

CBA Cincinnati Bar ASSOCIATION Report

December 2016

Supreme Court Narrows Public Corruption Prosecutions



OHIO'S MEDICAID
CHANGES
pg. 8

MEDICAL
MARIJUANA
pg. 12

SENIOR COUNSELORS
HONORED
pg. 19

SpliceNet

Cincinnati's leading law firm technology provider.

Computer and legal application solutions:

- **Managed services**
- **Office 365 setup**
- **Break/fix support**
- **Network evaluation**
- **Legal application assistance**



Mark E. Godbey

If SpliceNet has something to say about Legal IT, you should listen! The SpliceNet team has worked with Law Firms and Technology for nearly 20 years and are the area's ONLY Legal Tech Experts. I've trusted SpliceNet for the last 15 years to manage our firm's PCs and Servers and keep our data safe and secure. Most recently SpliceNet implemented our Hybrid Cloud Servers and a Disaster Recovery environment virtually eliminating our downtime and improving our firm's bottom line by keeping our staff working. I sleep better at night knowing that SpliceNet has things under control. You should too.

— Mark E. Godbey, Esq., Owner, Mark E. Godbey & Associates

January CBA Member Offer: \$500 of FREE IT Support*

No strings attached! Reserve your IT support today!
www.splice.net/cba • (513) 252-0212 • cba@splice.net

**Offer limited to first 10 respondents with five or more computers.*

The Cincinnati Bar Association, founded in 1872, is an Ohio not-for-profit corporation, the members of which are attorneys principally practicing in Hamilton County, Ohio. Its mission is to promote professional excellence, foster justice, serve its members and educate the public.

Cincinnati Bar Association 2016-2017

Board of Trustees

Douglas R. Dennis, *President*
John J. Williams, *President-Elect*
Kelly Mulloy Myers, *Vice President*
Joseph D. Heyd, *Secretary*
John E. Stillpass, *Treasurer*
Eric K. Combs, *Immediate Past President*
Donyetta D. Bailey
Stacy Christman Blomeke
Janaya Trotter Bratton
Kent A. Britt
Sara M. Cooperrider
Paige L. Ellerman
Jodie Drees Ganote
Ralph P. Ginocchio
William R. Graf
Julie A. Hein
Tabitha M. Hochscheid
Hon. Karen L. Litkowitz
Danielle L. Lorenz
Daniel N. Moore
Lori A. Ross
Christopher Andrew Wagner
Faith C. Whittaker
John B. Pinney, *ABA Delegate*
Catherine Glover, *Ex Officio*

Correspondence regarding this publication should be sent to:

Editor, *CBA Report*
225 East Sixth Street, 2nd Floor
Cincinnati, OH 45202-3209
(513) 381-8213 • FAX (513) 381-0528
email: communications@cincybar.org

Requests for advertising information should be sent to:

Erin Emerson, Marketing Director
email: elemerson@cincybar.org

The *CBA Report* (USPS Permit No. 5415) is published monthly by the Cincinnati Bar Association, 225 East Sixth Street, 2nd Floor, Cincinnati, Ohio 45202-3209, (513) 381-8213. CBA membership includes a subscription. Non-member subscriptions are \$30 per year. Third-class postage paid at Cincinnati, Ohio. **POSTMASTER:** Send address changes to *CBA Report*, c/o The Cincinnati Bar Association, 225 East Sixth Street, 2nd Floor, Cincinnati, Ohio 45202-3209.

©Copyright 2016 by The Cincinnati Bar Association. All rights reserved. Reproduction in whole or in part without permission is prohibited.

The *CBA Report* is published as part of the CBA's commitment to provide membership with information relating to issues and concerns of the local legal community.

Opinions and positions expressed in the signed material are those of the author and may not necessarily reflect those of the CBA.

CBA Cincinnati Bar Association Report

What's inside...

- 4 **President's Brief**
The CLE Deadline Is Upon Us, But Quality Programming Is All Year Round
By Douglas R. Dennis, President, Cincinnati Bar Association
- 6 **Cover Article**
Supreme Court Narrows Public Corruption Prosecutions
By W. Kelly Johnson
- 8 **Feature Article**
Recent Important Changes to Ohio's Medicaid Program
By Matthew Barnes and Ashley Burke
- 11 **Feature Article**
Buyer Beware: The Unintended Cost of Some Insurance Policies
By Kimberly Wilcoxon
- 12 **In the Spotlight**
Medical Marijuana Redux
By Edwin W. Patterson III
- 14 **Tech Tip**
Best Dictation Software and Apps
By Mary Lynn Wagner
- 15 **On Second Thought**
The (un)Examined Life, Part II
By Bea V. Larsen
- 16 **Balanced Living**
Get Happier and Healthier Through Love
By Robert W. B. Love Jr.
- 18 **SpliceNet Tech Talk**
Cybersecurity Response Plan Tips
By David J. Myers

Also inside

- | | | | |
|----|----------------------------|----|--------------------------|
| 22 | Cincinnati Bar Foundation | 23 | Member Services |
| 34 | Classified Ads | 33 | Member/Firm News |
| 28 | Continuing Legal Education | 24 | Practice/Interest Groups |
| 31 | Ethics Hotline | 26 | Young Lawyers Section |
| 30 | Legal Community News | | |

The CLE Deadline Is Upon Us, But Quality Programming Is All Year Round



By Douglas R. Dennis
@DougDennis41



I don't need to tell you that December is the last month of the calendar year and that means the CLE deadline is around the corner for half of the attorneys in town. But no worries, the CBA has you covered in December and we have you covered year-round as well.

The CBA provides more than 100 live CLE programs each year. That's a lot of programs. Assistant Counsel and CLE Director at the CBA, Dimity Orlet, and her team manage to make every one of these live programs a great, quality event as well. Dimity's team finds talented and respected local, regional and national speakers each year and keeps the programming up-to-date with current changes in the law. Through invaluable help from our more than 70 practice groups, group leaders, and other member volunteers, the CLE team combines speaking and leadership opportunities with the ability for individual lawyers to brand and become better known in the legal community. It is all very symbiotic and your support and enthusiasm for these programs is greatly appreciated.

This month, we have 19 programs! Some programs are practice based, such as:

- **Workers' Compensation** (Dec.1)
- **Bankruptcy Institute** (Dec. 2)
- **Health Care CLE** (Dec. 8)
- **Real Property CLE** (Dec. 9)
- **Venture Capital CLE** (Dec. 14)
- **Tax Institute** (Dec. 15)
- **DUI/Professionalism CLE** (Dec. 30)

Some programs are skills based, like our:

- **Adverse Depositions** course (Dec. 6) by national expert Robert Musante
- **Fact Investigation** course (Dec. 7) by New York-based Philip Segal.
- **Ethics** program (Dec. 7), part of our brown bag series (a great series for lunch programming throughout the year).
- **Crisis Communications and Management** (Dec. 15) by Cleveland-based communication consultant Bruce Hennes.

- **Negotiation** (Dec. 16) will be taught by national expert Marty Latz, and let me tell you, Marty Latz is a huge "get" for us at the CBA. Don't miss this one.

We also have programs that are informative in broader context:

- **Sean Carter's Humor Series** (Dec. 3)
- **Famous Political Trials** (Dec. 13) by none other than CBA favorite Judge Sundermann are two such programs.

Finally, for your convenience, five video replay CLE programs will be offered near the end of the month. See the full schedule on page five.

We know you can get CLE elsewhere. But we challenge you to find a lineup with the depth and quality of ours.

Customer service is a critical part of your member experience as well. We want to hear from you. If you have questions, ideas, location suggestions, or other thoughts on CLE programming, please let Dimity and her team know at dvorlet@cincybar.org. They will help you with your question or help bring your idea to life. We want to partner with other organizations, too. If you have partnership ideas, please let us know.

Let me also personally thank *you*. You do not have to be a CBA member, yet here you are and we appreciate the opportunity to serve you and help your law practice in every way that we can. We expect big things in 2017 for the CBA and its many members. We expect a lot of ourselves and will challenge ourselves to serve you better than ever before. But we realize that none of it happens without you and we are grateful always for your work on behalf of our legal community. We are all lucky to practice in Cincinnati, and it starts with you.

All of us at the Cincinnati Bar Association want to wish you and all of yours a happy holiday season.

As always, I'd love to hear your ideas, thoughts and criticisms—any CBA subject is fair game. Reach me at 513-651-6727, by email at ddennis@fbtlaw.com or by twitter @DougDennis41.

Dennis is the 2016-2017 president of the Cincinnati Bar Association.

Upcoming CLE Seminars

Visit www.CincyBar.org to register and to view a complete calendar, updates, and full program agendas.

