & Stewart, PC.

On Deck: December 14
Tough Talks: It’s Not What You Say. It’s What They Hear.

Bruce Hennes, Managing Partner, Hennes Communications, Thom Fladung, Vice President, Hennes Communications and Thomas Wynne, Vice President and General Counsel, The Interlake Steamship Company

This is the only session open to the CmBA membership, so mark your calendars!

2017–2018 Emerging Leader Cohort Members

Jennifer A. Alexander, Cuyahoga County Probate Court
Elizabeth A. Batts, Benesch, Friedlander, Coplan & Aronoff LLP
Kari Ann Lillibridge Burns, Cleveland Metropolitan Bar Association
Monica Christofferson, Cuyahoga County Domestic Relations Court
Julie C. Cortes, The Legal Aid Society of Cleveland
Brandon D. Cox, Tucker Ellis LLP
Kendra Davitt, Cuyahoga County Court of Common Pleas
Christopher G. Dean, McDonald Hopkins LLC
Katy M. Franz, Eaton Corporation
John W. Hofstetter, Kastner Westman & Wilkins, LLC
John D. Lazzaretti, Squire Patton Boggs (US) LLP
Todd K. Masuda, Schneider Smeltz Spieth Bell LLP
Justin L. Monday, Benesch, Friedlander, Coplan & Aronoff LLP
Matthew W. O’Brien, Cuyahoga County Court of Common Pleas
Amanda M. Roe, Vorys, Sater, Seymour and Pease LLP
Justin C. Withrow, Law Office of Michael C. Hennenberg, Esq.

2017–2018 Established Leader Cohort Members

Awatef Assad, Cuyahoga County Department of Law
Christopher J. Carney, Brouse McDowell
Lisa Gasbarre Black, Catholic Charities Diocese of Cleveland
Jodi Spencer Johnson, Ice Miller LLP
Lori R. Kilpeck, Ziegler Metzger LLP
Andrea R. Kinast, Cuyahoga County Court of Common Pleas
Patrick J. Krebs, Taft Stettinius & Hollister LLP
Lori Ann Luka, Lazzaro Luka Law Office
Harold (Hal) O. Maxfield, Jr., Cavitch, Familo & Durkin Co., LPA
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K. Vesna Mijic-Barisic, Cleveland State University
Tom Mlakar, The Legal Aid Society of Cleveland
Kelli Kay Perk, Cuyahoga County Prosecutor’s Office
Scott J. Robinson, Schneider Smeltz Spieth Bell LLP
Joseph M. Saponaro, FisherBroyles LLP
Lori Wald, Intentional Lawyer
Kristin L. Wedell, Dickie, McCamey & Chilcote, P.C.
Christopher Zirke, Corporate United, Inc.

CleMetroBar.org/Leadership
Legal Aid at the Cleveland Public Library

BY TODD MASUDA

Legal Aid at the Library, a program of brief advice clinics, is the ongoing expression of a natural partnership between the Legal Aid Society of Cleveland and the Cleveland Public Library.

Few CMBA members need an introduction to Legal Aid. Legal Aid has been providing legal resources to vulnerable and low income clients for over a hundred years, and has received prominent support from our bar association and its members.

The Cleveland Public Library’s main branch in downtown Cleveland is one of the CMBA’s prominent neighbors. Well known to the downtown community, the Library is also a premier national library. In receiving a 5 star rating from the Library Journal, the Library joins an elite group comprising the top 3% of the nation’s public libraries. The Library’s director, Felton Thomas, who was honored by the Obama White House as a “Champion for Change,” currently serves as the President of the Public Library Association. Less obvious to downtown officeworkers are the Library’s 27 neighborhood branches, which extend the Library’s work and anchor communities throughout the city.

The Library functions as an excellent research and lending institution. Equally as important, the Library plays role as a larger resource to our poor, segregated city, and is devoted to service in other areas. On its own and through various community partnerships, the Library provides services such as free summer lunches for children, early childhood literacy programs, student loan counseling, parent education resources, and afterschool tutoring.

Five years ago, the Library added another service — legal consultations. One of Legal Aid’s key grass roots programs is the Brief Advice Clinic, in which attorneys volunteer their time to provide practical, face-to-face advice in neighborhood clinic settings. Legal Aid at the Library is a series of Brief Advice Clinics offered in the branch libraries. With Legal Aid at the Library, the two organizations engage in a true partnership that allows the Library to expand its mission of service in the community, and secures for Legal Aid an array of sites that enable clinic volunteers to reach every corner of the city.

The Library, which sponsors the clinics in conjunction with the Cleveland Public Library Foundation, works with Legal Aid to choose clinic locations based on neighborhood need, library traffic, and library layout. The Library promotes the clinics to its patrons and communities. Organized on a Saturday morning each month, the Library clinics start like all Brief Advice Clinics, with Legal Aid staff running an orientation for the volunteer lawyers and law students to familiarize the volunteers with the clinic process. Legal Aid also provides on-site print and computer resources, experienced staff lawyers, and, critically, coffee.

Since Legal Aid at the Library began, over 700 lawyers and law students have served nearly 2000 clients in the libraries. Each clinic serves an average of 35 clients. Family
Law, housing, employment and consumer matters are common matters. Volunteers are often called upon to advise clients on matters well outside their regular areas of practice, and rely on the savvy of the Legal Aid lawyers and other volunteers for guidance. As former volunteers know, many matters can be resolved simply by reading and explaining a document. Some matters may become pro bono cases that volunteers resolve outside of the clinic setting; others are directed into the Legal Aid intake process.

