



PRESIDENTS COLUMN

In this Issue:

Front Page:

- **President’s Column**

2nd Page:

- **President’s Column**
(Concluded from page 1)

- **In The Mail**

- **Sunny Side Announcements**

3rd Page:

- **Judge’s Article**

Pages 4 -7:

- **Court of Appeals Release**

8th Page:

- **Judge’s Article**
(Concluded from page 3)

9th Page:

- **Law Day 2015**

10th Page:

- **Calendar of Events**
- **Special Interest**
- **Save The Date**
- **Lunch Forum**

11th Page:

- **Financials**
- **Legal Aid Advice Clinics**

12th Page:

- **Executive Meeting Minutes**
- **Nominating Committee Report**

13th Page:

- **Grievance Committee**

14th Page

- **Legal Aid Update**

Back Page:

- **Editorial Staff**
- **Executive Board Members**
- **Contact Information**
- **Memorandum**

LEGAL NUANCES?

Many of you may be aware of my role as a state representative. All of you are likely to be aware of nuances in the law, especially in the areas of your practice. As always, I invite you to bring to my attention any thoughts or suggestions for legislative changes that might benefit your practice and/or your clients.

Two examples brought to my attention by our colleagues has lead to legislation that I have introduced. One deals with a person’s ability to seek an expungement or sealing of records. The other deals with vehicular immobilization orders because of a second OVI.

Several years ago, the Ohio legislature enacted collateral sanction modifications changing many of the penalties for specific crimes. Some offences, which originally called for a mandatory prison time, no longer carry the same penalty today.

Of particular interest is the fact that those having served a mandatory period of incarceration are today unable to ask the court to have their records sealed or expunged. Yet someone who commits the same offense today is no longer forced to serve a mandatory period of incarceration. Thus, they can seek to have their records expunged or sealed. Are these unintended consequences? Maybe. Fair? I think not.

My bill on expungements, as introduced, would allow an individual who was sentenced to a prior mandatory penalty the opportunity to request an expungement based upon the change in the penalty today enabling the record of one convicted of the same crime to be sealed.

Another bill involves the consequences associated with an individual who has committed a second OVI offense. One of the penalties requires a mandatory or a hard time suspension of driving privileges for a minimum period of 45 days, after which a court may grant driving privileges. Simultaneously, the court is required to order the individual’s vehicle to be immobilized for a period of 90 days.

The difficulty faced in this OVI situation, both by the court and the offender, is the inconsistency of the law which allows the court to grant driving privileges to an individual but



**LCBA
President,
John M. Rogers**

prohibits the judge from lifting the immobilization order so that person can drive his or her car.

My bill, as introduced, would authorize a judge, who grants limited driving privileges to a second time OVI offender, the ability to order the termination of the mandatory immobilization order.

Volunteer Sought

The Diocese of Cleveland has approached our association and others in the area in its efforts to attract a volunteer professional with a broad range of experience in investigations for membership on its Review Board. This Review Board is an independent lay group that advises the Bishop of Cleveland on all aspects of the sexual abuse of minors and on the suitability of accused clerics for ministry within the 8-county diocese (Ashland, Cuyahoga, Geauga, Lake, Lorain, Medina, Summit, and Wayne). The Board’s advice is based on thorough and impartial investigations. Interested individuals should have experience in directing criminal, civil, and corporate investigations in addition to having a background of working with individuals both in and out of emotional crisis.

The ideal volunteer candidate will be able to direct and monitor investigations for the general good, without favor or prejudice to any side. The Board was established in the diocesan Policy for the Safety of Children in Matters of Sexual Abuse: Revised, 2007 which are published online at <http://tinyurl.com/docpolicy>.

Currently, the Board also has openings for an experienced educator and for an adult survivor of childhood sexual abuse. A membership application form can be downloaded from <http://www.tinyurl.com/docreviewboardapplication> or from the link found in the lower right upon opening the page (Continued on pg 2)



at www.dioceseofcleveland.org under "Protecting God's Children." Interested laypersons, in full communion with the Catholic Church, are encouraged to apply and applications should be submitted on or before April 15, 2015. Anyone with questions can contact Patricia Ritzert at [330.472.2158](tel:330.472.2158).

MEMBERSHIP DRIVE

Concern for the financial stability of our association has often been a topic of conversation during our Board meetings. At our most recent meeting, options involving dues structures and notary fees were discussed. What emerged from our conversation was a consensus that increasing membership is the ideal means to add value, while also averting a continued reduction in our equity position.

In an effort to attract new members, I am proposing that individuals who may be considering joining our bar and who would be required to pay a full membership fee, be offered the opportunity to attend one of our seminars free of charge during the year following admittance. For those newer attorneys, whose fee structure would be lower, the opportunity to attend a seminar of their choice would be offered at a 50% discount.

My hope would be that for those individuals who take advantage of this offer, as they began to participate in our activities, become involved in a committee(s) of interest and develop an appreciation for what we have to offer, the result would lead to their continued membership. While this proposal could certainly include a sunset date after a year or two, if successful, it might also warrant being continued. As always, I welcome your thoughts or suggestions! Thank you.

Respectfully submitted,

IN THE MAIL

"Allow me to say a belated "Thank You" to all of you who planned, participated in and attended my retirement dinner at the Croatian Hall and the retirement gathering in our courtroom later in the week. I can only tell you it was an incredible humbling experience and honor to be given this generous send off. I am sorry for the delay in saying thank you but hopefully it will not lessen your understanding of my appreciation for both of these wonderful events. Once again thank you and Paris was wonderful, a great way to begin the next chapter in the book of life."

Judge Joseph Gibson- Retired



- Judge Richard Collins 3/5
- Patrick T. Murphy 3/7
- James D. Falvey 3/8
- Paul H. Hentemann 3/8
- Stacy E. Dame 3/15
- Michael P. Hurley 3/16
- Thomas J. Tarantino 3/16
- David P. Everett II 3/17
- Patrick J. Condon 3/20
- Pamela D. Kurt 3/22
- Glenn E. Forbes 3/23
- Benjamin Neylon 3/23
- Mary Joseph Clair 3/24
- Vetus Syracuse 3/24
- Connie Luhta 3/26
- Donald J. Ezzone 3/26
- Timothy L. McGarry 3/28
- Kenneth L. Mitchell 3/28
- Brian C. Stevens 3/28
- Laurie A. Koerner 3/29
- Stephen Komarjanski 3/29
- Darya J. Klammer 3/31
- Jennifer L. Peters 3/31
- Janet L. Hennig 4/3
- Robert A. Simpson 4/3

** If we have neglected to wish you happy birthday because we simply may not have your birthdate please feel free to send us a quick email or call the bar office with such information so we do not miss another birthday.*

Thrasher, Dinsmore & Dolan L.P.A. is pleased to announce that Mary Jane Trapp has become an equity partner in the firm. Mary Jane has a unique background with over 30 years as an experienced civil and criminal defense litigator, mediator, arbitrator, and state appellate judge.



Congratulations to Domestic Relations Staff Attorney, Mirela Turc and her fiancé Dan Rudary on their recent engagement. They are planning a Summer 2015 ceremony! Best wishes to you both!

Congratulations to Law Librarian Sandy Murphy and her fiancé Roger Raines who became engaged during the 2014 Christmas season. Best wishes to you both!





Judge Vincent A. Culotta
Lake County Common Pleas

Happy Birthday Lake County

March 6, 2015, marks the 175th anniversary of the founding of Lake County, Ohio. Lake County was first founded after fifty-seven citizens of Painesville Township, then a part of Geauga County, appealed to the readers of the Painesville Telegraph. That is, on October 22, 1839, the Painesville Telegraph ran a notice from those fifty-seven people calling a meeting of the citizens of Painesville Township, Ohio on November 2, 1839, to discuss

the creation of a new county separate and apart from Geauga County. The desire for a new county arose out of a long-standing disagreement about the proper location of the county seat which started as early as 1808. Residents of the southern townships of Geauga County wanted a centrally located county seat in Chardon while the northern residents wanted the county seat to be in Painesville.

