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Barre Fly is a fitness studio unlike any other. Classes we offer include barre, pilates, barre booty lift, aerial yoga, lyra hoop, and our own signature classes (H)HIIT and BarreFly. Our classes are a complete body workout that are suitable for all ages and levels of fitness. You do not have to have any ballet training to take a barre class and it is not a dance class. Barre Fly takes the typical barre class up a level, literally. Our technique and sequencing ensures long lean muscles with no bulk.

Barre Fly Classes have elements of classic barre, pilates, yoga, and anti-gravity core work. We focus on areas that are traditionally difficult for women to keep toned, hips, glutes, abs and arms. Our full body fitness classes works muscles to fatigue so you see fast results and feel stronger after just one class!

Yoga Strong is an inclusive yoga studio based in Canton and Cleveland offering a unique fusion of movement. Our teachers are trained with a blend of traditional and modern techniques creating the ideal dichotomy of spiritual and fitness oriented yoga. Within the framework of Yoga Strong you will find a staff with highly individualized teaching styles as each instructor is given the flexibility to be themselves completely. At Yoga Strong we embody that yoga actually is for everyone and strive to offer you diversity and variety in our classes so that every student can feel supported in our all inclusive environment.

Soza Fitness & Wellness is like Cheers, but with with “Kick Butt” Instructors. Everyone knows your name, and everyone is family. Soza is committed to helping you live, work, and play healthy.

Yoga Roots. Our dream is to provide a studio that allows everyone to feel an authentic sense of connection to this community. We encourage our practitioners to be present; to live in each moment and each breath. Discover your edge, and know that we are there right along side you, excited to help you learn more about yourself and your practice.

Whether you are new to yoga, recovering from an injury, an advanced athlete, or looking to grow and deepen your practice. Yoga Roots will provide a safe and welcoming space to do so. In the end, it’s your mat, your practice, and we’re committed to helping you get there: get rooted.
In August 2017, the ABA's National Task Force on Lawyer Well-Being issued its report on wellness in the legal profession. Entitled "The Path to Lawyer Well-Being: Practical Recommendations for Positive Change," the report sounded a cautionary note that although most lawyers and law students do not suffer from either a mental health or substance use disorder, this "does not mean that they're thriving." (https://tinyurl.com/y7avw4aj, at p. 7.) Rather, “[d]epression, anxiety, chronic stress, burnout, and substance use disorders exceed those of many other professions.” (Id. at 47.)

Citing a 2016 survey of 13,000 active lawyers by the ABA's Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation, the report offered some truly startling statistics. For example, "between 21 and 36 percent [of respondents] qualify as problem drinkers" and "approximately 28 percent, 19 percent, and 23 percent are struggling with some level of depression, anxiety, and stress, respectively." (Id. at 7.)

Similarly, a survey of more than 3,300 law students found that "17 percent experienced some level of depression, 14 percent experienced severe anxiety, 23 percent had mild or moderate anxiety, and six percent reported serious suicidal thoughts in the past year." (Id.) In addition, "43 percent reported binge drinking at least once in the prior two weeks and nearly one-quarter (22 percent) reported binge-drinking two or more times during that period. One-quarter fell into the category of being at risk for alcoholism for which further screening was recommended.” (Id.)

The report goes on to detail more than 50 specific recommendations for actions to be taken by judges, regulators, employers, law schools, bar associations, legal insurers, and lawyer assistance programs that are designed to reduce dysfunction and boost well-being in our profession. The recommendations run the gamut, from accentuating the importance of well-being beginning in law school to de-emphasizing alcohol at social events. An overarching theme is that there needs to be a concerted effort to eradicate the stigma that may be associated with a lawyer’s request for help.

Fortunately, CMBA has been well-ahead of the curve on this issue. In August, after six months of planning by the Mental Health and Wellness Committee, we commenced our own Wellness Wednesdays. Devoted to exploring concrete actions that you can take to mitigate the health- and stress-related challenges inherent in the daily grind of practicing law, these free, 60-minute lunchtime/after work sessions have been a huge hit with attendees. Implementation of such programs is fully consistent with the ABA's report, which specifically recommends that bar associations develop and provide quality programming on well-being topics.

In October, our sessions will include barre, strength training, yoga, and meditation. Then, on November 8, in cooperation with our friends at the YMCA of Greater Cleveland, we will convene a Wellness Bootcamp. This will be in preparation for the first-ever De-Stress Fest, which will be held on November 17 starting at 12:00 p.m. The details for this exciting session remain under wraps at the moment, so be sure to check the Committee's website (CleMetroBar.org/Wellness) for more information as the date draws closer.

Speaking of events in November, I’m putting out a call for CMBA members to join me in supporting the Movember movement! If you haven’t heard of it, the Movember Foundation works to combat men’s health issues, in particular prostate cancer, testicular cancer, and mental health/suicide. Founded in 2003, the Foundation has raised more than $700 million, which it has used to fund 1,200 breakthrough men’s health programs around the world.

Movemeber’s principal fund-raising mechanism is unique: Participants (so-called "Mo Bros") start November 1st clean-shaven, and then grow a moustache throughout the month, with family and friends agreeing to donate in support of the facial hair-growing effort. (This explains the Foundation's slogan, "Grow a Mo, Save a Bro.")

The Foundation also promotes "Move for Movember," with participants setting a goal for movement throughout the month. It doesn't matter how you move — walk, run, climb, whatever — just get out and get some physical activity, which we all understand to be a key to leading a healthy lifestyle. While the moustache growing effort may be limited to men, Move for Movember is not gender specific. Anyone can join, and can do so individually or as part of a team.

I encourage anyone who is interested in learning more about Movember to visit the Foundation’s website at www.movember.com. And if you’re willing to sponsor your CMBA President’s first-ever effort to grow a moustache, please visit my Mo Bro page at https://mobro.co/13560831!

Darrell A. Clay is the 10th 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.
It is with great sadness that we share the news that Thomas Lee Dettelbach passed away on September 11. Tom was a past president of both our association and foundation (Cuyahoga County Bar Association, 1981-1982, and Cuyahoga County Bar Foundation, 1982–1983). A talented lawyer and musician, Tom’s smiles, stories and jokes entertained friends, relatives and juries for decades. As shared by his son, Steve, “He was never able to turn away from either a request from a client in need or a request to sing a song to a group — especially if there was microphone and large audience available.” Tom was a community and legal leader who will forever remain a great role model for all of us. He will be dearly missed.

Contributions in Tom’s memory can be made to the Cleveland Metropolitan Bar Foundation or the Alzheimer’s Association.

Busy schedule?

Check out our self-study CLE option online! Our generous library of archived CLE programs is available to you from your home or office computer or mobile device 24 hours a day, seven days a week!

24/7

CleMetroBar.org/CLE

Is the Lawyer Referral Service right for you and your practice?

Think about why you went to law school.

Do you like to use your legal knowledge to help others?

Would you like to connect with more clients?

The CMBA can help you accomplish these goals.

APPLY TODAY to JOIN THE LRS!

Get connected with potential clients while providing a valuable public service.

Last year, the CMBA’s LRS received 20,000 inquiries and provided 10,800 referrals to LRS attorneys generating $620,000 in referred business.

Apply at CleMetroBar.org/LawyerReferral or contact Katie Donovan Onders at (216) 696-3525 or konders@clemetrobar.org.
Sandra M. Kelly
Firm: Ray Robinson Carle & Davies, LPA
Title: Managing Partner
CMBA Join Date: 1986
Undergrad: The Ohio State University
Law School: Pepperdine University School of Law

IF YOU WERE NOT PRACTICING LAW, WHAT WOULD YOUR PROFESSION BE?
If I did not practice law I would be a landscape architect. Got a masters in horticulture/ag education at OSU.

TELL US ABOUT YOUR PETS.
We have two bulldogs Boomer and his mother LULU. Our kids have three of the other pups so holidays are insane at our house

MOST EMBARRASSING MOMENT?
I was pregnant with my son in Detroit and gave birth during a jury trial. Was pregnant one day and next day in court obviously not pregnant. Judge decided not to tell the jury anything and they sided with my client while hitting the codefendant with a big verdict against it. Fair — I think not.

TELL US ABOUT YOUR FAMILY.
My husband, Mike, and I have four children. We've been paying college tuition bills for over a decade.

TELL US ABOUT YOUR CMBA EXPERIENCE.
I joined the CMBA the first year I became a lawyer and have developed business relationships that have helped my practice tremendously.

Grace (Hager) Miclot
Firm: Meyers, Roman, Friedberg & Lewis
Title: Associate Domestic Relations Attorney
CMBA Join Date: 2016
College: John Carroll University
Law School: University of Pittsburgh

FAVORITE CLEVELAND HOT SPOT
At this exact moment, it is Coquette Patisserie in University Circle. Along with delicious French pastries and macarons, they have champagne, oysters, and the best French press coffee I have ever tried!

WHY DID YOU BECOME A LAWYER?
Besides being put in a “Future Lawyer” bib on my first birthday, my dad, grandfather, and uncle are all attorneys and I have always admired the work they do. After my first internship in Summit County Juvenile Court with Judge Linda Teodosio back in 2008, I knew I wanted to specialize in domestic relations and committed myself to that area from that moment on.

WHAT’S YOUR FAVORITE BOOK?
A Good Man is Hard to Find and Other Stories by Flannery O’Connor. She was an author way ahead of her time and wrote with such wit and examination of the grotesque in society.

WHO HAS INFLUENCED YOU THE MOST?
My Nonna has always been a very special person and influential figure for me. After her passing last year, I purposefully strive to act with the virtues of kindness, generosity, and forgiveness that she lived by. I try to carry these values over into my legal practice, especially when working with clients in difficult domestic situations.

WHAT IS SURPRISING ABOUT YOU?
I am a purple belt in Brazilian Jiu Jitsu and have been training since I started law school in 2012. It’s an amazing way to learn self-defense, exercise, and destress. I train as often as possible!

Jeremy Gilman
Firm: Jeremy Gilman, Attorney, LLC
CMBA Join Date: 1990
Undergrad: Columbia College
Law School: Case Western Reserve University School of Law

IF YOU WERE NOT PRACTICING LAW, WHAT WOULD YOUR PROFESSION BE?
I’d be a farmer in Vermont. Which is odd, because I grew up in Brooklyn far removed from anything remotely agricultural and have no agrarian skills. But I’d learn fast if it meant seeing that landscape every day.

CAN YOU PLAY AN INSTRUMENT?
Several; primarily guitar and bass. At age 8, I saw the Beatles on Ed Sullivan and listened to the squeals drowning out the music. Soonafter, I picked up a cheap guitar and started figuring out how to play. This past August, I released my first album, “Ignoring Precedent: Assorted Covers and Misinterpretations.” I cover 14 classics, play all the instruments, and handle all vocals except for one track where a guest vocalist sings lead. JeremyGilman.hearnow.com.

HOW DID YOU MEET YOUR SPOUSE?
When I went off to law school at Case, it was the first time I’d lived outside New York City. The adjustment wasn’t easy. The summer after my first year, I was offered a job back in Brooklyn and took it, until my parents insisted I quit fooling around and get back to law school. Reluctantly, I did, and within days of returning to Case, I met Aimee, who was starting her first year, and to whom I’ve now been married for 35 years and counting.

WHAT ADVICE WOULD YOU GIVE A LAW STUDENT?
The legal profession is a business, not a calling. If it’s the latter that drives you, try divinity school or a Himalayan mountaintop.

IF YOU COULD GO TO DINNER WITH A FAMOUS PERSON, LIVING OR DEAD, WHO WOULD IT BE AND WHY?
Adam, so I could tell him to go for the tree of life, instead.
Justice For All Committee

Chair
Jennifer M. Himmelein
Cavitch, Familo & Durkin Co., LPA
jhimmelein@cavitch.com

Regular Meeting
Second Tuesday every other month at noon at the CMBA

What can members expect?
JFA members help bring their expertise and experience to evaluate and oversee Bar programs, and through their efforts reach an extensive and diverse pool of volunteers and community beneficiaries. By serving as the umbrella oversight group, they help guide the leaders of the CMBA’s many public initiatives to address community needs as a unified front.

What is your goal?
Acting as an umbrella group, the JFA Committee advises, supports, and promotes the CMBA’s pro bono legal service, public law-related education, and public service programs. The Committee’s goals are to help the Bar’s many pro bono and community programs excel and grow, to better serve the public. The Committee also helps CMBA Sections as needed with their pro bono initiatives and recognizes outstanding volunteer service by nominating recipients for the annual JFA Volunteer of the Year Award.

Upcoming Events
Join the JFA as we celebrate National Pro Bono Week: October 22–28 with our partner, The Legal Aid Society of Cleveland! Pro Bono Week honors and highlights the efforts of volunteers who donate their time and efforts yearlong to meet increasing needs in their community and nationwide. See page 22.

Judicial Selection Committee

Co-Chairs
Jill G. Okun
Porter Wright, Morris & Arthur LLP
jokun@porterwright.com
Kenneth Callahan
Collins & Scanlon LLP
KCallahan@collins-scanlon.com

Regular Meeting
Prior to primary and general elections

What is your goal?
Our ultimate goal is to educate the voting public about candidates for judicial election. Our Committee, on behalf of the CMBA, is a member of the Judicial Candidate Rating Coalition (JCRC) aka Judge4Yourself.com. We interview and rate judicial candidates running for all county judgeships as well as for the Ohio Supreme Court, which ratings are published and disseminated to the public at large.

What can members expect?
Members have the satisfaction of working to improve our judiciary by educating the public as to the competence, integrity, judicial temperament, diligence and community understanding of judicial candidates. Additionally, members enjoy the comradery of the group, including interacting with the three other JCRC bar associations.

Recent event to highlight?
We recently met for a day and a half and interviewed candidates for this November’s municipal court races. These ratings are currently on the Judge4Yourself.com website. Please review and pass this information along to friends, colleagues and family.

Environment, Energy & Natural Resources Section

Chair
John Lazzaretti
Squire Patton Boggs
john.lazzaretti@squirepb.com

Section News
We are announcing the expansion of our Section to the “Environment, Energy and Natural Resources Section.”

Regular Meeting
We hold quarterly lunches that include a presentation for 1 hour of CLE credit.

What is your goal?
Our goal is to increase the membership of our Section and the participation in Section lunches and conferences.

What can members expect?
Attendance at meetings and conferences provides excellent networking opportunities for our members. We also strive to provide the highest level of substantive content on environmental law hot topics.

Recent Events
We recently awarded a scholarship to a Case Western Reserve University Law student for an unpaid internship at Fair Shake Legal Services in Akron, Ohio. The scholarship is a great way for the Section and its members to “give back” to the environmental legal community!

Upcoming Events
The Section has partnered with Eaton to host a fundraiser benefiting the Environmental Section’s Scholarship Fund on Thursday November 2nd from 5:30 to 7:30 at Eaton headquarters. We are pleased to announce we will be honoring Geoff Barnes from Squire Patton Boggs for his lifetime achievement in environmental law and Lisa Sutton will be accepting an award on behalf of Eaton as a Steward of the Environment. We hope to see many of the CMBA members at the fundraiser. Our fundraiser will generate funding to support law student scholarships for unpaid summer internships with environmental nonprofits. Please contact Keely O’Bryan at McMahon DeGulis, kobryan@mdllp.net for more information about the fundraiser.

We are also holding our annual Environmental Law Institute: The Redevelopment and Revival of Cleveland on December 8th during which we will cover many facets of brownfield redevelopment including structuring the deal, funding, green infrastructure, and case studies highlighting successful Cleveland projects. Save the date on your calendar; especially if you need last minute CLE credit!
Saturday, October 28

Jacobs Pavilion at Nautica

Runners & Walkers

Welcome

Mail form and entry fee to:
Halloween Run for Justice
Hermes Sports & Events
2425 West 11th Street, Suite 2
Cleveland, OH 44113

Make checks payable to:
Hermes Sports and Events

Open to the public, this event benefits the Cleveland Metropolitan Bar Foundation which funds charitable community outreach programs, including The 3Rs, helping students in the Cleveland and East Cleveland City Schools.