Legal Aid also stocks and maintains a display of brochures at each branch library, so library patrons can learn about resources provided by Legal Aid even in the absence of a clinic.

With the committed support of the Cleveland legal community, Legal Aid at the Library has energized branch libraries, extended Legal Aid’s brief legal advice offerings, and given volunteer attorneys and students an on-site view into the good work of both organizations. New volunteers are always welcome!

Learn more about volunteering with Legal Aid and its Brief Advice Clinics at https://lasclev.org/volunteer/brief-advice-and-referral-clinics/.

Find out about your Cleveland Public Library branch at https://cpl.org/locations/.

Join the Library community as a member of the Cleveland Public Library Foundation (also known as the Friends of the Cleveland Public Library) at https://friendscpl.org/donate/.

Todd Masuda serves on the board of directors for the Cleveland Public Library Foundation and is a regular Brief Advice Clinic volunteer. He is a business lawyer with Schneider Smeltz Spieth Bell in downtown Cleveland. He has been a CMBA member since 2007. He can be reached at (216) 696-4200 or tmasuda@sssb-law.com.
The Cuyahoga County Common Pleas Veterans Treatment Court (VTC) has accomplished a great deal in its two half years of operation. Its goal is to successfully rehabilitate veterans, who volunteer for this program, by diverting them from the traditional criminal justice system and providing them with the unique tools they need to lead a more productive and law-abiding life. The program focuses on veterans with the highest risk of reoffending and the greatest need for treatment programs. Veterans with lower risk and lower needs also are admitted. Presently, there are about 100 men and women veterans participating in this program. The Cleveland Metropolitan Bar Association serves as a member of the VTC Community Advisory Board.

A key aspect of the VTC is the volunteer veteran Mentor program to aid and assist the veteran participant. All of the Mentors are veterans who volunteer their time to attend court and meet with assigned veteran to assist that veteran in completing the requirements of this program. These Mentors are practicing or retired attorneys from major law firms to solo practitioners, as well as those in business, public service, and labor. The Mentors recently entered into an agreement with the Joint Veterans Council of Cuyahoga County, a 501(c) (3) organization, which is authorized to accept charitable contributions to benefit of VTC veterans. These tax-exempt contributions will fund approved innovative treatment programs not covered by the VA and the county or approved assistance to the veteran participants.

Three Recognition ceremonies have occurred for those 25 veterans who completed this demanding 12 to 18 month probation program. At this ceremony, each veteran receives a strikingly designed Challenge Coin in the form of a dog tag. The coin has the five branches of the military on the font, and on the back, Lady Justice, with four words stamped — “I can. We can.” — to represent that veterans take care of other veterans.

The VTC and I received national recognition in 2017. The VTC Treatment Team was selected to be one of the presenters at the national educational conference of the National Association of Drug Court Professionals (NADCP), and I received the Hank Pirowski Award from Justice for Vets, a division of NADCP. This award recognizes “the mission to connect justice-involved veterans with the benefits and treatment they have earned.” The Vietnam Veterans of America presented me with a similar award. In addition, I was named a charter member of a group selected by the Justice Department, National Institute of Corrections, to focus on programs to will help veterans nationwide.

Judge Michael E. Jackson was a Marine Corps lieutenant in Vietnam and received five personal medals for bravery, including two Bronze Stars and a Purple Heart. Shortly after becoming a Judge, he was diagnosed with a rare cancer that the Veterans Administration determined was the result of his repeated exposure to Agent Orange while in Vietnam. Today, Judge Jackson remains symptom-free plans to continue presiding over the VTC until his six-year term expires in January 2019, when by law he must retire. He has been a CMBA member since 1977.

For more information about the Volunteer Mentor Program, please contact: Judge Jackson at (216) 443-8755 or cpmej@cuyahogacounty.us, or Amanda Wozniak, VTC Coordinator; (216) 443-8484 or awozniak@cuyahogacounty.us.
NEW HELP CENTER BRINGS EFFICIENCY TO DOMESTIC RELATIONS COURT FILINGS

Judge Rosemary Grdina Gold & Anjanette Whitman

Every year, close to 8,000 cases are handled by the Cuyahoga County Domestic Relations Court. Over the past five years, the percentage of cases coming forward with at least one party without an attorney has increased to 61%. Often, the correct legal process was not followed and the paperwork filed by parties who cannot afford the services of an attorney was incomplete and inaccurate. As a result, cases were delayed and continuously rescheduled. The parties were frustrated. The Court staff were frustrated. A solution was needed and the Domestic Relations Court Help Center was created.

Administrative Judge Rosemary Grdina Gold served on the Supreme Court of Ohio’s Task Force on Access to Justice which was charged with making recommendations to ensure that our justice system is fair, accessible, and understandable to everyone. With those goals in mind, she envisioned the Help Center as a progressive, forward-thinking venture that serves all who have business at the Domestic Relations Court. Through her leadership and with the support of the CMBA and the Legal Aid Society of Cleveland, the Court has greatly expanded its efforts to assist self-represented parties and enhance customer service. Previously, the Court’s Information Center, created in 2010, provided court forms and approved judgment entries that ultimately terminate a marriage. The Court’s website has been upgraded to provide more information to those seeking it. Despite these efforts, self-represented litigants still had questions about the legal process and what to expect while at Court. The Help Center was established to provide more hands-on assistance to those with questions.