The aforementioned meeting announcement also set forth the Notice of Application filed with the Ohio General Assembly which suggested that Willoughby Township, then part of Cuyahoga County, be consolidated with seven northern townships of Geauga County: Kirtland, Concord, Leroy, North Thompson, Madison, Perry, Painesville and Mentor. The newly consolidated townships made up acreage of only 241 square miles, but the State of Ohio required that any new county encompass at least 400 square miles. Therefore, in order to meet the state requirements for a minimum county acreage of 400 square miles, it was suggested that the land north of Madison, Perry, Painesville and Mentor and Willoughby be included as part of the new county. The 159 square miles of land north of those townships just happened to be under the waters of Lake Erie. After failing one time, in March 1840, the Ohio General Assembly finally passed a bill consolidating those lands and Lake County was born.

Of course, Painesville was selected as the new county seat because of its status as a population, commercial and industrial center. This likely came as no surprise since it was one of the main reasons for establishing a new county. Also, as early as 1820, the seven northern townships of Geauga County which later became Lake County contained half the population of the twenty-three townships of Geauga County combined. According to census records, the population of Lake County in 1840 was 13,717. Worth noting is that when the population of Geauga County gathered in 1839, to discuss and vote on the "Lake County application" a resolution was passed stating that Geauga county residents were "just as anxious to have Painesville get out of Geauga County as Painesville was desirous to get out."

The legislation which created Lake County passed largely due to the provision that no tax would be levied for erecting public buildings. Therefore, following the passage of the bill, it was the citizens of the newly-formed county who raised \$5,000.00, privately in order to construct a courthouse in the new county seat, Painesville, Ohio. Construction on that building began in 1840, with the laying of

the first cornerstone. It was not completed until 1852. The old courthouse still stands today and serves as the Painesville City Hall. Despite having a Courthouse by 1852, Lake County did not have its own jailhouse until the winter of 1858.

The very first public act in Lake County, Ohio occurred on April 4, 1840, when the three Lake County Associate Judges held a special session of court. Back in 1840, the judiciary consisted of one more experienced President Judge and three Associate Judges. John W. Willey was the first President Judge and the Associate Judges were Zenas Blish, William C. Matthews and David R. Paige. The first order of business on the Lake County Court of Common Pleas docket was to admit to probate the estate of Mr. Clark Anderson. (There was no separate probate court until 1851).

On May 5, 1840, the Court began its regular term of business which continues to this day. At that time, Court was conducted in various places as no proper courthouse had been built yet. For example, in 1841, one notable trial regarding a fugitive slave was held in a tavern in Madison with Associate Judge Paige presiding there.

The first grand jurors reportedly were Joseph Cook, Homer Higley¹, William Grahame, Daniel I. French², Elisha Patch³, Harvey Woodworth, William Holbrook, Isaac Gillett⁴, Thomas A. Tisdale, Horatio N. Sweet, Oliver Fowler, Martin Carroll, Moses S. Harvey⁵, Amasa Cobb⁶, and Theodore Grout. Clerk of Court Maureen Kelly has remarkably well-preserved alphabetized indexes of Common Pleas court business going back to 1840.

Ms. Kelly was also kind enough to share another remarkable and priceless piece of Lake County history in the form of a leather-bound volume entitled "Record of Oaths of Office" circa 1840. Therein, in beautiful handwritten script, are the transcriptions of the oaths of office taken by many, if not all, of Lake County's very first leaders. On April 4, 1840, William G. Matthews took the oath of office to become Lake County's first Associate Judge. He swore to "administer justice without respect to persons and to do equal right to the poor and to the rich . . ." Zenas Blish and David R. Paige took the same oath on the same day. Lake County Sheriff Luther P. Bates took his oath of office on April 20, 1840. Purvis Pike took an oath as Lake County surveyor in April, 1840. Likewise, Clark Parker took an oath as the new Lake County Coroner. His oath was taken by Associate Judge Matthews and is the first oath transcribed into the volume. Each township within the newly formed county seemed to have its own, and sometimes multiple, Justices of the Peace. Each one took an oath which is transcribed into the volume. The very first Lake County Clerk of Court was John W. Howden, who was so named on May 20, 1840, for a term of three years. His oath is transcribed in the pages and Mr. Howden was the first custodian of the "Record of Oaths of Office."

The very first marriage in Lake County, Ohio joined Dr. Waite W. Brewster to Miss Abby T. Seeley on April 19, 1840. They were married in the Presbyterian Church in Painesville by the Reverend Carlos Smith. Dr. Brewster was educated in New York and practiced medicine in Perry until he moved to Massillon, Ohio. He went on to practice medicine until 1880 and died in 1888. His wife Abby, a Painesville native, preceded him in death in 1878.

(Continued on page 8)

COURT OF APPEALS OF OHIO RELEASE**Court of Appeals of Ohio**
Eleventh Appellate District

December 29, 2014 R E L E A S E

111 High Street, N.E.,
Warren, Ohio 44481
Telephone: (330) 675-2650
Facsimile: (330) 675-2655
Diane V. Grendell, Judge
Colleen M. O'Toole, Judge
Thomas R. Wright, Judge
Cynthia Westcott Rice, Judge
Timothy P. Cannon, Judge**ASHTABULA**

2014-A-0017 STATE OF OHIO, Plaintiff-Appellant v. EDDIE D. JONES, Defendant-Appellee.
Judgment affirmed. Rice, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [GRENDALL] (RICE) (O'TOOLE)

CRIMINAL - motion for sentence modification; misdemeanor sentence; abuse of discretion; R.C. 4511.19(G)(1)(b)(i); mandatory jail term; OVI; jail overcrowding; delay in execution of jail sentence; due process.

GEAUGA

2012-G-3100 KRISTEN L. LOZADA, Petitioner-Appellant/Cross-Appellee v. RICARDO LOZADA, Respondent-Appellee/Cross-Appellant.

Judgment affirmed. O'Toole, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (CANNON) (O'TOOLE)
DOMESTIC RELATIONS - attorney fees; R.C. 2323.51; frivolous conduct; domestic violence civil protection order; R.C. 3113.31; civil action; sanctionable conduct; consistent with manifest weight of the evidence; dischargeability; bankruptcy; properly before the court; reasonableness of fees; actual value; necessary services performed; Prof.Cond.R. 1.5(a); cross-appeal; no error in decreasing amount awarded.

2014-G-3193 STATE OF OHIO, Plaintiff-Appellee v. RAYMOND F. MILLER, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (RICE)
CRIMINAL PROCEDURE - Acceptance of guilty plea; Crim.R. 11(C); judicial release; no reference to potential release necessary unless incorrect statement is made during hearing; no misstatement when plea agreement correctly states that defendant is not presently eligible; right against self-incrimination; sentencing hearing; court can inquire as to specific offense to which defendant pled guilty.

2014-G-3221 IN THE MATTER OF: J.C., DELINQUENT CHILD

Appeal dismissed. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

2014-G-3237 DEE SEE OIL CORPORATION, Plaintiff-Appellee v. LIGHTNING ROD MUTUAL INSURANCE CO., Defendant-Appellant.

Pursuant to appellant's "Motion to Dismiss Appeal" filed with this court on December 17, 2014, and upon recommendation of the Administrative Counsel, this appeal is hereby settled and dismissed. Costs to be taxed against appellant. See Judgment Entry. [CANNON] (GRENDALL) (WRIGHT)

LAKE

2013-L-091 IN THE MATTER OF: B.J., DELINQUENT CHILD.