December 1 • 8:30 a.m. – 3:15 p.m.
Workers Compensation
 6.0 Hours, including 1.0 Hour Prof. Conduct*
 By November 17
 \$220 CBA Member (\$310 Non-Member)
 ☎ Print handouts additional \$20

December 2 • 8:55 a.m. – 4:30 p.m.
Bankruptcy Institute
 6.0 Hours,* including 1.0 Prof. Conduct
 By November 18
 \$250 CBA Member (\$345 Non-Member)
 ☎ Print handouts additional \$20

December 3 • 9 – 11:45 a.m.
The Ethy Awards featuring Legal Humorist Sean Carter
 2.5 Hours Professional Conduct*
 By November 18
 \$125 CBA Member (\$170 Non-Member)

December 3 • 12:30 – 2:30 p.m.
Fantasy Supreme Court League featuring Legal Humorist Sean Carter
 2.0 Hours*
 By November 18
 \$125 CBA Member (\$170 Non-Member)

December 6 • 9 a.m. – 4 p.m.
Great Adverse Depositions: Principles and Principal Techniques
 5.5 Hours
 By November 22
 \$230 CBA Member (\$315 Non-Member)

December 7 • 11:30 a.m. – 1:30 p.m.
The Art of Fact Investigation
 2.0 Hours, including 1.0 Professional Conduct
 By November 23
 \$70 CBA Member (\$100 Non-Member)

December 7 • 12 – 1 p.m.
Brown Bag Series
Ethics
 1.0 Hour*
 \$35 CBA Member (\$50 Non-Member)

December 8 • 8:25 a.m. – 3:15 p.m.
Healthcare Law
 6.0 Hours, including 1.0 Hour Prof. Conduct*
 By November 24
 \$220 CBA Member (\$310 Non-Member)
 ☎ Print handouts additional \$20

December 9 • 8:25 a.m. – 4:45 p.m.
Real Property Law Institute
 6.5 Hours, including 3.0 Professional Conduct*
 By November 25
 \$250 CBA Member (\$345 Non-Member)
 ☎ Print handouts additional \$20

December 13 • 9 – 11 a.m.
Famous Political Trials: The Trial of Ethel & Julius Rosenberg
 2.0 Hours
 By November 29
 \$70 CBA Member (\$100 Non-Member)

December 14 • 12 – 1 p.m.
Brown Bag Series
Venture Capital
 1.0 Hour*
 \$35 CBA Member (\$50 Non-Member)

December 15 • 8:30 a.m. – 12 p.m.
Southwestern Ohio Tax Institute
 3.25 Hours*
 By December 1
 \$115 CBA Member (\$165 Non-Member)
 ☎ Print handouts additional \$20

December 15 • 2 – 4:30 p.m.
Crisis Communications & Management for Attorneys and Their Clients
 2.5 Hours
 By December 1
 \$85 CBA Member (\$125 Non-Member)

December 16 • 9 a.m. – 4:30 p.m.
Negotiation Skills for Lawyers
 6.0 Hours, including 1.0 Prof. Conduct
 By December 2
 \$320 CBA Member (\$415 Non-Member)

December 21 • 9 a.m. – 12:15 p.m.
Video Replay
New Lawyer Training: Professionalism, Client Funds & Law Practice Management
 3.0 Hours, including 2.0 Prof. Conduct*
 \$105 CBA Member (\$150 Non-Member)

December 22 • 2 – 4:30 p.m.
PLI Groupcast
Ethics for Corporate Lawyers
 \$395
 Register at www.pli.edu or (800) 260-4754

December 28 • 9 a.m. – 12:15 p.m.
Video Replay
11th Hour Session One – Professional Conduct
 3.0 Hours Professional Conduct*
 \$115 CBA Member (\$160 Non-Member)
 ☎ Print handouts additional \$15

December 28 • 1 – 4:15 p.m.
Video Replay
11th Hour Session Two – General Credit
 3.0 Hours*
 \$115 CBA Member (\$160 Non-Member)
 ☎ Print handouts additional \$15

December 29 • 9 a.m. – 12:15 p.m.
Video Replay
11th Hour Session Three – General Credit
 3.0 Hours Professional Conduct*
 \$115 CBA Member (\$160 Non-Member)
 ☎ Print handouts additional \$15

December 29 • 1 – 4:15 p.m.
Video Replay
11th Hour Session Four – Professional Conduct
 3.0 Hours Professional Conduct*
 \$115 CBA Member (\$160 Non-Member)
 ☎ Print handouts additional \$15

December 30 • 9 – 11:45 a.m.
DUI Law & Professionalism
 2.5 Hours, including .5 Hour Professional Conduct
 By December 16
 \$90 CBA Member (\$125 Non-Member)

January 11 • 6:30 – 9:45 p.m.
Night at the Movies: And Justice for All
 @ Mariemont Theatre, 6906 Wooster Pike, Cincinnati, 45227
 1.0,* including .5 hour Prof. Conduct
 \$35 CBA Member (\$50 Non-Member)

February 1 • 6:30 – 9:15 p.m.
Night at the Movies: Compulsion
 @ Eastgate Brew & View, 4450 Eastgate Square Dr., Cincinnati 45245
 1.0,* including .5 hour Prof. Conduct
 \$35 CBA Member (\$50 Non-Member)

March 24
Advanced Estate Planning Institute
 @ Westin Hotel, Downtown Cincinnati

May 5
Social Security Law Update

Supreme Court Narrows Public Corruption Prosecutions



By W. Kelly Johnson

No one really knows how the game is played.
The art of the trade.
How the sausage gets made.
We just assume that it happens.
But no one else is in
the room where it happens.¹

Lin-Manuel Miranda, in the 2016 Tony award winning best musical “Hamilton” reminds us of an American tradition as old as the Republic; buying access to decision-makers in American government.

In a June 27, 2016 decision, the U.S. Supreme Court threw out the conviction of former Virginia Governor Bob McDonnell and his wife, who accepted more than \$175,000 in loans, vacation trips, and luxury items from business man, Jonnie Williams. The reversal of the convictions was based upon a flaw in the jury instruction relating to what constituted an “official act” under 18 U.S.C. § 201(a)(3). The decision also threw into question many public corruption convictions across the country.

Chief Justice Roberts, writing for the unanimous court, narrowed the definition of what conduct can constitute the basis for a conviction for bribery. Routine political courtesies, like arranging meetings or urging underlings to consider a matter, generally do not constitute bribery when the person seeking those favors gives the public officials money or other gifts. Prosecutors still have the opportunity to pursue classic bribery and kick-back schemes, but legal commentators agree that the decision makes it harder for the government to prove bribery.

The Art of the Compromise²

McDonnell was a Republican who served as governor from 2010-2014. He was indicted for using his office to assist Jonnie R. Williams, CEO of Star Scientific, who sought scientific research from Virginia’s public universities concerning a nutritional supplement found in tobacco. During their course of dealings, Governor McDonnell arranged for Williams to be introduced to a

variety of public officials, including Virginia’s Secretary of Health and Human Resources. Although officials in the administration met with Williams and considered his request for scientific research at public universities, Williams’ suggestions were rejected and employees in the Department of Health and Human Resources testified at trial that they did not feel pressured from the governor’s office to undertake the research projects.

During McDonnell’s term in office, he and his wife received over \$175,000 in gifts and loans from Williams, including a \$20,000 designer clothing shopping spree, and \$65,000 in loans and gifts to pay for the McDonnells’ daughter’s wedding. Although the gifts to the McDonnells were legal, the criminal case focused on whether the gifts and payments were part of a corrupt bargain in which McDonnell reciprocated by using his office to help Williams.

In January, 2014, the McDonnells were indicted for multiple counts of honest services fraud and Hobbs Act violations based upon their acceptance of loans, money and other gifts in exchange for promoting and attempting to obtain research studies for Star Scientific products. The theory of the charges was that McDonnell accepted bribes from Williams in return for “being influenced in the performance of any official act.” 18 U.S.C. § 201(b)(2) defines official act as “any decision or action on any question, matter, cause, suit, procedure or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official’s official capacity, or in such official’s place of trust or profit.”

The trial of the case lasted five weeks. Williams testified pursuant to an immunity agreement that he had given gifts and loans to the McDonnells in order to obtain the governor’s “help with the testing” of the nutritional supplement at Virginia’s medical schools. Following closing arguments, the trial court instructed the jury as to the definition of “official act.” The court rejected a proposed instruction by McDonnell that the “fact that an activity is a routine activity, or a settled practice of an office holder does not alone make it an official act and that merely arranging a meeting, attending an event, hosting a reception or making a speech

are not, standing alone “official acts.” The trial court also refused to instruct the jury that an “official act” must intend to or in fact influence a specific official decision the government actually makes — such as awarding a contract, hiring a government employee, issuing a license, passing a law or implementing a regulation.”

McDonnell and his wife were convicted of multiple counts of fraud and Hobbs Act extortion charges and the former governor received a two-year prison sentence. Mrs. McDonnell received one year. McDonnell appealed his conviction to the Fourth Circuit which affirmed his conviction. Mrs. McDonnell’s appeal was pending in the Fourth Circuit.

Hold Your Nose and Close Your Eyes³

The issue in the case before the Supreme Court focused on the proper interpretation of the term “official act.” The government argued that the term “official act” encompassed nearly every activity of a public official, including arranging a meeting, contacting another public official, or hosting an event.

McDonnell sought a more limited definition of the term “official act” to those acts that “direct a particular resolution of a specific government decision or that pressure another official to do so.”

The unanimous court rejected the government’s reading of § 201(a)(3) and adopted a more narrow interpretation of “official act.” The court found two requirements for an official act: 1) the government must identify a question, matter, cause, suit, proceeding or controversy that “may at any time be pending” or “may by law be brought before a public official;” 2) the government must prove that the public official made a decision or took an action “on” that question, matter, suit, or proceeding or agreed to do so. The court concluded that an official act must be a formal exercise of governmental power. To constitute bribery, an official must make or agree to make a decision, or pressure another to do so, implicitly or explicitly.

In rejecting the government’s interpretation of the law, the Chief Justice also noted that “conscientious public officials arrange meetings for constituents, contact other officials on their behalf and

include them in events all the time.” Simply expressing support for an issue at a meeting or event, or sending a subordinate to attend a meeting does not qualify as a decision or action “as long as the public official does not intend to exert pressure on another official or provide advice, knowing or intending such advice to form the basis for the “official act.” The court also recognized that criminalizing these type of arrangements and introductions would mean that “citizens with legitimate concerns might shrink from participating in public discourse.”

In reversing the conviction, the court clarified that 18 U.S.C. § 201 prohibits *quid pro quo* corruption, the exchange of a thing of value for an official act. The court noted the amicus brief of administration officials from every administration since President Reagan that argued that the government’s expansion of public corruption law would chill federal officials interactions with the people they serve and possibly “damage their ability effectively to perform their duty.”

While rejecting the government’s broad interpretation of the statute, the court recognized that the activities of McDonnell were “distasteful.” The court noted that its concern was not with “tawdry tales of Ferraris, Rolexes and ball gowns” but “instead with the broader legal implications of the government’s boundless interpretation of the federal bribery statute.” The Justice Department announced on Sept. 8 that Governor and Mrs. McDonnell would not be retried.