The Help Center is located in the Cuyahoga County Domestic Relations Court at One West Lakeside Avenue on the Ground Level in Room 29. The Help Center Staff consists of the manager who is a staff attorney and four specialists, two are paralegals. The Center is open during regular Court hours Monday through Friday 8:30 a.m. – 4:30 p.m. The main function of the Help Center is to provide a central location for visitors to the Court to receive consistent and accurate information about the functions of the Court and how it serves the people.

Specifically, the Help Center helps people understand how to initiate a divorce, dissolution or legal separation, file an answer, complete post-decree motions, appear for a final hearing, and obtain pre-approval of the judgment entries required to terminate a marriage. While the Help Center Staff does not provide legal advice nor tell visitors what they should do, the staff may offer options of what they can do. Many forms are available on the Court’s website. However, the Help Center staff member can answer questions as a person reviews the forms so a greater understanding of each available document is achieved.

The Help Center is also open to attorneys. Attorneys have greater access to resources as they negotiate their cases. Two workstations with CMBA computers and printers allow attorneys to review documents needed to finalize their cases in an efficient manner. These workstations allow attorneys to compute child support using Puritas Springs Software and use a personal USB device with drafts of their documents. A third computer workstation has a separate computer with internet access and a wireless printer so that anyone with a wireless compatible device can print directly from the device. All Court documents available on the Court’s website including judgment entries may be printed from this separate computer workstation.

The Help Center continues to evolve with every new case addressed by the specialists. The Court foresees the Help Center streamlining the court process so that more attention may be dedicated to all parties and attorneys in the most efficient manner possible. Judge Gold hopes to expand its services to include attorneys willing to offer legal advice on a pro bono basis.

The Help Center vision now is a reality and it is working. The responses to the services provided have been overwhelmingly positive. Visitors providing feedback on exit surveys have commented:

“Every question was answered and covered for us to understand.”

“Please advertise your services to the public. This service is invaluable and the staff is awesome. Thank you for all of your help.”

“The help was amazing.”

Over 3,756 in people have visited the Help Center since it opened on April 24, 2017. The highest volume of people to visit in one day has been 60. Additionally, Help Center staff answer approximately 24 phone calls per day. The majority of people seeking assistance from the Help Center are women with children and an annual income of $29,000 or less wanting to terminate their marriage. For more information, visit www.domestic.cuyahogacounty.us or call (216) 443-8880.

Judge Rosemary Grdina Gold has served on the Court since April 2010. She is currently in her second (first full) term which will end in January 2021. She has served as Administrative Judge of the Court since January 1, 2016. Prior to joining the Court, Judge Grdina Gold practiced family law for over 27 years. She brings this experience to the bench in the handling of her docket. She has been a CMBA member since 2013.

Anjanette A. Whitman is the Cuyahoga County Domestic Relations Court Help Center Manager. Ms. Whitman has been practicing family law for over 17 years. She was in private practice for 12 years prior to being appointed as Cuyahoga County Juvenile Court Judge in 2012 and subsequently as a Trial Magistrate with the Cuyahoga County Domestic Relations Court. She has been a CMBA member since 2013. She can be reached at (216) 443-8880 or awhitman@cuyahogacounty.us.
ALL PROGRAMS WILL BE HELD AT THE CMBA CONFERENCE CENTER

Below are CLE programs that offer 3.0 credit hours or more. The CMBA also offers a vast number of 1.0 hour CLE options.
Visit CleMetroBar.org/CLE for a full schedule.

NOVEMBER
14 Forensic Accounting for Lawyers
15 The Nuts and Bolts of Fee Shifting
15 Elite Appellate Writing for the Rest of Us: Using Techniques of Top Supreme Court Advocates in Your Practice
16 The Basics of Handling an Auto Accident Case
17 De-Stress Fest
29 Perspectives on Human Trafficking
30 Exit Row Ethics: What Rude Airline Travel Stories Teach About Attorney Ethics
30 Fluff Is For Pillows, Not Legal Writing

DECEMBER
1 Advanced Workers’ Compensation Medical/Legal Seminar
2 Legal Eagles Year End Update
4 E-Discovery from Four Different Perspectives Video
5, 6 & 7 New Lawyer Bootcamp
8 2017 Environmental Law Institute
9 Municipal Court Update (Independence Civic Center)
11 Sizzling Hot Topics in Professional Conduct Video
12 Pitfalls and Pointers for Young Litigators
13 Social Security Disability Half-Day CLE
14 Tough Talks: It’s Not What You Say, It’s What They Hear.
15 2017 Federal Practice Update Live
16 Sizzling Hot Topics in Professional Conduct Video
18 Identity Theft for Law Firms Video
19 Speed CLE: Year in Review
19 Don’t Let It Be You: Professional Conduct for the Modern Practitioner

The Nuts and Bolts of Fee Shifting
Wednesday, November 15
CREDITS 2.00 CLE requested
REGISTRATION 8:30 a.m.
PROGRAM 8:50 a.m. – 11:15 p.m.
Welcome & Introductions
Fee Shifting Statutes
Aimee E. Gilman, Agins & Gilman, LLC
Kerry M. Agins, Agins & Gilman, LLC
How to Avoid Having Your Client Get Tagged For Fees, or G-d forbid, Yourself: How to Defend Against a Fee Action (.50 professional conduct)
Aimee E. Gilman, Agins & Gilman, LLC
Kerry M. Agins, Agins & Gilman, LLC

