



Volume 36 Number 10  
October 2012

**LAKE COUNTY  
BAR ASSOCIATION**

# Lake Legal Views

*"Regard for the Public Welfare is the Highest Law"*

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## LCBA ANNUAL GOLF OUTING LITTLE MOUNTAIN COUNTRY CLUB 8/29/2012

If you were not at the Golf Outing at Little Mountain Country Club then you missed a great event. We had 95 golfers with perfect weather and great prizes. While we can set the stage for a great outing, with a great golf course, prizes and even great weather, it is the turn out of golfers that really make the outing successful. Without the golfers, the outing is nothing. Thank you to all that participated.

We appreciate all those who sponsored a hole and gave donations, and a special thanks to DOCS Imaging, Aligned Chiropractic, Metro Appraisal and Fanucce's Italian Restaurant for their corporate support and refreshments on the course. For those attorneys and law firms that sponsored a hole, you have helped make the outing great and have also supported the Bar Association and you are much appreciated.

All the golfers received a high quality 54" vented golf umbrella. For skill prizes, men's low gross went to Ben Aveni, Joe Aveni, Wally Ackley and William Starr and the mixed group low gross went to Joe Baker, John Thomas, Adrienne Stemen and Mark Kremser.

Congratulations to Eric Walter for winning the grand prize of a 37" flat panel TV. I want to recognize Rob Somogyi, Ruth Ann Shultz, and Carrie Harps for their efforts, as well as all who made donations and sponsored a hole. A list of all the generous sponsors and donors can be found in this issue of Lake Legal Views. I look forward to seeing everyone at next year's golf outing.

Gary D. Zeid, Chairman



## THE LAKE COUNTY BAR ASSOCIATION WOULD LIKE TO THANK THE FOLLOWING FOR

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## FOR SPONSORING ACTIVITIES AT THE OUTING:

DOCS Imaging, Brad Bish      Metro Appraisal Group  
Aligned Chiropractic & Physical Rehab  
Fanucce's Italian Restaurant & Pizzeria



## **PRESIDENT'S COLUMN**

**CLIENT: HOW CAN I EVER SHOW MY APPRECIATION,  
MR. DARROW?**

**CLARENCE DARROW: WHY EVER SINCE THE PHOENICIANS INVENTED MONEY, THERE HAS BEEN ONLY ONE  
ANSWER TO THAT QUESTION.**

The legendary lawyer Clarence Darrow quipped this response to his client after the conclusion of another winning trial. In reading the Darrow comment, however, and independent of the reference to the trading giant civilization of the 7<sup>th</sup> and 8<sup>th</sup> century ancient world, the irony of its content in relation to the speaker is palpable. Throughout his lengthy legal career and ostensible pursuit of wealth, Clarence Darrow also remained a pro bono champion of numerous individuals whom he represented in a multitude of cases both large and small. Such was his compassion.

Such compassion should be carried forward by all practicing lawyers today to ensure that all people continue to receive essential legal representation when needed regardless of economic standing. Indeed, such compassion and pro bono representation must exist. To this end, National Pro Bono Week has been set from October 20 to October 27. There are numerous local pro bono events being scheduled as part of this celebration, including one anticipated to be sponsored by the Lake County Bar Association.



**Michael C. Lucas**  
LCBA President

As part of this celebration as well, I was also asked to prepare an article for my monthly President's Article. However, the subject matter required authorship by one with everyday access to primary source material from Legal Aid and an eloquence for the Legal Aid's never-ending crusade of justice for all. To paraphrase a Clint Eastwood remark from one of his Dirty Harry movies, "a man has to know his limitations." Recognizing that point- albeit begrudgingly- attorney Melanie A. Shakarian as the Director of Development & Communications for the Legal Aid Society of Cleveland volunteered to assist and her written article is fully set forth below devoid of any presidential interruption from my end.

\*\*\*

We face a justice gap in the United States as more than 80% of the legal needs of low-income Americans are not being met. Legal Aid's efforts to fill this gap in Lake County are vital and essential for those most vulnerable in Northeast Ohio. Founded in 1905, Legal Aid is the fifth oldest legal aid organization in the United States. Legal Aid's mission is to secure justice and resolve fundamental problems for those who are low income and vulnerable by providing high quality legal services and working for systemic solution in Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties.

Legal Aid has four offices and serves clients in Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties with phenomenal successes. Legal Aid has 50 full-time staff attorneys, supplemented by 1800 volunteer lawyers and 200 volunteer law students. The attorneys at Legal Aid average 19-years experience and handle a diverse practice of civil legal issues including consumer rights, domestic violence, education, employment, family law, health, housing, foreclosure, immigration, public benefits, utilities, and tax. Aligning with its core mission, these cases impact basic needs such as health, shelter and safety, economics and education, and access to justice. Legal Aid reports that it has prevented foreclosures in 76% of cases, removed educational barriers in 89% of cases, prevented eviction in 99% of cases, protected health insurance in 96% of cases, and secured safety in 99% of cases.

Legal Aid has a significant economic impact on Northeast Ohio – through its completed cases alone, more than \$35 million of economic benefit is realized for Legal Aid's clients through assets saved and debt reduced. This is important financial stability and investment for our community. Personally, as a supporter, I rest assured that each donation I invest in Legal Aid is multiplied into a benefit for the community thousands of times!

There are more than 350,000 people in Northeast Ohio eligible for Legal Aid's services. Each year, Legal Aid gets more than 110,000 calls for help. Of those, 18,000 are individuals with cases of legal merit. But, because of Legal Aid's limited resources – only half of those cases get assigned to a staff attorney or volunteer. Currently, Legal Aid has the resources to take only 50% of the cases brought to their attention. Here in Lake County, Legal Aid helps 2300 people a year and has heartbreaking stories of those who need to be turned away.

Legal Aid is primarily funded through the Ohio Legal Assistance Foundation, the federal Legal Services Corporation, foundation grants, United Way, and numerous law firm and individual donors. The Ohio Legal Assistance Foundation (OLAF) is the largest source of funding for Legal Aid.



## PRESIDENT'S COLUMN

OLAF distributes grants to legal aid organizations in Ohio, including funds from Interest on Lawyers Trust Accounts. IOLTA, as we all know, are funds are generated from bank accounts in which lawyers pool the escrow funds they hold for their clients. In 2007, Legal Aid received \$3.38 million from IOLTA. In 2008, interest rates plummeted and have stayed at historic lows. As a result, in 2011 Legal Aid's revenue from IOLTA was down to \$700,000 - an 80% decrease.

Unfortunately, it is now apparent that interest rates will not increase again by 2013 and Legal Aid's IOLTA revenues will not rebound quickly. Interest rates remain at historic lows. To compound this, in 2011 and 2012 Congress cut the Legal Services Corporation appropriation to legal aid programs, resulting in an additional decrease in annual funding of \$450,000.

Bottom line: Legal Aid needs our help more than ever! And, you can make a difference.