The American public might not always know what occurs behind closed doors in government, but with the *McDonnell* decision, politicians and political operatives now have a clearer understanding of what activities could result in criminal sanctions.

Johnson chairs the white-collar defense and corporate investigations group at Porter Wright.

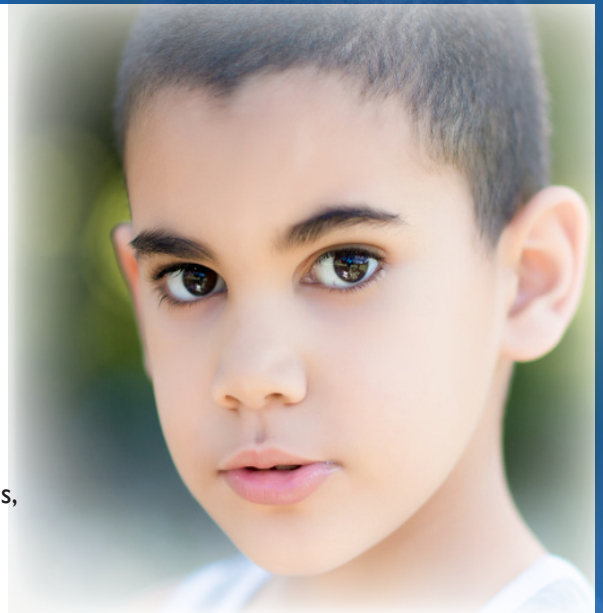
1 Hamilton the Musical – “The Room Where it Happened” - 2015.

2 *Id.*

3 *Id.*

**Thanks to you,
ProKids speaks up
for Gabriel.**

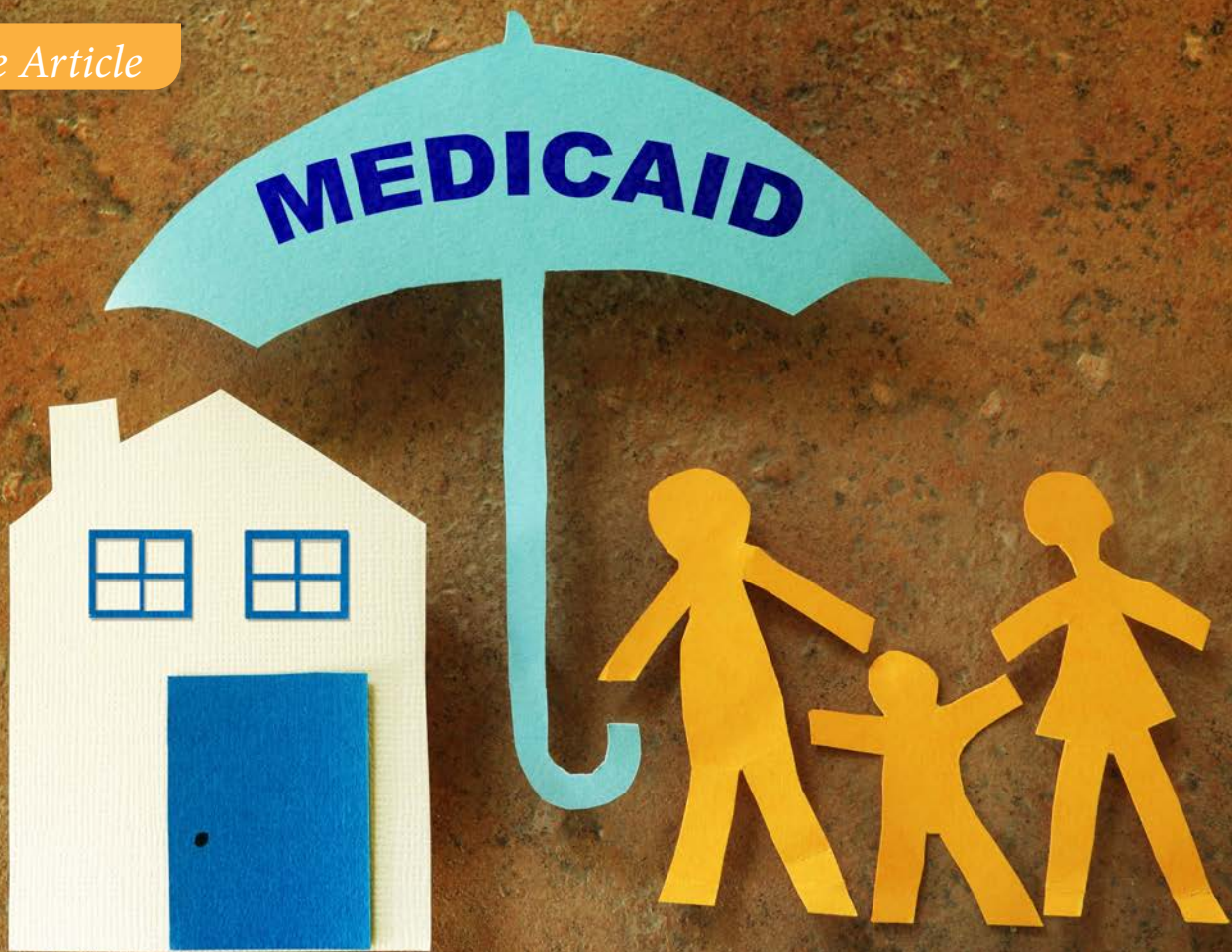
The Cincinnati Bar Association, CBA-YLS, and the Cincinnati Bar Foundation support ProKids with the Giving Basket, the Superhero Run for Kids, and other generous support through the year.



ProKids

ProKids has trained and supported Court Appointed Special Advocates to stand up for abused and neglected children in Hamilton County since 1981.

Together, we fundamentally change the future for our children and the entire community. **Find out more at www.prokids.org.**



Recent Important Changes to Ohio's Medicaid Program



By Matthew Barnes and Ashley Burke

Medicaid History

The Medicaid Program was created in 1965 through the passage of the Social Security Act. In 1972, Supplemental Security Income (SSI) was created and this expanded the scope of citizens eligible to receive public assistance benefits, including Medicaid, in each state. Fearing that states would withdraw from the Medicaid program, Congress offered states three options in administering their Medicaid programs: (1) a §209(b) option; (2) a §1634 option; or (3) SSI criteria states.

In a §209(b) state, the state can provide Medicaid assistance to citizens who would have been eligible pursuant to the state's Medicaid plan in effect on Jan. 1, 1972. In a §209(b) state, the state can implement stricter criteria than the SSI program rules, but it must allow for an income spenddown so that an individual can deduct incurred medical expenses from his income to become eligible for Medicaid. In a §1634 state, anyone who is eligible for SSI, as determined by the Social Security Administration, will automatically be eligible for Medicaid. In an SSI criteria state, the state makes the decision whether a person meets the SSI eligibility criteria.

Since 1972, Ohio has been a §209(b) state, but on Aug. 1, 2016, Ohio implemented a major change to the state's Medicaid program, converting Ohio's Medicaid program from a §209(b) to a

§1634 Medicaid program. This was done as part of an effort to make Medicaid eligibility in Ohio a smoother and less complicated process. As a result, there have been a number of Medicaid rule changes.

Ohio's Overhaul of the Medicaid Program

One of the biggest changes with Ohio's conversion to a §1634 state is the elimination of spenddown, which was one of the tools that allowed applicants to become eligible for Medicaid. Ohio has now become an income-cap state. Ohio also changed the income and resource eligibility standards for Ohio Medicaid to be equivalent to Supplemental Security Income (SSI) standards. Qualified Income Trusts (QITs) were created as a required legal tool to allow certain institutionalized Medicaid beneficiaries¹ to remain eligible.

The Impact on Community Medicaid as a Result of the Spenddown Elimination

The elimination of spenddown as a tool to become eligible for Medicaid is likely to have the biggest impact on Medicare recipients. Medicaid uses an applicant's gross income, not net income, from whatever source, regardless of whether the income

is taxable or nontaxable to determine whether an applicant meets the income eligibility criteria.

Under Ohio's old §209(b) system, individuals could qualify for non-institutionalized (or community) Medicaid each month through "spending down" their income using their medical expenses as deductions until their income met the income limit for community Medicaid. The spenddown system essentially operated as catastrophic health insurance for many low-income Medicare recipients that were not institutionalized and whose income was not low enough to qualify for community Medicaid. For example, prior to the changes in August, a Medicare recipient with income of \$800, above the Medicaid need standard of \$643, could pay \$200 for his prescriptions and send proof of the \$200 spenddown to his Medicaid caseworker, who would then give that individual a Medicaid card for that month. Each month, the individual submits proof of his spenddown and as long as his income was reduced below \$643, a Medicaid card could be given to the individual.

As part of Ohio's conversion to a §1634 Medicaid program, applicants can

no longer spenddown to become eligible for community Medicaid benefits. Instead, community Medicaid applicants can now only qualify based on their income if they meet SSI income eligibility standards. This means Medicare recipients must have income below \$733 to qualify for community Medicaid. This will likely deprive many low-income older Ohioans of a source of medical coverage because Medicare recipients with income of more than \$733 will not be eligible for community Medicaid. Individuals without Medicare that used to be able to spenddown to qualify for community Medicaid each month will be left with the Marketplace set up under the Affordable Care Act to purchase an insurance policy. Medicare recipients are not eligible for Marketplace coverage.

The Ohio Department of Medicaid (ODM) is granting up to a year of additional community Medicaid coverage to applicants that currently use spenddown to qualify as long as the applicants meet certain qualifications. The applicants for continued spenddown coverage must be aged, blind, or disabled individuals who met the spenddown required for Med-

icaid coverage in any month between August 2015 and July 2016 and must meet certain other criteria. If an applicant was using spenddown as part of their community Medicaid coverage before the §1634 conversion, they may be able to continue using spenddown to qualify until July 2017 and should be encouraged to call their county job and family services office to find out how to obtain this extension of benefits.