Judgment affirmed in part, reversed and vacated in part. RICE, J., concurs in part and dissents in part, with a Concurring/Dissenting Opinion; O'TOOLE, J., concurs in part and dissents in part, with a Concurring/Dissenting Opinion. See Opinion and Judgment Entry. [CANNON] (RICE) (O'TOOLE)
JUVENILE - custodial interrogation; Miranda warnings; sufficiency of the evidence; R.C. 2923.17(A); unlawful possession of a dangerous ordinance; explosive device; R.C. 2923.17(B); illegal manufacture or processing of explosives; R.C. 2923.11(M); "Works Bombs"; explosives; no contest plea.

2013-L-120 STATE OF OHIO, Plaintiff-Appellee v. SHANIKA BROWN, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (O'TOOLE)
CRIMINAL - manifest weight; sufficiency; robbery; fleeing; physical harm.

2013-L-132 IN THE MATTER OF THE GUARDIANSHIP OF: ANNE M. CICCHELLA

Judgment affirmed. O'TOOLE, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (O'TOOLE)
GUARDIANSHIP - App.R. 9(C) or (D) statement; request for counsel; request for independent expert evaluator; waiver.

2014-L-023 A & J PLUMBING, INC., Plaintiff-Appellant v. HUNTINGTON NATIONAL BANK, et al., Defendants-Appellees.

Judgment affirmed. O'TOOLE, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [WRIGHT] (GRENDALL) (O'TOOLE)
MECHANIC'S LIEN - R.C. 1311.11(C); court approval of surety bond as substitute for lien; subsequent action to recover on bond; bond not enforceable if lien was invalid; issuer of bond can assert landowner's defenses to lien.

2014-L-051 IN THE MATTER OF: T.S.G., DELINQUENT CHILD

Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (RICE) (O'TOOLE)
JUVENILE - Finding of delinquency; commission of crime; receiving stolen property; manifest weight of the evidence; discretion of trier of fact to believe only parts of witness's testimony; inconsistency in trial court's verdict as to separate criminal charges; no inference of irregularity.

2014-L-085 STATE OF OHIO, Plaintiff-Appellee v. ROBERT J. PURTILO, Defendant-Appellant.

Appeal dismissed. O'Toole, J., dissents with a Dissenting Opinion. See Memorandum Opinion and Judgment Entry. [CANNON] (GRENDALL) (O'TOOLE)
APPELLATE REVIEW - App.R. 4(A); thirty-day rule; untimely appeal. App.R. 5(A); motion for delayed appeal to be filed in court of appeals.

COURT OF APPEALS OF OHIO RELEASE

2014-P-0014 PENNYMAC CORP., Plaintiff-Appellee v. LOIS J. NARDI, et al., Defendants-Appellants.

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

CIVIL PROCEDURE - Summary judgment; breach; note; mortgage; standing; holder in due course; unclean hands; execution; appraisal; failure to make a supported argument; motion to dismiss; right to enforce; business records; hearsay.

TRUMBULL

2013-T-0106 STATE OF OHIO, Plaintiff-Appellee v. RICHARD A. CLARK, Defendant-Appellant.

Judgment affirmed. O'TOOLE, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [WRIGHT] (GRENDALL) (O'TOOLE)

CRIMINAL LAW - manifest weight; sufficiency; aggravated murder; aggravated robbery; admission; evidence; unfair prejudice; time of crime; indictment.

2014-T-0031 TONYA L. BROWN, Appellee v. PORFIRIO C. TORRES, III, Appellant.

In a magistrate's order dated December 1, 2014, this court ordered appellant to either file his corrected brief or show cause as to why this appeal should not be dismissed for failure to prosecute. To date, appellant has done neither. Therefore, upon recommendation of the Administrative Counsel, this appeal is hereby dismissed for failure to prosecute. Costs to be taxed against appellant. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

2014-T-0052 EDWARD J. THOMPSON, et al., Plaintiffs-Appellants v. NATHAN J. CUSTER, et al., Defendants-Appellees.

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

CIVIL - Dormant Minerals Act; R.C. 5301.56; summary judgment; de novo; former R.C. 5301.56; savings events; surface owner; automatic abandonment; statutory notice mechanism; notice to the holder of mineral rights; unconstitutional retroactive statute.

2014-T-0081 TALMER BANK AND TRUST, SUCCESSOR BY MERGER TO FIRST PLACE BANK, fka FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF WARREN, Plaintiff-Appellee v. TIMOTHY J. BILLOCK, et al., Defendants-Appellants.

On December 19, 2014, the parties filed with this court a "Joint Voluntary Dismissal of Appeal," which this court construes as a joint motion to dismiss the instant appeal. Upon consideration, and upon recommendation of the Administrative Counsel, the motion is hereby granted, and this appeal is hereby settled and dismissed. Costs to be taxed as agreed by the parties. See Judgment Entry. [CANNON] (GRENDALL) (WRIGHT)

2014-T-0096 NATIONSTAR MORTGAGE, LLC, ASSIGNEE OF BANK OF AMERICA, N.A., Plaintiff-Appellee v. STEVE KERESZTURI, a.k.a. STEVE KERESZTURI, JR., et al., Defendants, (RENX GROUP, LLC, f.k.a. BIG BLUE CAPITAL PARTNERS, LLC, Appellant.)

Pursuant to appellant's request and upon recommendation of the Administrative Counsel, this appeal is hereby settled and dismissed. Costs to be taxed against appellant. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

December 31, 2014 RELEASE

ASHTABULA

2014-A-0025 STATE OF OHIO, Plaintiff-Appellee v. CHARLES B. HAAS, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [RICE] (GRENDALL) (O'TOOLE)

DRUG OFFENSES - illegal assembly or possession of chemicals for manufacture of meth; sufficient evidence to support appellant's intent to possess was presented where appellant made repeated efforts to obtain pseudoephedrine, the active ingredient in methamphetamine, his commercial network of associates to obtain even more pseudoephedrine, his paying them for their services in methamphetamine, which he carried on him; and his admission, after his initial denial, that the meth lab and acid drain cleaner found in his apartment were his.

GEAUGA

2014-G-3182 STATE OF OHIO, Plaintiff-Appellee v. RASHAD M. MUHAMMAD, Defendant-Appellant.

Judgment affirmed. O'Toole, J., concurs in part and dissents in part, with a Concurring/Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (CANNON)(O'TOOLE)

CRIMINAL LAW - aggravated robbery; firearm specification; improper handling of a firearm in a motor vehicle; juvenile; probable cause; mandatory transfer; subject matter jurisdiction; charge not pending at the time of transfer; charge was derivative of remaining charged acts; constitutionality of mandatory transfer provisions; plea of guilty; waive all nonjurisdictional issues; ineffective assistance of counsel; waiver.

2014-G-3201 STATE OF OHIO, Plaintiff-Appellee v. RICHARD W. GIBBS, Defendant-Appellant.

Appeal dismissed. O'Toole, J., dissents with a Dissenting Opinion. See Memorandum Opinion and Judgment Entry. [RICE] (CANNON) (O'TOOLE) APPELLATE REVIEW - App.R. 5(A); delayed appeal; reason does not justify delay.

2014-G-3213 STATE OF OHIO, Plaintiff-Appellee v. RICHARD W. GIBBS, Defendant-Appellant.

Judgment affirmed. O'Toole, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [RICE] (CANNON) (O'TOOLE)

CRIMINAL LAW - trial court; construe; motion; post conviction relief; Civ.R. 60(B); inapplicable; failure to raise; statute of limitations argument; direct appeal; barred; ex post facto; amendment; effective; within then-existing limitations period; no error.