There are two ways you can help serve Legal Aid and its important work in our community. First, make a donation. The organization relies on philanthropy to grow and thrive. Information about donating can be found online at: [www.lasclev.org](http://www.lasclev.org). Second, donate your time. Volunteer attorneys are integral to Legal Aid's mission to secure justice and resolve fundamental problems. Volunteer opportunities range from 2 hour clinics to full cases – and everything in between. National Pro Bono Week is October 20-27, 2012 and there will be events all around Northeast Ohio. In particular, please mark your calendar for Monday, October 29 -- the Judges of Lake and Geauga County as well as the local bar associations will be hosting a free continuing legal education session with Legal Aid at Willoughby Municipal Court discussing the updates and changes to current expungement law. The CLE is followed by a reception at the Willoughby Brewing Company celebrating Lake County Pro Bono. For a complete list of Pro Bono week activities, see the calendar enclosed or visit [www.lasclev.org/2012probonoweb](http://www.lasclev.org/2012probonoweb).

I hope you will join me in supporting Legal Aid and its mission of equal justice under the law for all people!

\*\*\*

In my early years at St. Joseph High School, I trudged my way through two years of Latin. As with everyone in the class, I grappled with the age old question as to why Julius Caesar wrote his autobiographical *Caesar's Gallic Wars* in the third person as he carved Gaul into *tres partes*. The Latin phrase *pro bono* was also discussed in this high school era, with its translated meaning- for [the] good, rightly, morally. A true meaning then and a true meaning now for we members of the Lake County Bar Association to follow.



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DAVID C. BENEDICT, PRESIDENT



**Judge Diane V. Grendell**  
Eleventh District Court of Appeals

### **To Register or Not to Register?: The Viability of Juvenile Registration Requirements post- *In re C.P.***

Recently, in *In re C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, the Ohio Supreme Court reviewed the constitutionality of the law mandating that certain juvenile offenders register as "juvenile offender registrants," for committing certain sexually oriented or child-victim oriented offenses. In ruling that

the requirement for juveniles to register under R.C. 2152.86 is unconstitutional, the majority of the Court expressed disapproval of the mandate that juveniles comply with registration and public notification provisions that are automatic, lifelong, and present obstacles to juvenile offenders related to stigma and confidentiality. Given the importance of this decision and its potential effect on the law concerning juvenile offender registrants, the majority of the Court's lengthy discussion of the confidentiality and rehabilitative aspects of juvenile justice raises a serious question as to the propriety of juvenile sex offender registration in future cases.

### **Juvenile Offender Registrants**

Both the United States Supreme Court and the Ohio Supreme Court have recognized the importance of maintaining confidentiality with respect to juvenile offenders and have emphasized the differences between punishing juveniles and adults for committing crimes. The United States Supreme Court, in addressing juvenile offenders in the legal system, has held that the "[s]tate is entitled to adjust its legal system to account for children's vulnerability," as well as their needs for concern and sympathy. *Bellotti v. Baird*, 443 U.S. 622, 635 (1979). The Ohio Supreme Court has recognized that juvenile proceedings are "fundamentally different" from adult proceedings, the state has a "paternal role" in juvenile proceedings. *State v. D.H.*, 120 Ohio St.3d 540, 2009-Ohio-9, ¶ 50, quoting *Schall v. Martin*, 467 U.S. 253, 263 (1984) ("[t]he state has 'a parens patriae interest in preserving and promoting the welfare of the child'"). In light of this concern for juveniles, it follows that juveniles are given extra protection and their punishment, especially when it is lengthy or automatic, raises scrutiny by the courts.

One particular area where the unique nature of juvenile proceedings invites inquiry is sexually oriented offense registration requirements. Various sources have questioned the statutory mandates that juveniles register personal information and potentially face community notification of their crimes. It has been argued that allowing dissemination of juvenile information through registration and notification does not protect the traditional confidentiality of the juvenile, as has been a goal of the courts under the doctrine of parens patriae, but instead subjects the juvenile offender to threats of violence, public outrage, and decreases his chances of being rehabilitated<sup>1</sup>. Others argue that juvenile registration is necessary to protect the public by informing potential future victims<sup>2</sup>.

In order to review the concerns related to juvenile registrants raised in *In re C.P.*, it is first important to understand how the juvenile

offender registration system operates in Ohio. A juvenile who commits a sexually oriented offense or an offense against a child victim may be classified as a juvenile offender registrant (JOR) pursuant to several different sections of the Ohio Revised Code. Under R.C. 2152.82, a court that adjudicates a child delinquent for a sexually oriented offense or a child-victim oriented offense *shall* issue an order classifying the child as a JOR, if certain conditions apply. If the offender was fourteen, fifteen, sixteen, or seventeen years of age at the time of the offense and the court has determined that the child previously was adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense, it is mandatory that the juvenile be classified as a JOR. However, the court has discretion to determine the applicable tier level (level I, II or III), which determines the severity of the registration and notification requirements with which the juvenile must comply. R.C. 2152.82(B)<sup>3</sup>.

Pursuant to R.C. 2152.83, if a juvenile is adjudicated a delinquent child for committing a sexually oriented offense or a child-victim oriented offense, the juvenile was fourteen or fifteen years of age at the time of committing the offense, and the court was not required to classify the juvenile a juvenile offender registrant under R.C. 2152.82 or 2152.86, the court has discretion to classify that juvenile as a JOR. This classification is not mandatory and the court may decline to issue an order classifying the child as a JOR. R.C. 2152.83(B)(2)(a). If the same circumstances apply, but the juvenile was sixteen or seventeen at the time of the offense, the court is required to classify the juvenile as a JOR, but has discretion to determine which tier applies.

Finally, a juvenile offender who was fourteen, fifteen, sixteen, or seventeen at the time of the offense, who has been given a serious youthful offender dispositional sentence under R.C. 2152.13, and who is adjudicated a delinquent child for committing certain offenses, must be classified as a "public registry-qualified juvenile offender registrant" (PRQJOR). R.C. 2152.86.

There are three levels of registrants, Tier I, II, and III, with Tier III being the most serious and carrying the most stringent registration requirements. In addition, PRQJORS, a separate category of Tier III offenders, face additional registration and notification requirements above and beyond those of a Tier III JOR offender.

Juveniles who are classified as JORs or PRQJORS are subject to various levels and types of reporting requirements. Tier I offenders are subject to annual in-person verification of their address and, in some cases, other information, including their school address, for a period of 10 years. Tier II offenders must register for a period of 20 years and are required to comply with in-person verification requirements every 180 days. Tier III offenders must register for life and have to comply with in-person verification every 90 days. R.C. 2950.06.