For information, contact: Hermes at (216) 623-9933 or HermesCleveland.com, or contact the Cleveland Metropolitan Bar Foundation at (216) 696-3525 or CleMetroBar.org.

Location
Jacobs Pavilion at Nautica, 2014 Sycamore St., Cleveland, OH 44113

Time
Race Day Registration: 7:30 a.m. | All events begin: 9 a.m.
Packet pick-up Friday, October 27 from 4 – 6 p.m. at Jacobs Pavilion at Nautica

All participants registered before October 16 will receive a complimentary long-sleeved t-shirt. Participants registered on or after October 16 will receive a shirt based on availability.

Awards presented
- Top female and male runners overall (Chip Timed 5K and 5-Mile Runs)
- Team Awards – Top teams in these categories: firm/company, law school, college and high school (male, female, mixed) *Teams can compete in the 5K or 5-Mile run events
- Best Costume – children, adult, families, couples and teams, plus marine life theme
- Top Lawyer, Top Judge, Top Paralegal/Legal Assistant, and Law Student (female and male)

*All Family and Team entries are mail-in only. Team members must participate in the same event.

ENTRY FORM

Name ____________________________
Address ___________________________
City/State/Zip _______________________
Phone (___) ____________ E-mail ____________
Age on Race Day ________ Date of Birth _____ / _____ / _____
□ Male □ Female


□ Team Entry ($90) Teams must register by October 16. (Four-person teams)
Each team must mail all four entry forms in one envelope with check.

Total Amount Enclosed $____________________

In consideration of your accepting this entry, I hereby for me, my heirs, executors and administrators, waive and release any and all rights and claims for damages I may have against the Cleveland Metropolitan Bar Association, Cleveland Metropolitan Bar Foundation, Hermes Sports and Events, all event chairs, sponsors and co-sponsors, partners, their representatives, successors and assigns for any and all injuries suffered by me in said event or in transit to and from said event. I further attest that I am physically fit and have sufficiently prepared for this event. I will additionally permit the use of my name and /or pictures in Cleveland Metropolitan Bar Association and/or Foundation publications.

Signature of participant date

Signature of parent or guardian if participant is under 18 years date

Register online at CleMetroBar.org/HalloweenRun
FEATURE

The Eighth District Court of Appeals expands potential escrow and title agent liability in Johnson v. U.S. Title Agency, Inc.

BY MONICA E. RUSSELL

In the case of Johnson v. U.S. Title Agency, Inc., 8th Dist. No. 103665, 2017-Ohio-2852, Richard Johnson obtained a construction loan from KeyBank in order to finance certain improvements to his home and pay off a prior mortgage. Before construction was complete, Johnson fired his contractor. The contractor and several sub-contractors filed mechanic’s liens against Johnson’s property. Johnson sued the title company which handled the closing and its underwriter when they refused to obtain a release of the liens.

The trial court granted summary judgment to the defendants. On appeal, the Eighth District found that Johnson’s title insurance policy and closing protection coverage specifically excluded mechanic’s liens and liens created by Johnson. However, the court found that there was a genuine issue of fact as to whether or not Johnson gave a prior verbal instruction to the title company directing them to insure over mechanic’s liens. The trial court decision was reversed and the case was remanded to the trial court for further proceedings.

Background
Johnson hired a contractor to renovate his house in Bentleyville, Ohio. He obtained an $815,581.00 construction loan from KeyBank in order to finance certain improvements to his home and pay off a prior mortgage. Before construction was complete, Johnson fired his contractor. The contractor and several sub-contractors filed mechanic’s liens against Johnson’s property. Johnson sued the title company which handled the closing and its underwriter when they refused to obtain a release of the liens.

The KeyBank loan closed in June of 2010. A construction loan agreement was signed by Johnson. It contained a “Consent Clause” that was supposed to be signed by the contractor. This clause would have subordinated any claims of the contractor to KeyBank’s mortgage. The contractor did not sign the consent clause. U.S. Title later said it did not have the contractor sign because the contractor was not a party to the loan and its signature was not specifically required by the closing instructions.

The construction loan agreement also contained a clause that required Johnson to provide a release to KeyBank of liens from any parties who provided services or supplied materials in connection with the construction, prior to each disbursement of loan funds.

Johnson executed a mortgage in favor of KeyBank. The mortgage, which was prepared by KeyBank, included a “Future Advances” clause in the construction/permanent loan rider which stated that the mortgage secured future advances to be made. However, R.C. 5301.232 states that a mortgage can secure unpaid balances of loan advances made after the mortgage is recorded only if contains at the beginning the words “Open-end mortgage.” KeyBank’s mortgage did not state that it was an Open-end mortgage.

At closing, Johnson paid for a lender’s title insurance policy for KeyBank and an owner’s policy of title insurance for himself. As explained by Chicago Title in its Court of Appeals’ brief, title insurance “insures the state of title to property as of the date that the title policy is issued and indemnifies the property owner for losses sustained if title to the property is not as described in the policy.” Johnson’s policy included specific exceptions for any liens “created, suffered, assumed, or agreed to by” Johnson and any liens “for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.”

Johnson also purchased closing protection coverage (CP Coverage). According to R.C. 3953.32, CP Coverage provides indemnity to a party to a transaction for losses due to theft, fraud, failure to make proper disbursements, and “failure to comply with any applicable written closing instructions, when agreed to by the title insurance agent.” Although Johnson did not receive proof of his CP Coverage from U.S. Title, the standard CP Coverage letter issued by Chicago Title specifically excludes coverage for mechanic’s liens and matters created, suffered, and assumed the party claiming coverage.

Within several months of closing, a dispute arose regarding the contractor’s work and Johnson fired the contractor. The contractor and four subcontractors filed mechanic’s liens totaling $297,191.00 against the property. In proceedings separate from the case involving U.S. Title, an arbitrator specifically found that Johnson had breached his agreement with the contractor by failing to pay for certain work and preventing the contractor from completing the job. After multiple lawsuits and appeals between the contractor and Johnson, the contractor eventually obtained a judgment against Johnson for $160,162.27 plus certain administrative fees and expenses.

In the meantime, U.S. Title notified KeyBank of the existence of the liens. KeyBank then denied subsequent disbursement requests made by Johnson.

Johnson demanded that U.S. Title obtain a release of the liens against his property. He claimed that U.S. Title was at fault for failing to make sure KeyBank’s mortgage had priority
over the liens. He alleged that U.S. Title should have made sure the mortgage complied with R.C. 5301.232 and should have made sure that the contractor signed the consent clause in the construction loan agreement.

Presumably, Johnson believed that KeyBank would have made further disbursements on his loan if KeyBank had been assured that its mortgage had priority over the liens. However, KeyBank informed Johnson that it believed U.S. Title had closed the transaction correctly and that KeyBank was not required to disburse any further funds to Johnson unless Johnson obtained a release of the liens, per the terms of the construction loan agreement.

Not surprisingly, U.S. Title declined to pay off the liens.

Johnson sues U.S. Title and Chicago Title
Johnson filed a complaint against U.S. Title, alleging that U.S. Title was liable to him for breach of contract, specific performance, negligence, and bad faith. According to Johnson, U.S. Title should have issued a title insurance policy which protected the priority of KeyBank's mortgage against subsequently filed liens; should have obtained the contractor's signature on the consent clause of the construction loan agreement; and should have realized that KeyBank's mortgage was not a proper open-end mortgage and therefore would not have priority over loan advances that took place post-closing. Johnson brought similar claims against Chicago Title.

The trial court granted summary judgment to U.S. Title and Chicago Title finding that (1) Johnson's claims were excluded by the express terms of Johnson's title insurance policy and CP Coverage as the liens were created by Johnson after closing when he chose to fire the contractor; (2) his claims were excluded by the CP Coverage terms as he failed to provide written instructions to US Title regarding the mechanic's liens; (3) he lacked standing to raise a breach of contract claim regarding KeyBank's loan policy and KeyBank's closing instructions; and (4) the claims for bad faith, specific performance and injunctive relief failed as a result of the other rulings.

The Eighth District finds in favor of Johnson
Johnson appealed. The Eighth District Court of Appeals reversed and remanded the case for further proceedings. The Eighth District reasoned that the KeyBank closing instructions named Johnson as the customer, provided a material benefit to him in the provision of a loan, directed that the loan documents be fully executed exactly as typed, and required the borrower to initial changes. Therefore, the Eighth District found that Johnson could be a third party beneficiary of KeyBank's closing instructions and had standing to raise a breach of contract claim based on the instructions.

With respect to Johnson's claim under his CP Coverage, the Eighth District held that: “[w]e agree that the plain language of the CP Coverage excludes coverage for the liens created by Johnson. However, Johnson's entitlement to have liens excluded pursuant to the [KeyBank] Closing Instructions, the only written closing instructions provided to US Title, is a question of fact to be determined upon remand.”

Similarly, in considering Johnson's claim under his title insurance policy, the Eighth District found that “[t]here is no dispute that the liens are excluded under the plain language of the Owner's Policy as issued.” However, the court found that there was a genuine issue of fact concerning whether or not Johnson had verbally requested that his policy be issued without a mechanic's lien exception.

The Eighth District did not seem to be concerned by the fact that Johnson himself was responsible for the liens being placed on his property.

It does not appear that U.S. Title had a written escrow agreement with the parties for the underlying transaction in this case. If such an agreement had existed and if the agreement required instructions of the parties to be in writing or otherwise limited U.S. Title's liability, it is possible that a different result may have been reached by the Eighth District.

Monica E. Russell is a real estate and civil trial attorney in Critchfield, Critchfield & Johnston's Medina office. She is a licensed title agent and is certified by the Ohio State Bar Association as a specialist in residential real property law. Ms. Russell can be reached at (330) 723-6404, russell@ccj.com, or on Twitter @OhioPropertyLaw.

skilled / skild/ adj. 1. Our ability to think outside the box and understand complex issues quickly, offering effective, practical solutions.

2. walterhav.com

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“OH, THE PLACES YOU’LL GO” BECAUSE A LAWYER CARES

Mitch Blair, CMBF President

Kids in our community growing up in generational poverty often have limited life experiences and rare chances to go anywhere beyond their neighborhoods.

Appreciating the power of experiential learning, the Cleveland Metropolitan Bar Foundation creates cool experiences to expand horizons and expose students to what’s possible. Dr. Seuss would approve!

In 11 years, some 2,000 volunteer lawyers in Cleveland public schools have formed close connections with more than 30,000 students! Our Louis Stokes Scholars Program extends these connections for students interested in a career in the legal field who go on to college.

As you learn more about the wonderful opportunities highlighted in this roundup, you’ll understand why kids can’t say enough about the positive lessons they take away, thanks to Cleveland law firms, businesses, and judges.

**TUCKER ELLIS**

Students at John Hay Early College High School can count on Tucker Ellis lawyers. For more than a decade, they have been a consistent presence in the school, mentoring, teaching 3Rs, coaching mock trial teams, and hosting Stokes Scholars each summer. As this partnership has endured, members of the firm now sit on the school’s advisory board.

Takeaway: Tucker Ellis lawyers keep their promises and keep coming back. It’s obvious they care.

**CALFEE**

Decade-long mentoring relationships between students at Shaw High School in East Cleveland and lawyers at Calfee have produced two law-school students. Through 3Rs, mock trials, and paid internships, Calfee lawyers give back and are richly rewarded with student successes.

Takeaway: I couldn’t have done it without Calfee. They showed me the way.

**PORTER WRIGHT**

Stokes Scholars got to spend time with Mayor Frank Jackson, as well as with City Council President and Porter Wright partner Kevin Kelley, at a lunch-and-learn at Cleveland City Hall in July. They learned about public service careers in city government and identified with the mayor as he shared his personal journey from Cleveland public schools to college to law school.

Takeaway: Mayor Jackson worked hard and succeeded. I can too.

**CLEVELAND INDIANS**

GM Mike Chernoff and Director of Player Development James Harris spent an afternoon in the team’s executive offices with Stokes Scholars, exposing them to the growth mindset that drives performance and achievement throughout the Indians’ organization. When students believe they can get smarter and effort makes them stronger, they put in extra time and effort, which leads to higher achievement.

Takeaway: Challenges and adversity can be great teachers. Keep your mind open and your attitude positive.

**GIFFEN & KAMINSKI**

A June lunch-and-learn for Stokes Scholars gave students a look inside a women-owned law firm and a fresh perspective from Principals Karen Giffen and Kerin Kaminski, and other women attorneys. The experience showed students diversity and inclusion in the legal profession.

Takeaway: Women are powerful lawyers.

**CLEVELAND METROPARKS**

A day at the beach literally describes a summer outing for Stokes Scholars planned.
by Metroparks General Counsel Rose Fini and team. The excursion took students into the field to Euclid Beach Park, Merwin’s Wharf, and Edgewater Park. They explored myriad areas of law that challenge park attorneys, from employment, land use, environment, liability, and crime to contracts, liquor permits, wildlife, zoo, and animals.

Takeaway: How surprising that the parks deal with so many different legal issues. What a cool environment to work in.

CLEVELAND CAVALIERS
One of the Louis Stokes Scholars landed a plum internship this past summer, thanks to General Counsel Jason Hillman and In-house Counsel Chris Harrington of the Cavs legal team. The experience off the court on the business side of sports proved eye opening.

Takeaway: I can’t believe how many contracts there are in sports and how complex they can be!

COURT OF COMMON PLEAS
Stokes Scholars jumped at the chance to shadow judges in their courtrooms at the Justice Center. Judge John Russo, Judge Mike Donnelly, Judge Cassandra Collier-Williams, Judge Michael Jackson, Judge Brendan Sheehan, Judge Joan Synenberg, Judge Kathleen Sutula, and Judge Steven Gall gave them the perspective of looking at a legal matter from behind the bench.

Takeaway: It’s hard to be a judge. They need to have wisdom, patience, and courage.

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.

Can you or your organization offer students a cool experience?

To make it happen, Contact Mary Groth, director of member & donor engagement, at (216) 539-5975 or mgroth@clemetrobar.org.

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C onstruction and demolition debris (C&DD) landfills play a crucial role in Ohio's booming real estate development and construction industries. Most of the C&DD generated in this region is sent to licensed disposal facilities or to recyclers that run responsible, environmentally-friendly operations, but some waste inevitably finds its way to illegal dump sites. These sites often collect and then abandon large volumes of waste material, creating nuisance conditions and leaving local communities and the state to bear the cost of cleanup.

Fortunately, Ohio recently enacted legislation to regulate the growing recycling industry while giving new teeth to Ohio EPA's authority to shut down these problem sites.

In July, Governor Kasich signed Senate Bill 2 which establishes new regulatory oversight of C&DD recyclers, called "processing facilities.” State regulators, county and city governments and the C&DD industry alike welcomed the passage of the bill. The new law, which took effect on October 6, 2017, is designed to encourage legitimate C&DD recycling while preventing the operation of illegal dumps.

Existing C&DD Laws and Rules
For decades, Ohio EPA and local health departments had authority to regulate C&DD disposal but not C&DD recycling.

C&DD is material resulting from the construction or demolition of man-made structures, such as houses, buildings or roadways. See O.A.C. 3745-400-01(C). It includes non-hazardous materials such as brick, concrete, stone, glass, wall coverings, plaster, drywall, wood and roofing materials, but excludes solid wastes, infectious wastes, and hazardous wastes.

Because C&DD is generally considered to be inert and poses little threat to the environment as compared to other wastes, Ohio and some other states regulate C&DD separately from municipal and household solid waste.

C&DD disposal facilities are licensed and regulated under O.R.C. Chapter 3714 and 3745 and O.A.C. Chapters 3745-37 and 3745-400.

The regulatory program establishes authorized and prohibited methods for C&DD disposal, standards for licensed facility operations, siting requirements, facility design requirements and construction specifications, rules for certification of construction and final closure, financial assurance requirements for closure and post-closure care of facilities, and rules for ground water and leachate monitoring.

As of August 2017, there were 44 facilities on Ohio EPAs list of licensed C&DD facilities.1

No Authority to Regulate C&DD Recycling
A major limitation of Ohio’s C&DD program is that it does not apply to any site “where debris is not disposed, such where debris is reused or recycled in a beneficial manner, or stored for a temporary period remaining unchanged and retrievable.” O.A.C. 3745-400-03(C). As a result, the most regulators could do was inspect recycling operations to verify that they were not causing a nuisance or creating a risk to public health and safety.