Elite Appellate Writing for the Rest of Us: Using the Techniques of Top Supreme Court Advocates in Your Practice
Wednesday, November 15
CREDITS 3.00 CLE requested
REGISTRATION 12:30 p.m.
PROGRAM 12:55 – 4:15 p.m.
The purpose of appellate work and the “Golden Rule” of appellate advocacy
Keep them awake: Making your writing interesting
Frame the issue: Drafting issue statements
Tell a story: Drafting the statement of the case
Set the stage: Drafting the introduction/ summary of argument
Make it easy on the eyes: Improving persuasiveness visually
PRESENTER Matthew D. Besser, Bolek Besser Glesius LLC
Matt Besser is an adjunct law professor at Case Western Reserve University School of Law, where he teaches appellate advocacy.
How to Handle the Basic Auto Accident Case

Thursday, November 16

CREDITS 3.00 CLE and New Lawyer Training

REGISTRATION 12:30 p.m.

PROGRAM 1:00 p.m. – 4:15 p.m.

Basic Questions to Figure Out Whether The Case is a “Dog”
Linda M. Gorczynski, Hickman & Lowder Co., LPA, Seminar Chair

Client Communications
Insurance: How to Get the Most Money Out of the Insurance Company from Day One

Your “Punch List” for Document and Information Collection
Dealing with the Adjuster
Where to go next
Ending the Case on a High Note

PRESENTER
William J. Price, Elk & Elk Co., LPA

De-Stress Fest

Friday, November 17

CREDITS 3.00 CLE hours requested

REGISTRATION 11:45 a.m.

PROGRAM 12:00 p.m. – 4:45 p.m.

Welcome and Introductions
Mindfulness in Law
Hon. Robert Childers, Retired, Tennessee Circuit Court

Postcards from the Edge: Managing Stress, Anxiety and the Practice of Law
Hon. Robert Childers
Rita Bryce, JD, LSWM, Attorney at Law
Heather M. Zirke, Bar Counsel, CMBA
Richard D. Manoloff, Squire Patton Boggs LLP
Daniel L. Messeloff, Tucker Ellis LLP, Moderator

A New Way to Think About Your Brain
Gloria Treister, HHPr Wellness Evolution

Techniques for Talking Back to the Anxious Voices Inside Your Head
Scott M. Bea, Psy.D., Clinical Psychologist, Cleveland Clinic

Ways to Wellness Breakout Sessions (no CLE)
Visit our breakout sessions to learn new ways to bring wellness to your life.
Meditation – Lori Wald, Intentional Lawyer
Exercises for Work – Zachary Lewis, Plain Dealer Columnist
Acupuncture – Molly Enders, LAc
Yoga – Practitioner to be announced

What You Need To Know Now: Perspectives on Human Trafficking

Wednesday, November 29

CREDITS 3.00 hours CLE

REGISTRATION 12:30 p.m.

Welcome and Introductions
The Local Perspective
Hon. Marilyn Cassidy, Cleveland Municipal Court
Teresa Stafford, Cleveland Rape Crisis Center

The State Perspective
Sophia Papadimos, Anti-Human Trafficking Coordinator for the Ohio Human Trafficking Task Force

The Federal Perspective
Bridget Brennan, United States Attorney’s Office
Jennifer Meyers, FBI (invited)

How Can Lawyers Help?
Maureen Kenny, Case Western Reserve Univ. School of Law, Human Trafficking Project

Exit Row Ethics: What Rude Airline Stories Teach About Attorney Ethics

Thursday, November 30

TOPICS

• Sneaking into first class and other deceptive tactics (Rule 8.4)
• Leaving the window shade open and other unprofessional behavior reflected in the rules (Rule 1.2)
• Wear your pajamas on the plane, but not in court (professionalism issues)
• Small airplane bottles of booze can lead to large substance abuse problems

PRESENTER
Stuart I. Teicher, Esq.

Fluff is for Pillows Not Legal Writing

Thursday, November 30

CREDITS 3.00 hours CLE

REGISTRATION 8:30 a.m.

TOPICS

• The MPH Approach: Mindset, Process and Habits
• Writing Part #1: Thinking - The ROMA Acronym: Role, Objective, Medium, Audience
• Writing Part #2: Organizing - It’s not strange if you arrange
• Writing Part #3: Execution
• How “Plain English” is the Fix
• The Only Punctuation You’ll Ever Need to Know for Legal Writing

PRESENTER
Stuart I. Teicher, Esq., is a professional legal educator who focuses on ethics law and writing instruction. A practicing attorney for over two decades, Stuart’s career is now dedicated to helping fellow attorneys survive the practice of law and thrive in the profession. Mr. Teicher teaches seminars, provides in-house training to law firms/legal departments, and gives keynote speeches at conventions and association meetings. Stuart helps attorneys get better at what they do (and enjoy the process) through his entertaining and educational CLE Performances. His expertise is in “Technethics,” a term Stuart coined that refers to the ethical issues in social networking and other technology. Stuart also speaks about “Practical Ethics”—those lessons hidden in the ethics rules that enhance a lawyer’s practice.
Advanced Workers’ Compensation Medical-Legal Seminar

Friday, December 1

CREDITS 6.00 CLE requested

REGISTRATION 8:00 a.m.