PRQJORS are subject to stricter requirements, including automatic community and victim notification of their status as an offender. R.C. 2950.11(F)(1)(a); 2950.10(B)(2). Tier III non-PRQJORS are subject to community notification only if the juvenile court orders it, and to victim notification only if it is requested by the victim. R.C. 2950.10; R.C. 2152.82(B). The registration information of Tier III non-PRQJORS is not disseminated on the Internet, while PRQJORS are placed on the Internet database that can be accessed by the public. R.C. 2950.13(A)(11). Additionally, Tier III JORs may file a petition for reclassification three years after classification, a second petition three years later, and further petitions every five years thereafter, while PRQJORS are not eligible for a reclassification hearing until 25 years after their registration duties begin. R.C. 2950.15(C)(2); 2152.85(B) and (G); *C.P.*, 131 Ohio St.3d 513, 2012-Ohio-1446, at ¶ 23

## **CALENDAR OF EVENTS**

### **OCTOBER**

- 6th Notary Test, 10:00a.m. @ Lakeland Community College - Bldg T, Room 129  
8th COLUMBUS DAY- Courthouse Closed  
10th Executive Board Meeting, 12noon @ Skye in Mentor  
16th Real Estate Committee Meeting, 8:00a.m. @ 41 E. Erie St. in Painesville  
17th Family Law Committee Meeting, 12noon in the Domestic Relations Courtroom  
18th Lake County Common Pleas Seminar - LaMalfa Center (see enclosed flier)  
Literary Meeting - 4:45p.m. in Judge Culotta's Office  
19th Deadline for LAKE LEGAL VIEWS  
25th Probate Committee Meeting, 8:00a.m. @ Perkins on Mentor Avenue - Painesville  
Grievance Committee Meeting, 8:00a.m. - Second Floor West Annex  
31st Lunch Forum, 11:00a.m. at Hellriegel's - Mentor Avenue in Painesville  
HALLOWEEN !

### **NOVEMBER**

- 3rd Notary Test, 10:00a.m. @ Lakeland Community College - Bldg T, Room 129  
4th DAYLIGHT SAVINGS TIME  
6th ELECTION DAY  
11th VETERAN'S DAY  
12th COURTHOUSE CLOSED - IN OBSERVANCE OF VETERAN'S DAY  
14th Executive Board Meeting, 12noon @ Skye in Mentor  
District 18 Annual Meeting - Avalon Golf & Country Club in Vienna, Ohio  
15th Grievance Committee Meeting, 8:00a.m. - Second Floor Courthouse West Annex  
20th Real Estate Committee Meeting, 8:00a.m. @ 41 E. Erie St. in Painesville  
Deadline for LAKE LEGAL VIEWS  
21st Family Law Committee Meeting, 12noon in the Domestic Relations Courtroom  
22nd THANKSGIVING - Courthouse Closed

The Bar Association would like to send heartfelt condolences to Noreen Koppelman Goldstein for the loss of her father, Joseph Koppelman.



### **LITERARY MEETING**

The next Literary Meeting will be held on October 18, 2012 in Judge Culotta's Office. The speaker will be Mr. John Armonas. He was born in Lithuania before WWII. After the war, the Russian's sent him and his mother to Siberia where his mother was falsely denounced for speaking against the government and sentenced to 25 yrs in prison. When released and able to return to the U.S. she was then reunited with her husband and daughter after 20 yrs. Mr. Armonas graduated from Case Western Reserve with a degree in chemistry and is now a successful Mentor businessman. His mother wrote the book *Leave Your Tears in Moscow* in regards to her experiences.

## **LUNCH FORUM**

**SPONSORED BY THE LAKE COUNTY BAR ASSOCIATION**

**LUNCH FORUM  
1 FREE CLE**

**Wednesday October 31, 2012 at 11:00 A.M.**

**"Investment Misconduct Claims"  
Presented by: David P. Meyer, Esq.**

**HELLRIEGEL'S RESTAURANT  
1840 MENTOR AVENUE IN PAINESVILLE, OH 44077**

**COST OF BUFFET LUNCH IS \$15.00 FOR BAR MEMBERS  
(INCLUDES LUNCH & 1 CLE)  
\$25.00 FOR NON-MEMBERS**

**PLEASE NOTE: YOU MUST CALL THE BAR OFFICE AT (440) 350-5800 WITH YOUR RESERVATION BY OCTOBER 26, 2012. HOWEVER, YOU MAY PAY AT THE DOOR FOR YOUR LUNCH.**



## **COURT OF APPEALS OF OHIO RELEASE**

## **Court of Appeals of Ohio Eleventh Appellate District**

111 High Street, N.E.,  
Warren, Ohio 44481  
Telephone: (330) 675-2650  
Facsimile: (330) 675-2655

Diane V. Grendell  
Judge

Mary Jane Trapp  
Judge

Thomas R. Wright  
Judge

Cynthia Westcott Rice  
Judge

Timothy P. Cannon  
Judge

### **AUGUST 20, 2012 RELEASE**

#### **ASHTABULA**

2012-A-0020

IN THE MATTER OF: C.B.

Pursuant to appellant's "Voluntary Notice of Dismissal," which was filed with this court on August 6, 2012, the appeal is hereby dismissed. See Judgment Entry.

#### **LAKE**

2011-L-096

STATE OF OHIO, Plaintiff-Appellee v. JAMES E. PESCI, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [CANNON] (RICE) (TRAPP)  
CRIMINAL LAW – resentencing; R.C. 2929.191; de novo sentencing hearing; nunc pro tunc.

2012-L-047

STACEY CHARICE JACKSON, et al., Plaintiffs v. TIMOTHY W. HERRON, et al., Defendant-Appellant, (JOHN W. SHRYOCK, Appellee).

This court, sua sponte, dismisses the foregoing appeal for failure to prosecute. See Judgment Entry.

#### **PORTAGE**

2011-P-0087

STATE OF OHIO, Plaintiff-Appellee v. BERNARD FOSTER, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [CANNON] (TRAPP) (WRIGHT)  
CRIMINAL LAW – felony-sentence review; Kalish analysis; R.C. 2929.11; purposes of felony sentencing; R.C. 2929.12; factors in felony sentencing; "silent" record; aggravated robbery.

2011-P-0089

STATE OF OHIO, Plaintiff-Appellee v. JARMEL L. LATIMER, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [CANNON] (TRAPP) (WRIGHT)  
CRIMINAL LAW – R.C. 2929.11; R.C. 2929.12; Kalish analysis; silent record.

2012-P-0058

LOUIS A. TELERICO, Plaintiff-Appellee v. ELAINE TELERICO, Defendant-Appellant.

Pursuant to the "Motion to Voluntarily Dismiss Appeal" filed with this court on August 13, 2012, and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. See Judgment Entry.

#### **TRUMBULL**

2011-T-0108

STATE OF OHIO, Plaintiff-Appellee v. MICHAEL R. FRASCA, JR., Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (RICE) (TRAPP)  
CRIMINAL - Felonious Assault; jury instruction; abuse of discretion; self-defense; subjective belief of imminent danger; Abduction; sufficiency of the evidence; manifest weight of the evidence; restraint of liberty; consecutive sentences; R.C. 2929.14(C)(4); fact-finding.

### **AUGUST 27, 2012 RELEASE**

#### **ASHTABULA**

2011-A-0034

WETLAND PRESERVATION LTD., Appellee v. ROGER A. CORLETT, CPA, et al., Appellants.

Judgment affirmed. Grendell, J., concurs in judgment only. Wright, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (GRENDALL) (WRIGHT)

ADMINISTRATIVE LAW - current agricultural use valuation; board of revision; standard of review. TAXATION - wetland mitigation bank qualifies as land devoted exclusively to agricultural use.

#### **GEAUGA**

2011-G-3027

STATE OF OHIO, Plaintiff-Appellee v. ROBERT L. MOORE, Defendant-Appellant.

