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PRESIDENT’S COLUMN

“A PERFECT METHOD OF ADDING DRAMA TO LIFE IS TO WAIT UNTIL THE DEADLINE LOOMS LARGE.”

This anonymous quote (or so I believe it to be) certainly reaches its dreaded crescendo of application in the legal field when the deadline for an applicable statute of limitation rears its ugly head unexpectedly and with limited time available to react on the part of legal counsel. Of course, any availability no matter how thin it’s cut is a best case scenario in every way possible.

Lawyers are continuously dealing with time limitations and deadlines. It oftentimes seems that such temporal requirements intrude upon and pervade every aspect of one’s daily practice. It undoubtedly seems that way because they do. On occasion, a specific time requirement can unexpectedly appear with all the shock and surprise of a Cleveland Brown’s victory. However, from a well warranted “I am doomed” perspective, there are only two time strictures which if missed cause one’s knees to buckle.

The first absolute is the timely filing of an appeal and the age old consideration of when the order or judgment entry meets the legally required final ruling albeit notwithstanding the inclusion of the magical phrase “no just cause for delay.” Parenthetically, the latter phrase should never be confused with the more general declaration that there is “no cause for delay” which is devoid of the justice we all yearn to establish.

The second time requirement reigning supreme over the breathe and scope of our legal landscape are the numerous statutes of limitations dictating final dates for the filings of any particular cause of action and which if missed by a non-filing will involuntarily vaporize a case into oblivion. Every several years, a legislative change increases or reduces the relevant filing deadline of a relevant statute of limitation. This in fact has occurred recently and with regard to a limitation of action provision which has seemingly remained unaltered since its inception.



Michael C. Lucas
LCBA President

The Ohio statute of limitations for actions based upon written contracts, agreements or promises has long been endured within a fifteen (15) year time requirement. Apparently, this limitation period was one of the longest in the country, stretching far beyond similar statutes of limitation in other states.

By comparison, in excess of thirty (30) states have limitation periods within the time parameters of three (3) to six (6) years. Preferring to observe this glass of water as half full, Ohio would never have been accused of requiring hasty litigation for these particular causes of action.

Now, the Ohio General Assembly recently shortened the statute of limitations from this fifteen (15) year period of time to eight (8) years after the cause of action accrued. The newly enacted eight (8) year statute of limitations was passed and signed into law effective September 28, 2012, and codified under R.C. 2305.06. Of equal importance for practicing lawyers, the new legislative enactment has a retroactive component to it, by affecting written claims which accrued after September 28, 2005, and through September 27, 2012. Forewarned is forearmed.

For these relevant causes of action accruing prior to the effective date of September 29, 2012, the applicable statute of limitations is the shorter of eight (8) years or the limitations period that otherwise would have applied under the prior fifteen (15) year statute of limitations. The statutory application is thereby gently nestled under the classic “whichever occurs first” phrasing, and sets an absolute filing deadline by September 28, 2020 or face a time bar immovable under law.

There is a great quote regarding time limitations and deadlines by Douglas Adams and his cavalier approach to the same. Mr. Adams stated “I love deadlines. I like the whooshing sound they make as they fly by.” Stating the obvious, Douglas Adams is not a lawyer and the whooshing sound of which he speaks should be avoided by lawyers through appropriate file monitoring for each and every case within one’s practice.

LEGAL AID COLUMN

THE LEGAL AID SOCIETY OF CLEVELAND/VOLUNTEER LAWYERS PROGRAM PRO BONO OPPORTUNITIES

Each year, Legal Aid turns away 10,000 others because of lack of resources to help everyone. Volunteer attorneys bridge the gap between those who need assistance and those who receive it directly from Legal Aid.

There are many different ways to become involved in pro bono service through the Volunteer Lawyers Program at The Legal Aid Society of Cleveland. Pro bono involvement can range from participation in a Brief Advice Clinic where attorneys meet with individuals to give advice only to direct representation of a client in an extended service case. Attorneys also can select to become involved in a specialized project. Pro bono work is a great opportunity for networking and experience. Newer attorneys can gain experience and experienced attorneys can mentor a newer attorney.

For any activity, either a clinic or extended representation matter, Legal Aid provides pre-screening or clients and issues, substantive mentors, malpractice coverage and cost of litigation.

1. **Brief Advice and Referral Clinics:** neighborhood drop-in, first-come, first-served advice clinics providing individuals with an opportunity to speak directly with an attorney on a one to one basis. Variety of civil legal issues presented; no criminal matters. Clinics are staffed by volunteer attorney groups, with intake triage by law students and support of Legal Aid staff. The BA & R Clinic is a great introduction to pro bono work.
2. **Direct Representation:** direct representation on a pro bono basis is available to help serve clients who present a variety of civil legal issues and need extended representation by an attorney. Clients have been pre-screened for eligibility and type of legal problem, such as landlord tenant, consumer, probate, tort defense, etc.
3. **Specialty Projects:** projects provide opportunity to participate in a pro bono activity that is focused in a particular area of the law. Attorney commitment can range from advice to extended representation and is organized around one of the service models above. The following is a list of a few of the specialty projects that are available:
 - a. **Low Income Tax Clinic** – assistance to low income individuals on a variety of tax issues; assistance can be limited to advice, to negotiating resolution and payment schedule concerning federal, state, or local tax problems; to representation in tax court; or mentoring a less experienced attorney on a tax matter he or she is handling.
 - b. **Immigration Project and Clinic** – quarterly adjustment of status for refugees clinics are held in collaboration with Catholic Charities Refugee and Immigration Services; yearly Citizenship Day clinic assists clients with applications for citizenship status.
 - c. **Private Tenant-Landlord Project** – representation of individuals in housing matters. Cases are pre-screened for merit. Legal Aid Housing attorneys are available to mentor. This project is an introduction to practice in municipal courts.
 - d. **Elder Law Outreach & Education Project** - the project addresses the educational and transactional needs of the elderly regarding guardianship, powers of attorney, living wills, health care powers of attorney, transfer on death deeds and other planning documents.
 - e. **Pro Bono Bankruptcy Project** – individuals are pre-screened and due diligence packet prepared and reviewed by in house bankruptcy practitioner prior to placement with a private attorney for filing bankruptcy. Specific criteria for acceptance of a client in the project have been set by project attorneys.
 - f. **Pro se Divorce Clinic** – assist clients with preparation or prepared packet of documents and pleading for filing for a divorce pro se. Clients are prescreened for eligibility for the clinic.

To become involved, visit www.lasclev.org and click on volunteer !

REPORT ON APPLICANTS FOR ADMISSION TO THE LAKE COUNTY BAR ASSOCIATION

Pursuant to the by-laws, the Membership Committee reports that the following applicants have qualified for membership in the Association and the applications have been approved by the committee:

DECEMBER

Jessica L. Wright is a new attorney with the office of Murray & Black in Willoughby, Ohio. Ms. Wright resides in Eastlake, Ohio.

Kathy G. Miller is an Associate Member who works in the office of Kubyn & Ghaster in Mentor, Ohio.

David J. Myers is a new attorney just starting to embark on his law career. Mr. Myers resides in Concord Township.

Daniel T. Cronin is a new attorney with Thrasher, Dinsmore and Dolan in Chardon, Ohio. Mr. Cronin resides in Cleveland Heights, Ohio.

Matthew J. Shupe is a new attorney with Paulette F. Balin & Associates, LLC in Mentor, Ohio. Mr. Shupe resides in Cleveland Heights, Ohio.