LAKE

2013-L-077 IN THE MATTER OF: E.B.

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

DOMESTIC RELATIONS - CHILD CUSTODY - grandmother in custody dispute over child with child's father must prove unsuitability of father in that award of custody to him would be detrimental to child; plain error standard applies where father fails to file objections within 14 days of magistrate's decision; trial court's award of custody to grandmother is not plain error or abuse of discretion where she

COURT OF APPEALS OF OHIO RELEASE

presented evidence that father provided no financial support for child; father left child with mother knowing she was abusing drugs and unable to care for child and father never took child overnight; father's residential history was unstable; father was consistently unemployed; grandmother had been sole source of stability in child's life; father refused to cooperate with guardian ad litem; and father was in violation of probation by being unemployed for which he could be arrested at any time.

2013-L-131 STATE OF OHIO, Plaintiff-Appellee v. LARRY M. SCHLEE, Defendant-Appellant.
Judgment affirmed. Grendell, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [O'TOOLE] (GRENDALL) (WRIGHT)
CRIMINAL LAW - PLEAS, MOTIONS & OTHER HEARINGS - the elaboration of testimony previously submitted in an affidavit in support of a motion for new trial is not newly discovered evidence under Crim.R. 33(A)(6).

2014-L-008 RICHARD M. OSBORNE, TRUSTEE, et al., Plaintiffs-Appellants v. LEROY TOWNSHIP, Defendant-Appellee
Judgment affirmed in part, reversed in part and remanded. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (O'TOOLE)
ZONING - Oil and gas well; access road; subject to general state law; R.C. 1509.01 et seq.; storage of asphalt and concrete debris for use in repairing road; authority of township to regulate or ban storage of debris; standard to determine if township zoning regulation conflicts with general state law; interpretation of township ordinance; no deference to administrative interpretation unless provision is ambiguous.

2014-L-012 IN RE: THE PATERNITY OF THE MINOR CHILD, S.J.R.
Judgment affirmed. O'Toole, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (WRIGHT) (O'TOOLE)
VACATION OF JUDGMENT - excusable neglect; party has ongoing duty to notify trial court of any change of his address, particularly after he has notice of his attorney's withdrawal; in these circumstances where party fails to attend scheduled trial without filing motion for continuance, his failure to attend trial is not excusable neglect, which could support motion to vacate judgment; if party needs time to retain new counsel, it is incumbent on him to file motion for continuance.

PORTAGE

2013-P-0067 STATE OF OHIO, Plaintiff-Appellee v. JAIMIE R. WILEY, Defendant-Appellant.
Judgment affirmed. See Opinion and Judgment Entry. [CANNON] (RICE) (O'TOOLE)
CRIMINAL - R.C. 2921.33; resisting arrest; lawful arrest; disorderly conduct; probable cause to arrest. 2013-P-0074 STATE OF OHIO, Plaintiff-Appellee v. MICHAEL A. CARVER, JR., Defendant-Appellant.
Affirmed in part, and remanded in part. Grendell, J., concurs in part and dissents in part, with a Concurring/Dissenting Opinion. See Opinion and Judgment Entry. [O'TOOLE] (CANNON) (GRENDALL)
CRIMINAL LAW - SENTENCING/FINES, RESTITUTION, EXPUNGEMENT - aggravated robbery; manifest weight of the evidence; merger; when a trial court merges counts for sentencing purposes the state must elect on which count to proceed.

2013-P-0100 STATE OF OHIO, Plaintiff-Appellee v. JOSEPH W. WEIDEMAN, Defendant-Appellant.
Affirmed in part, reversed in part, and remanded. See Opinion and Judgment Entry. [CANNON] (GRENDALL) (O'TOOLE)
CRIMINAL LAW - SENTENCING - R.C. 2953.08(G); standard of review; felony sentencing; conflict; R.C. 4511.19; R.C. 2929.14; third-degree felony OVI; R.C. 2941.1413 specification; mandatory term; additional term; cumulative term; sentence contrary to law; ineffective assistance.

TRUMBULL

2013-T-0107 STATE OF OHIO, Plaintiff-Appellee v. DWAYNE A. STOUTAMIRE, Defendant-Appellant.
Appeal dismissed. Grendell, J., concurs in judgment only. See Memorandum Opinion and Judgment Entry. [O'TOOLE] (GRENDALL) (WRIGHT)
CRIMINAL LAW - failure to comply with the briefing formalities prescribed by App.R. 16(A) allows a court of appeals to dismiss an appeal pursuant to App.R. 12(A)(2); R.C. 2505.02; final appealable order; a trial court's failure to inform a defendant that community service might be required to cover unpaid court costs does not affect a substantial right; a trial court's denial of a motion for alternative payment of court costs is not a final appealable order; res judicata.

January 5, 2015 RELEASE

Released December 31, 2014

2008-T-0077 STATE OF OHIO, Plaintiff-Appellee v. NATHANIEL JACKSON, Defendant-Appellant.
Judgment affirmed. Grendell, J., concurs with a Concurring Opinion. O'Toole, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [CANNON] (GRENDALL) (O'TOOLE)
CRIMINAL LAW – aggravated murder; death penalty; resentencing; ex parte communication; disqualification; motion to suppress; disciplinary proceedings; request for leave to file motion for new trial; motion for new trial; Crim.R. 33(B); untimely; newly discovered evidence; unavoidable delay; clear and convincing evidence; hearing.

2013-T-0103 STATE OF OHIO, Plaintiff-Appellee v. NATHANIEL JACKSON, Defendant-Appellant.
Judgment affirmed. O'Toole, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [CANNON] (GRENDALL) (O'TOOLE)
POSTCONVICTION RELIEF – aggravated murder; death penalty; resentencing; ex parte communication; disqualification; duty to consider entire record; presumption of regularity; R.C. 2953.21 et seq.; civil discovery; statute of limitations; untimely petition; R.C. 2953.21; procedural default; res judicata; harmless error; hearing; lack of substantive grounds for relief.

COURT OF APPEALS OF OHIO RELEASE

January 12, 2015 R E L E A S E

ASHTABULA

2014-A-0061 IN THE MATTER OF: L.J.
Appeal dismissed. See Judgment Entry. [WRIGHT] (GRENDALL) (RICE)

2014-A-0066 IN THE MATTER OF: L.J.
Appeal dismissed. See Judgment Entry. [WRIGHT] (GRENDALL) (RICE)

LAKE

2014-L-004 DEAN SECREST, et al., Plaintiffs-Appellants v. ROBERT GIBBS, et al., Defendants-Appellees.
Judgment affirmed. Grendell, J., concurs in part and dissents in part, with a Dissenting Opinion. See Opinion and Judgment Entry. [RICE] (GRENDALL) (O'TOOLE)

CIVIL - declaratory judgment action; judgment lien; pierce corporate veil; alter ego; successor liability; fraud; statute of limitations; R.C. 2333.01; equitable interest; attach; 10-year limitation period; failure to plead; did not raise in trial court; waiver; fail to contest; concede; party cannot rest on allegations in complaint; consolidate; no refusal.

2014-L-072 STATE OF OHIO, Plaintiff-Appellee v JAMES D. ASKEW, III, Defendant-Appellant.
Judgment affirmed. O'Toole, J., concurs with a Concurring Opinion. See Opinion and Judgment Entry. [WRIGHT] (RICE) (O'TOOLE)
CRIMINAL PROCEDURE - Second petition for post-conviction relief; R.C. 2953.23(A); not permissible unless statutory exception applies; res judicata does not bar post-conviction challenge to sentence when sentencing judgment void; judgment void only when trial court does not follow mandatory requirement of statute.