The Cuyahoga County Board of Health (CCBH) is among the local health districts authorized by Ohio EPA to administer the C&DD program within their jurisdiction. In addition to using its delegated authority from Ohio EPA, a local board of health is required to abate and remove all nuisances within its jurisdiction. R.C. 3707.01. It may order the abatement and removal of the nuisance and prosecute the owners or occupants for neglect or refusal to comply. A board of health may also regulate sites “where offensive or dangerous substances or liquids are or may accumulate.” A building or premises may be declared a public nuisance when it is in “a condition dangerous to life or health.” Id.

In addition to offensive impacts and nuisance conditions such as loud construction noises, dust, odors, unsightly dump piles, pests and adverse impacts to soil and ground water, illegal dumps are also associated with serious potential health and safety risks including exposure to hydrogen sulfide gas, methane, volatile organic compounds and carcinogens, fugitive dust/particulate matter, and asbestos.

Emergence of the C&DD Recycling Industry
Despite the absence of a state regulatory program, many Ohio C&DD disposal facility operators long ago saw the opportunity for selling recycled materials and saving landfill air space. What began as simply hand-picking metals out of the incoming debris piles has evolved into large-scale screening and sorting operations to separate valuable recyclables for resale.

One such operator, Kurtz Bros., Inc., has emerged as a pioneer in the use of recycled commercial and industrial byproducts, many of which are now used in the landscape and construction industries. In addition to operating a licensed C&DD disposal facility, Kurtz recycles materials ranging from hardwood byproducts, green waste trimmings and bio-solids to steel slag and spent non-toxic foundry sand.2

Despite its size and unique customer services, however, Kurtz Bros. and other C&DD facility operators are forced to compete with poorly-managed, unregulated "recyclers" whose unscrupulous methods are a stain on the entire industry. The existing C&DD program not only failed to establish standards for legitimate recycling, it failed to prevent irresponsible operators from collecting and storing massive piles of mixed C&DD under the guise of recycling.

Operators such as John Kurtz of Kurtz Bros., Inc. hope the new regulations will shut down these "pretenders" who claim to be recycling but really are not. Senate Bill 2 is designed to do just that. It casts a wide net, defining “processing facility” as a site, location or building “that is used or intended to be used for the purpose of processing, transferring, or recycling” C&DD that was generated off-site. R.C. 3714.01 (eff. Oct. 6, 2017). The term “transferring” means the receipt or storage of C&DD, or the movement of C&DD from vehicles or containers to a working surface and into other vehicles or containers, for purposes of transporting it to a disposal or processing facility. Id. “Processing” means the receipt or storage

BY LESLIE G. WOLFE

OHIO’S RECYCLING REVOLUTION:
SENATE BILL 2 AIMS TO PREVENT ILLEGAL DUMPING
AND ERADICATE THE INDUSTRY’S SHAM RECYCLING
of C&DD, or the movement of C&DD from vehicles or containers to a working surface, for purposes of separating it into individual types of materials as a commodity for use in a beneficial manner that does not constitute disposal. Id.

The High Cost of Cleaning Up Illegal Dump Sites
As has been widely reported, the six-acre ARCO Recycling facility located at the corner of Noble Road and Euclid Avenue in East Cleveland is currently being cleaned up after years of complaints. Prior to the start of cleanup efforts, the four-story mountain of debris included concrete, dirt, lumber and other materials from residential demolition projects.

Ohio EPA considers the ARCO site one of the worst examples of illegal dumping in the state. Worst of all, the dump sits in the middle of a residential neighborhood.

Like many illegal dumps, ARCO Recycling had auspicious beginnings. It started operating in April 2014 under a business plan that required incoming C&DD to be accepted and processed within thirty days of receipt. Recyclables such as clean hard fill, scrap wood, and scrap metal would be separated and would remain on site temporarily, while non-recyclable debris would be removed and properly disposed of in a landfill.

It didn't take long for ARCO to begin its downward slide. Since June 2014, the CCBH routinely visited the site and investigated nuisance complaints, often accompanied by Ohio EPA agents. It soon became clear that the facility was not operating as a C&DD recycler, but as an illegal disposal facility.

By early 2016, ARCO had amassed huge quantities of unseparated C&DD that sat for years without being recycled or properly disposed of. In January 2017, after years of residents' complaints, Ohio EPA issued a Notice of Violation and ordered that no more waste be accepted and all C&DD be removed within fourteen days. Although the facility did close, the owner failed to comply with the order to remove material.

Ohio EPA has provided $6 million to remove the debris from the illegal dump, which has caused health and other concerns to Noble Road residents.

In June, Kurtz Bros., Inc. was awarded a $1 million contract to remove an estimated 80,000 cubic yards of concrete, bricks and blocks from the four-story ARCO Recycling dump. Under the contract, Kurtz Bros. can crush and reuse some of what it removes as fill from the six-acre site.

In early September, the CCBH solicited proposals for the selection of a contractor to remove, transport, and properly dispose of the remaining C&DD and other wastes from the ARCO site, which are estimated to include 150,000 cubic yards of material. With dump trucks carting away loads every six minutes, it will take 10 months to finish the work.

New Processing Facility Regulations Will Help Reduce Illegal Dumping
The future enactment of new processing facility regulations authorized under Senate Bill 2 is expected to reduce the high costs of dealing with illegal dumps. For example, Ohio EPA was forced to refer the ARCO matter to the Ohio Attorney General's Office for enforcement proceedings when the owner failed to remove the debris. All of this consumes substantial time and public resources.

Even before Senate Bill 2 was signed into law, Ohio EPA took initial steps toward developing a regulatory program for C&DD processing. In early May, it issued Early Stakeholder Outreach fact sheets to bring stakeholders into the review process as early as possible. The new rules will likely include permit and licensing procedures, siting and design requirements, operational standards and closure requirements. The rules may also cover the type of materials that can be recycled, and how long they can be stored. Importantly, the new rules will require recyclers to establish financial assurance in case they go bankrupt or are otherwise unable to close properly.
Senate Bill 2 provides grandfathering for processing facilities in operation prior to the enactment of any new rules. After October 6, 2017, any person proposing to operate or continue to operate an existing processing facility or one that begins operating between October 6, 2017 and the effective date of any new processing facility rules that may be adopted by Ohio EPA, must submit an application for registration from the applicable board of health or Ohio EPA.

Ohio EPA’s newly-expanded legislative authority will allow greater control and oversight of the recycling industry to prevent future ARCOs and safeguard public health, safety and the environment across Ohio.


Leslie Wolfe is a member of Walter | Haverfield LLP’s Environmental Regulation and Litigation practice group. She has been a CMBA member since 2003. She can be reached at (216) 928-2927 or lwolfe@walterhav.com.
Michigan Beats Ohio

BY DAVID A. FREEBURG

Before all of you that bleed scarlet and grey start blowing up my inbox with hate mail, let me explain. On January 6, 2017, Michigan abolished dower rights. Michigan’s forward thinking leaves Ohio as one of only three states (Arkansas and Kentucky) that have dower rights in real estate.

Ohio’s dower statute is contained in Revised Code Section 2103.02. It provides for a one-third life estate in real estate owned by a spouse, that vests upon the death of the title holder spouse. Prior to the death of the title holder, the spouse has only an inchoate right. The dower right can not be transferred or sold, only released by the spouse. Dower is terminated upon the divorce between the title holder and the spouse. Dower does not attach to property titled in a trust or by a corporate entity.

Dower was created when real estate represented a key portion of the wealth held by an individual. The purpose historically was to prevent a spouse from divesting his/her spouse of all means of support without consent. Dower as a concept in history had a noble purpose.

THE MICHIGAN APPROACH

As resistant as we are in Ohio to accept anything from the state up north, the Michigan statute provides a good framework for Ohio to repeal dower.

The Michigan statute does not affect dower rights that have vested prior to the repeal. This is an important to avoid constitutionally protected rights. Under the Michigan approach, if the husband died prior to the effective date of the repeal of dower, the wife is entitled to the election of dower in the estate.

Michigan’s dower statute was different than Ohio’s statute, in that it only granted the right to a wife. Following the US Supreme Court’s decisions in DeBoer v. Snyder and Obergefeld v. Hodges Michigan had a constitutional issue with its dower statute and choose to eliminate dower in its entirety instead of amended it.

Ohio has a dower issue resulting from the Obergefeld decision, but not the same issue as Michigan. Ohio’s dower statute applies to both spouses, not just a wife as the previous Michigan statute. Ohio’s issue comes from, prior to Obergefeld, Ohio’s Constitution prohibited same sex marriage. As a result of the constitution prohibition, there are numerous individuals who were part of a same sex couple, married in a state other than Ohio, but transferred property in Ohio without releasing dower.

Without Court guidance, it is impossible for me to guess whether dower attached to these transfers. As a title agent, I would take an exception to a title insurance policy, if dower was not released. As a real estate attorney, I would say this would make a great law school exam question, but I am not going to provide an opinion on the outcome of such a case.

REASONS OHIO SHOULD REPEAL DOWER

1. Dower does not protect a significant financial interest

While both spouses are alive, the inchoate right of dower does not provide a spouse with much value. To provide context to this point, I am reminded of a title claim defense issue that I worked on several years ago. Briefly the facts were as follows: Husband was in title to a residential property. Husband took a mortgage on the property, and was married at the time of the mortgage. Mortgagee’s title agent failed to obtain the spouses release of dower on the mortgage. Husband failed to pay the mortgage and the mortgagee filed a foreclosure.

I was retained by the title insurance company, when the wife filed an answer raising her dower right. At the time, both spouses ages were in their mid-forties and the house was worth approximately $150,000. I started to calculate the loss the title insurance company was going to incur as a result of the failure to release dower.

The calculation was determined by using Bowditch table, which applies to couples married on or before October 29, 1999. Couples married after October 29, 1999 the calculation is done with IRS tables. Either method accounts for the same variables, which are:

1. The probability that the dower holding spouse survives the title holding spouse.
2. The life expectancy of the dower holding spouse, after the title holding spouse’s death.
3. One third the current value of a future life estate interest, vesting at the time of the title holding spouse.

By combining the probability of survival variable, with the life expectancy variable and then multiply those variable factors with 1/3 the present value of the life estate, you reach the present value of the dower expectancy.

To my great surprise the present value of the dower in my case was less than $800. Counsel for the wife in that matter was equally surprised and disappointed that this was the present value.

Even after the death of the title holding spouse, the vested one-third life estate, does not provide much value. In fact, the spousal election against the will provides for a greater benefit to the surviving spouse than the dower right provides.

2. Dower creates an impediment to property transfers

Dower today creates an impediment for the real estate industry. Lawyers and title agents spend a considerable amount of time, money, and effort getting dower releases that incumber title to real estate.

This is especially difficult if the spouse is outside of the United States for an extended period of time. Dower releases are subject to the requirements of Ohio Revised Code Section 5301.01, which requires the signature to be notarized to be recorded. To have a valid execution of a dower release from a spouse outside the United States, the foreign spouse needs to sign the document at the United States Embassy. If the spouse is located near an Embassy, it’s only a minor inconvenience, however location is generally a problem for these types of transactions.

The other impediment that we encounter more frequently is the spouses are separated, but not divorced. The soon to be ex-spouse is in parts unknown or is uncooperative, which pre-
vents the other spouse from buying real estate with a mortgage. There is a creative work around for this, which is the purchasing spouse buys the house in a trust, but that requires the creation of such a trust and additional lender requirements, adding costs to the closing for the buyer.

3. Better alternatives already are in Place
The original purpose of dower was to protect the spouse from alienation of property, at the death of the spouse. That protection now exists in the spousal election against the will. The spousal election provides a greater value than dower, without creating the same burden on transfers of real estate.

4. Wealth is no longer linked to Real Estate
Dower only attaches to real estate, titled individually to a natural person. No other assets held by an individual are incumbered for the sole reason that the owner is married. Bank accounts, investment accounts, cars, boats, pensions, livestock, insurance and personal property are not encumbered by dower. Most real estate purchased today is encumbered by a mortgage for the purchase. Individuals often own several properties over the course of their life time. Real estate as a result makes up less of an individual’s wealth than personal property.

Historically real estate was the biggest asset owned by an individual. Today personal property, business interests and investment accounts make up a much greater percentage of wealth than real estate.

SUPPORT FOR REPEAL OF DOWER
Members of numerous professional groups have come out in favor of the repeal of dower in Ohio. As of the date of this article there is not currently legislation proposed, however there are numerous professional groups that are actively discussing the need for repeal of dower in Ohio. I expect within the next year, there will be official support for repeal from several real estate professional groups, which include title agents, real estate attorneys and the residential lending industry.

My understanding is there may opposition from the domestic relations bar. After making several inquiries, I was not able to find a domestic relations attorney to co-author a rebuttal to my obvious support for repeal. Because I have no experience with domestic relations law, I will leave that to someone more qualified to offer the alternative point of view in a separate article.

When I was a kid we had our milk delivered to our front porch by a milk man. There were three TV stations and we changed the channel by getting up and turning a knob (then adjusted the rabbit ears). When I was in college, I typed my papers on a typewriter. When I first started practicing law, we looked case law up by shuffling between endless rows of bookcases.

Like the milkman, the TV knob, the typewriter, and the case reporter two step, Dower has become obsolete.

It is time for Ohio to admit defeat to Michigan! Ok, I take that back. Ohio should join the 47 states which have no dower statute, which happens to include Michigan.

This article is in no way intended to create a jinx on, or be a prediction of the outcome of events scheduled in November in Ann Arbor.

David A. Freeburg is partner at the Freeburg Law Firm LPA. He is a member of Specialist Title Agency LLC. He is an OSBA Certified Specialist in residential real property law. He has been a CMBA member since 1999. He can be reached at (440) 421-9181 or david@freeburglaw.com.
OUR EVOLUTION TO THOUGHT LEADERSHIP

Rebecca Ruppert McMahon

Twenty-two wins. Wow! What a winning streak our Indians landed. The longest in American League history, and depending upon one’s view of the 1916 streak the Giants scored, it might be the longest in MLB history. Regardless, the Tribe’s incredible September roll is something to celebrate. Plus, as we go to press, the Indians are in the hunt for October playoff gold. Oh, what a fall lies ahead!

Meanwhile, back on the Bar front, we are equally excited — yes equally — to be rolling into our own series of wins:

- **Our Leadership Academy** launched on September 27 with a group of 34 accomplished and energized people who are devoting the next 10 months to focusing on their individual leadership and professional development.

- We have a fall lineup on the CLE front that is bigger and better than ever before: **60 programs in the last 60 days** of the year, including our annual Estate Planning, Tax and Real Estate Institutes — not to mention our first-ever De-Stress Fest.

- **The Halloween Run for Justice** takes off from a new location on October 28 — the Nautica Entertainment Complex on the West Bank of the Flats — where participants will not only be able walk and run their costumes through town, but also capitalize on post-race food, beverages, the Hauntaquarium and Captain Willy’s Pirate Cruise aboard the Nautica Queen.

Perhaps most exciting of all — at least from this geeky ED’s view — we are in the second year of executing on the CMBA’s master strategic plan. Yes, I know most people are put to sleep by simply uttering the phrase “strategic plan.” Not me. I’ve got a good strategic plan buzz happening.

By way of reminder, the CMBA’s plan has a 10-year vision. By 2026, we want the CMBA to:

- **Stand out as the go-to organization** in the community on matters of law and justice;
- **Serve as an indispensable** resource for legal professionals, offering a range of programs, services, and networking opportunities among which are relevant offerings for **any** legal professional, regardless of her/his age, length of time in practice, or practice setting;
- Be among the leading organizations in Northeast Ohio that **identifies and addresses** priority issues facing the community, with activities that include a significant public service component; and

- **Expand our collaborations** with other bar associations and community organizations to support our capacity to reach out and serve the broader legal and larger community. In doing so, we will also leverage our facility to support this endeavor.

One of the critical areas of focus during the first three years of the plan that will drive us is charged with helping to take action both in considering shorter-fuse issues (like when a reporter calls for a quote on an emerging story with a two hour deadline) and helping with longer-term planning (as in the topics for the 2018 installments of our monthly Hot Talk series).