Expanded Income Eligibility Standards

While many Ohioans will be losing community Medicaid coverage as a result of the elimination of spenddown, some Ohioans will become newly eligible due to the expanded income and resource eligibility standards.

MAGI Medicaid Income Standards

Prior to the Aug. 1, 2016 §1634 changes, there was a Medicaid expansion in Ohio under the Affordable Care Act that increased the income limit for individuals without Medicare from 64 percent of

LCNB NATIONAL BANK TRUST DEPARTMENT



(Standing Left-Right) Myra Frame, Frank Williams, Tasha N. Dalzelle, Traci A. Hammel, Melinda K. McIntosh, Melanie K. Crane, Wendy R. Cole, S. Diane Ingram, Jacqueline A. Manley, Michael D. Nusbaum
 (Sitting Left-Right) Leroy F. McKay, Amy R. Kobes, Steve P. Foster, Rebecca H. Roess, Bradley A. Ruppert

DEDICATED FIDUCIARY PROFESSIONALS

Cincinnati 513-932-1414 | Dayton 937-704-9490 | 800-344-2265
 For more information, please see Trust Services at www.LCNB.com



the Federal Poverty Level (FPL) (income of \$643 a month) to 133 percent FPL (income of \$1,317 a month). This means an individual who is not disabled and not receiving Medicare will be eligible for Medicaid under the Modified Adjusted Gross Income (MAGI) Medicaid program if his or her income is under \$1,317 a month. For individuals eligible for MAGI Medicaid, there are no asset limits or spenddown, only the income standard of \$1,317.

Medicare Eligible or Disabled Individuals and the New Income Standards

Medicare eligible or disabled individuals who are not institutionalized are not eligible for MAGI Medicaid. Prior to Aug. 1, an individual receiving Medicare and not living in an institution would qualify for Medicaid only if his income was less than \$643 a month. Under §1634, Ohio's Medicaid income and resource eligibility standards now match SSI's standards. This means that a Medicare eligible individual or disabled individual who is not institutionalized can have monthly gross income of 100 percent of the Federal Benefit Rate (FBR), or \$733 a month, which represents a slight increase in the income limit.

Expanded Resource Eligibility

The resource limit for institutionalized and non-institutionalized Medicaid was raised from \$1,500 to \$2,000 after the Aug. 1 conversion.² Spenddown was formerly used to keep many institutionalized Medicaid beneficiaries eligible under Ohio's §209(b) program. High-income Ohioans in nursing facilities could continue to qualify for Medicaid each month because the medical expenses of residing at a nursing facility were more than enough to offset their higher income through spenddown.

Institutionalized Medicaid applicants now face even greater changes under Ohio's conversion. The income limit for institutionalized Medicaid is now 300 percent of the FBR, or \$2,199 a month. With the elimination of spenddown, Ohio has come up with a new tool that allows institutionalized Medicaid beneficiaries that do not meet the income limit to remain eligible. That tool is the Qualified

Income Trust. This tool is needed because a number of long term care residents have income of more than \$2,199 a month but do not possess the assets to pay for care. A QIT is only available for individuals applying for institutionalized Medicaid, not for any of the other Medicaid programs.

For an institutionalized Medicaid applicant whose income is more than \$2,199 a month, a QIT will need to be established for the applicant to be eligible for Medicaid. A QIT has key characteristics that make it different from other types of trusts. Among other characteristics, a QIT must only be used for income, not other assets; it can only contain the income of the Medicaid applicant; it is irrevocable; and it must contain a payback provision to the State. For a complete list of requirements see O.A.C. § 5160:1-6-03.2.

Once a QIT is established, the individual will need to transfer the amount of his monthly income that is above the \$2,199 income-cap to the QIT account. The funds in a QIT are still used in determining the individual's post-Medicaid eligibility determinations, such as patient liability.

The Ohio Department of Medicaid has hired Automated Health Systems (AHS) to assist Ohio Medicaid applicants with QITs. For more information about Automated Health Systems, visit <http://www.automated-health.com/>.

For individuals applying for institutionalized Medicaid after Aug. 1, 2016 with gross income above \$2,199, the individual will not meet the income eligibility requirement until he has a QIT in place. For individuals already receiving institutionalized Medicaid with gross income above \$2,199, they will need a QIT in place by their 2017 annual Medicaid review. One unknown is how incompetent applicants will be able to obtain a QIT. Given this new requirement, it is a good idea for practitioners to include the power to set up a QIT for the purposes of Medicaid in any future financial powers of attorney they draft.

Treatment of the Home

One of the other rule changes includes the treatment of an individual's home when applying for institutionalized Medicaid. Under the old rules, if the applicant was single, he only had 13 months from

the date of his Medicaid application to list his principal place of residence for sale. If he failed to do so, his principal place of residence would become a countable resource making him ineligible for Medicaid. As of Aug. 1, there is no longer a 13 month time limit. Instead, the principal place of residence will remain an exempt resource for as long as the individual continues to show an intent to return home. The property will remain subject to Ohio Medicaid Estate Recovery, but it will not count as a resource when determining Medicaid eligibility. It is not yet clear how each County Job and Family Services will determine an intent to return home.

Conclusion

A number of other changes have occurred as a result of Ohio's §1634 conversion. In fact, over 50 Medicaid rules in Ohio changed on Aug. 1. It is still too early to determine how the Ohio Department of Medicaid and each county job and family services will interpret all of these rule changes, but as practitioners, we can begin to prepare our clients for the coming implementation.

Barnes is an attorney at Pro Seniors, a legal nonprofit that provides a variety of legal services to Ohio seniors. He advises low-income senior veterans on a broad array of issues, including Medicaid, Medicare, estate planning, probate, veteran's benefits, and Social Security. Barnes is the YLS liaison for the Elder Law Practice Group at the CBA. Burke is a partner at Beckman Weil Shepardson LLC and is certified as an Elder Law Specialist by the Ohio State Bar Association. She advises clients on Medicaid planning, estate planning for families with disabilities, lifetime gifting and transfers at death, and asset protection. She assists clients with trust and estate Administration. Burke is the vice chair of the Elder Law Practice Group at the CBA.

- 1 Institutionalized Medicaid Beneficiaries are those individuals in a nursing home or on a Home and Community Based Service Waiver, such as the Medicaid Assisted Living Waiver Program or PASSPORT.
- 2 For institutionalized Medicaid, if the Medicaid recipient is married, his or her spouse will be entitled to a resource allowance. The community spouse resource allowance rules were unchanged by the conversion to the §1634 program.

Buyer Beware:

The Unintended Cost of Some Insurance Policies



By Kimberly Wilcoxon

Ed. Note: This information does not reflect any guidance issued on or after November 1, 2016.

This is a (true) story about an employer who discovered that no good deed goes unpunished.

It all started with a desire to do something nice for his employees. This employer employs a very large number of low-paid staff who are not interested in purchasing health insurance. These employees are young, relatively healthy, and feel that they are invincible. However, they also know that they could be subject to a tax penalty under the Affordable Care Act (ACA) if they don't enroll in health coverage.

The employer offered his employees three different levels of health insurance coverage, all of which provided the level of coverage needed for the employer to avoid a tax penalty under the ACA. However, the level of coverage needed for the employer to avoid a tax penalty is significantly higher than the level of coverage needed for the employee to avoid a tax penalty. As a result, all three of the employer's options provided more coverage than many of his employees wanted at a higher cost than they were comfortable paying.

To address this concern, the employer worked with a vendor who proposed adding a fourth coverage option. The fourth option consisted of two pieces. The first would be self-funded by the employer and would cover only those preventive care services that were required under the ACA. The second would use an insurance policy to provide certain dollar amounts to employees who became sick. For example, the insurance policy would pay the employee \$1,000 for every day that the employee was in the hospital, up to a maximum of 30 days (for a maximum of \$30,000 per year). The policy also covered the full cost of certain prescription drugs, up to \$500 per month, after the employee paid a \$10 copay.

The employer-funded piece of this option is often referred to as an "MEC" plan because it provides the "minimum essential coverage" needed for an individual to avoid a tax penalty under the ACA. MEC plans are subject to a number of ACA rules, including ones that prohibit the use of most annual or lifetime dollar limits (the "market reform rules").

The insurance policy piece of this option is often referred to as a "fixed indemnity policy." If the fixed indemnity policy is designed correctly, it does not have to comply with the market reform rules. Therefore, the policy could place a limit on the total dollars that would be paid to an individual during the year or during the individual's lifetime.

However, fixed indemnity policies are often not designed correctly.

www.CincyBar.org

To be designed correctly, a fixed indemnity policy must satisfy a number of requirements, including a requirement that the insurance must pay a fixed dollar amount per day (or per other period) of hospitalization or illness, regardless of the amount of expenses incurred.

In the policy presented to the employer, most of the benefits were paid as a fixed dollar amount per day, regardless of the amount of expenses actually incurred. However, the prescription drug benefit was based on the number of prescriptions filled and the cost of the purchased drug.

The Departments of Labor, Treasury and Health and Human Services (the agencies that enforce the market reform rules) have recently expressed concerns about purported fixed indemnity policies that determine benefits based on the number of prescriptions filled. According to those agencies, such a plan is not a fixed indemnity policy and instead is a group health plan that is subject to the market reform rules.

The policy proposed to the employer was exactly the type of policy about which the departments are concerned and would not have been viewed by those agencies as a fixed indemnity policy. It therefore would have been subject to the market reform rules – and would have violated those rules because it limited the dollar amount that it would pay per year. Such a violation would have subjected the employer to a self-reportable excise tax generally equal to \$100 per day per individual affected by the violation. The employer employed approximately 10,000 employees, many of whom likely would have chosen this option. As a result, this policy could have had a significant negative tax impact on the employer.