2014-L-100 ROGER LULOW, et al., Plaintiffs-Appellees v. KYLE LULOW, Defendant-Appellant.
Appeal dismissed. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

PORTAGE

2011-P-0071 EQUITY BANK, SSB, Plaintiff-Appellee v. SOLON INDUSTRIAL GRINDING, INC., et al., Defendants-Appellants, SUSAN M. CERMAK, et al., Defendants, THE CORTLAND SAVINGS AND BANKING COMPANY, Defendant-Appellee.
Pursuant to appellants' motion to dismiss the appeal filed with this court on January 7, 2015, and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. Costs to be taxed against appellants. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

2011-P-0086 WACHOVIA BANK NATIONAL ASSOCIATION, Plaintiff-Appellee v. RICHARD O. CERMAK, et al., Defendants-Appellants, EQUITY BANK SSB, Intervening Defendant-Appellee.
Pursuant to appellants' motion to dismiss the appeal filed with this court on January 7, 2015, and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. Costs to be taxed against appellants. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

2013-P-0091 KENT STATE UNIVERSITY, Plaintiff-Appellee v. GENE A. FORD, et al., Defendant-Appellant.
Judgment affirmed. Cannon, P.J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [GRENDALL] (CANNON) (RICE)
CIVIL - liquidated damages; employment contract; college basketball coaching contract; summary judgment; de novo; actual damages; breach of contract; investment in continued employment; unconscionable; disproportionate; estimate of damages; illegal penalty.

2014-P-0009 STATE OF OHIO, Plaintiff-Appellee v. KODY M OSCO, Defendant-Appellant.
Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (RICE)
CRIMINAL PROCEDURE - Petition for postconviction relief; alleged constitutional violations; R.C. 2953.21(A); timeliness; findings of fact and conclusions of law unnecessary when petition untimely; res judicata; issues could have been raised on direct appeal; exception when issues based on evidence outside the record.

2014-P-0010 STATE OF OHIO, Plaintiff-Appellee v. KODY M OSCO, Defendant-Appellant.
Judgment affirmed. See Opinion and Judgment Entry. [WRIGHT] (CANNON) (RICE)
CRIMINAL PROCEDURE - Petition for postconviction relief; alleged constitutional violations; R.C. 2953.21(A); timeliness; findings of fact and conclusions of law unnecessary when petition untimely; resjudicata; issues could have been raised on direct appeal; exception when issues based on evidence outside the record.

2014-P-0042 THE BANK OF NEW YORK MELLON fka THE BANK OF NEW YORK AS SUCCESSOR TRUSTEE TO JPMORGAN CHASE BANK, N.A., AS TRUSTEE FOR THE CERTIFICATEHOLDERS OF CWABS MASTER TRUST, REVOLVING HOME EQUITY LOAN ASSET BACKED NOTES, SERIES 2004-J, Plaintiff-Appellee v. RICHARD S. DIETZ, et al., Defendants-Appellants.
Pursuant to appellants' "Motion to Dismiss the Appeal" filed with this court on January 5, 2015, and upon recommendation of the Administrative Counsel, this appeal is hereby dismissed. Furthermore, pursuant to this entry, any pending motions are hereby overruled as moot. Costs to be taxed against appellants. See Judgment Entry. [CANNON] (RICE) (WRIGHT)

JUDGE'S ARTICLE (Continued from page 3)

Interestingly, Dr. Brewster was also a descendant of William Brewster, a ruling elder of the Pilgrim Church and founder of Plymouth Colony who came to America on the Mayflower in 1620.

Application for the first official Lake County marriage license was obtained by John Boyce and Polly Ann Borzee on May 5, 1840. Clerk of Court John Howden issued it. The couple was married in Kirtland on May 7, 1840 by a Justice of the Peace.

The current Lake County Courthouse was completed in 1909, and was dedicated for public use on June 25, 1909. At that time, the courthouse was home to the majority of the county government in addition to housing the common pleas, probate and court of appeals. For over one hundred years, the doors of this courthouse have been open to all those in Lake County seeking justice.

Speaking of doors opening, I must note that by the time you read this article, the front doors of the Lake County Courthouse will once again be open for general use after being closed for several years. So with the opening of those doors, here's to the next 175 years Lake County!

¹MR. HIGLEY AND HARVEY WOODWORTH WOULD EVENTUALLY SERVE AS DIRECTORS OF THE LAKE COUNTY COURTHOUSE.

²MR. FRENCH AND OLIVER FOWLER WERE BOTH FARMERS IN PAINESVILLE ACCORDING TO CENSUS RECORDS.

³MR. PATCH SERVED AS TREASURER OF LEROY TOWNSHIP BEGINNING IN 1822.

⁴MR. GILLETT WAS THE HUSBAND OF JULIA MORLEY OF THE PROMINENT MORLEY FAMILY OF PAINESVILLE.

⁵MR. HARVEY WAS FATHER OF NOTED PAINESVILLE EDUCATOR, THOMAS W. HARVEY, WHOM A HIGH SCHOOL IS NAMED AFTER.

⁶MR. COBB REPORTEDLY WAS THE FIRST PERSON BURIED IN THE MENTOR MUNICIPAL CEMETERY UPON HIS DEATH ON MARCH 16, 1855. MARTIN CARROLL WAS ALSO BURIED IN THE CEMETERY IN 1885 AND HIS GRAVE BEARS A LARGE MARBLE MONUMENT.

REFERENCES:

Stith, B. (1988). *A Vision Divided. Lake County, Ohio 150 Years of Tradition.*

History of Geauga and Lake Counties, Ohio with Illustrations and Bibliographical Sketches of its Most Prominent Men. (1878). Philadelphia: Williams Brothers.

<http://www.mocavo.com/The-Brewster-Genealogy-1566-1907-a-Record-of-the-Descendants-of-William-Brewster-of-the-Mayflower-Ruling-Elder-of-the-Pilgrim-Church-Which-Founded-Plymouth-Colony-in-1620-2-Part-1/846837/69>



SHIFT YOUR CHANCES OF SUCCESS

WITH SKODA MINOTTI'S
BUSINESS VALUATION AND
LITIGATION ADVISORY TEAM

We understand the demands you face in today's court of law. That's why our team offers unparalleled depth and expertise. We are uniquely qualified and credentialed to help you plan and prepare for your most complex financial cases.

ECONOMIC DAMAGES • VALUATIONS • BANKRUPTCY • FORENSIC ACCOUNTING • ABV, CFE, CFF, CIRA, CPA, CVA, JD, MBA

Delivering on the Promise.

888-201-4484 • skodaminotti.com

AKRON | CLEVELAND | TAMPA



SKODA MINOTTI

CPAs, BUSINESS & FINANCIAL ADVISORS

SAVE THE DATE

THE LAKE COUNTY BAR ASSOCIATION
PRESENTS:

OUR 39TH
ANNUAL LAW DAY BREAKFAST

FRIDAY MAY 1, 2015

Keynote Speaker:

SUPREME COURT JUSTICE JUDITH L. FRENCH

Kathy Vavro, MEd., LSW, PC-S: Counseling, Mediation, and Consultation Services

Kathy Vavro, MEd., LSW, PC-S
41 East Erie Street, Painesville, Ohio 44077

(440)554-0923
kvavro@oh.rr.com
www.kathyvavro.com

Healthy Alternatives for Relationship Challenges:

- Counseling: individual, couples, families
- Mediation: specializing in parenting agreements
- Parenting Coordination

What is Parenting Coordination?

Parenting Coordination is a process where an impartial third person, appointed by the court in a family case, helps parties implement their parental rights and responsibilities or companionship time order by facilitating the resolution of disputes between parents and/or legal guardians.