PROGRAM 8:30 a.m. – 4:15 p.m.

Opening Remarks
Anthony A. Baucco, Ross Brittain & Schonberg Co., LPA Seminar Chair

The ABC’s of CRPS and RSD: Truths, Myths, and Making and Objective Diagnosis
Kevin Trangle, MD, MBA, BCIM, FACOEM, FAADER, CIME, CMRO

Chair, Corporate Medical Group ACOEM; Chair, Finance and Practice Management ACOEM

Medical Director, Moore Counseling and Mediation Services (MCMS)

Facts about Spinal Fusion: True Life Tales from a Cleveland Clinic Spine Surgeon
Ajit A. Krishnany, MD, FAANS, Vice-Chair, Department of Neurosurgery and Associate Director, Center for Spine Health, Cleveland Clinic

Industrial Commission Update
Thomas (Tim) H. Bainbridge, Chairman, Employee Member

Jodie M. Taylor, Employee Member
Karen L. Gillmor, Ph.D., Public Member

Objective Assessment of Additional Allowance and Maximum Medical Improvement in Psychological Claims: When is it Not Normal to be Distressed About an Injury?
Robert G. Kaplan, Ph.D., Kaplan Consulting & Counseling Inc.

Workers’ Compensation Case Law Update
Rebecca Kopp Levine, Porter Wright Morris & Arthur LLP

Ethics in Workers’ Compensation
Danielle S. Coleman, Ziccarelli & Martello

Tuesday, December 5

PROGRAM 12:00 p.m. – 5:15 p.m.

Networking Lunch

A Day in the Life — Managing Your Practice (Law Practice Management credit)

Government Practice
Small Firm/Solo
In-House
Large Firm

Ethics in a Social Media World (1.00 hour Professional Conduct)

Ten Tips: Avoiding IOLTA and Ethical Traps (1.00 Client Fund Management credit)

Wednesday, December 6

PROGRAM 1:00 – 5:15 p.m.

Optional court tours and start Courthouse ID ($20 fee) process

How to Screen a Case

Skilledly Handling Your First Deposition

Sample This: Sample Forms and Electronic Resources

View from the Bench — What To Know and What To Do When Appearing In Court

Work-Life Balance

Thursday, December 7

PROGRAM 12:00 p.m.

Lunch

Practice 101 presentation including CLE requirements, pro bono and community service, professional development

Welcome and Review

I’ll Stand By You: The Importance of Mentoring and Finding a Champion

The Art of Persuasion: Is Trial Advocacy a Dying Art? Trial Skills Session

Networking & Client Relations

The Grass is Always Greener: Job Searching in the New Reality

What’s Asked in Bootcamp, Stays in Bootcamp: End of the Day Q&A

Adjourn to Celebration for New Lawyers

Environmental Law Institute: The Redevelopment and Revival of Cleveland

Friday, December 8

CREDITS 5.50 CLE Hours

REGISTRATION 8:30 a.m.

PROGRAM 9:00 a.m. – 4:00 p.m.

networking reception to follow

Welcome and Introductions
Keely J. O’Bryan, McMahon DeGulis LLP

Environmental Law Section Past Chair
Brett C. Altier, Ulmer & Berne LLP

Institute Chair

Structuring a Real Estate Deal to Allocate Environmental Risk
Kevin D. Margolis, Benesch, Friedlander, Coplan & Aronoff LLP

Alternative Financing Sources for Redevelopment of Property
David Meyer, Ulmer & Berne LLP

Alan W. Scheufler, Ulmer & Berne LLP

Case Study on the Former Coyne Facility
Meagan L. Moore, Brouse McDowell

Matthew D. Knecht, President, HZW Environmental Consultants, LLC

Green Infrastructure and Integrated Planning
Louis L. McMahon, McMahon DeGulis LLP

Lunch and Guest Presentation: David Ebersole, Interim Director, City of Cleveland Department of Economic Development

Panel Discussion: The Redevelopment of the Flats East Bank
Harley Cohen, Harlan & Associates
Mike McKim, AECOM
Gregory DeGulis, McMahon DeGulis LLP

Tools of Land Banks: Case Study of Redevelopment/Stabilization Projects
Douglas Sawyer, Assistant General Counsel, Cuyahoga County Land Reutilization Corp.

Will Concern About Vapor Intrusion Take You to the Cleaners
Michael S. McMahon, McMahon DeGulis LLP

Environmental Risk Financing (Environmental Insurance)
Rob Snyder, CPCU, CIC, Vice President, Environmental Risk Management, The Fedeli Group
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The Cleveland Metropolitan Bar Association offers high-quality online CLE, a convenient way for you to earn up to 12 hours of Ohio CLE credit per reporting period.

Our online CLE programming allows you to take CLE courses on a wide variety of topics, any time of the day, any day of the week. And, at only $45 per hour for members and $60 per hour for non-members, our online CLE is also cost-effective.