The employer in this case wanted to do something nice for his employees. He wanted to allow them to avoid the ACA's tax penalty at the lowest possible cost while still providing financial assistance in the event of sickness or hospitalization. However, the vendor who worked in good faith to design a plan that met the employer's needs was not familiar with the law and did not understand how this plan design could hurt the employer.

Buyer, beware. Not all insurance policies and plan designs comply with federal law. Employers considering adding or changing health insurance plans should carefully evaluate any new plan and should consult with legal counsel.

Wilcoxon is a partner in Thompson Hine LLP's Employee Benefits and Executive Compensation group and advises employers on the legal requirements applicable to group health plans.

MEDICAL MARIJUANA

In the October 2016 CBA Report, I noted that the enactment of state laws to permit the access to and use of medical marijuana — including Ohio House Bill 523 — has presented an ethical conundrum for lawyers. The legal landscape is shifting at the state level, but will the federal government follow suit?

In *United States of America v. Steve McIntosh*,¹ the United States Court of Appeals for the Ninth Circuit, sitting at San Francisco, considered whether criminal defendants in ten cases, consolidated on appeal, “may avoid prosecution for various federal marijuana offenses on the basis of a congressional appropriations rider that prohibits the United States Department of Justice from spending funds to prevent states’ implementation of their own medical marijuana laws.”²

The court’s opinion was filed on Aug. 16, 2016. Thus, Ohio was not included on the roster of 43 jurisdictions — 40 states, the District of Columbia, and two territories — which the court referred to as the “Medical Marijuana States.” Ohio’s House Bill 523 became effective on Sept. 8, 2016. Of course, Ohio is not in the Ninth Circuit, but neither are most of the states on the court’s list. Nevertheless, the decision in *McIntosh* is instructive if one accepts the court’s premise that all state jurisdictions face the same problem.

All of the *McIntosh* appellants were indicted for violations of the federal Controlled Substances Act (CSA).³ The court noted: “The CSA prohibits the use, distribution, possession, or cultivation of any marijuana. See 21 U.S.C. §§841(a), 844(a). The State Medical Marijuana Laws are those state laws that authorize the use, distribution, possession, or cultivation of medical marijuana. Thus, the CSA prohibits what the State Medical Marijuana Laws permit.”⁴

In December, 2014, Congress enacted an omnibus appropriations bill which funded the government through Sept. 30, 2015. A rider in that bill provided that none of the funds made available thereby to the Department of Justice (DOJ) may be used to prevent certain specified states from implementing their own state laws that authorized the use, distribution, possession, or cultivation of medical marijuana.⁵ The appropriations and the rider were extended until Congress enacted a new bill, and essentially the same rider, in §542, to provide funding through Sept. 30, 2016.⁶

In *McIntosh*, the government questioned as a preliminary matter, whether the court had jurisdiction over the interlocutory appeals since none of the ten appellants had been convicted or sentenced.⁷ However, in each case, the district court had issued a direct denial of a request for an injunction.⁸ Therefore, the court exercised jurisdiction under 28 U.S.C. §1292(a)(1) to consider the appeals.⁹ Noting that federal courts have rarely enjoined federal criminal prosecutions, the court held “When Congress has enacted a legislative restriction like §542 that expressly prohibits DOJ from spending funds on certain actions, federal criminal defendants may seek to enjoin the expenditure of those funds, and we may exercise jurisdiction over a district court’s direct denial of a request for such injunctive relief.”¹⁰

The court next considered whether the appellants had standing to complain that DOJ was spending money unappropriated by Congress. The court acknowledged the Article III jurisdictional limitation to “cases” and “controversies.”¹¹ Although the appellants had not yet been deprived of their liberty by a criminal conviction, the court found their imminent indictments

REDUX



By Edwin W. Patterson III

sufficiently threatened that liberty to support standing “to invoke separation-of-powers provisions of the Constitution to challenge their criminal prosecutions.”¹²

Reaching finally the appropriations rider, the court focused on the statutory text, to determine the plain meaning of §542. Reading that language in the context of the overall statutory scheme for marijuana regulation, i.e. the CSA and the State Medical Marijuana Laws, the court said: “We therefore conclude that, at a minimum, §542 prohibits DOJ from spending funds from relevant appropriations acts for the prosecution of individuals who engaged in conduct permitted by the State Medical Marijuana Laws and who fully complied with such laws.”¹³ Accordingly, the court vacated the orders of the district courts and remanded with instructions for the district courts to conduct evidentiary hearings to determine whether the appellants had complied with state law.

But this is a cautionary tale, and it’s not done. The court warned that §542 does not provide immunity from prosecution for federal marijuana offenses. Although Congress currently restricts the DOJ from spending certain funds to prosecute certain individuals, it could restore funding tomorrow, a year from now, or four years from now — with the statute of limitations for such offenses being five years.¹⁴ Finally, there’s this: “Nor does any state law ‘legalize’ possession, distribution, or manufacture of marijuana. Under the Supremacy Clause of the Constitution, state laws cannot permit what federal law prohibits.”¹⁵

An Ohio lawyer who counsels or assists “a client regarding conduct expressly permitted under Sub.H.B. 523 of the 131st

General Assembly authorizing the use of marijuana for medical purposes” may be in compliance with the Ohio Rules of Professional Conduct, as recently amended,¹⁶ but that lawyer cannot guarantee a client who seeks to operate a medical marijuana business, that he or she won’t be prosecuted for a federal drug offense, even though a limited congressional provision currently defunds such prosecutions.

Patterson is General Counsel for the CBA.

1 833 F.3d 1163 (9th Cir.2016).

2 *Id.* at 1168.

3 *Id.* at 1169.

4 *Id.* at 1176 (footnote omitted).

5 Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. No. 113-235, §538, 128 Stat. 2130, 2217 (2014); 833 F.3d at 1169.

6 Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, §542, 129 Stat. 2242, 2332-33 (2015).

7 833 F.3d at 1170.

8 *Id.* at 1171.

9 *Id.* at 1172.

10 *Id.* at 1172-1173.

11 U.S. Const. art. III, §2; 833 F.3d at 1173.

12 833 F.3d at 1174.

13 *Id.* at 1177.

14 18 U.S.C. § 3282.

15 U.S. Const. art. VI, cl.2; 833 F.3d at 1180 n.5.

16 Prof. Cond. Rule 1.2(d)(2).



Best Dictation Software and Apps



By Mary Lynn Wagner

Below are reviews of some of the best dictation software and apps currently available.

Apple Dictation [Free]

Apple's dictation feature is available for anyone using OS X 10.9 or later. To set up the dictation feature, go to system preferences << dictation & speech and check the use enhanced dictation box. This will cause the dictation file to download. Once downloaded, you can press the "Fn" key twice to activate the program's microphone. Once the microphone icon appears on the screen, you can begin dictating. The text will appear in real time as you speak. In addition, a list of commands for editing and formatting your document will appear next to the microphone. Commands such as "strike that" or "next line" can be used to instruct the program on what to do. There is little need to use a mouse and the program is amazingly accurate. Be sure to save your document often when using Apple dictation.

Google Docs Voice Typing [Free]

Google Docs also has dictation capabilities when using Google Chrome. To activate Google Docs voice typing, go to <https://docs.google.com> and choose a document. Once the document is open, click on tools << voice typing. After that, a popup microphone icon will appear. Click the microphone icon to start the program and then start talking away! Like the Apple software, voice typing is also incredibly accurate when speaking at a normal pace.

A list of voice commands that can be used to edit and format your document are also available. Once your document is complete, you will have the option to download it or email it to yourself or someone else.

Dragon Naturally Speaking [\$69 - \$300]

Dragon dictation software is probably the most well-known on the market. Dragon's software works with Mac and Windows. Based on the version you choose, the price will range from \$69 (Windows version) to \$300 (Mac version). The program can be used to dictate commands in multiple programs and in any web application.

Dragon Dictation [Free]

Dragon Dictation has a free mobile app available in Android and iOS. The app records your message first and will display the text after you are finished speaking. The text can be edited using a key board or by recording additional text. The app easily integrates with your messaging system, email, and social media such as Facebook and Twitter.

Siri (Free on iOS)

It seems silly to even mention Siri, but "she" is available on all of Apple's mobile products (iPhones, iPads, iPod touches, Apple Watches, and Apple TVs). To access Siri, hold down the Home button until you hear the Siri ding or, you can say "Hey Siri" to an iPhone 6s or newer. Siri will accurately translate your voice into text and she can also check your voicemail, send a new email, set reminders, get directions, and save notes.

Google Now (Free on Android and iOS)

When using an Android phone 4.4 or later, Google's personal assistant, Google Now, can be used to make calls, text, email, and browse the web, among other things. Newer phones have Google Assistant which is a step up from Google Now. To activate "Ok Google," open the Google app and go to settings to turn on the app. From there, you can choose its activation options. If you use an Apple device, the Google app can be downloaded and voice commands can be used from inside the app for its core search features.

Dictate + Connect (Free and \$16.99 on Android and iOS)

Dictate + Connect is a great app that is easily accessible on your phone. The app includes features such as excellent sound quality, voice activation, secure encryption, bookmarks, adjustable playback speed, and various methods for sharing the dictation (email, download, Dropbox, etc.). The free, limited version offers everything that Dictate + Connect does, but limits each single dictation to 30 seconds instead of 24 hours and only provides access to five dictations at the same time.

Wagner is a regulatory and compliance specialist at Great American Insurance and a 3L at Chase College of Law. She has published numerous articles and frequently lectures on Internet legal research.

The (un)Examined Life,

Part II



By Bea V. Larsen

On Friday, Jan. 12, 2007, at 7:51 a.m., during the morning rush hour, a man dressed in a baseball cap and a long sleeved tee shirt walked onto a Metro subway station platform in Washington, D.C. He placed an open cigar box at his feet next to his violin case and tossed in a few coins and bills. Not an uncommon scene. For 43 minutes he played six classical pieces as 1,097 people walked by, most on their way to their government jobs. Almost nobody stopped to listen.