Parenting Coordination is appropriate for cases dealing with child related issues such as when:

- Mediation has not been successful or has been determined by the judge to be inappropriate;
- A child is denied emotional and/or physical access to a parent or has severely limited parental/guardian contact;
- There are restrictions on a child's access to extended family members;
- There is interference or refusal of access to information about a child's health, education and welfare;
- There is a high rate of re-litigation especially concerning non-legal issues;
- There has been frequent change in lawyers for the parties.

Kathy Vavro is a licensed professional counselor and social worker. She is qualified as a Parenting Coordinator under the Ohio Supreme Court Rules of Superintendence (Rule 90). She has been accepted by the Lake County Domestic Relations Court as a qualified Parenting Coordinator.

CALENDAR OF EVENTS

March

- 5th 1927- Constitution of LCBA Adopted
7th Notary Test, 10:00 a.m. at Lakeland Community College - Bldg T, Room 129
7-9th Mock Trial State Competition - Columbus, OH
8th Daylight Savings Time Begins
1927- First Meeting of LCBA After Adoption of Constitution
13th Executive Board Meeting, 12:00 noon at Skye Restaurant in Mentor, OH
17th Real Estate Committee Meeting, 8:00 a.m. at 41 E. Erie St. in Painesville, OH
ST. PATRICK'S DAY
18th 1902- First Recorded Meeting of LCBA
19th Grievance Committee Meeting, 8:00 a.m. - Second Floor Courthouse West Annex
20th Deadline for LAKE LEGAL VIEWS
SPRING BEGINS
25th Lunch Forum, 11:00 a.m. at Hellriegel's Inn in Painesville, OH
26th Probate Committee Meeting, 8:00 a.m. at Perkins on Mentor Ave. in Painesville, OH
27th Family Law Seminar at Quail Hollow Resort - Flier enclosed.
28th Notary Test, 10:00 a.m. at Lakeland Community College - Bldg T, Room 129

April

- 3rd GOOD FRIDAY
PASSOVER
5th EASTER
10th Executive Board Meeting, 12:00 noon at Skye Restaurant in Mentor, OH
16th Grievance Committee Meeting, 8:00 a.m. - Second Floor Courthouse West Annex
20th Deadline for LAKE LEGAL VIEWS
21st Real Estate Committee Meeting, 8:00 a.m. at 41 E. Erie St. in Painesville, OH
22nd Legal Aid Brief Advice Clinic & CLE in Judge Falkowski's Courtroom
29th Lunch Forum, 11:00 a.m. at Hellriegel's Inn in Painesville, OH
30th Probate Committee Meeting, 8:00 a.m. at Perkins on Mentor Ave. in Painesville, OH

Note: Calendar event dates, times & locations are subject to change. Please check your emails for further updates.

SPECIAL INTEREST

MOCK TRIAL STATE COMPETITION

March 7-9, 2015
Columbus, Ohio

LUNCH FORUM

Wednesday March 25, 2015
11:00 a.m. Lunch Buffet, 12:00 noon CLE
Hellriegel's Inn
Painesville, Ohio

FAMILY LAW SEMINAR

Friday March 27, 2015
Quail Hollow Resort
Concord, OH
Flier Enclosed

SAVE THE DATE

COMMON PLEAS SEMINAR

Thursday October 15, 2015
Details to follow

LUNCH FORUM

SPONSORED BY THE LAKE COUNTY BAR ASSOCIATION

**LUNCH FORUM
1 FREE CLE**

WEDNESDAY MARCH 25, 2015

**“PROFESSIONAL CONDUCT”
DVD PRESENTATION**

**HELLREIGEL'S INN
1840 MENTOR AVENUE
PAINESVILLE, OH 44077**

**BUFFET LUNCH: \$15 FOR MEMBERS & \$25 FOR NON-MEMBERS
(INCLUDES LUNCH & ONE CLE CREDIT HOUR)**

CALL THE BAR OFFICE AT (440)350-5800 WITH YOUR RESERVATION BY MARCH 20, 2015.

This course has been approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 1.00 total CLE hour(s), with 1.00 of attorney professional conduct instruction.

FINANCIALS

LAKE COUNTY BAR ASSOCIATION FISCAL YTD

Profit & Loss Statement June 1, 2014-May 31, 2015 (As of January 31, 2015)

INCOME

401-Bar Roster	215.00
402-Dues	40,830.00
403-Grievance	2,818.75
404-Interest Income	499.39
405-Lake LV Ads	2,305.00
407-Notary Fees	13,259.00
408-Referral Fees	381.00
409-Weekly Lunch	1,895.00
410-Miscellaneous Income	11,546.95
412-Golf Outing	17,275.08
413-Seminar	
414-Common Pleas Judge Seminar	10,880.00
418-Probate Seminar	2,575.00
424-Procrastinator's Seminar	2,135.00
426-Family Law	2,900.00
441-GAL	1,730.00
Total 413-Seminar	20,220.00
416-Law Day	250.00
429-Website Listing	715.00
435-Supreme Court Trip	10.00
450-Annual Meeting	725.00

TOTAL INCOME \$ 112,945.17

EXPENSE

601-Accounting Fees	1,825.00
604-Bank Charges	962.41
606-Courthouse Plaques	61.62
608-Flowers & Memorials	171.02
609-Golf Outing	13,300.84
610-Grievances	3,732.15
611-Employee Retirement	875.00
613-Insurance - Health	19,552.89
616-Insurance-Other	598.00
622-Lunch Payments	1,398.88
624-Membership	565.20
625-Miscellaneous Expense	5,139.39
631-Office Expense	2,596.57
634-Office Supplies	1,227.66
637-Payroll Taxes	3,699.72
639-Postage Machine Rental	725.95
640-Postage	1,097.73
642-Seminar	
655-Family Law	987.51
656-Procrastinator's	499.31
659-Probate	648.94
660-Common Pleas Judge Seminar	5,532.80
672-GAL	233.65
Total Seminars-	7,902.21
643-Telephone Yellow Page Advert.	1,024.00
646-Travel Reimbursement	1,101.33
647-Rent	5,874.30
648-County Telephone	160.08
649-Supreme Court Trip Expense	4,305.36
650-Wages	44,127.07
679-Board Meeting Expense (Lunch for Staff)	164.63
680-Annual Meeting Expense	1,352.01

TOTAL EXPENSES \$ 123,541.02

NET ORDINARY INCOME \$ (-10,595.85)

OTHER INCOME

500-Bar Foundation (Dues) 1,050.00

TOTAL OTHER INCOME 1,050.00

NET INCOME \$ -(9,545.85)

BALANCE SHEET

Fiscal YTD

June 1, 2014 thru May 31, 2015
(As of January 31, 2015)

ASSETS

Cash on Hand	\$ 95,833.57
Total Fixed Assets	0.00
Interest Receivable	445.03

TOTAL ASSETS \$ 96,278.60

LIABILITIES & EQUITY

Current Liabilities \$ 1,712.30

EQUITY

Retained Earnings	\$ 104,112.15
Net Income	-(9,545.85)

TOTAL EQUITY \$ 94,566.30

TOTAL LIABILITIES & EQUITY \$ 96,278.60

LEGAL AID ADVICE CLINICS

Dear Colleagues,

Our next Legal Aid *Pro Se* Plus Brief Advice Clinic will be held April 22, 2015. Rae Grady from ADAMHS will start the day with a 1.0 hour CLE "Understanding & Dealing Effectively with Addiction".

As you may be aware, the Clinics have been staffed by volunteer family law attorneys. Legal aid staff takes care of the case screening and scheduling. Some of the Clinic's volunteer attorneys have accepted Legal Aid's extended service cases. These are cases which require an attorney's assistance beyond one meeting.