Judgment affirmed in part, reversed in part, and remanded. See Opinion and Judgment Entry. [CANNON] (RICE) (TRAPP)  
CRIMINAL - unlawful sexual conduct with a minor; untimely motion to suppress; abuse of discretion; sentencing; contrary to law; R.C. 2929.11; R.C. 2929.12; sufficiency of the evidence; R.C. 2907.04(A); reckless; manifest weight of the evidence; ineffective assistance of counsel; payment of court costs; R.C. 2947.23(A)(1)(a).

## **COURT OF APPEALS OF OHIO RELEASE**

2012-G-3075                      JPMORGAN CHASE BANK, NATIONAL ASSOCIATION, Plaintiff-Appellee v. MICHAEL S. UNDERWOOD, et al., Defendants-Appellants, GEAUGA COUNTY TREASURER, Defendant-Appellee.

Pursuant to the joint notice of dismissal of appeal filed with this court on August 22, 2012, and upon recommendation of the Administrative Counsel, the appeal is hereby settled and dismissed. See Judgment Entry.

### **LAKE**

2011-L-089                      CITY OF KIRTLAND, Plaintiff-Appellee v. ANGIE L. CLARK, Defendant-Appellant.

Appeal dismissed. Cannon, P.J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (CANNON) (GRENDALL)  
APPELLATE PROCEDURE - requirements of judgment of conviction; order suspending imposition of sentence for misdemeanor and placing defendant on probation is a final appealable order; later judgment ordering execution of sentence into effect does not affect finality of conviction or toll running of appeal period.

2011-L-090                      CITY OF KIRTLAND, Plaintiff-Appellee v. ANGIE L. CLARK, Defendant-Appellant.

Judgment reversed and remanded. See Opinion and Judgment Entry. [RICE] (CANNON) (GRENDALL)  
CRIMINAL LAW - PLEAS, MOTIONS & OTHER HEARINGS - guilty plea; misdemeanor cases involving petty offenses; Crim.R. 11(E); trial court must inform defendant of effect of guilty plea before accepting guilty plea; in informing defendant of effect of guilty plea, court must advise defendant of his trial rights and the potential penalty; record must show guilty plea is voluntary; there must be a meaningful dialogue between trial court and defendant; when court does not inform defendant of effect of guilty plea, error is prejudicial.

2012-L-011                      OAKTREE CONDOMINIUM ASSOCIATION, INC., Plaintiff-Appellant v. THE HALLMARK BUILDING COMPANY, et al., Defendants-Appellees.

Judgment affirmed. See Opinion and Judgment Entry. [TRAPP] (GRENDALL) (RICE)  
CIVIL - statute of repose; constitutionality; construction defects.

2012-L-062                      COUNTRYWIDE HOME LOANS, INC., f.k.a. COUNTRYWIDE FUNDING CORPORATION, d.b.a. AMERICA'S WHOLESALE LENDER, Plaintiff-Appellee v. GEORGE A. LAWSON, et al., Defendant-Appellant, JOHN CROCKER, LAKE COUNTY TREASURER, Defendant-Appellee.

Upon recommendation of the Administrative Counsel, this appeal is hereby dismissed for failure to prosecute. See Judgment Entry.

### **PORTAGE**

2011-P-0084                      BOARD OF ROOTSTOWN TOWNSHIP TRUSTEES, Plaintiff-Appellee v. THE ROOTSTOWN WATER SERVICE COMPANY, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (RICE) (TRAPP)  
CIVIL - declaratory judgment; R.C. 2721.02(A); summary judgment; Civ.R. 56(C); fire protection levy; R.C. 5705.19(I); express contract; implied or quasi-contract; genuine issue of material fact; course of dealing; partial regulatory taking.

2011-P-0090                      STATE OF OHIO, Plaintiff-Appellee v. DAWAYNE L. TAYLOR, Defendant-Appellant.

Judgment affirmed in part, reversed in part, and remanded. See Opinion and Judgment Entry. [RICE] (GRENDALL) (TRAPP)  
CRIMINAL LAW - having weapon under disability; trafficking in marijuana; forfeiture; sufficiency of the evidence; manifest weight of the evidence; knowingly possessed; statement; conceded possession of firearm; Pelfrey; verdict form; no degree of offense; trafficking statute; sub-parts; distinct offense levels; form failed to meet requirements of R.C. 2945.75(A)(2); least degree of offense; minor misdemeanor; costs; R.C. 2947.23; no notice to defendant; resentencing; R.C. 2929.19(B)(5); financial sanctions; R.C. 2941.1417; R.C. 2981.04; no finding on specification; forfeiture order; vacated; no cumulative error.

2012-P-0001                      EMELDA SNYPE, Plaintiff-Appellant v. ANN MORGAN COST, TRUSTEE, Defendant-Appellee.

Judgment affirmed. Grendell, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [CANNON] (GRENDALL) (RICE)  
CIVIL - failure to comply with appellate rules; assignments of error; failure to cite to record.

### **TRUMBULL**

2010-T-0116                      W. THOMAS JAMES, et al., Plaintiffs-Appellees v. SKY BANK, et al., Defendant-Appellant.

Judgment reversed and remanded. See Opinion and Judgment Entry. [TRAPP] (CANNON) (WRIGHT)  
CIVIL - construction loan; measure of damages; proof.

## **SEPTEMBER 4, 2012 RELEASE**

### **ASHTABULA**

2011-A-0065                      WESLEY J. GAUL, JR., Plaintiff-Appellee v. DIANA J. GAUL, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (GRENDALL) (TRAPP)  
CIV.R. 60(B) - Newly discovered evidence under 60(B)(2) does not apply to items which were not created until after final judgment rendered; timeliness of motion under 60(B)(4) and 60(B)(5); reasonable time; a 60(B) motion cannot be based upon a matter of which the party was fully aware before end of trial; trial court not obligated to provide factual findings when no evidentiary hearing is held.

## **COURT OF APPEALS OF OHIO RELEASE**

### **GEAUGA**

2012-G-3083

WENDY C. HOFFMAN, Petitioner-Appellee v. SCOTT A. BUGELSKI, Respondent-Appellant.

Upon recommendation of the Administrative Counsel, this appeal is hereby dismissed for failure to prosecute. See Judgment Entry.

### **LAKE**

2011-L-146

STATE OF OHIO, Plaintiff-Appellee v. STEVEN E. ERICH, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [RICE] (GRENDALL) (TRAPP)

CRIMINAL LAW - rape; seven counts; jury trial; ineffective assistance of counsel; performance; prejudice; no argumentation regarding prejudice; App.R. 16(A)(7); scope of cross-examination; strategy; failure to subpoena; speculative; no ineffective assistance of counsel.

2011-L-148

LAURIE NOVOTNY, Plaintiff-Appellant v. JOSEPH FIERLE, et al., Defendants-Appellees.

Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (RICE) (TRAPP)

REAL PROPERTY - Real estate transaction; elements of claim of fraudulent concealment; duty to disclose is limited to defects of which the seller has actual knowledge; knowledge of existing "water" problem cannot be inferred from installation of new drywall or new layer of paint; claim of mutual mistake cannot be maintained when buyer agreed to accept property "as is" and the discovery of a "water" problem did not materially affect a basic underlying assumption of the purchase agreement.