As defined by their charter, the Thought Leadership Committee will be developing a proactive plan that contains a list of substantive issues that have been identified as “the most important to advancing the interests of the administration of law and justice in society as well as the interests of CMBA members.” The plan will also include strategies for how the targeted issues will be addressed, including the potential offering of seminars, summits, debates, Bar Journal articles, op-eds, essay contests and more.

In order to develop that list of substantive issues, the Committee will be asking for feedback from our Board members, as well as section and committee leaders. Karen and I also want to make an ask of our full membership as well.

**What do YOU think are the most important issues impacting our profession, our Bar, or our system of justice?**

When our Bar speaks, we do so on behalf of our members. Knowing what you think is critically important. Whether you meet us at the Bar regularly or less than regularly, we want to hear from you. Each voice is important to us. While we won’t be in a position to take action on every issue that you identify, we definitely want to create a plan that reflects the passions and priorities of you, our members.

Feel free to share your ideas directly with our Thought Leadership chair, Karen Giffen (kgiffen@thinkgk.com) or me (rmcmahon@clemetrobar.org). Every voice matters. I hope you’ll share yours.

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.
A Lawyer, C.I.A. Analyst and a Crisis Management Specialist Walk Into a Bar ...

BY BRUCE HENNES

Before James Comey headed up the F.B.I., he served as general counsel of Lockheed Martin Corporation. While at Lockheed, he spoke at the National Security Agency about how studying law is similar to the education intelligence analysts receive. “You read a case and decipher ... relevant facts, the [outcome] of the case ... you are drilled on your reasoning, challenged by other interpretations ... clear writing matters...facts matter.” He went on to praise legal training “because it is an extraordinarily valuable tool in the world of intelligence.”

He elaborated on what he called a “uniquely lawyerly ability ... to transport ourselves to another time and place. The ability to present facts to an imaginary future fact-finder, in an environment very different from the one in which we face current crisis and decision... we know that our actions, and those of the agencies we support, will be held up in a quiet, dignified, well-lit room, where they can be viewed with the perfect, and brutally unfair, vision of hindsight.”

Comey talked about how lawyers must know how to say both “yes” and “no,” even when “no” must be spoken into a storm of crisis, with loud voices all around, with lives hanging in the balance ... and often, ‘no’ must be spoken in competition with the voices of other lawyers who do not have the courage to echo it.”

While I find Mr. Comey’s short remarks to be thoughtful and right on-target, I do take exception to his assertion that presenting facts to an imaginary future fact-finder is “uniquely lawyerly.” I would argue that same skill set is present in the men and women who practice the specialized art and craft of crisis management and crisis communications. They, too, must be able to quickly perform a situation analysis (often within the fog of information overload), look for connections and quickly play-out a variety of scenarios, also knowing they will be second-guessed if things go awry. And just as important as lawyers giving red light-green light counsel, so must crisis management counsel be able to speak truth to power.

I’m certainly not comparing the life or death decisions that must be made in an instant when political or military commanders authorize a drone strike with United’s recent decision to “re-accommodate” Dr. Dao and forcibly remove him from the plane, or with the staff meeting groupthink that led to Volkswagen and Wells Fargo’s lies to their customers.

Bad things do happen to good people, to good companies, agencies, nonprofits, schools and hospitals. But as Greek philosopher Epictetus said, “It’s not what happens to you, but how you react to it that matters.” And when those things do happen, it’s important to have both lawyers and seasoned crisis managers in the room, each with the ability to say “yes” or “no” with conviction, backed-up with the kind of experience that can’t be found in a book.

In his talk at the National Security Agency, James Comey did say that “it takes far more than a sharp legal mind to say “no” when it matters most. It takes moral character. It takes an ability to see the future. It takes an appreciation of the damage that will flow from an unjustified “yes” (and) when it can be, to “no” when it must be.”

I couldn’t agree more.

Bruce Hennes is managing partner of Hennes Communications, one of the few firms in the U.S. focused exclusively on crisis management and crisis communications. For more information: www.crisiscommunications.com. He is also a public member of the CMBA board of trustees. He has been a CMBA member since 2005. He can be reached at (216) 321-7774 or hennes@crisiscommunications.com.
n honor of the American Bar Association’s National Celebration of Pro Bono in October, to all who have been so supportive of Legal Aid’s Volunteer Lawyers Program. CMBA members are integral to providing legal services to the low income individuals in our community. I also want to take this time to address some of the common misconceptions about pro bono service and encourage others to join their CMBA members on our Legal Aid team as volunteers.

Myth 1 “People who cannot afford an attorney have the right to a public defender, so it’s not necessary for private sector attorneys to volunteer to do this kind of work.”

Truth? Reality? There is no “Civil Gideon.” No right to counsel in civil legal matters means those facing an unscrupulous landlord, an abusive spouse or an unlawful termination must pay for legal representation or go it alone. The work of Legal Aid attorneys and volunteers has a dramatic impact on vulnerable clients’ livelihoods, safety and shelter. Attorneys like you can help enable a family to fight homelessness, receive wages or benefits, or protect children at risk.

Myth 2 “The number of staff attorneys at The Legal Aid Society of Cleveland is sufficient to serve the needs of low-income clients.”

Truth With 42 full time attorneys and 25 other staff, it is true Legal Aid is a significant law firm. But, with no right to counsel in civil cases, Legal Aid, as a private nonprofit, can only meet a fraction of the need in the community. Right now, more than half of the eligible individuals who seek Legal Aid’s help are turned away. The good news is that our robust Volunteer Lawyers Program helps to meet the need of clients we might not otherwise be able to assist. We applaud our 474 pro bono attorneys, who together staffed 137 free legal advice clinics and handled 1,462 cases in 2016. That’s nearly 20% of Legal Aid’s 2016 caseload. By growing our network of pro bono attorneys, we can reach even more people in need.

Myth 3 “If I sign up for pro bono work, I’ll end up with a case completely outside my area of expertise with no support.”

Truth Volunteers with the Legal Aid are never on their own! Volunteer attorneys can specify upfront their preferred types of cases. Some find it comforting to stick with what they know, while others enjoy the challenge of learning a new area of law. No matter which route they go, volunteers have staff attorneys as mentors, as well as the support of the VLP program staff to help answer administrative questions or provide legal resources. Additionally, Legal Aid provides pro bono attorneys with malpractice coverage, litigation costs, and interpreter services.

Myth 4 "Because I work so many hours as a lawyer, I like some variety in my volunteer work. It seems pro bono work would just be doing the same thing I do on the job.”

Truth You might be surprised. The Volunteer Lawyers Program at the Legal Aid Society of Cleveland offers a wide variety of pro bono opportunities to fit both the interests and availability of volunteer attorneys. These opportunities range from giving brief advice for a few hours at a clinic to accepting a case for representation. Our ACT 2 program engages retired and late-career attorneys in many different activities.

If you have not yet participated in one of the opportunities through the Volunteer Lawyers Program, please join your colleagues and Legal Aid attorneys in our mission. Together, we can provide a voice to those who are too often invisible. Together, we can work to fight poverty and to secure justice by providing high-quality legal service to those most in need. E-mail probono@lascllev.org, call (216) 861-5332 or visit www.lascllev.org/volunteer to sign up today! Ann McGowan Porath has been a CMBA member since 1996.
WEDNESDAY, OCTOBER 4
2:30 PM - 4:30 PM
Special Clinic for U.S. Veterans
By appointment only, clients call (216) 391-0264
Staffed by volunteers from McDonald Hopkins
Sponsored by Legal Aid

THURSDAY, OCTOBER 5
4:30 PM - 6:30 PM
Expungement Clinic – Cuyahoga County
Legal Aid Cleveland Office
1223 W. 6th Street, Cleveland 44113
By appointment only, clients call (888) 817-3777
Sponsored by Legal Aid

TUESDAY, OCTOBER 10
2:00 PM - 4:00 PM
Community Outreach Clinic
Oberlin Community Services
285 South Professor Street, Oberlin 44074
Staffed by volunteer attorneys from the Lorain County Bar Association
Sponsored by Legal Aid

WEDNESDAY, OCTOBER 11
2:00 PM - 4:00 PM
Community Outreach Clinic
Catholic Charities Ashtabula
4200 Park Avenue, Third Floor
Ashtabula 44004
Staffed by volunteer attorneys from Ashtabula County
Sponsored by Legal Aid

SATURDAY, OCTOBER 14
INTAKE HOURS:
9:30 AM - 11:00 AM
Brief Advice and Referral Clinic
Fatima Family Center
6600 Lexington Avenue, Cleveland 44103
First come, first served
Staffed by volunteers from the CMBA Leadership Academy, NEO ACC, and Jackson Lewis
Sponsored by Legal Aid

SATURDAY, OCTOBER 14
INTAKE HOURS:
9:30 AM - 11:00 AM
Brief Advice and Referral Clinic
University Hospitals
Otis Moss Jr. Health Center
8819 Quincy Avenue, Cleveland 44106
First come, first served
Staffed by volunteers from University Hospitals and Vorys
Sponsored by Legal Aid

WEDNESDAY, OCTOBER 18
6:30 PM - 8:00 PM
Lawyers for Women in Crisis
Outreach Clinic
By appointment only
Staffed by volunteers from the Women in Law Section of the Cleveland Metropolitan Bar Association
Sponsored by Legal Aid and the CMBA

SATURDAY, OCTOBER 21
INTAKE HOURS:
10:00 AM - 11:00 AM
Brief Advice and Referral Clinic
Cleveland Public Library - Fulton Branch
3545 Fulton Road, Cleveland 44109
First come, first served
Staffed by volunteers from Moore Yourkowski & Dibo
Sponsored by Legal Aid

MONDAY, OCTOBER 23
4:30 PM - 6:30 PM
Evening Law Firm Clinic
1223 W. 6th Street, Cleveland 44113
By appointment only, clients call (888) 817-3777
Staffed by volunteers from Calfee and Medical Mutual
Sponsored by Legal Aid

Generous funding provided for these 2017 events from the Attorney Admissions Fund of the U.S. District Court Northern District of Ohio.

REGISTRATION FOR EVENTS IS NOW OPEN!
Visit www.lasclev.org/2017probonoweek or www.lasclev.org/registration to sign-up! Check website for calendar updates and other events.
**TUESDAY, OCTOBER 24**
3:30 PM - 5:00 PM
Debt Collection Clinic
1223 W. 6th Street, Cleveland 44113
By appointment only, clients call (888) 817-3777
Sponsored by Legal Aid

**TUESDAY OCTOBER 24 INTAKE HOURS:**
2:30 PM - 4:00 PM
Brief Advice and Referral Clinic
Cleveland Public Library - 2nd Floor in Louis Stokes Wing
525 Superior Avenue East, Cleveland 44114
First come, first served
Staffed by volunteers from Legal Aid’s ACT 2 program
Sponsored by Legal Aid

**TUESDAY, OCTOBER 24**
4:00 PM - 6:00 PM
ACT 2 Program Reception
Follows the CPL Clinic - come learn more!
Hyatt Cleveland Downtown
420 Superior Ave E, Cleveland 44114
Register at www.lasclev.org/registration
Sponsored by Legal Aid

**WEDNESDAY, OCTOBER 25**
Pro Se Divorce Clinic – Lake County
By appointment only, clients call (888) 817-3777
Staffed by volunteers from the Family Law Section of the Lake County Bar Association
Sponsored by Legal Aid and the Lake County Bar Association

**THURSDAY, OCTOBER 26**
1:00 PM - 3:00 PM
Tax CLE
See website for more details
Register at www.lasclev.org/registration
Sponsored by Legal Aid

**THURSDAY, OCTOBER 26**
7:30 AM - 10:45 AM
CLE and Brief Advice Clinic
Reach Out for Nonprofits: Risk Management 101
1375 East Ninth Street, Floor 2, Cleveland 44114
Register at www.clemetrobar.org
Sponsored by the Cleveland Metropolitan Bar Association

**THURSDAY, OCTOBER 26**
4:30 PM - 6:30 PM
Expungement Clinic – Cuyahoga County
Legal Aid Cleveland Office
1223 W. 6th Street, Cleveland 44113
By appointment only, clients call (888) 817-3777
Sponsored by Legal Aid

**FRIDAY, OCTOBER 27**
1:00 PM - 2:00 PM
Pro Se Plus Clinic – Cuyahoga County
By appointment only, clients call (888) 817-3777
Staffed by volunteers from the Cleveland Metropolitan Bar Association Family Law Section
Sponsored by Legal Aid and the Cleveland Metropolitan Bar Association

**SATURDAY, OCTOBER 28**
11:00 AM - 1:00 PM
Brief Advice and Referral Clinic
Chagrin Falls Park Community Center
7060 Woodland Avenue, Chagrin Falls 44023
Staffed by volunteers from the Geauga County Bar and other pro bono attorneys
Sponsored by Legal Aid

**SATURDAY, OCTOBER 28**
11:00 AM - 1:00 PM
Cleveland Metropolitan Bar Foundation’s 16th Annual Halloween Run for Justice
Jacobs Pavilion at Nautica
2014 Sycamore St, Cleveland 44113
Register at www.clemetrobar.org
Sponsored by the Cleveland Metropolitan Bar Association

* Event held during ABA’s National Pro Bono Week

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**Take a peek at the Terminal Tower**
on Monday, October 23: lights will be BLUE to honor Pro Bono Week!
Each month, these pages will be dedicated to highlighting just some of the activities and programs of your Cleveland Metro Bar.

NATIONAL PRO BONO WEEK

Celebrate national Pro Bono Week with the CMBA and The Legal Aid Society of Cleveland October 22-28. Pro Bono Week was an initiative created to respond to the increasing need for pro bono services nationwide and to celebrate the services of attorneys who volunteer to meet this unprecedented need. Pro Bono Week is intended to increase pro bono participation, expand legal services to low income individuals and groups, and showcase the efforts of volunteers who donate their time and efforts yearlong.

Check out the calendar of events and volunteer opportunities on the previous pages or visit CleMetroBar.org/ProBonoWeek.

LEGAL DIRECTORIES ARE IN

Our annual Legal Directory has become the ‘go to’ book for Northeast Ohio’s legal professionals, putting court information, attorney and affiliate rosters, and more in one place. The newly updated 2017-18 Legal Directory is now in stock and available in both print and electronic formats.

Order your copy by calling the CMBA at (216) 696-3525 or visiting CleMetroBar.org/directory. Members save at least $20.
Our CLE department has dozens and dozens of programs available before Dec. 31 – not counting all the Section-hosted lunch CLEs – there are plenty of opportunities to get any remaining hours you need this reporting season or get a jump on next year’s. See the full list of programs – live, video and self-study – at CleMetroBar.org/CLE.

Attorney A – L, check your mailbox for our Guide on the Go!

Our Hot Talks Series continues and we invite you to join us. Hot Talks are free, interactive discussions that feature a variety of speakers who offer expertise on particular topics, as well as a broad spectrum of viewpoints. Our doors are open to all who wish to engage in civil discourse. Bring your questions, your views, your criticisms – whatever you’ve got – and come meet us at the bar for Hot Talks the second Tuesday of every month.

Meet us at the Bar for these 2017 programs:
- November 14 – The Human Trafficking Highway
- December 12 – TBA – watch your email

CleMetroBar.org/HotTalks

CLE SEASON IS HERE

HOT TALKS SERIES

SAVE THE DATES

October 22–28 – Pro Bono Week
October 27 – 44th Annual Estate Planning Institute
October 28 – Halloween Run for Justice at Jacobs Pavilion at Nautica
November 2–3 – 60th Annual Cleveland Tax Institute
November 9–10 – 39th Annual Real Estate Law Institute
November 17 – De-Stress Fest
December 5–7 – New Lawyer Boot Camp
December 7 – Celebration for New Lawyers
n Ohio, drinking water supplies are impacted and safeguarded by a complex and intricate web of federal and state laws, regulations, guidance, and policies touching on every practice area, aspect of the law, and life. Ohioans understanding of drinking water challenges and safeguards are as divergent, and in some cases, at first glance, disparate — yet, interconnected — as the complex and intricate web of laws and policies which impacts and protects drinking water supplies. An understanding and approach that addresses, with varying degrees of success, the many individual challenges that underscore safe drinking water issues. Yet, continues to be viewed as a drinking water-environmental issue, as opposed to the multi-disciplinary, cross-practice area challenge, that it presents, and approach that is required for resolution.