For more information or to view course listings, please visit Cleveland.FastCLE.com or call (216) 696-2404.
The 3Rs
Rights • Responsibilities • Realities
Volunteers provide law-related education in local high schools.
Each volunteer serves on a team that visits an assigned classroom in a Cleveland or East Cleveland public high school to present six lessons on the U.S. Constitution and career counseling. Curriculum and volunteer orientation are provided.
 Dates: Oct. 2017–May 2018 (One classroom visit per month)
CleMetroBar.org/3Rs

3Rs+
Volunteers provide college and career counseling, tutoring, and mentoring services to 11th and 12th graders in the Cleveland and East Cleveland schools, upon request.
 Dates: Oct. 2017–May 2018 (scheduled as needed)
CleMetroBar.org/3Rs

The Legal Clinics at the Cleveland Metropolitan School District
Volunteers staff regular brief advice clinics at Glenville and Lincoln-West high schools for CMSD students and their families.
 Dates: Scheduled Thursdays throughout the school year
CleMetroBar.org/TLCattheCMSD

Cleveland Mock Trial Competition & Middle School Mock Trial
Volunteer attorneys and law students serve as team legal advisors to Cleveland high school and middle school students for competition before a panel of volunteer judges in the spring.
 Dates: Coaching Feb.–May 2018; Competitions in May
CleMetroBar.org/ClevelandMockTrial

Ohio Mock Trial Competitions
Volunteers serve as judicial panelists for teams of high school students from public, private, and home schools across the region. Volunteers can also serve as team legal advisors.
 Dates: Cuyahoga District Competition Jan. 26, 2018; Cuyahoga Regional Competition Feb. 16, 2018
CleMetroBar.org/OhioMockTrial

Speakers Bureau
Volunteers address groups from throughout the community on a wide variety of legal topics.
 Dates: As needed throughout the year

Reach Out: Legal Assistance for Nonprofits
Reach Out seminars held quarterly feature free presentations on the law for both nonprofit leaders and volunteer attorneys, followed by brief advice sessions. Volunteers assist by presenting at clinics, participating in teams at brief advice sessions, and/or agreeing to take on further representation as needed.
 Dates: Seminars scheduled quarterly throughout the year
CleMetroBar.org/ReachOut

Cleveland Homeless Legal Assistance Program (CHLAP)
Volunteers can provide service by: (1) providing brief advice and counsel at intake sessions at homeless shelters and social service providers, or (2) providing follow-up service on legal matters needing further attention.
 Dates: Sessions scheduled regularly throughout the year
CleMetroBar.org/CHLAP

Pro Se Divorce Clinics
Volunteers guide participants through the paperwork and process of securing a simple divorce pro se.
 Dates: 3rd Friday monthly unless otherwise noted
CleMetroBar.org/ProSeDivorce

Volunteer Lawyers for the Arts (VLA)
Volunteers provide pro bono assistance and advice for legal issues faced by artists, and a series of free law-related education events held in Cleveland’s many unique arts venues and schools.
 Dates: Committee meets monthly, other services TBD throughout the year
CleMetroBar.org/VLA

COMING SOON
• Nov. 17 – 3Rs Lesson Two (Cle & East Cle schools)
• Nov. 17 – Pro Se Divorce Clinic
• Nov. 28 – “Mixing Session: Empowering and Protecting Cleveland’s Musicians” – VLA presentation with Sixth City Sounds at the Beachland Ballroom & Tavern
• Jan. 19 – Pro Se & Pro Se “Plus” Divorce Clinics
• Jan. 26 – Ohio Mock Trial Cuyahoga District Competition
• Feb. 16 – Ohio Mock Trial Cuyahoga Regional Competition
• Feb. 23 – Pro Se Divorce Clinic

For more about volunteering, please visit CleMetroBar.org/VolunteerNow or contact Jessica Paine, Director of Community Programs, at (216) 696-3525 or j疼痛@clemetrobar.org

Volunteering á la Carte
The CMBA’s Justice For All (JFA) programs offer volunteers a true variety of opportunities to give back to their community, with such an extensive range of commitment levels and experience requirements that everyone, attorneys, judges, law students, paralegals, and other legal professionals can find something to match their interests and availability.
Join the Lawyer Referral Service ... Apply Today!

LRS provides an average of 56 referrals per day and 1,000 referrals each month. Getting connected with potential clients is easy & can add value to your practice while you provide a public service. Take it from our LRS attorneys & LRS clients

“Thank you for your LRS. Your intake person was very clear, very helpful and very empathetic. She gave me the confidence to contact an attorney.”
Linda – 2017 LRS Client

“Because of CMBA’s LRS, I was able to conduct business in a timely manner, enter into a contract confidently & well educated about the risks.”
Sandra – 2017 LRS client

“All of the lawyers in our firm participate in the LRS and we have done so for many years. The cases we have received from the LRS in the last few years have ranged from a few thousand to a few million dollars in value. I would advise any lawyer looking to build their practice & help the community to enroll in the LRS.”
Ryan Fisher, Esq. – LRS Attorney

“The LRS helped my practice by providing a client base I could not otherwise develop fully, not being a big firm lawyer ... LRS is where we most frequently meet the public & improve the reputation of the profession & its practitioners.”
David Gallup, Esq. – LRS Attorney

“Thank you for the fantastic service. I talked to a couple other law firms and never would have been in touch with (LRS attorney) if I didn’t use the LRS. Thank you.”
Peter – 2017 LRS Client

“CMBA LRS has shown itself to be an organization I can trust. I would recommend this service to anyone who needs legal direction.”
Lauren – 2017 LRS Client

CleMetroBar.org/lawyerreferral or call Katie Donovan Onders at (216) 539-5979

APPLY TODAY

Upcoming Events

Monthly Meetings
Held the third Wednesday of every month at varying locations (unless otherwise noted)
November 15, 2017 – 6:30 p.m. location TBD
December 20, 2017 – noon – Call in meeting

CLE Lunch ’n’ Learns
CAP will be hosting the following topics
December 5, 2017 – Nonprofit and Charitable Organizations
February – (Date TBA) – Ethics and UPL for Paralegals

Future Events
November 8, 2017 – The Paralegal Association of Central Ohio’s Annual CLE / LASC Pro Bono Wills Clinic at the Columbus Legal Aid offices – Please contact Becky Kerstetter at president@capohio.org for more information and how to get involved.