2012-L-068

STATE OF OHIO, Plaintiff-Appellee v. ANDRE D. JOHNSON, Defendant-Appellant.

Appeal dismissed. See Memorandum Opinion and Judgment Entry. [GRENDALL] (RICE) (WRIGHT)

APPELLATE REVIEW - App.R. 5(A); delayed appeal; reason does not justify four and a half year delay in filing appeal.

2012-L-070

KIM & JOSEPH KOLB, Plaintiffs-Appellees v. JOSEPHINE QUALIANA, Defendant-Appellant.

Pursuant to appellant's request and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. See Judgment Entry.

### **TRUMBULL**

2011-T-0096

STATE OF OHIO ex rel. TAMI SENSMEIER, Relator v. ROBBYN WARE, PUBLIC RECORDS COORDINATOR, Respondent.

Based upon the joint stipulation of the parties, it is hereby ordered that the instant action is dismissed. See Judgment Entry.

2011-T-0113

STATE OF OHIO ex rel. TAMI SENSMEIER, Relator v. ROBBYN WARE, PUBLIC RECORDS COORDINATOR, Respondent.

Based upon the joint stipulation of the parties, it is hereby ordered that the instant action is dismissed. See Judgment Entry.

2011-T-0114

ANTHONY PALDINO, Plaintiff-Appellee v. CHAMPION QUICK LUBE PLUS, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [TRAPP] (CANNON) (WRIGHT)

CIVIL- whether a certificate of title is necessary to prove ownership of vehicle in a claim of property damage.

2012-T-0011

STATE OF OHIO, Plaintiff-Appellee v. CHRISTOPHER PAUL MOORE, Defendant-Appellant.

Appeal dismissed. See Memorandum Opinion and Judgment Entry. [TRAPP] (CANNON) (GRENDALL)

APPELLATE REVIEW - App.R. 5(A); delayed appeal; reason does not justify two year delay in filing appeal.

2012-T-0055

TIMOTHY SMITH, Plaintiff-Appellant v. CHRISTINE SMITH, Defendant-Appellee.

Pursuant to appellant's request and upon recommendation of the Administrative Counsel, this appeal is hereby settled and dismissed. See Judgment Entry.

## **SEPTEMBER 10, 2012 R E L E A S E**

### **LAKE**

2011-L-066

STATE OF OHIO, Plaintiff-Appellee v. MARY J. MEEKS, Defendant-Appellant.

Judgment affirmed. Grendell, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [WRIGHT] (GRENDALL) (TRAPP)

CRIMINAL LAW - R.C. 2981.02(A); forfeiture of funds seized during arrest; whether funds are proceeds were acquired during commission of criminal offense; preponderance of the evidence, manifest weight; funds obtained through sale of illegal drugs; quasi-criminal proceeding; right to counsel does not apply; incarceration is not a possible penalty.

2012-L-069

COUNTRYWIDE HOME LOANS SERVICING, L.P., Plaintiff-Appellee v. MARY S. BITTNER, et al., Defendant-Appellant.

JOHN S. CROCKER, LAKE COUNTY TREASURER, Defendant-Appellee.

Upon recommendation of the Administrative Counsel, this appeal is hereby dismissed for failure to prosecute. See Judgment Entry.

### **PORTAGE**

2011-P-0106 & 2012-P-0004 IN RE: K.E.A.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (CANNON) (WRIGHT)



## **COURT OF APPEALS OF OHIO RELEASE**

2012-P-0009

STATE OF OHIO, Plaintiff-Appellee v. DAVID R. RUBES, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [GRENDALL] (CANNON) (WRIGHT)

CRIMINAL - Domestic Violence; sufficiency of the evidence; R.C. 2919.25(A); R.C. 2919.25(F); "family or household member"; "person living as a spouse"; cohabitation; familial or financial responsibilities; consortium.

2012-P-0034

STATE OF OHIO, Plaintiff-Appellee v. ANTHONY D. SCHMIDT, Defendant-Appellant.

This court, sua sponte, dismisses the foregoing appeal for failure to prosecute. See Judgment Entry.

2012-P-0087

ELISABETH S. SWANGO, Plaintiff-Appellee v. ROBERT SWANGO, Defendant-Appellant.

Pursuant to the "Motion to Dismiss" filed with this court on September 4, 2012, and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. See Judgment Entry.

### **TRUMBULL**

2012-T-0048

STATE OF OHIO, Plaintiff-Appellee v. BERRY MEADOWS, Defendant-Appellant.

This court, sua sponte, dismissed the foregoing appeal for failure to prosecute. See Judgment Entry.

2012-T-0061

IN THE MATTER OF THE ADOPTION OF: D.P.M.

Pursuant to appellant's "Notice of Dismissal," which was filed with this court on August 31, 2012, the appeal is hereby dismissed. See Judgment Entry.



## **OF SPECIAL INTEREST.....**



**COLUMBUS DAY**  
October 8, 2012  
Courthouse Closed



**JUDGE'S SEMINAR**  
October 18, 2012  
LaMalfa Center  
Mentor, Ohio  
(flier enclosed)



**DISTRICT 18**  
**ANNUAL MEETING**  
November 14, 2012  
Avalon Golf & Country Club  
Vienna, Ohio  
(see enclosed flier)

# LAKE COUNTY BAR ASSOCIATION

## FISCAL YTD

### Profit & Loss Statement

June 1, 2012-May 31, 2013

#### INCOME

401-Bar Roster	\$	185.00
402-Dues		640.00
403-Grievance		1,231.25
404-Interest Income		35.44
405-Lake LV Ads		662.00
407-Notary Fees		4,379.50
408-Referral Fees		2,130.00
409-Weekly Lunch		2,045.00
410-Miscellaneous Income		3,367.00
412-Golf Outing		16,280.00
413-Seminar		
414-Judge's Seminar		1,300.00
425-Pictorial Directory		20.00
429-Website Listing		<u>1,410.00</u>

**TOTAL INCOME** \$ 33,685.19

#### EXPENSE

601-Accounting Fees		590.00
604-Bank Charges		218.06
609-Golf Outings		12,928.75
610-Grievances		650.00
611-Employee Retirement		500.00
613-Insurance – Health		5,930.36
619-Lake Legal Views		668.03
622-Lunch Payments		2,683.17
624-Membership		300.00
625-Miscellaneous Expense		2,601.30
629-Office Equipment		803.46
631-Office Expense		2,308.72
634-Office Supplies		351.64
636-Recognition		147.32
637-Payroll Taxes		1,300.06
640-Postage		308.49
642-Seminars		
660-Judges' Seminar	25.00	
Total 642-Seminars		25.00
643-Telephone		566.01
646-Travel Reimbursement		576.43
647-Rent		1,986.21
648-County Telephone		79.31
650-Wages		15,546.90
664-Meet Your Judge		25.00

**TOTAL EXPENSES** \$ 51,094.22

**NET ORDINARY INCOME** -17,409.03

#### Other Income

500-Bar Foundation Income (LCBF Dues)	50.00
---------------------------------------	-------

**TOTAL OTHER INCOME** 50.00

**NET INCOME** \$ -17,359.03

# BALANCE SHEET

## Fiscal YTD

June 1, 2011 thru May 31, 2012

#### ASSETS

Cash on Hand	\$110,160.20
Total Fixed Assets	745.04
Interest Receivable	<u>291.23</u>

**TOTAL ASSETS** \$111,196.47

#### LIABILITIES & EQUITY

Current Liabilities	\$ 1,665.42
---------------------	-------------

#### EQUITY

Retained Earnings	\$126,890.08
Net Income	<u>-17,359.03</u>

**TOTAL EQUITY** \$109,531.05

**TOTAL LIABILITIES & EQUITY** \$111,196.47

## In Memoriam JOSEPH KOPPELMAN

Our heartfelt condolences to the family of attorney Noreen Koppelman Goldstein on the loss of her father, Joseph Koppelman.