SAFE DRINKING WATER

Millions of Ohioans, and hundreds of millions of Americans, rely on public water systems to provide their drinking water. The Safe Drinking Water Act (SDWA), was designed and enacted to ensure this drinking water is safe. SDWA regulates public water systems and requires monitoring, reporting, and treatment for regulated contaminants. The oversight and enforcement of SDWA rest largely with the States, with the U.S. EPA serving as a federal backstop to ensure the states execute their duties under law.

There are more than 151,000 public water systems throughout the United States, providing water to 90 percent of Americans. In the State of Ohio, approximately 4,800 water systems provide water to 11 million Ohioans. Yet, the nation’s, or Ohio’s, premier drinking water protection law has not substantively updated in earnest since last being amended by Congress in 1996.

Additionally, drinking water supplies are both impacted and protected, directly and indirectly, by federal, state, and local laws. Laws including the: Clean Water Act (CWA); National Environmental Policy Act (NEPA); and Toxic Substances Control Act (TSCA). Drinking sources are also impacted by state laws and regulations, or the lack of such laws. Additionally, by the laws of localities, including: zoning codes, building codes; localities infrastructure prioritization and funding choices; and the policies and actions of communities.

THE CHALLENGE

Since the unfortunate, and ongoing, circumstances causing the Flint, Michigan water crisis, challenges to drinking water supplies have garnered national attention; Ohio is no exception! Challenges caused by:

• poor and inadequate protection of sources of drinking water;
• aging and failing water infrastructure systems that are in a state of degradation and despair;
• woefully inadequate processes which protect and allow for early response to challenges threatening drinking water supplies;
• scarce and uncertain funding streams that are necessary to provide water distribution systems and consumers with the resources needed to ensure safe drinking water; and
• consumer affordability and access to drinking water.

Additionally, these challenges are further complicated by diminishing public lands; and other related environmental hazards which affect water supplies. Challenges created in part, to varying degrees, and agitated by initial and continued: poor or ineffective planning; limited financial resources; and a seemingly growing information absence concerning intercausal effects of water quality pollution, emerging drinking water contaminants, human health, and other environmental disasters and events.

THE IMPACT

The impact from challenges — highlighted above — continues to be experienced and felt by Ohioans and reported on by the media as the effects become, and are becoming, more readily observable, far reaching in scope, and the number of individuals impacted continues to climb. Impacts easily understood and observed by the nature of the challenge itself — destroyed or ineffective water infrastructure systems, lack of access and affordability of drinking water, diminishing funding sources to pay for need work or nonexistent capacity to utilize existing...
sources. Additionally, impacts of current drinking water challenges can be surmised through further examination, including: adverse human health impacts, future threats posed by emerging contaminants, and undermined public trustworthiness and confidence in information from and by drinking water supplies, suppliers and government messengers.

Toledo Water Crisis
Toledo, Ohio ... August 2014 captures the complexity and extent of the nation’s and Ohio’s growing challenges with drinking water. When algal toxin in Lake Erie contaminated Toledo’s drinking water, residents were informed not to drink or use the water. The crisis highlighted the extent and scope of knowledge concerning emerging contaminants such as cyanotoxins — the toxin that makes toxic algae toxic, capability of drinking water treatment facilities to process emerging contaminants, Toledo resident’s exposure to future unknown health impacts, and a distrust of public water supplies — which can still be observed today.

Lead in Cleveland City Schools
In 2016, the impact and potential future long-term damage to human health was revealed to all Ohioans by the confluence of Cleveland’s aged water infrastructure system and toxically elevated levels of lead being discovered in several Cleveland City Schools. As highlighted in several news stories, exposed students may be exposed to learning, behavioral, and long-term health impacts.

Unfortunately, the Toledo water crisis and lead in Cleveland City Schools are only two examples, known and reported on, providing insight into the current challenges to drinking water in Ohio and in the country.

Mental health impacts arising from drinking water crisis ranging from Cleveland, Ohio to Flint, Michigan to Toledo, Ohio is oft forgotten. The Discovery and communication of threats to drinking water undermines the public’s trustworthiness and confidence in drinking water supplies, suppliers and government; and creates an atmosphere and percept of distrust. In turn, having the ability to create, contribute, or exacerbate mental health challenges.

As water suppliers and localities attempt to address the challenges to providing safe drinking water, the expense for drinking water treatment facility upgrades and maintenance are passed on to recession rebounding and already financially limited consumers. Efforts and solutions remedying seeking to remedy current drinking water challenges are contributing to the increasing difficulty for consumers to afford water — a basic and essential need. In turn, as water affordability challenges rise, as does the health, economic, and community impacts associated with scarcity and access to water, an essential resource to human life. The connection between water affordability, access, and human health is continuing to be understood, as highlighted by Henry Ford Health System’s Global Health Initiative and Division of Infectious Diseases study finding a correlation between water shutoffs and water-related illnesses.

CONCLUSION
Solving the challenges to ensuring safe drinking water requires: (1) a new perspective to understanding the challenge; and (2) a new approach to analyzing underlying challenges, assessing the potential impact of proposed solutions, and action by every citizen, attorney, policymaker, and person.

A New Perspective
A perspective, and approach, which is epitomized in a statement attributed to Albert Einstein — “a human being is part of the whole, called by us ‘Universe’. [h]e experiences his thoughts and feelings as something separated from the rest — a kind of optical delusion of his consciousness. This delusion is...a prison for us. Our task must be to free ourselves from this prison...”

Drinking water sources are the same sources of H-2-O molecules as surface water sources such as Lake Erie, the Maumee River, and Cuyahoga River; all of which, are the same H-2-O molecules that once was part of an oil puddle in a parking lot or standing water sources which collected debris at construction sites around the neighborhood; or released from a source holding industrial pollution. These same sources of water are used in homes, daycare facilities, law offices, and nonprofits, alike. Successfully addressing drinking water challenges first requires a recognition of underlying challenges as self-contained, yet overlapping and interconnected challenges. Current challenges to drinking water supplies highlights the evolution as to the public’s understanding and expectation for safe drinking water. An evolution which is not effectively captured by current laws, regulations, and programs. Drinking water issues should be vie

A New Approach
Further, addressing drinking water challenges requires action at every level of government and community, across industry, and practice areas. Ohioans, and Americans, will only have to safe drinking water with an approach that responds to the understanding and expectation that drinking water is safe, clean, affordable, accessible, and that information being delivered and messengers providing information are trustworthy. Adverse challenges posed to drinking water supplies must no longer be viewed as an issue belonging and solely solvable in the environmental law realm but, as the business, land use, estate planning, and potentially criminal, challenges that it presents.
Diane McNally provides Human Resources consulting services related to workforce and organization effectiveness. With over 20 years of executive experience in Fortune 250 organizations, Dr. McNally has demonstrated expertise in addressing a variety of human capital management issues, including employee engagement, performance management, change management, conflict resolution, individual and team effectiveness, as well as talent acquisition and retention.

Dr. McNally has extensive experience in individual coaching and group facilitation, both in corporate and academic settings. In addition, she is widely regarded for her expertise in corporate crisis management and recovery.

Dr. McNally’s academic credentials include a BA in Business Administration, MA Psychology, MA Organization Systems, and Ph.D. Human; Organization Development.

CleMetroBar.org/Leadership
SO, YOU THINK YOU KNOW SOCIAL SECURITY?

Andrew November & Michael Liner

As Chair and Vice Chair, it is our distinct honor to introduce the Cleveland Metropolitan Bar Association’s newest section: Social Security & Disability. Born out of a CLE in 2016, the Social Security & Disability Section went live in June of 2017. The section currently consists of 25 dedicated and experienced attorneys who represent their clients in Social Security Disability, Veteran’s Disability, and Long Term Disability claims.

Our goal in this introductory article is to not only introduce our section, but to deliver a primer of sorts on the basics of Social Security Disability. Rest assured, if you have a Social Security Disability question, you now know a great group of fellow CMBA members to reach out to.

When most people think of Social Security, they probably think about their Social Security card, or maybe the income grandma gets every month. Perhaps you had a name change and you had to drop by your local Social Security office? To millions of people, however, Social Security means so much more.

President Franklin D. Roosevelt signed the Social Security Act into law on August 14, 1935. The original program intended only to provide benefits to retired workers over the age of 65. It was not until 1956, when President Dwight D. Eisenhower signed legislation, that Disability Insurance (DI), a program intended to provide cash benefits for disabled workers under the age of 65, was established. Subsequently, disability legislation has been amended multiple times to provide security to disabled spouses, children, and widows. Importantly, the original legislation was also amended to provide Medicare benefits to disabled persons who have been receiving disability benefits for 24 consecutive months.

Today, approximately 10 million individuals and their dependents receive Social Security Disability. Most lawyers not familiar with our practice are often surprised at the scope of the adjudicatory process. Indeed, in Cleveland and Akron there are 29 full-time Administrative Law Judges hearing appeals daily. In the 2017 Fiscal Year, the Cleveland and Akron offices made 10,493 dispositions!

Now that you understand the breadth of our practice, it is important to understand the two primary disability programs. While certainly not the only programs, our Section attorneys typically assist on claims involving Social Security Disability Insurance (SSDI) & Supplemental Security Income (SSI).

For SSDI, a person must be fully insured for benefits. Typically, insured status is having worked and paid into the SSDI program for ten years. Not only must the person be insured, but the person must be presently insured, meaning they worked five out of the last ten years. There are exceptions for younger workers. For those without a work history, or a work history that did not rise to the level of fully insured and/or presently insured, SSI is available.

SSI, unlike SSDI, is not funded by the Social Security Trust Funds. Rather, it is funded by our tax revenue. SSI is a need based program, meaning that the program has strict resource and income limits. The monthly benefit for an SSDI recipient is based on a person’s work history and their contributions to the Social Security Trust Fund. In 2016 the average monthly amount was $1293. SSI on the other hand is statutorily determined with adjustments made due to cost of living fluctuations. The 2017 SSI amount is $735.

For both SSDI and SSI, a person must meet the definition of disability which is defined as an “inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period not less than 12 months.”

As a section, we have two primary goals. First, we intend to develop a unified front amongst our members. We believe in strength in numbers. The more we work together and learn together, the better we can represent our clients. This includes monitoring and sharing the ever changing laws and regulations. Second, we intend to network with as many different CMBA Sections as possible. Oftentimes, disability lawyers feel like we are stuck on an island. We have our own courts (the newly branded “Office of Hearing Operations”), our own rules of procedure and—with the exception of occasional federal court litigation—we don’t even have opposing counsel on the bulk our cases. However, the practice overlap with other CMBA sections is staggering. Whether it is workers’ compensation, personal injury, employment related issues, domestic issues, or estate issues, to name a few, we want the CMBA community to know we have skilled and experienced attorneys that can help you understand the nuances of Social Security Disability claims and how they will impact your client. We see limitless opportunities to come together with CMBA’s other sections, not only for mutually beneficial professional networking, but also to jointly provide quality education where we see overlap to the broader legal community.

Andrew November is chair of the Social Security and Disability Section. He is a shareholder at Liner Legal where he represents clients before the Social Security Administration. He has been a CMBA member since 2009. He can be reached at (216) 282-1773 or anovember@linerlegal.com.

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

1. Annual Special Education Law Forum
2 & 3. 60th Annual Cleveland Tax Institute
9 & 10. 39th Annual Real Estate Law Institute
9. Convergent Facilitator Training
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
20. Perspectives on Human Trafficking
29. The Impact of the Opioid Epidemic on Employers, the Courts and the Community
29 & 30. O’Neill Bankruptcy Institute Video
28 & 29. Sizzling Hot Topics in Professional Conduct Videos
27 & 28. Sizzling Hot Topics in Professional Conduct Videos
26 & 27. O’Neill Bankruptcy Institute Video
25 & 26. Sizzling Hot Topics in Professional Conduct Videos
24 & 25. O’Neill Bankruptcy Institute Video
23 & 24. Sizzling Hot Topics in Professional Conduct Videos
22 & 23. O’Neill Bankruptcy Institute Video
21 & 22. O’Neill Bankruptcy Institute Video
20 & 21. O’Neill Bankruptcy Institute Video
19 & 20. O’Neill Bankruptcy Institute Video
18 & 19. O’Neill Bankruptcy Institute Video
17 & 18. O’Neill Bankruptcy Institute Video

**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)
10. Sizzling Hot Topics in Professional Conduct Video
11. Sizzling Hot Topics in Professional Conduct Video
12. Pitfalls and Pointers for Young Litigators
15. 2017 Federal Practice Update
16. Sizzling Hot Topics in Professional Conduct Video
17. Sizzling Hot Topics in Professional Conduct Video
18. Identity Theft for Law Firms Video
19. Speed CLE: Year in Review
19. Don’t Let It Be You: Professional Conduct for the Modern Practitioner
20. Estate Planning Institute Video
21 & 22. Real Estate Law Institute Video
27 & 28. O’Neill Bankruptcy Institute Video
28 & 29. Sizzling Hot Topics in Professional Conduct Videos
29 & 30. Labor & Employment Conference Video

**Municipal Court Update: Hot Topics in Municipal Law**

**Saturday, October 21**

**CREDITS** 3.00 CLE requested with 1.0 hour Professional Conduct

**REGISTRATION** 8:15 a.m.

**PROGRAM** 8:45 a.m. – 12 p.m.

**Welcome & Introductions**

Joseph D. Hada, Quinn Legal Associates, Inc., Seminar Chair

- **Protecting Your Client’s Information and Your Data: Cybersecurity Advice for Lawyers** (1.0 hour professional conduct requested)
  - Joseph D. Hada, Quinn Legal Associates, Inc.

- **Challenging Dog Sniff Cases and a Preview of the Potential “Marsy’s Law” in Ohio**

- **Imposition and Collection of Fines and Court Costs**
  - The Honorable Patrick J. Carroll, Lakewood Municipal Court

**Sizzling Hot Topics in Professional Conduct**

**Wednesday, October 25**

**REGISTRATION** 12:55 p.m.

**Welcome & Introductions**

Jeffrey A. Brauer, Hahn Loeser & Parks LLP

- **Pot Topics: Rules Regarding Representation in Medical Marijuana Matters**
  - Thomas G. Haren, Frantz Ward LLP
  - Thomas G. Haren, Frantz Ward LLP

- **Walk the Line: Relationships with Clients**
  - Joseph N. Gross, Benesch, Friedlander, Coplan & Aronoff LLP
  - Joseph N. Gross, Benesch, Friedlander, Coplan & Aronoff LLP
CONTINUING LEGAL EDUCATION

60th Annual Cleveland Tax Institute 2017

CREDITS Up to 13.00 CLE Hours
REGISTRATION 8:15 a.m.
INSTITUTE 9 a.m. – 5:15 p.m.