Not a member of CAP — why not? Join today!
CleMetroBar.org/Paralegals or CapOhio.org/joinCap

2017–18 CAP Board
President/Co-CMBA Liaison/
NFPA Secondary
Becky Kerstetter
Vice President/Co-CMBA Liaison/
NFPA Primary
Jessica Kubiak
Director of Professional
Development/Litigation & Pro Bono
Coordinator
Tiffany Lubahn
Director of Membership/Student
Membership Coordinator
Christine Buddner
Secretary/Parliamentarian
Joan Shackleton
Treasurer
Jennifer Sybyl

CLEVELAND ASSOCIATION of PARALEGALS, INC.
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
<table>
<thead>
<tr>
<th>MONDAY</th>
<th>TUESDAY</th>
<th>WEDNESDAY</th>
<th>THURSDAY</th>
<th>FRIDAY</th>
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<tr>
<td>20</td>
<td>PLI – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>Office Closed</td>
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<td>21</td>
<td>Grievance Committee</td>
<td>Insurance Law Section</td>
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<td>28</td>
<td>Mental Health Mtg.</td>
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<td>29</td>
<td>3Rs Committee Mtg.</td>
<td>Perspective on Human Trafficking CLE – 1 p.m.</td>
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<td>4</td>
<td>CMBF Executive Committee Mtg.</td>
<td>– 8 a.m.</td>
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<td>5</td>
<td>CAP Mtg. – 11 a.m.</td>
<td>New Lawyer Bootcamp Grievance Committee Mtg.</td>
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<td>6</td>
<td>International Law Section</td>
<td>New Lawyer Bootcamp WIL Section Mtg.</td>
<td>CMBA Membership Committee Mtg.</td>
<td>CMBA Board of Trustees Mtg. – 4:30 p.m.</td>
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<td>7</td>
<td>New Lawyer Bootcamp YLS Council Mtg.</td>
<td>Celebration for New Lawyers – 5 p.m.</td>
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<td>8</td>
<td>CMBA CLE – Environmental Law Institute</td>
<td>– 8 a.m.</td>
<td>PLI – 8:30 a.m.</td>
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<td>11</td>
<td>PLI – 8:30 a.m.</td>
<td>Sizzling Hot Topics in Professional Conduct Video – 1 p.m.</td>
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<td>12</td>
<td>PLI – 8:30 a.m.</td>
<td>Pitfalls and Pointers for Young Litigators – 1 p.m.</td>
<td>ADR Section</td>
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<td>13</td>
<td>PLI – 8:30 a.m.</td>
<td>Security Disability CLE – 12 p.m.</td>
<td>CMBA Executive Committee Mtg.</td>
<td>UPL Committee Mtg.</td>
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<td>18</td>
<td>Video – Identity Theft</td>
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<td>19</td>
<td>Year End Speed CLE – 9 a.m.</td>
<td>Don’t Let It Be You: Professional Conduct CLE – 8 a.m.</td>
<td>Estate Planning, Probate and Trust Law Section</td>
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<td>20</td>
<td>Estate Planning Institute Video – 8 a.m.</td>
<td>CMBA Board of Trustees Mtg.</td>
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<td>Real Estate Law Institute Video – 8 a.m.</td>
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<td>Real Estate Law Institute Video – 8 a.m.</td>
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<td>O’Neill Bankruptcy Institute Video – 8 a.m.</td>
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<td>O’Neill Bankruptcy Institute Video – 8 a.m.</td>
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<td>29</td>
<td>Labor &amp; Employment Conference – 8 a.m.</td>
<td>Professional Conduct CLE Video – 9 a.m.</td>
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All events held at noon at the CMBA Conference Center unless otherwise noted.
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

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

Downtown Cleveland – 3 Large furnished officers available for sublease in existing suite. Space also includes two cubicles. If interested, please call (216) 696-3232 or email uahmed@spanglaw.com.

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.

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

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

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


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

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

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

Chagrin Falls – Office space available with conference room and 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.
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.

Sheffield Village – Law office for rent in prime location near I-90, has ample parking and handicap accessibility. Furniture is available for sale. Call (440) 503-9090.

Harden Forbes contract Desk and Hutch. Solid Cherry. 78x38 Desk with inlaid leather and glass top. Hutch 78x38x78 with built-in workstation, glass enclosed cases on either side. Pictures available. Asking $3500. You pick up. Contact Carole at (216) 513-4085

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


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.

Certified Divorce Financial Analyst – Financial Affidavit, Budget, Cash Flow Projections, Executive Compensation Valuation, Separate Property Tracing, etc. Contact Leah Hadley, CDFA, MAFF at (866) 545-1001; leah@greatlakesdfs.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

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


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@pentellec.com

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@neebittinger.com; (440) 782-7825.