The musician was Joshua Bell, one of the world's great violin virtuosos playing on his \$3.5 million violin. People all over the world pay more than \$100 a seat to listen to Bell perform. If asked, perhaps we would all readily acknowledge that we attribute little value to the music of street musicians, a bias of which we are quite aware.

But, what of those biases we all absorb from the culture of our early years, that are implicit, unconscious? What are we missing? What erroneous judgments are we making, taking actions that are actually contrary to our sincerely held beliefs, actions that may have important and lasting consequences?

Have you ever been faced with a difficult decision, perhaps personal (which car to buy, house to purchase) or professional (which job to take, which applicant to hire) and taken pen to paper to thoughtfully list the pros and cons of each possible choice, only to find yourself struggling to add to one column or the other, and then impulsively decide to go with the shorter less weighty list and follow your intuition instead? Your implicit biases are at work.

So, once aware of our biases, those long acknowledged and those recently uncovered, what to do if our values are to conform to our deeds?

The science of recognizing implicit bias is far ahead of the development of evidence-based solutions for how to go beyond simply becoming aware of our hidden motivators, admittedly a very important first step. I've been thinking long and hard (and googling) to seek out ways to avoid the disconnect between my actions and my stated values, both in my personal life and as I consider how in the professional realm a more objective, less biased structure can be created when making decisions that significantly impact the lives of others. Here are some of the ideas I have come upon to minimize the impact of implicit bias:

1. Establish decision-making criteria before entering into a decision-making context characterized by ambiguity, or that

permits great discretion, and commit to these criteria before reviewing case specific information. (i.e. hiring new associates).

2. Invite the aid of a "devil's advocate" to share important decisions, to test, and evaluate the criteria you have chosen, and how you apply them. This person must be an independent soul, free to privately question your authority.

3. Keep a diary of past decisions. What worked, what didn't and why?

4. Identify and protect against "group think", the tendency to be more concerned with the desire for harmony or conformity in the group results, or unity, responding to pressure to agree, rather than to think critically.

5. Be vigilant and creative. A good example: In years past, symphony orchestras were male dominated. Although women auditioned in large numbers, they were rarely hired. To correct for the unconscious bias of those with the power to hire, applicants were seated behind a screen, unseen. But women's heels had a distinctive sound as they approached the hidden audition chair, so participants were told to first remove their shoes. But men's heavier tread was still a giveaway. Carpeting was laid. Women now make up the majority of the finest symphony orchestras.

My personal challenges remain great. One of the implicit bias tests¹ I took, a first step, revealed my preference for lighter skin tones. I was dismayed and I disclosed this to friends (and to you, dear readers), an important second step. Disclosure. Now I am on high alert. This is hard to admit, but I recently sat in a meeting in which a very dark skinned man not known to me addressed the issue at hand. After a while, I realized I was only half listening. My reading had introduced me to a new skill: Purposely interrupt your thought process.

Interrupt. That is what I did, and refocused my attention. A third step, and it worked.

Larsen is a senior mediator at the Center for Resolution of Disputes. She received the 2007 John P. Kiely Professionalism Award and the 2014 Themis Award from the CBA, and also served as CBA president in 1986-87. Her weekly commentaries can be viewed at www.bealarsen.com.

¹ implicit.harvard.edu

Get Happier and Healthier Through Love



By Robert W. B. Love Jr.

When you decided to go to law school, you likely envisioned a career of challenging and interesting work, respect in the community, and a comfortable income. You may not have realized you would be susceptible to a potentially shorter life. In the United States, lawyers are among the highest at risk for early death and they have one of the highest suicide rates of any profession. And unfortunately, it has been noted that lawyers are substantially more likely to suffer from mental health issues.

Why Are Lawyers at Risk?

A big challenge for attorneys is that so much is demanded of them because they do such important work in the world. Lawyers are asked to help and support people in times of greatest need. People see their attorney when they are getting a divorce, getting sued, or could go to prison.

These are extremely stressful times. And you, as their attorney, are expected to be of emotional support during these high-stress times while providing top-notch legal expertise. That is a huge responsibility, and lawyers often take on this burden without considering the consequences.

There are resources available to lawyers, like the programming the Balanced Living Interest Group hosts at the CBA, to help lawyers with these types of potential issues. As a proponent and expert in the area of love, I submit that love can also have a huge impact on anyone's well-being, especially lawyers.

Strengthening Relationships

Some of the best psychological and emotional support you can receive comes from your partner. And the benefit of that support is highly dependent upon the strength of your relationship.

For example, a study in Health Psychology¹ found that married men heal faster from heart surgery than unmarried men. Another study in the American International Journal of Social Science² found that marital quality was significantly related to depression: the better the relationship, the less likely they were to suffer from depression.

Another study looked at people in hospitals and how they responded when their spouse came into their hospital room. If the couple had a strong relationship, the spouse's blood pressure decreased when the partner came into the room. They relaxed, which promoted healing. If their relationship was rocky, their blood pressure increased. They actually became stressed in the presence of their partner.

Interestingly, the same study found that when the spouse held the hand of the hospital patient, everyone's blood pressure went down. So, regardless of the state of the relationships, everyone benefitted from loving physical touch.

So, it is easy to see why the strength and quality of your relationship can greatly impact your stress levels.

Because the quality of your relationship can greatly influence your health and happiness, it's important to make an effort to work on it.

I understand you are busy. The life of a lawyer is often hectic and stressful. Here are some quick and easy, yet very powerful, things you can do to strengthen your relationship.

1: Express Gratitude

This could be as simple as writing an email or text message that says, "I am so grateful for you." Or it could be you look-

ing your partner in the eyes and telling them you love them, followed by a nice, long hug (see number three).

2: Write a Love Note

People avoid writing love notes because they believe that if they aren't as beautifully written as poetry by Rhumi or Shakespeare that their partner won't appreciate it. And that simply isn't true. They will appreciate any note that expresses genuine love.

Just write something simple, from the heart, and your partner will greatly appreciate it. If you don't have time to write a hand-written letter, loving texts and emails are also powerful ways to communicate your love.

3: Give an Amazing Hug

Something magical happens when we hug someone, especially someone we love. When we embrace someone for 30 seconds or more, our bodies release the hormone Oxytocin, also known as the "love hormone."

Oxytocin produces a feeling of calm and relaxation in our bodies. It literally makes us feel loved. The next time you come home from the office, set down your briefcase or purse, open up your arms, and give your partner a nice, long hug.

This kind of hug not only reduces stress, it also increases bonding between you and your partner on a physiological level. And it only took 30 seconds.

Working on maintaining your health and happiness is important in the life of a lawyer. Remember these tips to help you along the way.

Love is an intimacy expert, speaker, and author. He has a master's degree in psychology, is the author of the best-selling book "Passion and Presence: The Evolved Man's Guide to Making Love," and does personal coaching with lawyers who want to have a more intimate, fun, and fulfilling relationship.

- 1 Kulik, J.A., & Mahler, H.I. (1989). Social support and recovery from surgery. *Health Psychology*, 8(2), 221.
- 2 Qadir, F., Khalid, A., Haqqani, S., & Medhin, G. (2013). The association of marital relationship and perceived social support with mental health of women in Pakistan. *BMC public health*, 13(1), 1.

It's That Time Again

Need help Cleaning Up Your Law Firm's Accounting Mess?



This is what we do for lawyers and we are good at it.



Law Firm Practice Management Specialists
www.cpn-legal.com
 513-260-2298






Cybersecurity Response Plan Tips



By David J. Myers

Many business owners believe they will never encounter a cyber-attack. Business owners associate cyber-attacks to certain industries and often conclude that their business is too small to be targeted. With all the recent online breaches, however, every business should evaluate their cybersecurity response plan. Below are my top five cybersecurity response plan tips.

- 1. Test Your Existing Cybersecurity Response Plan**
Cyber- attacks can happen at any time within any industry. It is important to routinely check your current cybersecurity response plan to measure its effectiveness. Unannounced tests should be conducted throughout the year to measure your plan's strength. Identify shortcomings in your plan and research automation tools to help streamline and improve the security of your internal network. An effective incident response plan should provide detailed procedures for handling cyber-attacks. Your plan should be flexible and remain updated with industry best practices.
- 2. Train and Stay Updated on New Cybersecurity Threats**
After testing and identifying shortcomings in your existing cybersecurity response plan, train staff to properly respond to incoming threats. Analyze past mistakes to find out how your IT team can improve. Make sure your backup data is routinely updated and checked. Keep a backup system on a separate network.
- 3. Closely Monitor Third-Party Vendors**
Third-party vendors should be granted limited access to your network. Vendors should receive restricted access to perform their role. Your IT team should carefully scrutinize the vendor's

cybersecurity policies and procedures before administering their software on your network.

When creating a new vendor relationship, insert contract clauses to minimize security risks, protect sensitive data, and obtain the right to audit the vendor's security controls. Make sure your contract allocates risk to the vendor in the event of a data breach. Do not work with vendors who do not have cybersecurity insurance. Doing so will pose a significant risk to your company.

- 4. Obtain Cybersecurity Insurance Coverage**
Obtain cybersecurity insurance coverage to limit your out-of-pocket monetary losses. Insurance can cover forensic investigations, defense and indemnity liabilities, client credit monitoring, and business interruption and restoration costs. Review your insurance coverage with an experienced cybersecurity attorney.
- 5. Develop an External Notification Incident Response Plan**
Unfortunately, internal data may be breached by sophisticated cyber-attacks. Document procedures on how customers and vendors should be contacted in the event of a data breach. Your IT team should also contact law enforcement, key stakeholders, and your cybersecurity counsel. Even after an attack appears to be under control, remain alert. The intruder may attempt to hack your network again. Continue to monitor your system for ongoing cyber threats.