Of the folks helped at the Clinics, each has filed his/her divorce in either Lake, Geauga, or Ashtabula county.

Keep in mind attorneys receive one hour of CLE credit for every six hours of *pro bono* service, up to a maximum of 6 credit hours for service performed during a biennial compliance period. The *pro bono* service must be verified by a bar association or other organization recognized by the Supreme Court as providing *pro bono* programs and must occur on or after January 1, 2014. This required verification is part of the Clinic.

The Clinic is a win-win. The camaraderie of the family law bar is wonderful. In addition, the gratitude of the folks assisted during the Clinic is sincere and heartwarming. Whether you are able to volunteer one hour or more, you'll be part of a great legal experience.

Best Regards,


Colleen A. Falkowski, Judge

Note: Volunteers enjoy a free CLE from 9:00 - 10:00 a.m. that morning. Registration begins at 8:30 a.m. (Flier enclosed).

EXECUTIVE BOARD MEETING MINUTES JANUARY 9, 2015 SKYE RESTAURANT, MENTOR

Call to Order

The meeting was called to order by President John Rogers at 12:27 PM at Skye in Mentor, Ohio. In addition to President Rogers, in attendance were Executive Director Ruth Ann Shultz, Vice President Jason Wuliger, and Treasurer Darya Klammer, Past President Lora Lynne Krider, District 18 Representative David Sternberg, and Trustee James Reardon.

Approval of Minutes of November Meeting

A Motion to approve the minutes of the Executive Board Meeting of November 14, 2015 was made by Ms. Klammer that was seconded by Mr. Sternberg. The minutes were approved unanimously.

Treasurer's Report

Treasurer Darya Klammer reported that the financials are in order, that we are currently running a deficit, but that we are ahead of last year. That bodes well because, by the end of last fiscal year, we were in the black. Much will depend on dues payments that should be forthcoming.

Old Business

Budget Discussion

President Rogers presented several financial reports for board review and consideration as we move forward.

Reverse Raffle

President Rogers suggested raising funds for the bar association foundation by holding a reverse raffle. April 25th is the proposed date for the event. Heather Moseman and Joshua Strickland had indicated enthusiasm for assisting with the event.

Website

Ms. Krider is continuing her efforts to update our website. Her efforts are proceeding apace.

New Business

Request for E-mail to Bar Association

A request was received to e-mail our members on behalf of an outside organization. The board elected to proceed per our policy, and not forward the e-mail.

Family Law Seminar

Ms. Klammer reported that planning is going well and that the seminar will return to Quail Hollow. The menu is being planned to address some complaints that were received after last year's seminar. They are aggressively pursuing sponsors.

Mr. Sternberg made a motion to approve the Family Law Seminar Budget including an increased allocation for food, and with direction that sponsorships be set at \$250. Ms. Krider seconded the motion. The motion was passed unanimously.

Adjourn

Mr. Wuliger made a Motion to Adjourn. The meeting adjourned at 12:57 PM.

NOMINATING COMMITTEE REPORT

On February 13, 2015 the Lake County Bar Association Nominating Committee, consisting of Michael D. Murray, Joseph R. Klammer, Noreen Koppelman Goldstein, Michael C. Lucas & Lora Lynne Krider met and submits the following slate for election at the Annual Meeting June 2015, for the year 2015-2016.

PRESIDENT..... JASON WULIGER
VICE - PRESIDENT..... DARYA J. KLAMMER
TREASURER.....BRANDON D. DYNES
SECRETARY.....PAUL R. MALCHESKY
TRUSTEE.....ANNA M. PARISE

**BONDS · SURETY & FIDELITY
COMPLETE INSURANCE SERVICES**



87 South St. Clair St.
Painesville, Ohio 44077

Phone (440)354-4308 · (440)951-5875
Fax · (440)354-3101

www.benedictinsurance.com

DAVID C. BENEDICT, PRESIDENT

GRIEVANCE COMMITTEE

The Importance of Responding to Grievances

Unfortunately, often times discipline does not come from an underlying grievance, but is imposed because of the lawyer's failure to cooperate with the grievance process itself. The Lake County Grievance Committee has encountered this in increased numbers over the last few years.

On December 14, 2014, the Ohio Supreme Court illustrated the point by imposing a one-year suspension in a matter involving a lawyer's failure to timely respond to three separate grievances. *Disciplinary Counsel v. Wilcox, Slip Opinion No. 2014-Ohio-5264*.

Lawyers should be especially mindful of Rule 8.1 of the Ohio Rules of Professional Conduct which provides in part as follows:

In connection . . . with a disciplinary matter, a lawyer shall not do any of the following:

- (a) knowingly make a false statement of material fact;
- (b) in response to a demand for information from . . . disciplinary authority, fail to disclose a material fact or knowingly fail to respond, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

In *Disciplinary Counsel v. Wilcox, supra*, attorney Wilcox was charged with professional misconduct for repeatedly failing to respond to grievances filed against him. In 2011 and 2012, the relator received three separate grievances against the attorney. Relator sent letters to the attorney's office and home addresses by certified and regular mail. Despite warnings that failure to respond could lead to disciplinary action, the attorney failed to respond to any of the inquiries.

The attorney was later subpoenaed to appear for deposition. The attorney responded that he was being treated for alcohol addiction at an inpatient facility and requested that relator resend the letters of inquiry to his home address. Subsequently, two certified letters were returned "unclaimed". Additional efforts were made to formally present the inquiries to the attorney and the attorney also failed to respond to those efforts. The failure to respond went on for 18 months. In its decision, the Supreme Court stated that the attorney's conduct "calls into question his fitness to serve clients, and an actual suspension is warranted."

The Supreme Court found that there existed aggravating factors, including prior discipline for failure to register and failure to comply with continuing legal education requirements. The Supreme Court concluded that a one-year suspension with conditions for reinstatement was the appropriate sanction. The Supreme Court also concluded that upon reinstatement, the attorney was to serve a one-year period of monitored probation. Justice O'Neill dissented and indicated that he would indefinitely suspend the attorney.

The decision involving attorney Wilcox is only the most recent example of discipline being imposed for failure to timely respond to a disciplinary inquiry. The Supreme Court has previously imposed sanctions. See e.g. *Cleveland Bar Assn. v. James, 109 Ohio ST.3d210, 2006-Ohio-2424, 847 N.E.2d 438* (one-year suspension imposed).

There are few more unpleasant experiences than receiving a disciplinary inquiry. However, avoiding the matter by failing to respond is a separate and serious offense. Lawyers are best served by cooperating with the disciplinary process to avoid being charged with a separate, and perhaps even more serious, violation of the Ohio Rules of Professional Conduct.

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:

FEBRUARY

Kristin Wedell is an attorney with Dickie McCamey in Cleveland, Ohio. Ms. Wedell currently resides in Mentor, Ohio.

James S. Casey is an attorney with The DiCello Law firm in Mentor, Ohio. Mr. Casey also resides in Mentor, Ohio.

Justin J. Hawal is a new attorney with The DiCello Law firm in Mentor, Ohio. Mr. Hawal currently resides in Lakewood, Ohio.

Chelsea M. Shenton is a new attorney with Novak, Pavlik, DeLiberato in Cleveland, Ohio. Ms. Shenton currently resides in Cleveland Heights, Ohio.