Thursday, November 2
6.00 hours CLE, plus 0.50 hour optional lunch

Introductions and Opening Remarks
Edmund G. Kauntz, Singerman, Mills, Desberg & Kauntz Co., LPA, Institute Chair

Current Developments
Mitch Thompson, Squire Patton Boggs (US) LLP, Panel Chair
Thomas J. Callahan, Thompson Hine LLP
Alexios S. Hadji, Squire Patton Boggs (US) LLP
Susan E. Morgenstern, Taxpayer Advocate Service – IRS
Melinda L. Reynolds, Eaton Corporation

Washington Update / Tax Reform Proposals
Jeffrey H. Paravano, BakerHostetler LLP

Lunch Presentation: IRS Update (.50 CLE)
Michael Hare, Supervisory Special Agent, IRS Criminal Investigation Division

Pass-Through Entities
Thomas J. Hausman, Law Office of Thomas J. Hausman, Panel Chair
Stephen L. Kadish, Kadish, Hinkel & Weibel
Edward G. Ptaszek, BakerHostetler LLP
Paul Speyer, Maloney & Novotny

State and Local Tax Update
Edward J. Bernert, BakerHostetler LLP, Panel Chair
Matthew H. Chafin, Chief Counsel & Chief Ethics Officer, Ohio Department of Taxation
William G. Nolan, Ernst & Young LLP

Friday, November 3
6.00 hours CLE, plus 0.50 hour optional lunch

Introductions and Opening Remarks
Edmund G. Kauntz, Singerman, Mills, Desberg & Kauntz Co., LPA, Institute Chair

Tax Procedure/Controversy
J. Scott Broome, Bender, Alexander & Broome Co., LPA, Panel Chair
Matthew F. Kadish, Kadish, Hinkel & Weibel
David J. Lewis, Kruglik, Wilkins, Griffths & Dougherty Co., LPA

Corporate Tax
Salvatore J. Totino, Calfee, Halter & Griswold LLP, Panel Chair
Michael Colagiovanni, Grant Thornton
John R. Lehrer II, BakerHostetler LLP

Lunch Presentation – The Summa Holdings Case (.50 CLE)
Neal J. Block, Baker & McKenzie LLP

Wacky Cases
Top 10 Wackiest Cases and How They Can Improve Your Practice

Supreme Court Bingo
• Meet the justices, learn their ideologies and jurisprudence
• Recent landmark cases and how they will impact your practice

10th Annual Special Education Law and Advocacy Update for Parents and Practitioners

Wednesday, November 1
CREDITS 6.25 CLE & CEU hours requested
REGISTRATION 8:00 a.m.
PROGRAM 8:30 a.m. – 3:30 p.m.

Eligibility for Special Ed: Medical Diagnosis vs. Qualification Category, 504 vs. IEP, and ETRs
Linda M. Gorczynski, Hidman & Lowder Co., LPA, Seminar Chair

FAPE and Progress: Understanding FAPE and Determining Progress
Pursuant to the 2017 U.S. Supreme Court Decision
Franklin J. Hickman, Esq., Hickman & Lowder Co., LPA

Transition Meetings/Goals: Legal Requirements from Age 14 and Beyond
Amy Szymanski, Ohio Department of Education

Services Available from the Cuyahoga County Board of Developmental Disabilities to Support School-Age Children
Celeste Bajorek, Cuyahoga County Board of Developmental Disabilities

Mock IEP Meeting
Kerry Agins, Esq., Agins & Gilman, LLC

Legal Update: Overview of Recent Due Process Decisions and Key Special Education Cases
Susan G. Tobin, Esq., Agins & Gilman, LLC

Question/Answer Panel
Send questions for the panel to CLE@CleMetroBar.org. No district or student names, please.
Christina Henagen Peer, Esq., Walter | Haverfield LLP
Linda M. Gorczynski, Esq., Hidman & Lowder Co., LPA, Seminar Chair

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

Nonrefundable Fee Agreements
Jamie A. Price, Walter | Haverfield LLP

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

Adjourn to Informal Conversation with Panelists

The CMBA, Cleveland-Marshall College of Law and the League of Women Voters present

The Nuts and Bolts of Campaign Finance

Thursday, October 26
CREDITS 2.00 CLE hours requested
REGISTRATION 9 a.m.
PROGRAM 9:30 – 11:45 a.m.
LOCATION Cleveland-Marshall College of Law, I 801 Euclid Avenue

Welcome and Introductions
Ohio Campaign Spending/Finance Laws
Donald C. Brey, Taft Stettinius & Hollister LLP
Donald J. McTigue, McTigue and Colombo

Alternative Campaign Funding Models Currently Used in Other States and Communities
Catherine Turcer, Common Cause Ohio
Cyndra Miller Cole, Bliss Institute, University of Akron

A Comedic Review of Recent Supreme Court Decisions and Other Notable Cases
Featuring Joel Oster, Comedian at Law, Kansas City

Tuesday, October 31
CREDITS 6.00 CLE requested
REGISTRATION 8:30 a.m.
PROGRAM 8:50 a.m. – 4:30 p.m.

Attorney Clickbate – You Won’t Believe These Attorneys Were Sanctioned for This! (2.0 hours Professional Conduct)
Tax TV – Negotiating the Sale of an S Corporation
James C. Koenig, Thompson Hine LLP, Panel Chair
Katherine D. Brandt, Thompson Hine LLP
Michelle M. Hervey, BakerHostetler LLP
Peter A. Igel, Tucker Ellis LLP
Kevin R. Tabor, Thompson Hine LLP

Breakout Sessions
I – Tax Accounting
Timothy Gerbracht, PricewaterhouseCoopers, Panel Chair
Jeff Bilskey, BDO USA LLP
Larry Friedman, BarnesWendling
Gregory M. Rosko, PricewaterhouseCoopers

II – Tax Aspects of Creditor Relations
John C. Goheen, Ulmer & Berne LLP, Panel Chair
Christina Novotny, BakerHostetler LLP
Frederick N. Widen, Ulmer & Berne LLP

39th Annual Real Estate Law Institute
2017

CREDITS 13.75 CLE Hours
REGISTRATION 7:45 a.m.
INSTITUTE Thursday 8:15 a.m. – 4:45 p.m. & Friday 8:15 a.m. – 4:30 p.m.

Thursday, November 9
Welcome & Introductions
Joseph M. Saponaro, FisherBroyles, LLP, Institute Chair
Rebecca Ruppert McMahon, Executive Director, CMBA

Current Developments
Irene M. MacDougall, Walter | Haverfield LLP
John W. Waldeck, Walter | Haverfield LLP
Lori Pietman Haas, Ulmer & Berne LLP

One Size Does Not Fit All: Leasing 1.0
Frank C. Santoiemmo, Singerman Mills Desberg & Kauntz Co., LPA
John J. Lisby IV, BakerHostetler LLP
Daniel P. Hinkel, Kadhis Hinkel & Weibel

Getting It Back: FastTrack Foreclosure Updates
Rose Marie L. Fiore, Kaufman Drozdowski & Grendell, LLC
Monica E. Russell, Critchfield, Critchfield & Johnston, Ltd.

Presentation of the Rosewater Award
Greater Cleveland Habitat: Revitalizing Cleveland’s Neighborhoods (.50 CLE)
Kimberly Pride, Development Manager, Greater Cleveland Habitat for Humanity

Mineral Rights – Can You Dig It?
Christopher R. Mykytiak, Hahn Loeser & Parks LLP, Moderator
Brett Akler, Ulmer & Berne LLP
Timothy S. Knobloch, James Knobloch Petroleum Consultants, Inc.
Dick Emerns, Emerns & Wolper, LPA

“Trumped” Up Changes to Wetland and Stream Permits
Keith H. Raker, Tucker Ellis LLP, Moderator
Joseph P. Koncelik, Tucker Ellis LLP
Jason McKenney, HZW Environmental Consultants

Hello, Did Anyone See Where My Data Went?
Michael D. Goler, Miller Goler Faeges Lapine LLP, Moderator
Brett Burney, Burney Consultants LLC

Not in my Backyard ≠ This Land is My Land
Gillian E. Hal, Knez Homes, Moderator
Carolyn Downey, City of Cleveland
Anthony J. Coyne, Mansour Gavin LPA

Friday, November 10
Welcome & Introductions
Joseph M. Saponaro, FisherBroyles, LLP, Institute Chair
Rebecca Ruppert McMahon, Executive Director, CMBA

At the Corner of Bitter and Sweet – Mixed Use Leasing
David A. Lum, Brouse McDowell, LPA

Kenneth M. Lapine, Miller Goler Faeges Lapine LLP, Moderator
Kathryn J. Carlisle-Kesling, Buckingham LP
Luke Palmsiano, RMS Investment Corporation

Covering Your Asset – Insurance for Dummies
Thomas B. Bruce, Love Funding Corporation, Moderator
William Brancovsky, Oswald Companies
Jon Mark Tichar, Oswald Companies
Amanda M. Leffler, Brouse McDowell

In Through the Out Door: §365 Lease Rejection and Other Bankruptcy Considerations
Joseph M. Saponaro, FisherBroyles, LLP, Moderator
Patricia B. Fugee, FisherBroyles, LLP
Frederic P. Schweg, Attorney at Law

Lunch & Presentation
Update from the Cleveland Port Authority (.50 CLE)
Rhonda Bever, Cleveland Port Authority
Navigating Borrowers Through the Looking-Glass of CMBS Financing
Thomas B. Bruce, Love Funding Corporation, Moderator

Kristin W. Boose, Ulmer & Berne LLP
Ross Halloran, Bellwether Enterprise
Edward J. Leader, Taft Stettinius & Hollister LLP

The Executioner’s Song: Legal Opinions in Real Estate Financing Transactions
Paul J. Singerman, Singerman Mills Desberg & Kauntz Co., LPA, Moderator
Stephanie Duffy, Porter Wright Morris & Arthur LLP
Mara E. Cushwa, Cafele-Halter & Griswold LLP
Brian P. Parnan, McCarthy, Lebit, Crystal & Liffman Co., LPA

The Underwriter’s Guide to the Galaxy: Current Developments
Joanie L. Zimmer, Title Source, Inc., Moderator
Amy E. Asseff, Thompson Hine LLP, Moderator
Kathleen A. Nitschke, Giffin & Kaminski, LLC
Mary R. Porter, NorthStar Title Services LLC
David A. Freeburg, Freeburg Law Firm, LPA

Convergent Facilitation Training with Dr. Miki Kashtan, Ph.D.

Thursday, November 9
CREDITS 7.25 CLE & CEU
REGISTRATION 8:00 a.m.

PROGRAM 8:30 a.m. – 5:15 p.m.
Overview and Objectives of Convergent Facilitation Demonstration of the 3-Phase Convergent Decision-Making Framework
• Phase I – Criteria Gathering
• Phase 2 – Proposal Creation
• Phase 3 – Decision-Making

Phase 1 of the Framework: Criteria-Gathering
Facilitation Skill: Identifying the Noncontroversial Essence
Phase 2 of the Framework: Proposal Creation Facilitation Skills:
• Tracking
• Engaging with Outliers
• Making Transparent Transitions

Phase 3 of the Framework: Decision-Making
Facilitation Skills:
• Gauging Willingness, Determining Thresholds
• Engaging with Dissent
• Attending to power differences
• Moving the meeting forward without leaving anyone behind
• Adapting the process under time pressure
The Legal Rights Most Condo Owners Don’t Know They Have

BY STEVEN OTT

With its mix of restaurants, clubs and unique residences, Cleveland’s Warehouse District has drawn more than 2,000 residents and has become one of the most vibrant mixed-use neighborhoods in the city.

Many purchasers of the condominium units sold in the Warehouse District are first-time condominium buyers, a mix of young professionals and retirees who are downsizing from homes in the suburbs and looking for a chance to be part of the city’s revival.

Whether it’s their first housing purchase or they’ve owned homes before, many of these first-time condo buyers are unaware of the unique laws relating to the development, sale, ownership, and management of a condominium unit in Ohio. Their unfamiliarity with the law can put owners at the mercy of unfortunate circumstances and, in some instances, opportunistic developers who leverage condominium laws to their advantage. It behooves all buyers of condominiums to know the law to prevent this from happening and, if necessary, to take steps to correct abuses. The actions by one condominium owner who enforced the Ohio Condominium Act to protect herself and other unit owners are remarkable and instructional for others in similar situations.

The Cloak Factory is a condominium association in the Warehouse District. Its 28 residential units offer some of the most dramatic rehabilitated space in the city, with views overlooking Lake Erie and downtown. The developer of the condominiums created the condominium association on September 22, 2006, when the declaration was recorded with the Cuyahoga County Recorder.

Pamela Akerstrom purchased a unit at the Cloak Factory in December 2006. Over the years, she became increasingly concerned about the financial condition of the association. Since the developer sold less than half of the residential units, it still maintained the majority ownership of the units and used that to exercise absolute control over the association. The developer controlled the amount of the monthly maintenance fees, how the maintenance fees were spent, whether and when maintenance was conducted and which vendors the association used. It did not provide regular or accurate accountings of how the developer-appointed board spent the unit owners’ monthly association fees.

In October 2015, Ms. Akerstrom filed a declaratory judgment action in Cuyahoga County Common Pleas Court against the developer, and sought a motion for preliminary and permanent injunction, seeking to prohibit the developer from controlling the association board. Her claims sought to put the unit owners in control of the association.

Before the filing by Ms. Akerstrom, the developer transferred his units into different names and appointed his wife, and others whom he could control, to the board. In the Complaint, Ms. Akerstrom named as party-defendants the developer, developer’s representative/principal and the individual board members.

Ms. Akerstrom’s claims were predicated, in part, on Ohio Revised Code Section 5311.08 (C) and (D), the portions of the Ohio Condominium Act that set forth milestone events for the developer to transfer control of the association board to the unit owners. RC 5311.08(D)(1) provides that if the condominium is not expandable, then the developer control period cannot extend more than three years after the unit owners’ association is established (if the association were expandable, then the control period would extend to five years). This provision of the Ohio Condominium Act means that, in this situation, the developer should have ceded control of the association board to the unit owners in 2009.

After a hearing on the motion for permanent injunction, the court granted the motion in favor of Ms. Akerstrom and called for an immediate election by all the unit owners to elect a new board of trustees.

As part of that order, the developer was not allowed to vote the units he controlled (no matter what name they were in) because to do so would have enabled the developer to continue its control over the association. As a result, the Cloak Factory unit owners have controlled the association and its board since April 2016, when the election was held.

The second part of Ms. Akerstrom’s case concerned monetary damages. Once a unit is made part of an association, the developer must pay monthly maintenance fees for the developer-owned unit, just as all other unit owners do. The developer’s obligation is found in the Cloak Factory Declaration, as well as the Ohio Condominium Act. Once that unit is sold, the new unit owner will start paying maintenance fees.

Their unfamiliarity with the law can put owners at the mercy of unfortunate circumstances and, in some instances, opportunistic developers who leverage condominium laws to their advantage.
Through discovery and the testimony of developer’s agent, when the unit owners took control of the board in April 2016, it was determined that no residential unit owner was delinquent in the payment of their maintenance fees.

Ms. Akerstrom, with the help of expert witness testimony, demonstrated, using simple mathematics, the amount that should have been deposited into the association account each month. Since the developer provided evidence that none of the residential unit owners were delinquent, any deficiency in any particular month was directly attributable to the developer’s failure to pay maintenance fees. Based on that expert testimony, the court found that the developer had failed to pay $762,204 that it should have paid into the association for monthly maintenance fees.

The developer offered evidence, through spreadsheets, depicting monthly fees in defense of its position, but the court found that there was no evidence that the expenses listed in the spreadsheets were actually paid by the developer. The court also noted that neither the Declarations nor the bylaws of the Cloak Factory authorized the direct payment of association expenses in lieu of paying association fees.

The court also found that the developer failed to adequately fund the reserve account, as required under the Ohio Condominium Act. That section of the Act provides that the owners, including the developer, must contribute to the reserve account in an amount not less than 10% of the budgeted expenses for that year. R.C. 5311.081(A)(1). Even though the residential owners paid into the reserve account the correct amount, there existed a large deficiency in the account. Based upon the developer’s own figures, the expected total contribution to the reserve account from January 1, 2007, through December 31, 2014, would be $156,760. The review of the reserve fund accounts revealed that only $92,858 had been deposited since 2007 and, thus, there was a $63,092 deficiency in the reserve account.

The court found that the developer was liable for damages in the amount of $762,204 and granted judgment against the defendants for that amount. The court also granted judgment in favor of Ms. Akerstrom for the delinquent reserve assessments accruing from January 1, 2006, through December 31, 2014, for $63,902. The total monetary award to Ms. Akerstrom (for the benefit of the association) is $823,106.00.

The developer has appealed the monetary judgment portions of the decision, but not the injunctive relief granted regarding the developer control period. All of the appellate briefs have been filed, and the parties are waiting for the court to schedule oral argument.

The issues in this case are not unique to the Warehouse District or condominium developments. They can arise anywhere a developer does not follow the law and homeowners are unaware of their rights. Owning a condominium, however, is quite unique as compared to renting an apartment or owning a house, with rights and obligations for both buyers and developers. Condo buyers should familiarize themselves with state law before buying and consult an attorney familiar with community association law if questions do arise.