*Myers is vice president of SpliceNet.
SpliceNet Inc: Managed IT Service Partner of the CBA*

2016 Senior Counselors' Luncheon

On Oct. 31, local members of the legal community were honored at the CBA's annual Senior Counselors Luncheon. In addition, the Cincinnati Bar Foundation presented its John L. Muething Lifetime Achievement in Law Award to Edmund J. Adams and the Honorable Nathaniel R. Jones for their commitment to the profession and the community. Nearly 260 friends, family, and colleagues attended the luncheon. We salute and congratulate the 2016 honorees, and thank our event sponsor Keating Muething & Klekamp, and official hotel sponsor Hilton Cincinnati Netherland Plaza.



▲ Award recipient Edmund J. Adams, CBF President Adrienne Roach, and fellow award recipient Hon. Nathaniel R. Jones.



Inductee Gloria Haffer and husband Myles Haffer



◀ T. Stephen Phillips reflects on his start in Indiana to now as his family looks on.



CBA Executive Director Catherine Glover (bottom left) and CBA President Doug Dennis (top right) pose for pictures with our inductees and award winners.

2016 Senior Counselors' Luncheon



*Honorees**

- James M. Anderson
- Thomas A. Brennan
- Albert T. Brown Jr.
- Robert A. Dimling
- C. Richard Eby
- Jerold A. Fink
- John A. Goldberg
- Gloria S. Haffer
- Michael J. Harmon
- Hon. Timothy S. Hogan
- Jerome H. Kearns
- Franklin A. Klaine
- John M. Kunst
- Richard D. Lameier
- Thomas A. Luebbers
- T. Stephen Phillips
- Hon. J. Howard Sundermann Jr.
- John P. Williams

*2016 inductees who attended the luncheon

Thank you to our sponsor



Official Hotel Sponsor



Barron Peck Bennie & Schlemmer Co., LPA Congratulates

RICHARD D. LAMEIER

Senior Counselors' Inductee



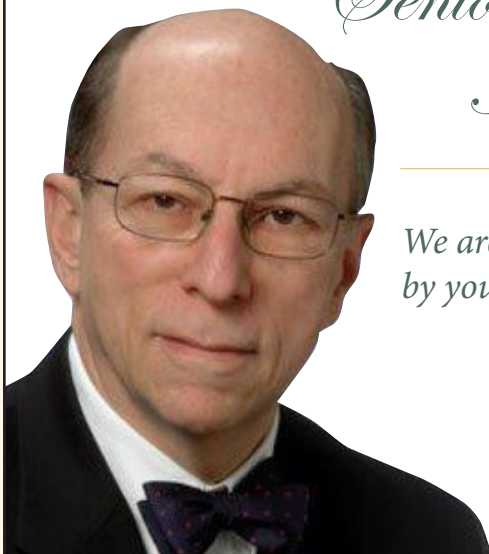
We are proud and honored by your 50 years of service.

Barron Peck
Bennie & Schlemmer
A LEGAL PROFESSIONAL ASSOCIATION

Barron Peck Bennie & Schlemmer Co., LPA Congratulates

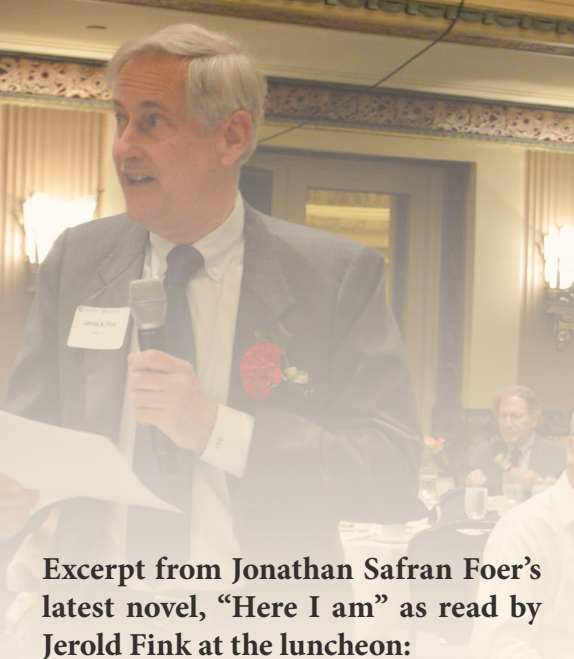
EDWARD G. MARKS

Senior Counselors' Inductee



We are proud and honored by your 50 years of service.

Barron Peck
Bennie & Schlemmer
A LEGAL PROFESSIONAL ASSOCIATION



Excerpt from Jonathan Safran Foer's latest novel, "Here I am" as read by Jerold Fink at the luncheon:

No child knows when he last calls his mother "Mama."

No small boy knows when the book is closed on the last bedtime story that will ever be read to him.

No boy knows when the water drains from the last bath he'll ever take with his brother.

No mother knows she's hearing the word "Mama" for the last time.

No father knows when the book is closed on the last bedtime story he'll ever read.



T. Stephen Phillips



Our Deep Roots ...

Congratulations to one of Porter Wright's deepest roots, Steve Phillips, upon his recognition for outstanding accomplishments in his practice and his service to the bar.

porterwright
PORTER WRIGHT MORRIS & ARTHUR LLP

Cincinnati • Cleveland • Columbus • Dayton • Naples • Washington, D.C.

Proud to Honor Two of Our Own!



We sincerely thank **Robert A. Dimling** for his longstanding and exemplary service to our firm and the Greater Cincinnati Community. As a 2016 Senior Counsel Inductee, we congratulate you on your 50 years of service to the bar.

Congratulations to **Edmund J. Adams** on receiving the John L. Muething Lifetime Achievement in Law Award.

We appreciate your legal contributions and commitment to the legal community and beyond over the years.





100% Club

Thanks to the “early bird” firms for joining the 100% Leadership Circle in the first month of the Investing for Justice Campaign. *As of Oct. 31, 2016*

Burg Simpson Eldredge Hersh
Jardine PSC
Cuni Ferguson & LeVay Co. LPA
Freking Myers & Reul

How does one give?

Donations can be made online at
www.cincybar.org

Or mailed to:
The Cincinnati Bar Foundation
225 East Sixth Street, Second Floor
Cincinnati, OH 45202

Become an Annual Advocate Member

This year, we ask members of the Cincinnati Bar to consider making a commitment to ensuring the idea of “Investing for Justice and Changing Lives Through the Law” in our community by contributing at one of three levels below, with a multi-year pledge (up to five years):

Platinum - \$1,000 annually (\$5,000 pledge over five years)

Gold - \$500 annually (\$2,500 pledge over five years)

Silver - \$250 annual (\$1,250 pledge over five years)

Pledges may be made in honor or memory of someone whose legacy you would like to recognize. As a member, your name and the name of the honoree would be added to the donor wall on permanent display in the Cincinnati Bar Center. Members will be acknowledged at several other times throughout the year and invited to periodic special receptions. Please place yourself in this highly regarded group of Foundation donors.

Thanks to those joining the Annual Advocate’s Circle

Platinum Circle:

Ralph P. Ginocchio
Jon Hoffheimer

Gold Circle:

Douglas R. Dennis

Silver Circle:

Bonnie G. Camden
Paul V. Muething
Kelly Mulloy Myers
Fredric J. Robbins
Andrew M. Shott
Barbara G. Watts
Sharon J. Zealey

FOUNDATION FALL GRANTMAKING

The Cincinnati Bar Foundation Board of Trustees awarded seven grants totaling \$44,150 at their meeting on Oct. 3.

Grant Recipient	Award Amount
Boy Scouts of America Law and Legal System Program	\$5,000
Cincinnati Bar Association CALL Scholarships Mock Trial Program	\$2,900 \$5,800
Impact Northern Kentucky Regional Youth Leadership Law Session	\$1,500
NKY Children’s Law Center Educating Youth about their Legal Rights & How to Interact with Police	\$10,000
Ohio Justice & Policy Center Women’s Domestic Violence Project	\$9,425
ProKids STEPS to Peace	\$9,425

MEMORIAL & HONOR GIFTS

The Cincinnati Bar Foundation gratefully acknowledges the following gifts:

In Memory of

George E. Bernhart

Robert L. Davis

Mary Lee Davis

Robert L. Davis

Hon. John W. & Ruth Keefe

Emma S. Off

Hon. Simon L. Leis Sr.

Robert L. Davis

Hon. William A. McClain

Sharon J. Zealey

Fred W. Mebs

Robert L. Davis

Manuel Plotsker

Paul Plotsker

CBA & CBF Staff Directory

Barry P. Bernard699-1409 Director of IT, bpbernard@cincybar.org
Angela R. DeMoss699-4010 CLE Assistant, ardemoss@cincybar.org
Erin L. Emerson699-4019 Director of Marketing, elemerson@cincybar.org
Catherine Glover699-1400 Executive Director, cglover@cincybar.org
Tamara Grega381-8213 Administrative Assistant, tlgrega@cincybar.org
Paige Hopewell699-1404 Communications Coordinator, phopewell@cincybar.org
Karen J. Johnson699-1405 Notary Administrator, kjjohnson@cincybar.org
Monica L. Kittrell699-4015 CLE Administrator, mlkittrell@cincybar.org
Dawn Landers699-4012 LRS Assistant, drlanders@cincybar.org
Marilyn C. Marks699-1396 LRS Assistant, mcmarks@cincybar.org
René T. McPhedran699-1393 Assistant Executive Director of CBF, rtmcphebran@cincybar.org
Lisa G. McPherson699-1398 Director of Operations, lmgpherson@cincybar.org
Terrie A. Minniti699-1399 Assistant Executive Director, taminitti@cincybar.org
Dimity V. Orlet699-1401 Director of CLE/Assistant Counsel, dvorlet@cincybar.org
Maria C. Palermo699-1402 Assistant Counsel, mcpalermo@cincybar.org
Edwin W. Patterson III699-1403 General Counsel, ewpatterson@cincybar.org
Michelle R. Poss699-1406 Director of Membership, mrposs@cincybar.org
Stephanie W. Powell699-1407 Paralegal, swpowell@cincybar.org
Anthony W. Riley699-4013 Clerk
Amerly Rutherford699-1397 CLE Program Coordinator, arutherford@cincybar.org
Jamie L. Shiverdecker699-4013 Director of LRS, jlshiverdecker@cincybar.org
LaDonna Wallace Smith699-1392 Director of Community Service, lwsmith@cincybar.org
Monica O. Weber699-1395 Marketing Designer, moweber@cincybar.org
Aris M. Yowell699-1391 Director of Communications, amyowell@cincybar.org
Amy K. Zerhusen699-4014 Accounting Administrator, akzerhusen@cincybar.org

Member Benefit of the Month

January February March April May June July August September October November **December**

Enjoy discounted PNC Festival of Lights tickets.
Discount rates are \$13.00 per adult and \$10.00 per child.
Tickets valid toward one single visit 11/19/2016 - 1/1/2017



Here's how to access the deal:

1. Go to: <http://cincinnatizoo.org/groups/group-discounts/>
2. Click «log in» under corporate discounts.
3. Enter your username, password and corporate code: cincybar

If this is the first time you are ordering tickets at this site:
After clicking the log in button, please click “new customer?” and create a username and password before placing your first order. Save this information for all future orders.
See www.cincinnatizoo.org for hours and more information.