Mr. Koppelman was the beloved husband of Vivian (nee Margolis); loving father of Noreen Koppelman Goldstein and Sharon Koppelman; devoted grandfather of Bradley, Brian, Lisa and David; cherished great-grandfather of Josh, Emma, Emily, Sammy, Abigail, Jacob, James, Amanda and Henry; and dear brother of the late Sanford, Hyman, Edward, Harry, Lillian, Cecelia, Frances and Ida.

Our thoughts and prayers are with the Koppelman family.

Submitted by Judge Ted Klammer  
Memorial Committee

## BUSINESS VALUATIONS LITIGATION SUPPORT

**Keith Martinet, CPA, CVA**, partner specializing in Business Valuation and Litigation Support Services at Martinet Recchia. Firm has experience in providing certified valuations and expert testimony for small to mid-sized businesses. Experience includes:

**manufacturing | construction  
distribution | retail | service industries**

Please call with questions relating to your valuation cases. At no charge, we are willing to meet with you and your clients to discuss their valuation issues.

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Willoughby, OH 44094  
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**In re C.P.'s Applicability**

While there are various types of juvenile offender registration classifications, each with different compliance requirements, all of these fuel the debate that juveniles may face stigma or a loss of confidentiality, due to registration and potential public notification of their offender status. The Ohio Supreme Court addressed these concerns at some length in its recent decision in *In re C.P.*, where it was faced with the question of whether certain juvenile offender registration requirements were constitutional. In *In re C.P.*, the majority of the Court addressed whether R.C. 2152.86, which created the class of juvenile sex-offender registrants referred to as "public-registry-qualified juvenile-offender registrants," violated the prohibition against cruel and unusual punishment contained in the Eighth Amendment to the United States Constitution, and Article I, Section 9 of the Ohio Constitution and whether it violated the due process clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution.

In ruling on the foregoing issues, the majority held that "[t]o the extent that it imposes automatic, lifelong registration and notification requirements on juvenile sex offenders tried within the juvenile system, R.C. 2152.86 violates the constitutional prohibition against cruel and unusual punishment" and the due process clause. *Id.* at the syllabus. The majority essentially found that it was unconstitutional to punish a juvenile with a lifetime penalty, requiring public disclosure of their status as an offender registrant, and doing so without first having a juvenile court exercise any discretion to determine whether such a punishment is appropriate.

While the majority ultimately found R.C. 2152.86 to be unconstitutional, some confusion may arise relating to the potential scope and applicability of the majority's decision in future juvenile sex offender registration cases. This potential for confusion was persuasively noted by Justice Cupp in his dissent in *In re C.P.*, in which he stated that the majority's decision will "affect juvenile offenders and the juvenile judges who will preside over their cases," by "leaving it to those judges to unravel the mysteries of this decision's applicability." 131 Ohio St.3d 513, 2012-Ohio-1446, at ¶ 136. As a result of the majority's decision, uncertainty now exists as to whether all juvenile offender registration violates a juvenile's confidentiality rights. The question arises whether the majority's ruling is limited solely to cases involving automatic, lifetime sexual offender registration requirements or whether the five justices in the majority may conclude in the future that the general juvenile sexual registration and notification requirements violate the confidentiality standards that govern juvenile proceedings. Even if the *In re C.P.* decision, itself, is limited to lifetime cases, the five justice majority and lengthy discussion on confidentiality in the majority's decision bode troublesome for any juvenile registration cases that may come before the Ohio Supreme Court in the future.

Justice Cupp is correct. Serious questions about the future of juvenile sex offender registration after *In re C.P.* are raised from the Ohio Supreme Court's general expression of concern in *C.P.* regarding stigma, confidentiality, and lifetime reporting requirements. The majority made several statements expressing the need for protection of confidentiality of juvenile offender information in general, not just as it relates to R.C. 2152.86. The majority expressed unease about the public disclosure of juvenile information and the violation of confidentiality that occurs when juveniles are subject to certain registration and notification requirements, especially community notification required under R.C. 2950.11. The majority specifically cited as troublesome the sex offender registra-

tion. and notification laws that require "door-to-door neighborhood notification, public announcements, or listing on a sex offender website," as they create a high risk that the juvenile's peers and community will obtain knowledge of the juvenile's offense. *Id.* at ¶ 56. The majority explained that "[c]onfidentiality has always been at the heart of the juvenile justice system" and "[t]hat core principle is trampled by any requirement of public notification." *Id.* at ¶ 62.

The confidentiality and stigma concerns expressed by the majority are not confined to PRQJORS classified under R.C. 2152.86. A juvenile court may also require public notification for non-PRQJORS who are Tier III offenders. R.C. 2152.82(B). As Justice Cupp discussed in his dissenting opinion, there is some confusion as to whether lower courts may now exercise discretion to determine whether a shorter reporting period would be appropriate under the law created by the majority or whether PRQJORS may never be classified as sex offenders under R.C. 2152.86. *C.P.* at ¶ 135. It follows that there will also be questions as to whether lower courts can require any offenders to face lifetime registration requirements. Since these specific concerns relate not only to PRQJORS, the question remains, will the Ohio Supreme Court expand *In re C.P.*'s holding to Tier III juvenile offenders classified under different Revised Code sections?

**In re C.P.'s Impact on Juvenile Offender Registration**

For the protection of Ohio residents and to avoid any confusion, justice and prudence dictate that *In re C.P.* be limited in its application solely to cases involving the imposition of automatic, mandatory lifetime sex-offender registration and notification requirements under R.C. 2152.86. Although the majority of the Court discussed concerns related to other juvenile offender registrants, it ultimately stated only that R.C. 2152.86 was unconstitutional.