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

THE CMBA INSURANCE PROGRAM

In partnership with Oswald, CMBA is proud to offer its members an insurance package customized specifically to the unique needs of law firms. We’ve combined our expertise to bring you access to:

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The law firm practice at Oswald partners with hundreds of firms to provide comprehensive insurance and risk management solutions. Our experienced team offers services in the areas of coverage placement, analysis and program recommendations, claims analysis and coverage counseling, risk management and exclusive specialty programs including

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Contact us today!
Visit us online at www.clemetrobar.org/insurance or contact Oswald at 216.658.5202
**Partners of the Year.** Goldenberg have been named “Lawyers of the Year.” The following Reminger Co., LPA attorneys were included on the 2018 Best Lawyers in America list: Hugh J. Bode, Joseph E. Cavasinni, Mario C. Ciano, Andrew J. Dorman, Adam M. Fried, Daniel R. Haude, Roy Hulme, Barbara B. Janovitz, Frank Leonetti III, Clifford C. Masch, William A. Meadows, Russell J. Meraglio, Jr., John Patrick, Christine Santoni, James T. Turek, Stephen E. Walters, and Leon A. Weiss.

U.S. News Media Group ranked Thacker Robinson Zinz LPA as a “Best Law Firm” for the seventh consecutive year. For 2018, the firm was listed as “Best” in Cleveland in the practice areas of Commercial Litigation, Land Use & Zoning Litigation, and Municipal Litigation.

Reminger Co., LPA is pleased to announce that Estate Planning Chair Barbara Bellin Janovitz has been chosen by the Cleveland Jewish News as one of 2017’s “18 Difference Makers.”

Remington Co., LPA is pleased to announce that Clifford C. Masch has been named incoming Vice President of the EC Defense Network.

Strongsville Magistrate Ken Kraus has been appointed Chairman of the Charter Review Commission for the City of Beachwood where he resides.

**New Associations & Promotions**

Frantz Ward is pleased to announce the addition of Thomas G. Haren as Associate to its Litigation Practice Group.

Jones Day is pleased to announce Adam Hollingsworth, former Assistant United States Attorney for the Northern District of Ohio, has joined Jones Day as Of Counsel in its Investigations & White Collar Defense Practice.

FisherBroyles, LLC is pleased to announce that Suzanne Kleinsmith Saganich has been named to the 2018 Edition of Best Lawyers, in the areas of Banking and Finance Law, Financial Services Regulation Law, and Real Estate Law.

**Honors**

Tucker Ellis LLP is proud to announce that 40 of the firm’s Cleveland attorneys have been selected for inclusion in The Best Lawyers in America for 2018. The attorneys are: Thomas Baker, Henry Billingsley, Ann Caresani, Jonathan Cooper, Harry Cornett, Corine Corpora, Richard Dean, Stephen Ellis, Robert Hanna, Michael Harris, Jeffrey Healy, Christopher Hewitt, Laura Hong, Peter Igeli, Irene Keyse-Walker, Eugene Killeen, Joseph Koncelik, John Lewis, Rita Maimbourg, John McCaffrey, Mark McCarthy, Erica McGregor, Daniel Messeloff, Joseph Morford, Matthew Moriarty, Glenn Morrical, Carl Muller, Brian O’Neill, Thomas Ostrowski, Anthony Petruzzi, Susan Racey, Keith Raker, Thomas Simmons, Ronald Stanbury, Edward Taber, Robert Tucker, Victoria Vance, S. Peter Voudouris, Jane Warner, and Kevin Young.

Hahn Loeser & Parks LLP has been ranked in the 2017 edition of Chambers HNW (High Net Worth) Guide, a leading reference for selecting business lawyers in the international private wealth market. The firm has been named a leading law firm in Ohio for Private Wealth Law.

FisherBroyles, LLC is pleased to announce that Suzanne Kleinsmith Saganich has been named to the 2018 Edition of Best Lawyers, in the areas of Banking and Finance Law, Financial Services Regulation Law, and Real Estate Law.

**Elections & Appointments**

Frantz Ward is pleased to announce that attorney, Michael J. Frantz, Jr., attorney in the firm’s Construction Practice Group, has been named to the Cleveland Bridge Builders Class of 2018.

**Announcements**

The law firm of Buckley King is expanding its corporate practice with the addition of the lawyers of Bender, Alexander & Broome Co., LPA, who have merged their practices into the Firm including J. Timothy Bender (pictured) and J. Scott Broome.

Tucker Ellis LLP and Case Western Reserve University’s Weatherhead School of Management Executive Education are pleased to announce a first-of-its-kind partnership to provide firm-wide emotional intelligence training to Tucker Ellis attorneys and staff.

Veteran attorney Frank Manning has teamed with Jody Clair to form Manning & Clair Attorneys at Law (www.manning-law.com). The firm will offer clients legal services stretching across a variety of disciplines from corporate litigation to domestic relations to criminal defense.

Cleveland State University’s Cleveland-Marshall College of Law is expanding its space policy initiatives through the creation of the Global Space Law Center. It is the first law school research center in the United States dedicated exclusively to the study of the law of outer space.

**Something To Share?**

Send brief member news and notices for the Briefcase to Jackie Baraona at jbaraona@clemetrobar.org. Please send announcements by the 1st of the month prior to publication to guarantee inclusion.
Tucker Ellis salutes its outstanding female attorneys for their talent, dedication, and service to our clients, our communities, and our firm.