Steven M. Ott is licensed to practice in Ohio, California and Michigan. He is an OSBA Certified Residential Real Estate Specialist, concentrating his practice in the area of community association law. He has been a member since 1980. He can be reached at (216) 771-2600 or steven.ott@ottesq.com

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PROGRAM 9 a.m. – 4 p.m.
Networking reception to follow
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TOPICS INCLUDE
• Structuring a Real Estate Deal to Allocate Environmental Risk
• Alternative Financing Sources for Redevelopment of Property
• Case Study on the Former Coyne Facility
• Green Infrastructure and Integrated Planning
• The Redevelopment of the Flats East Bank
• Tools of Land Banks: Case Study of Redevelopment/Stabilization Projects
• Will Concern About Vapor Intrusion Take You To the Cleaners?
COURT REPORTING TECHNOLOGY V. DIGITAL RECORDING AND VOICE RECOGNITION

BY TODD L. PERSSON

Not a day goes by I don’t read some sort of labor force doomday article with a headline warning of technology and AI taking over every profession known to man. However, when you get past the scary headlines and read the content, most of these articles point out that while the technology may be there in theory and under extremely controlled laboratory settings, it is nowhere near the level of sophistication needed to perform these jobs in the real world.

Technology in Legal
Like all industries, the legal industry is being confronted every day with threats of technologies that will replace human beings, and if you read enough headlines, you may even be led to believe that lawyers will be completely replaced by AI in the next few years. But this is obviously not true.

Last month I attended a CMBA seminar regarding technologies that are rapidly seeping into the daily operations of law firms all around the world. The emergence of AI doing the work of entry-level associates in the organization and categorization of millions of pages of discovery documents was discussed, and a very optimistic view of this technology’s place in law was the resounding takeaway. Using AI to relieve humans of the mundane tasks of sorting and organizing, and instead spending that crucial first few years as an associate actually practicing law will only produce more prepared and experienced, enthusiastic lawyers.

Technology Has Been Threatening Court Reporters For Decades
Court reporters have been challenged by emerging technologies since the advent of the tape-recorder. Over the last two decades, State Courts across America have experimented with replacing court reporters with digital recording equipment to the detriment of due process, expediency in appeals, and the integrity of the record itself. In fact, many of these courts who have gone the digital recording route have now brought back court reporters after realizing that digital recording equipment is a poor substitute for a highly skilled court reporter and a giant step backwards in courtroom technology. The fact of the matter is, our profession and the skill and technology behind it is grossly misunderstood.

Court Reporting Technology
First, let’s set the record straight. Court reporters do not dictate from paper notes and then use simple word processing to create a transcript. We do not use paper in any way. Instead, the technology we do use is incredibly sophisticated, creating an immediate readable record at a 99-percent accuracy rate or above, capturing complex testimony at rates of 225 words per minute and higher. To put that in perspective: An extremely proficient typist on a QWERTY keyboard will max out at about 110 words per minute; the average human speaks at about 180 words per minute; and when you add multiple speakers at once, spoken words per minute can exceed 300 in lightning fast bursts.

Machine Shorthand
A court reporter’s training begins by learning a new language called machine shorthand. As stated above, a traditional QWERTY keyboard can’t capture the spoken word without falling behind almost immediately. To handle the speeds of human speech, the court reporting machine and machine shorthand were born.

Our modern-day machines are complex computers with hypersensitive keyboards consisting of 22 blank keys. The spoken English language is then broken down into combinations of sounds and phrases that the court reporter will capture using keystrokes consisting of thousands of combinations of these blank keys.

This new language training consists of learning keystroke combinations that correspond to sounds of spoken English and memorizing thousands of keystroke combinations that represent frequently used phrasing in the English language, as well as thousands of briefs used for commonly used words and complicated medical and industry terms. So unlike the QWERTY keyboard, where one letter is typed at a time to form a word, court reporters type whole words or phrases at once in a split second. This is very analogous to playing single notes versus chords on a piano keyboard.

Ear-Hand Coordination
After the new language of machine shorthand is learned by a court reporter in training, the entirety of the next couple years in school will be spent building speed. True speed-building is achieved when the court reporter learns to let their ears communicate directly with their hands. When the conscious mind of the court reporter gets involved and becomes hyper-focused on the words being spoken, he or she will quickly fall behind. Instead, we use the capacity of our conscious minds to pick up who is speaking, and to survey what else is happening in the room.

Now, this doesn’t mean that we are not listening to the words being spoken. In the court reporting profession, there is a big difference between listening and hearing. We are definitely listening and understanding. However, we are not focusing on each individual word. Rather, what we are “hearing” goes directly from ear to hand with no thought involved. It is this crucial balance of listening and direct ear-to-hand hearing that enables the court reporter to remain calm and collected, and not fall behind when testimony becomes stacked or highly contentious.

Computer-Aided Transcription (Cat) Software and Realtime
The second half of court reporting technology is computer-aided transcription (CAT) software. CAT software is extremely sophisticated and requires separate training for a court reporter to truly become proficient in all its functions and capabilities.

CAT software is run on a laptop that communicates with our court reporting machines either wirelessly or through USB, and will be translating machine shorthand keystrokes into
written English on our laptops in an immediate transcript format with specific spacing, line numbers, timestamping, and margins. There is virtually no delay in the time someone speaks and when the written English words show up on the screen.

Another capability of CAT software is sending out realtime feeds of the transcript to other devices wirelessly and even remotely. This immediate feed of the transcript can be sent around the world by setting up a remote login for any attorney in a location other than the venue of the proceeding to view the transcript in real time.

Now that we have a basic understanding of the complex technologies court reporters use in capturing the spoken word and creating transcripts, let's see how the technologies of digital recording and voice recognition stack up.

**Court Reporters v. Digital Recording**

One of the first technologies to pose a threat to court reporters is digital recording. But just how credible is this threat?

**Digital Recording Has Zero Filters**

Digital recording requires the use of microphones, and any mic in a courtroom will pick up any sound with absolutely no filtration, and all this sound becomes part of the official record. Instead of a clear answer to a very important passage of testimony, what you may end up with on a record made by digital recording is a cough, a rustling of papers, or any number of extraneous sounds that mics will pick up indiscriminately.

Court reporters, on the other hand, hear in three dimensions and can filter sounds. We deal with all sorts of noises during any proceeding that shouldn’t be part of the record in a very simple way: We don’t even hear them. An experienced court reporter has perfected their ear-hand coordination in such a way that the only thing getting through to their hands are the sounds of spoken language.

**Multiple Speakers**

Dealing with multiple speakers talking at once is one of the biggest challenges for court reporters. However, having learned ear-hand coordination in school, we deal with this by having one voice go directly from ear to hand, and we use retention techniques to handle the other voices. Speaking at the same time is part of human conversation and happens at every deposition and every trial, so being able to handle multiple speakers at once is crucial to making a clear and accurate record.

In the same way recording devices can’t differentiate between a cough and a human voice, they also can’t separate out multiple voices at once. When more than one person is speaking simultaneously and the proceeding is being digitally recorded, what you get for a record is a cacophonous mess of human voices; completely stacked and unintelligible.

**Creating a Written Transcript**

Court reporters produce written transcripts. We can provide an immediate realtime transcript as it is happening (think closed-captioning), and we can produce a final, certified transcript the same day or next day after a proceeding is completed. A digital recording does not make a transcript. Ever. It's that simple.

It is now very clear that court reporting technology versus digital recording technology is no contest in the creation, production and preservation of an official record of a deposition or trial.

Next up is voice recognition technology. Is this a credible threat?

**Court Reporters v. Voice Recognition**

There are two glaring problems with voice recognition that I believe make it highly unlikely it will have a significant role in creating records of depositions or trials at any time in the near future; the inherent flaw, and single-user applications.

**The Inherent Flaw**

The biggest problem with voice recognition technology is that at its most fundamental level, it relies on digital recording and microphones to make it work. All the same difficulties digital recording ran into due to lack of filters will inevitably show up in the exact same way with voice recognition. Extraneous noises will interfere. Multiple speakers at once will create an unreadable transcript. Speakers will not be identified unless they state who they are before they speak. No matter how sophisticated and accurate the voice recognition technology becomes, this inherent flaw will probably always be there.

**Single-User Applications**

The primary developers of voice recognition technology are the tech giants of the world. Microsoft, Google, IBM, Apple, Facebook; they all have billions invested in its research and development. Therefore, to get any kind of return on this enormous investment, the reach they have in mind is focused on personal, single-user applications that do not come close to meeting the needs of the relatively miniscule court reporting industry, such as handling multiple speakers at once, filtering extraneous noises, identifying speakers before they speak, and producing immediate transcripts. Now, over time, and building upon the research and development of others, this technology will improve. But to say it’s even close to being a competent substitute for court reporting technology as it exists today is simply not true.

**The Future of Court Reporting**

As courts across the country continue to bring back human court reporters in lieu of experimental digital recording equipment, the future of our industry is bright. However, due to many of the misconceptions about our field and our technology, enrollment is down in court reporting programs all over the country. With an aging population of currently working court reporters, there will be a shortage of reporters within the next five years in every city in the United States to meet the needs of the growing industry of civil litigation. Will this create a crisis in due process and cause a monumental roadblock in the already congested civil dockets of our State Courts? That obviously has yet to be seen. But one thing is certain; court reporters perform a vital role in our justice system, and as our numbers dwindle and are not replaced by new reporters, the justice system we rely upon now will not exist.

Given enough time and human progress, every profession will be different and unrecognizable. But as far as the court reporting industry is concerned, on this timeline in the year 2017 and into the foreseeable future, we are the undisputed champions of the capture and preservation of the record. Sure, we suffer the blows of theoretical punches by inferior technologies year after year, but theoretical punches don’t hurt us or knock us down. They only make us adapt and become even more prepared for the real punches that will inevitably come our way.

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**Todd L. Persson** has been serving the Cleveland legal community as a court reporter since 2002 and is a Co-Founder of Cleveland-based litigation support firm Cleveland Reporting Partners, LLC. He has spoken on the future of court reporting and technology on the Stenographers World Radio national podcast, is a contributing writer for the Florida Court Reporters Association, and has had blogs featured nationally by the National Court Reporters Association and the American Translators Association. He joined the CMBA this year. He can be reached at (216) 459-7880 or todd@CLereporting.com.
THE TRUMP EFFECT IN OHIO
OHIO EPA PUTS BOOTS ON THE GROUND

BY JOHN L. OBERY & LOUIS L. MCMAHON

ewspapers and broadcast reports for over a year have asked “what will happen to EPA and environmental law” in light of the Trump administration’s focus on regulatory rollback and budget cuts. For example, in April much was made of rumors of closing U.S. EPA Region 5 in Chicago, the Regional Office for Ohio and all the Great Lakes, leaving no “environmental cop on the beat” and putting all environmental improvement at risk. See, e.g., Hand, Mark, Leaked Trump administration plan to close Chicago EPA office puts 1,000 jobs at risk, ThinkProgress.org, Apr. 17, 2017. Whether one views a changed U.S. EPA as positive or negative, and whether those changes actually come at the national level, close observers know that Ohio EPA always had a frontline role in environmental enforcement. The regulated and general public should look past Trump headlines and be aware that Ohio EPA, in priority areas, is strongly asserting that obligation.

Ohio EPA, in the words of Director Craig Butler, views its role as the “implementer [of environmental laws] with boots on the ground” and “the front-line agency within Ohio that’s responsible for protecting public health and the environment.” Renault, Marion, “Ohio’s EPA director talks changes in the Trump era,” Columbus Dispatch, Mar. 13, 2017. This position has proven to be more than just tough talk in response to threatened budget cuts. Trends of the last few years make clear that regardless of U.S. EPA’s role going forward, regulated entities can expect that Ohio EPA will continue to assert its role in the regulatory landscape.

Ohio EPA Defends Delegated Authority (and Common Sense) in Dredging Dispute
Ohio EPA’s assertive role is best exemplified in its struggle with the U.S. Army Corps of Engineers (USACE) over disposal of dredged material from the Cuyahoga River and Cleveland Harbor. Along with Ohio Department of Natural Resources and co-Plaintiff Cleveland-Cuyahoga County Port Authority, Ohio EPA objected to USACE’s ‘self-certification’ that it complied with Ohio’s federally-approved water quality standards in its proposal to dump PCB-laden dredged material at disposal sites in Lake Erie. Ohio EPA objected to USACE’s technical analysis and its threat to not dredge the Cuyahoga River unless the state paid a higher cost for disposal on land, the practice since the Clean Water Act was enacted in the 1970s. Ohio EPA won an injunction to force USACE to dredge the River in May 2015. On May 4, 2017, the court granted summary judgment to Plaintiffs, see Ohio v. United States Army Corps of Engineers, N.D.Ohio No. 1:15-CV-679, 2017 U.S. Dist. LEXIS 69035 (May 4, 2017), finding that USACE had acted arbitrarily and capriciously in violation of the Administrative Procedure Act, contrary to Ohio water quality standards and the requirements of the Clean Water Act.

Ohio EPA’s efforts did not just protect water quality of Lake Erie and the critical commerce that flows through the Port of Cleveland. Ohio EPA also protected the Congressionally-mandated federalism inherent in the Clean Water Act that makes even federal entities subject to the state’s oversight of water quality standards. The ruling in favor of Ohio EPA and the Port represents a singular victory where considerable deference is granted to federal agencies.

Water Supply Crises Push Active Drinking Water Changes
Drinking water issues grabbed headlines with Toledo’s algal bloom water crisis and the lead issues in Flint, Michigan, and locally in Sebring, Ohio. Concern with updating drinking water laws to meet these continuing public health crises led to legislative reform to update Ohio’s lead and copper drinking water rules. Two recent laws, House Bill 512 (H.B. 512), and House Bill 2 (H.B. 2) strengthened Ohio EPA’s authority to regulate public water systems, and Ohio EPA enforcement to date has been a vigorous, “zero tolerance” policy.

A defining characteristic of this policy is a significant reduction in the amount of time entities have to report testing results to Ohio EPA and the public. For instance, H.B. 512, effective as of September 9, 2016, requires public water systems and certified laboratories turn around results and report them in a matter of days. Penalties for failure to comply are specified in the state statute. A robust contingency plan is key for regulated water systems, since in the first year, Ohio EPA’s ‘zero tolerance’ approach has meant penalties for even minimum violations, such as computer errors delaying sample response notification.

Upcoming laws stand to provide Ohio EPA other avenues to further their proactive policies. H.B. 2, which will be effective on October 6, 2017, includes provisions applicable to drinking waters, including a requirement that all public water systems implement an asset management program by October 1, 2018. This asset management plan must demonstrate that the public water system has the technical, managerial, and financial capability to comply with Ohio’s drinking water laws. While general demonstrations of the same were required for certain public water systems previously, H.B. 2 requires that all public water systems provide a plan that sets forth (1) an inventory and evaluation of the public water system’s assets; (2) the system’s operation and maintenance programs; (3) an emergency preparedness and contingency planning program; (4) criteria and timelines for infrastructure rehabilitation and replacement; (5) approved capacity projections and capital improvement planning; and (6) a long-term funding strategy to support the system’s asset management program implementation. Ohio EPA will have the authority to take action if they determine that the plan is inadequate,
including the ability to deny plans for future improvement projects.

This regime elevates the required planning, reporting and financial requirements for implementation to maximize the likelihood that the local entity will address potential problems proactively, and minimize reliance on state responders reacting to public health emergencies. However, this requirement provides an additional avenue for Ohio EPA to exert influence over a regulated entity’s business decisions, and is an issue that must be watched closely to avoid unnecessary delays to key improvement projects.

Revised Vapor Intrusion Standards Upend Remediated Sites

Finally, Ohio EPA’s policy has changed the way entities conduct site remediation at sites with potential vapor intrusion. Vapor intrusion occurs when vapor-forming chemicals (such as trichloroethylene, or TCE) migrate from contaminated soil or groundwater under occupied buildings and into air inside buildings. Historically, the risk posed by vapor intrusion has been characterized as a function of chronic exposures, which allows for entities to conduct investigations of a potential vapor intrusion threat over a period of several months. This timeframe affords the investigating party the ability to organize and implement a plan (including coordinating with third parties for access, and managing relationships with the public) while capturing samples over a longer collection period. This type of deliberative approach is warranted in context of the risk since it adequately protects against the harms caused by chronic exposures.