It is noteworthy that the *C.P.* court also expressed concern about the importance of the involvement of the juvenile judge in registrant classification proceedings. This is especially necessary under R.C. 2152.86, which eliminates the discretion of the juvenile court by requiring the automatic imposition of a lifetime punishment without a juvenile judge determining its appropriateness to the juvenile's circumstances. The *C.P.* court stated that this "is contrary to the juvenile system's core emphasis on individual, corrective treatment and rehabilitation." *Id.* at ¶ 77. This concern is limited to PRQJORS under R.C. 2152.86, and should not be a concern in other offender registrant cases. Juveniles are subject to discretionary, not mandatory, classification under R.C. 2152.83(B), provided the court determines that the classification is appropriate, following a hearing and consideration by the judge. Under R.C. 2152.82 and 2152.83(A), although the classification is mandatory, the court has discretion to determine which tier level is applicable, and is not required to give the offender a lifetime registration requirement or require public notification. Since juvenile court judges have discretionary authority in non-mandatory registration and notification cases, the constitutional concerns of the Ohio Supreme Court majority in *In re C.P.* are not implicated.

Moreover, regarding these other classifications, the Legislature has already decided that the fundamental public policy purposes for sex offender registration and notification outweigh any rehabilitative or confidentiality concerns with respect to juvenile sex offenders. R.C. 2152.82 to 2152.85.

## LEGAL AID ARTICLE

We face a justice gap in the United States as more than 80% of the legal needs of low-income Americans are not being met. Legal Aid's efforts to fill this gap in Lake County is vital and essential for those most vulnerable in Northeast Ohio. Founded in 1905, Legal Aid is the fifth oldest legal aid organization in the United States. Legal Aid's mission is to secure justice and resolve fundamental problems for those who are low income and vulnerable by providing high quality legal services and working for systemic solution in Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties.

Legal Aid has four offices and serves clients in Ashtabula, Cuyahoga, Geauga, Lake and Lorain counties with phenomenal successes. Legal Aid has 50 full-time staff attorneys, supplemented by 1800 volunteer lawyers and 200 volunteer law students. The attorneys at Legal Aid average 19-years experience and handle a diverse practice of civil legal issues including consumer rights, domestic violence, education, employment, family law, health, housing, foreclosure, immigration, public benefits, utilities, and tax. Aligning with its core mission, these cases impact basic needs such as health, shelter and safety, economics and education, and access to justice. Legal Aid reports that it has prevented foreclosures in 76% of cases, removed educational barriers in 89% of cases, prevented eviction in 99% of cases, protected health insurance in 96% of cases, and secured safety in 99% of cases.

Legal Aid has a significant economic impact on Northeast Ohio – through its completed cases alone, more than \$35 million of economic benefit is realized for Legal Aid's clients through assets saved and debt reduced. This is important financial stability and investment for our community. Personally, as a supporter, I rest assured that each donation I invest in Legal Aid is multiplied into a benefit for the community thousands of times!

There are more than 350,000 people in Northeast Ohio eligible for Legal Aid's services. Each year, Legal Aid gets more than 110,000 calls for help. Of those, 18,000 are individuals with cases of legal merit. But, because of Legal Aid's limited resources – only half of those cases get assigned to a staff attorney or volunteer. Currently, Legal Aid has the resources to take only 50% of the cases brought to their attention. Here in Lake County, Legal Aid helps 2300 people a year and has heartbreaking stories of those who need to be turned away.

Legal Aid is primarily funded through the Ohio Legal Assistance Foundation, the federal Legal Services Corporation, foundation grants, United Way, and numerous law firm and individual donors. The Ohio Legal Assistance Foundation (OLAF) is the largest source of funding for Legal Aid.

OLAF distributes grants to legal aid organizations in Ohio, including funds from Interest on Lawyers Trust Accounts. IOLTA, as we all know, are funds are generated from bank accounts in which lawyers pool the escrow funds they hold for their clients. In 2007, Legal Aid received \$3.38 million from IOLTA. In 2008, interest rates plummeted and have

stayed at historic lows. As a result, in 2011 Legal Aid's revenue from IOLTA was down to \$700,000 - an 80% decrease.

Unfortunately, it is now apparent that interest rates will not increase again by 2013 and Legal Aid's IOLTA revenues will not rebound quickly. Interest rates remain at historic lows. To compound this, in 2011 and 2012 Congress cut the Legal Services Corporation appropriation to legal aid programs, resulting in an additional decrease in annual funding of \$450,000.

Bottom line: Legal Aid needs our help more than ever! And, you can make a difference.

There are two ways you can help serve Legal Aid and its important work in our community. First, make a donation. The organization relies on philanthropy to grow and thrive. Information about donating can be found online at: [www.lasclev.org](http://www.lasclev.org). Second, donate your time. Volunteer attorneys are integral to Legal Aid's mission to secure justice and resolve fundamental problems. Volunteer opportunities range from 2 hour clinics to full cases – and everything in between. National Pro Bono Week is October 20-27, 2012 and there will be events all around Northeast Ohio. In particular, please mark your calendar for Monday, October 29 -- the Judges of Lake and Geauga County as well as the local bar associations will be hosting a free continuing legal education session with Legal Aid at Willoughby Municipal Court discussing the updates and changes to current expungement law. The CLE is followed by a reception at the Willoughby Brewing Company celebrating Lake County Pro Bono. For a complete list of Pro Bono week activities, see the calendar enclosed or visit [www.lasclev.org/2012probonoweek](http://www.lasclev.org/2012probonoweek).

### 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:

#### SEPTEMBER

**Elizabeth A. Cullivan** is an attorney with the Lake County Prosecutor's Office. Ms. Cullivan resides in Concord, Ohio.

**Stacy M. Callen** is an attorney with Nager, Romaine & Schneiberg Co., LPA in Cleveland, Ohio.

Michael DeLeone  
Committee Chairperson





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**Legal Aid Society**  
*of Cleveland*  
*Since 1905*

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**Monday,**  
**October 29**

**1:30 p.m. - 4:30 p.m.**

**Continuing Legal Education Seminar: Expungement:**

Senate Bill 337 - Updates and Changes in the Law

*Other topics on professionalism and poverty law will be discussed too!*

Willoughby Municipal Court

4000 Erie Street, Willoughby

**4:30 p.m. - 6:30 p.m.**

**Legal Aid Reception for**

**Ashtabula, Lake and Geauga County Attorneys**

*Complimentary food and drinks*

Willoughby Brewing Company

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**Register for both FREE events at**  
**[www.lasclev.org/registration](http://www.lasclev.org/registration)**

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The Legal Aid Society of Cleveland

## **JOB POSTING**

**POSITION AVAILABLE  
LAKE COUNTY PROBATE COURT  
JUDGE TED KLAMMER**

**DESCRIPTION:** ACCOUNTS CLERK

**ESSENTIAL JOB DUTIES:** RESPONSIBLE FOR THE REVIEW AND FILING OF DAILY GUARDIANSHIP, TRUSTEE, AND ESTATE ACCOUNTS AND THE NECESSARY DUTIES RELATED TO THE OPERATION OF THE ACCOUNTS DEPARTMENT

**EXPERIENCE/EDUCATION:** ASSOCIATES DEGREE/PARALEGAL AND/OR KNOWLEDGE OF BASIC ACCOUNT PRINCIPLES – PROBATE EXPERIENCE PREFERRED

**QUALIFICATIONS:** MATURE, WELL DEVELOPED INTERPERSONAL SKILLS TO INTERACT CLOSELY WITH THE GENERAL PUBLIC AND OTHER EMPLOYEES –

VETERANS WELCOME

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RESUMES WILL BE ACCEPTED THROUGH OCTOBER 15, 2012

Submit to: Lake County Probate Court  
Attn: Betsy Swindell  
25 N. Park Place  
Painesville, OH 44077

## **SETTLEMENT WEEK**

### **Lake County Common Pleas Court Settlement Week: December 3-7, 2012**

The Lake County Common Pleas Court's "Settlement Week" reduces judges' dockets, speeds up the judicial docket for remaining cases, and provides closure to pending cases through the assistance of lawyers who mediate cases pre-selected by Lake County Common Pleas judges.