Joshua J. Strickland
Committee Chairperson

OFFICE SPACE - DOWNTOWN WILLOUGHBY

The Willoughby Professional Building

38052 Euclid Avenue, Willoughby, Ohio

Two Suites Available - 732 Sq. Feet and 468 Sq. Feet

Call: Jeff Rizer (440) 946-1168 or Bob Boyd (440) 918-1733

LEGAL AID UPDATE

Legal Aid uses the power of the law to ensure access to basic needs and lift people out of poverty. A legal solution is often the key to keeping your home, to securing a protective order to be free of an abusive relationship, or getting your child the extra help they are entitled to in school. Legal Aid is grateful for the partnership of the Lake Bar Association: together, we provide services that focus on improving clients' health, safety, shelter, education, and economic security.

Last year, more than 20,000 people were assisted by Legal Aid. Among those helped was baby Elizabeth – a foster child who was in the system because of prenatal exposure to heroin. Her foster parents, the Weitas, were able to permanently adopt Elizabeth and give her a safe and loving home. However, Elizabeth's exposure caused developmental delays requiring therapy that would cost nearly 50% of the family's income without insurance. The Weitas applied for a federal program that supports families who adopt children with special needs and ensures federal Medicaid stays with the child until she turns 18. As adoptive parents, the Weitas clearly qualified, but Ohio Department of Jobs and Family Services denied their application.

The Weitas tried to file an appeal themselves, but were quickly in over their head. "I was getting bullied.... I knew they would respect an attorney, but we didn't have money for that," Ms. Weita said. Legal Aid advocated for the family and won – securing the \$500 in monthly benefits needed to help the Weitas make a better life for baby Elizabeth.

Statistics show that 45% of people who spend at least half of their childhood in poverty continue to live in poverty at age 35. Baby Elizabeth's case is just one example of how Legal Aid's advocacy changes the trajectory of clients' lives and lifts people out of poverty. And, Elizabeth was among the 20,595 people helped by Legal Aid in 2014 through 8,286 cases. The cases were divided among a variety of civil legal issues, including: housing (16%); consumer (including foreclosure and bankruptcy) (36%); domestic relations (including helping victims of domestic violence) (22%); health and public benefits (6%); education (3%); employment (11%); immigration and other civil matters (5%). Legal Aid's effectiveness is evident in the outcomes achieved. For instance, in 2014 Legal Aid:

- Prevented 99% of the evictions clients faced;
- Stopped more than 58% of the foreclosure actions against clients;
- Removed barriers to education for children in 88% of education cases;
- Secured health insurance for 98% of clients;
- Secured the personal safety from abuse and other assaults for 99% of clients; and
- Increased clients' assets and income, and reduced their debt by a combined \$18 million.



Interested in getting involved? Legal Aid is seeking attorneys who can volunteer and support our efforts. Email probono@lasclv.org to get involved today! Or, visit www.lasclv.org.

Investment Rule No. 1: Jump on opportunities, not bandwagons.



BNY MELLON
WEALTH MANAGEMENT

It's hard to get ahead when you're following the pack. That's why we focus on doing what's best for each client, rather than chasing what's hot. As a global asset manager with unsurpassed expertise across markets and asset classes, and a wealth manager dedicated to the interests of private investors, we enable our clients to capitalize on opportunities and move in the right direction, regardless of what's trending.

If you're ready for a different kind of wealth manager, maybe it's time we spoke.

Contact Karen Manning to learn more:

(216) 593-2031

Follow us on Twitter: @BNYMellonWealth



BNY Mellon Wealth Management conducts business through various operating subsidiaries of The Bank of New York Mellon Corporation.
©2014 The Bank of New York Mellon Corporation. All rights reserved.

THE LAKE COUNTY BAR ASSOCIATION Family Law Committee

Presents:

“Understanding & Dealing Effectively with Addiction”

SPEAKER:

Rae Grady, M.Ed.
Lake County ADAMHS Board

1.0 CLE Professional Conduct Wednesday, April 22, 2015

Lake County Domestic Relations Courtroom

8:30 - 9:00 a.m. **Registration**

9:00 - 10:00 a.m. **“ Understanding & Dealing Effectively with Addiction”**

Name: _____ Attny. Reg. _____ Phone _____

Address: _____ Email: _____

Return registration slip to The Lake County Bar Association, P.O. Box 490, Painesville, OH 44077

This course has been approved by the Supreme Court of Ohio Commission on Continuing Legal Education for 1.00 total CLE hour(s), with 1.00 of Attorney Professional Conduct instruction.



CLE IS FREE TO ALL VOLUNTEERS



VOLUNTEERS NEEDED

At 10:15 a.m., immediately following the seminar, there will be a Pro Se Brief Advice Clinic sponsored by Legal Aid. All clients have been pre-screened by Legal Aid. Legal Aid’s malpractice insurance covers volunteer attorney work. Volunteer attorneys will be assisting folks completing divorce forms. All the courtrooms will be available for the volunteer attorneys’ use. The forms will be filed that day.

The need for volunteer attorneys to assist these families is overwhelming. Keep in mind attorneys receive one hour of CLE credit for every six hours of *pro bono* service, up to a maximum of 6 credit hours for service performed during a biennial compliance period. The *pro bono* service must be verified by a recognized organization such as Legal Aid. This clinic is a win-win. The thanks you receive from these folks are genuine. ---Lake County Domestic Court Judge Colleen Falkowski

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



ADDRESS SERVICE REQUESTED

God Bless America &
Protect Our Troops

Lake Legal Views Editorial Staff:

Editor Brandon D.R. Dynes
Judicial Coordinator Judge John Trebets
LCBA Executive Director Ruth Ann Shultz
LCBA Administrative Assistant ... Carrie Harps

2014-2015 LCBA Executive Board:

President JOHN M. ROGERS
Vice President JASON WULIGER
Treasurer DARYA J. KLAMMER
Secretary BRANDON D.R. DYNES
Past President LORA LYNNE KRIDER
Trustee JAMES P. CARRABINE
Trustee JAMES M. LYONS
Trustee MICHAEL P. GERMANO
District 18 Board of Governors.. DAVID J. STERNBERG
District 18 Representative..... LORA LYNNE KRIDER

Lake Legal Views is a publication of the Lake County Bar Association. Opinions expressed in articles in Lake Legal Views are those of the authors and do not necessarily reflect the views of the staff of Lake Legal Views or the officers and members of the Lake County Bar Association.

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

(440) 350-5800 or
(440) 350-2180
Fax: (440) 350-2298
www.lcba-ohio.org
barassociation@lakecountyohio.gov



**LEGAL PROCESS &
LOCATOR SERVICES**

Experienced - Attorney Referrals

Daniel F. Ponstingle
8373 Mentor Avenue
Mentor, Ohio
(216)255-3325

2 OFFICES AVAILABLE IN MENTOR

AT CARRABINE & REARDON

EXPENSE SHARING ARRANGEMENT IS NEGOTIABLE;

GREAT LOCATION!

CONTACT JIM REARDON @ (440) 974-9911

MEMORANDUM

**DON'T FORGET
YOUR 2015 MEMBERSHIP DUES**

**CALL THE BAR OFFICE AT (440) 350-5800 WITH YOUR VISA OR
MASTERCARD OR MAIL PAYMENT TO:**

**THE LAKE COUNTY BAR ASSOCIATION
25 NORTH PARK PLACE
PAINESVILLE, OHIO 44077**

**LAWYER REFERRAL SERVICE REGISTRATIONS
ARE STILL BEING ACCEPTED!!**

WE CAN USE ATTORNEYS IN THE CATEGORIES LISTED BELOW:

- BANKRUPTCY
- CIVIL LITIGATION
- DEBT COLLECTION
- EMPLOYMENT LAW
- LANDLORD/TENANT
- MEDICAL MALPRACTICE
- SOCIAL SECURITY/DISABILITY
- TAX LAW

Registration forms can be found on our website at www.lcba-ohio.org
or call the bar office and we can email or send you a form.

Thank you!!