However, in 2016 Ohio became one of only a handful of states (including California, Massachusetts, and New Jersey) to adopt guidance that characterizes vapor intrusion risk for acute exposures to TCE, citing studies linking TCE inhalation to birth defects. In response, particularly where there is a risk of vapor intrusion into buildings occupied by pregnant women, Ohio EPA established recommended accelerated response actions containing much shorter timeframes, even requiring immediate evacuations of buildings where TCE levels are observed at high levels. And, if response actions are not implemented in accordance with these recommendations, Ohio EPA and local health departments retain the authority to act without notice to the investigating party. This expectation of rapid responses (and the potential for otherwise voluntary actions to be upended by the Agency) makes it so that companies conducting investigations into potential vapor intrusion must have contingency plans in place for a number of situations, in order to react quickly to the Agency’s requests.

Conclusion

Headline changes of what may come at U.S. EPA do not mean that environmental regulation is going away. Instead, recent experience demonstrates that although enforcement and regulatory priorities may change at the federal level, Ohio EPA maintains a frontline role and exerts significant influence to carry out its regulatory and enforcement vision. Regulated entities and those active in environmental issues need to navigate this changing arena issue by issue, and keep close review of Ohio EPA leading on new issues.

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John L. Obery is Of Counsel to McMahon DeGulis LLP, Ohio’s largest environmental law firm. John counsels clients on complex federal and state environmental issues. He has been a member of CMBA since 2013. He can be reached at (216) 401-2649 or John@DaveBellLaw.com.

Louis L. McMahon is a Partner at McMahon DeGulis LLP. Lou advises local governments regarding EPA compliance and integrated planning of capital investments with other community objectives such as economic development, brownfield redevelopment and “greening” impervious areas. He can be reached at (216) 367-1407 or lmcmahon@mdllp.net.
On August 25, the Bar Foundation hosted its 71st Annual Franklin A. Polk Public Servants Merit Awards Luncheon at the Westin Hotel in downtown Cleveland. Three hundred family members, colleagues and friends gathered to celebrate the outstanding accomplishments of eleven individuals who have dedicated their professional lives to public service.

Together, we laughed, we cried and we laughed again while honoring the chosen nominees for their unfailing patience, commitment and devotion to duty. We could not have been more proud to highlight this group during our best — and most favorite! — award show of the year.

Thank you to all Committee members, Lynn Lazzaro, Committee Chair and Jacob Kronenberg, event emcee.
2017 Honorees

Lisa Beeble, Parma City Council  
John T. Bilinski, Cuyahoga County Court of Common Pleas  
Kathleen Bova1, Cuyahoga County Domestic Relations Court  
Sonja J. Colwell, Cuyahoga County Juvenile Court  
Liz Cullen, Cleveland Municipal Court, Housing Court Division  
Rita Haynes, Cleveland Municipal Court  
Jacqueline A. Johnson, Federal Public Defender’s Office  
Lynda L. Lewis, Cuyahoga County Probate Court  
Judith Mathews Nash, Rocky River Municipal Court  
Mary Ann Schmuck, Cleveland Municipal Court, Clerk’s Office  
Michael W. Vaccaro, Cuyahoga County Court of Common Pleas, Clerk’s Office

Thank you, Sponsors!

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Kronenberg + Belovich Law LLC  
Lazzaro Luka Law Offices, LLC  
Mary Catherine Barrett  
Meyers, Roman, Friedberg & Lewis  
Schneider Smeltz Spieth Bell LLP  
Taft Stettinius & Hollister LLP  
Ulmer & Berne LLP  
Vorys, Sater, Seymour and Pease LLP  
Rosanne Aumiller  
Hon. Diane J. Karpinski  
Kelly M. Zacharias

Join the CMBF next year as we celebrate our 72nd year of honoring devoted public servants!
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!

Your meeting. Our team. Success.

Contact Melanie Farrell at (216) 539-3711 or mfarrell@clemetrobar.org.
### October

<table>
<thead>
<tr>
<th>MONDAY</th>
<th>TUESDAY</th>
<th>WEDNESDAY</th>
<th>THURSDAY</th>
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<tbody>
<tr>
<td><strong>23</strong> Grievance Meeting</td>
<td><strong>24</strong> TMA/CMBA Lunch &amp; CLE</td>
<td><strong>25</strong> Wellness Wednesday</td>
<td><strong>26</strong> Reach Out Seminar &amp; Brief Advice Clinic</td>
<td><strong>27</strong> Estate Planning Institute</td>
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<tr>
<td>– 1 p.m.</td>
<td></td>
<td>Professional Conduct</td>
<td>Campaign Finance CLE – 7 a.m.</td>
<td>– 8 a.m.</td>
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<td>Lawyer-to-Lawyer Give Back for Justice Event</td>
<td></td>
<td>Live – 1 p.m.</td>
<td>Thought Leadership Committee – 8 a.m.</td>
<td>PLI – 8:30 a.m.</td>
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<tr>
<td>– 5 p.m.</td>
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<td>3Rs Committee Meeting</td>
<td>PLI – 8:30 a.m.</td>
<td>Pro Se Divorce Clinic – 10 a.m.</td>
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<td>Sizzling Hot Topics in Professional Conduct</td>
<td>Leadership Academy – 11 a.m.</td>
<td>(Cleveland Law Library)</td>
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<td>Court Rules Committee</td>
<td>Pro Se Plus – 1 p.m.</td>
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<td>Health Care Law Update – 2 p.m. (MetroHealth)</td>
<td>(Cleveland Law Library)</td>
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<td>IWIRC/Business Banking Section Event – 5 p.m.</td>
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<tr>
<td>CMBF Executive Committee Meeting</td>
<td>PLI – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>CMBF Executive Committee Meeting</td>
<td>CMBF Executive Committee Meeting</td>
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<tr>
<td>– 8 a.m.</td>
<td>Comedic Review of Recent Supreme Court Cases</td>
<td>CMBF Board of Trustees Mtg.</td>
<td>– 8 a.m.</td>
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<td>– 8:30 a.m.</td>
<td>WIL Section Meeting</td>
<td>PLI – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
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<td>CMBF Board of Trustees Mtg.</td>
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<td>WIL Section Meeting</td>
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<td><strong>DON’T FORGET!</strong></td>
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<tr>
<td>Saturday, October 28, 2017</td>
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<tr>
<td>16th Annual Halloween Run for Justice</td>
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<td>(Jacobs Pavilion at Nautica)</td>
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<td>All events held at noon at the CMBA</td>
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<tr>
<td>Conference Center unless otherwise noted.</td>
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### November

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<tr>
<th>MONDAY</th>
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<tr>
<td>PLI – 8:30 a.m.</td>
<td>Grievance Committee Meeting</td>
<td>Louis Stokes Scholars Committee Meeting</td>
<td>PLI – 8 a.m.</td>
<td>PLI – 8 a.m.</td>
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<td>Wellness Wednesday – Yoga Roots</td>
<td>YLS Council Meeting</td>
<td>Cleveland Tax Institute – 9 a.m.</td>
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<td>CMFB Board of Trustees Mtg.</td>
<td>Environmental Law Section Fundraiser – 5 p.m.</td>
<td>PLI – 8:30 a.m.</td>
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<td></td>
<td></td>
<td>WIL Section Meeting</td>
<td>(Eaton)</td>
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<tr>
<td>PLI – 8:30 a.m.</td>
<td>Forensic Accounting 101 for Attorneys – 8 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>Auto Accidents CLE – 1 p.m.</td>
<td>Pro Se Divorce Clinic – 10 a.m.</td>
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<tr>
<td>Bar Admissions Training – 1:30 p.m.</td>
<td>ADR Section Hot Talks</td>
<td>Fee Shifting CLE – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>(Cleveland Law Library)</td>
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<td></td>
<td>CMFB Board of Trustees Meeting</td>
<td>Leadership Academy – 9 a.m.</td>
<td>De-Stress Fest</td>
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<td>Appellate Writing CLE – 1 p.m.</td>
<td>Family Law Section Monthly Meeting &amp; CLE</td>
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<td>Real Estate Law Section</td>
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<tr>
<td>PLI – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>PLI – 8:30 a.m.</td>
<td>Office Closed</td>
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<td></td>
<td>Grievance Committee Insurance Law Section</td>
<td>CMBF Board of Trustees Meeting</td>
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<tr>
<td>Mental Health Meeting</td>
<td><strong>32</strong></td>
<td>Opiod CLE – 9 a.m.</td>
<td>Thought Leadership – 8 a.m.</td>
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<td>Human Trafficking CLE – 1 p.m.</td>
<td>Legal Writing CLE – 9 a.m.</td>
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<td>3Rs Committee Meeting</td>
<td>Exit Row Ethics – 1 p.m.</td>
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### Additional Notes

- Grievance Committee Meeting – **23**
- **28** Mental Health Meeting
- **29** Opiod CLE – 9 a.m.
- **30** Thought Leadership – 8 a.m.
- **31** CMBF Board of Trustees Mtg.
- **32** WIL Section Meeting
- **6** Special Education Law Forum – 8 a.m.
- **7** Wellness Wednesday – Yoga Roots
- **8** CMFB Board of Trustees Mtg.
- **9** YLS Council Meeting
- **10** Environmental Law Section Fundraiser – 5 p.m. (Eaton)
- **13** Forensic Accounting 101 for Attorneys – 8 a.m.
- **14** ADR Section Hot Talks
- **15** Fee Shifting CLE – 8:30 a.m.
- **16** CMFB Board of Trustees Meeting
- **17** Appellate Writing CLE – 1 p.m.
- **18** Leadership Academy – 9 a.m.
- **20** Office Closed
- **21** Office Closed
- **22** Office Closed
- **23** Office Closed
- **24** Office Closed
- **25** Ethics Committee
- **26** Judge Adrine Retirement Party – 5 p.m. (Old Courthouse)
- **27** Office Closed
- **28** Office Closed
- **29** Office Closed
- **30** Office Closed

All events held at noon at the CMBA Conference Center unless otherwise noted.
Established workers’ compensation firm looking to increase client base by taking over an existing book of clients. If interested in discussing this, please call (216) 990-7951.

**Suburbs – East**

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

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

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

- **Beachwood** – Office in gorgeous suite on Chagrin. Copier, fax, conference room and other amenities provided. Possible litigation referrals. Contact Craig W. Relman. (216) 514-4981.

- **Bedford** – Law Offices available with conference room/library, kitchen, receptionist, and mentoring from C|M grad with 40+ years legal experience. (440) 439-5999

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

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

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

**Suburbs – West**

- **Strongsville** – Office space available for lease. Beautiful location on Pearl Road in the Docere Building overlooking the Metroparks. Contact Chris Moscarino at (440) 730-4180, chris@BoldRealEstateConsultants.com.

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

- **Avon** – Newly renovated office space in the French Creek district. High traffic area, desirable for signage. Corner of 611/Colorado & Detroit Road. Call Giovanna (440) 308-6871.

- **Fairview Park Office Space** – Beautifully remodeled. Many amenities included. As low

**Suburbs – South**

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

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

- **Seven Hills** – Law office for lease – Broadview Road just north of Pleasant Valley Road. Busy intersection. Not far from I-77. 3,000 square feet, move-in ready, immediate occupancy. Reasonable rent. Contact Michael Kulick at (440) 503-9685 or michael1kulick@gmail.com to schedule a visit.

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

**Downtown**

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

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

- **Downtown Cleveland** – 3 Large furnished offices 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.
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.

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### Classifieds

#### For Sale

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

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#### For Rent

**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

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#### Services

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

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

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

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

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

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

**Exprienced 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@pentelic.com

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

**MarcoAuction.com**  Court: Estate and Probate, Divorce, Power of Attorney; Real Estate: Residential and Commercial; Appraisals: Insurance, Jewelry and Antiques; and Chattel Items: Farming equipment – Marco Mannucci, 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.
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- Risk management tools & resources

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- Group / Individual Medical Plans
- Bonding & Surety
- Life Insurance
- Disability Insurance
- Long-Term Care
- Business Owners Coverage
- Management Liability Coverage

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**New Associations & Promotions**

Attorney *Erica K. Williams* has joined Wickens, Herzer, Panza, Cook & Batista Co.

**Honors**

Ulmer & Berne LLP partner *Frances Floriano Goins* was named to the Benchmark Top 250 Women in Litigation. Ulmer partners *Paul R. Harris* and *Joshua A. Klarfeld* were included in Benchmark’s Under 40 Hot List 2017. This comes on the heels of Ulmer’s department-wide honor of being named Benchmark Litigation’s 2017 “Ohio Firm of the Year.”

**Tucker Ellis LLP** is proud to announce it has been selected to receive the Defense Research Institute’s Law Firm Diversity Award for 2017. The award honors a law firm that demonstrates a significant commitment to diversity. Tucker Ellis was selected based on its policies and practices, as well as its many civic contributions.

PRNews named CMBA board member *Bruce Hennes* one of its 50 “Game Changers of PR for 2017,” noting his 30 years of experience as a crisis management expert helping CEOs, executive directors, government officials and other leaders preserve and protect their reputation. See more here: https://tinyurl.com/HennesPRNews

Ogletree Deakins is pleased to announce that seven attorneys have been listed in The Best Lawyers in America 2018. *Bruce G. Hearey, Ellen Toth, John Gerak, Rebecca J. Bennett, Thomas H. Barnard, Wade M. Fricke,* and *Robert C. Petrilis.*

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, Richard Dean,* *Stephen Ellis, Robert Hanna,* *Michael Harris, Jeffrey Healy,* *Christopher Hewitt,* *Laura Hong,* *Irene Keyse-Walker,* *Eugene Kileen,* *Joseph Koncelik,* *John Lewis,* *Rita Maimbourg,* *John McCaffrey,* *Mark McCarthy,* *Erica McGregor,* *Daniel Messeloff,* *Joseph Morford,* *Matthew Moriarty,* *Carl Muller,* *Brian O’Neill,* *Thomas Ostrowski,* *Anthony Petruzzi,* *Susan Racey,* *Thomas Simmons,* *Ronald Stansbury,* *Edward Taber,* *Robert Tucker,* *S. Peter Voudouris,* *Jane Warner,* and *Kevin Young.*

The Brouse McDowell attorneys listed below were selected for inclusion in the 24th Edition of The Best Lawyers in America: *Christopher J. Carney,* *Patricia A. Gajda,* *Thomas A. Gattozzi,* *David A. Lum,* *Meagan L. Moore,* and *Thomas J. Ubbing.*

The Greater Cleveland RTA honored *Sheryl King Benford, Keith Ganther, Janet E. Burney,* and *George Capellas* with the “Taking Stock In RTA” award for their participation in The 3Rs program. The award is given for outstanding community service, one of the goals of the GCRTA.


**Elections & Appointments**

*Cuyahoga County Common Pleas Court Judge Michael E. Jackson* was presented with a National Award from the Vietnam Chartered Veterans’ organization for Vietnam veterans.

McCarthy Lebit is pleased to share that Recovery Resources named *Charles P. Royer* the Chair of their Board of Directors.

**Announcements**

Tucker Ellis LLP is proud to announce that it now provides pet insurance as an optional benefit for personnel in all seven of its offices.

CMBA 3Rs Committee members *Judge Dan Polster,* of the U.S. District Court for the Northern District, and *Carter Strang,* a partner at Tucker Ellis LLP, completed the 2017 Pan Ohio ride, cycling over 328 miles from Cincinnati to Cleveland over four days to raise money for the American Cancer Society. It was Judge Polster’s 8th Pan Ohio and Carter’s 2nd.

Jeremy Gilman recently retired from Benesch after 26+ years at that firm (and after 34 years at big firms) to launch his own litigation practice, work on various new-media startups, and record his recently released album called *Ignoring Precedent: Assorted Covers and Misinterpretations.*

Jerry Weiss, founder of Mediation Inc., has co-authored an article that will be published in both Alternatives, the international journal of CPR and the Cardozo Journal of Conflict Resolution. The article is entitled Are Legal Disputes Just About Money? Answers from Mediators on the Front Line.
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