Attorneys at Reminger Co., LPA have headed up the Settlement Week efforts in Lake County for the past three years. Settlement Week is scheduled for **December 3-7, 2012**.

For more information, contact Reminger attorneys Russell J. Meraglio, Jr. at [rmeraglio@reminger.com](mailto:rmeraglio@reminger.com) or Chetan S. Patil at [cpatil@reminger.com](mailto:cpatil@reminger.com).



Russell J. Meraglio, Jr.



Chetan S. Patil

This public policy determination rests solely with the Ohio Legislature, not the courts. *State ex rel. Cincinnati Enquirer v. Dupuis*, 98 Ohio St.3d 126, 2002-Ohio-7041, 781 N.E.2d 163, ¶ 21 (the legislature "is the ultimate arbiter of public policy"). This was also emphasized by Justice O'Donnell in his dissent in *C.P.* 131 Ohio St.3d 513, 2012-Ohio-1446, at ¶ 109 ("questions regarding whether R.C. 2152.86 furthers public interest and public safety" are questions for the Legislature). Therefore, given the absence of an express declaration of the unconstitutionality of any registration statutes aside from R.C. 2152.86, Ohio Juvenile courts continue to have discretionary authority to impose registration and notification requirements on juvenile sex offenders. R.C. 2152.82.

Regarding specific concerns raised by Justice Cupp, that the courts may not know how to classify juvenile offenders who would fall under R.C. 2159.86 after the *In re C.P.* decision, applicability of the statute is in doubt. The Legislature should review this issue and determine if a change should be made to address the concerns raised in the *C.P.* opinion or to adopt a new statute that is constitutional under *In re C.P.* As has been noted by the Court, "the legislature is entrusted with the power to continually refine Ohio's laws to meet the needs of our citizens." *Stetter v. R.J. Corman Derailment Servs., L.L.C.*, 125 Ohio St.3d 280, 2010-Ohio-1029, ¶ 34.

In applying *In re C.P.*, lower courts must be aware that its holding is limited to finding the classification of juveniles as PRQJORS under R.C. 2152.86 to be unconstitutional and it does not overturn the other juvenile offender registrant classifications and requirements. These classifications must be followed unless they are explicitly overruled or amended by the legislature. However, given the five judge majority's reasoning and discussion of confidentiality concerns in *In re C.P.*, as well as Justice Cupp's concerns about the clarity of the majority's holding, future consideration of the matter of juvenile sex offender registration is on the horizon.

<sup>1</sup>STACEY HILLER, *THE PROBLEM WITH JUVENILE SEX OFFENDER REGISTRATION: THE DETRIMENTAL EFFECTS OF PUBLIC DISCLOSURE*, 7 B.U. PUB.INT.L.J. 271, 283-288 (1998). IT HAS ALSO BEEN NOTED THAT LIFETIME REGISTRATION REQUIREMENTS DO NOT TAKE INTO CONSIDERATION A JUVENILE'S ABILITY TO BE REHABILITATED AND "IGNORE[] THE SUPREME COURT'S \* \* \* JURISPRUDENCE ON THE SPECIAL NATURE OF JUVENILE OFFENDERS." TRACY PETZNICK, *ONLY YOUNG ONCE, BUT A REGISTERED SEX OFFENDER FOR LIFE: A CASE FOR REFORMING CALIFORNIA'S JUVENILE SEX OFFENDER REGISTRATION SYSTEM THROUGH THE USE OF RISK ASSESSMENTS*, 16 BERKELEY J. CRIM.L. 228, 10 (2011)

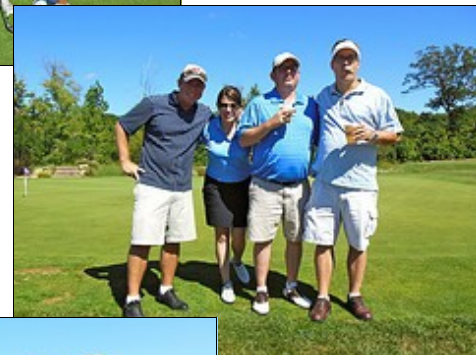
<sup>2</sup>SOME HAVE FOUND THAT JUVENILE SEX OFFENDERS "POSE A RISK TO SOCIETY WORTHY OF SERIOUS CONCERN." EARL F. MARTIN AND MARSHA KLINE PRUETT, *THE JUVENILE SEX OFFENDER AND THE JUVENILE JUSTICE SYSTEM*, 35 AM. CRIM. L.REV. 279, 283 (1998). SEE ALSO BRITNEY M. BOWATER, *ADAM WALSH CHILD PROTECTION AND SAFETY ACT OF 2006: IS THERE A BETTER WAY TO TAILOR THE SENTENCES OF JUVENILE SEX OFFENDERS?*, 57 CATH. U.L.REV. 817, 847 (2008) (NOTING THE EXISTENCE OF A DEBATE REGARDING JUVENILE REGISTRATION REQUIREMENTS AND STATING THAT, "[I]N ORDER TO ADEQUATELY PROTECT THE PUBLIC, THERE IS A LEGITIMATE ARGUMENT THAT COMMUNITY NOTIFICATION MIGHT BE A NECESSARY REQUIREMENT FOR SOME JUVENILE SEX OFFENDERS," ESPECIALLY THOSE WHO ARE AT A HIGH RISK OF REOFFENDING).

<sup>3</sup> THIS STATUTE REQUIRES THAT "THE JUDGE SHALL CONDUCT A HEARING UNDER SECTION 2152.83 OF THE REVISED CODE TO DETERMINE WHETHER THE CHILD IS A TIER I SEX OFFENDER/CHILD-VICTIM OFFENDER, A TIER II SEX OFFENDER/CHILD-VICTIM OFFENDER, OR A TIER III SEX OFFENDER/CHILD-VICTIM OFFENDER."

## EXECUTIVE BOARD MEETING MINUTES

**AUGUST 8, 2012 NO QUORUM**

Association By-Laws require six (6) members to be present for a quorum. As there were five (5) members present, a meeting could not be conducted.







Lake County Bar Association  
P.O. Box 490, Courthouse West Annex  
Painesville, Ohio 44077

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## OFFICE SPACE AVAILABLE

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Leo@LeoRCollinsLPA.com  
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### Lake Legal Views Editorial Staff:

Editor .....	Jason Wuliger
Judicial Coordinator .....	Judge John Trebets
LCBA Executive Director .....	Ruth Ann Shultz
LCBA Administrative Assistant ...	Carrie Harps

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Vice President .....	LORA LYNNE STALNAKER
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District 18 Representative.....	DAVID J. STERNBERG

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