Show Us That Winning Smile!



Free Headshots! Update your photo for the Legal Directory.

The CBA is offering free photo sessions this month for local lawyers to get their photo updated for the next legal directory. Take advantage of this opportunity to get a new photo.

Dec. 1-11 Cincinnati Bar Center.
Email mymembership@cincybar.org to schedule your free session.

You can also send an updated photo anytime to photo@cincybar.org. Digital photos should be color, high resolution (300 dpi), jpg. or .tiff file type, and have a neutral background.

Welcome New Members

The CBA board of trustees has approved the following for membership:

Bahjat Mikhail Abdallah
Abdallah & Spring LPA

Mayra Carranza
Keating Muething & Klekamp PLL

Samantha Caspar
Keating Muething & Klekamp PLL

James M. Collier
4th Street Management LLC

Chrissy Dunn Dutton
Blank Rome LLP

Kendall Kadish
Keating Muething & Klekamp PLL

Michelle L. McGehee
Gerner & Kearns Co. LPA

Jonathan Dennis Pyles
US District Court - SD of OH

Michael P. Richardson
Robert A. Klingler Co. LPA

Collin Ryan
Keating Muething & Klekamp PLL

Curtis Scribner
The Procter & Gamble Co.

Machelle Ellene Stieh
Jay B. Stolkin

Jay B. Stolkin
Dinsmore & Shohl LLP

Zoraida M. Vale
Graydon Head & Ritchey LLP

The Community Service Interest Group Visits the Cincinnati Association for the Blind and Visually Impaired

The CBA Community Service Interest Group recently met at the Cincinnati Association for the Blind and Visually Impaired (CABVI) for its bi-monthly offsite visit. CABVI is a local nonprofit whose goal is to help the blind and visually impaired live a more independent life. CABVI assists people of all ages throughout Southwestern Ohio and Northern Kentucky.

Of the population served, 63 percent are adults who are losing their vision. CABVI provides assistive technology, such as electronic magnifiers that aid with reading, to help these individuals sustain their independence and quality of life. CABVI also teaches its clients how to utilize technologies created for the visually impaired, such as voice-activated smart phones and newly developed applications. One such application allows the user to take a picture of an item, a menu for example, and will read the words out loud.

CABVI utilizes volunteers to provide radio reading and to assist with its personalized talking print program which allows those who are visually impaired to have audio access through the telephone to information such as newspaper and magazine articles, store ads, television listings and more. CABVI's clients can listen to the CABVI radio station, WRRS, or call in to listen to information provided by its volunteers. CABVI sends radios through the mail to the blind and visually impaired on which the WRRS radio station is set in place so that the station will automatically play when the radio is turned on.

As a way to provide jobs to visually impaired individuals, CABVI launched VIE-Ability in 2013. VIE-Ability provides competitively priced office products with free next day deliveries on all orders. All proceeds from the sale of office supplies are used to employ blind and visually impaired workers.

CABVI also provides early intervention and youth services to children of all ages, including vision assessments, family support services and music therapy. Every June, CABVI hosts a music recital in which children who are blind, visually impaired, and/or

have mental disabilities, are able to showcase their musical abilities by playing different instruments including the drums, chimes, and piano.

At this year's recital, one of the performers was a teenage boy in a wheelchair, who cannot talk or walk and has limited use of his hands and fingers. His dad wheeled him up to the piano next to his music therapist, who began playing a song. This little guy was so excited he started shaking his arms and cooing. Halfway through the song, his music therapist started playing very softly and said to him, "It's your turn to play! It's your turn to play! Play the piano." It took a second, but eventually he was able to raise his arm and bring his hand down on the piano and hit the keys. The whole concert was emotional. The audience was so proud of every child.

CABVI offers many ways for people to become involved, including monetary contributions (www.cincyblind.org), volunteering, and using VIE-Ability to order your office supplies. If you are interested in learning more about VIE-Ability (www.VIE-Ability.org), please contact Kelley Young at (513) 487-4513 or Kelley.Young@VIE-Ability.org.

The CBA Community Service Interest Group visits a nonprofit every other month. Each offsite meeting provides a unique opportunity to learn how

a local nonprofit organization helps our community. Our next meeting is at noon on Thursday, Dec. 8, 2016 at Tender Mercies, 27 W. 12th Street, Cincinnati, OH 45202. I encourage you to attend.

Vanzant is Assistant General Counsel at Union Savings Bank and is currently serving as the Chair of the CBA Community Service Interest Group.



By Santina Vanzant

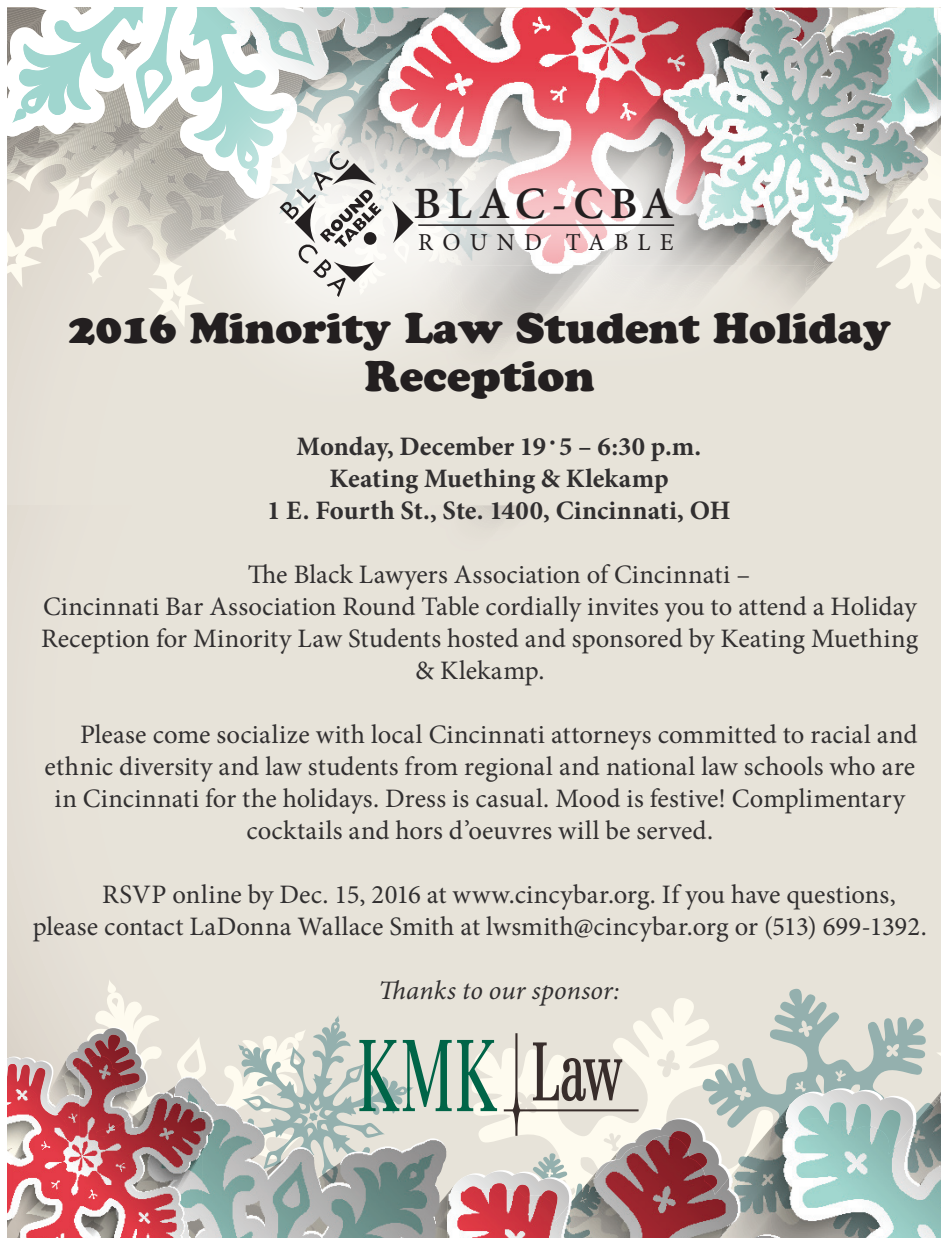


Vanzant and her family wait for the CABVI music recital to begin. Vanzant's son played the maraca in the recital.

Hunger Knows No Season and Neither Does Giving. Thank You!

The CBA Community Service Interest Group would like to thank everyone who participated in the 2016 Hunger Knows No Season food drive. Your gifts of food and funds were greatly appreciated by the FreeStore Foodbank. 11,693 meals will be served to families in Greater Cincinnati as a result of your generosity. We especially thank Dinsmore & Shohl, Frost Brown Todd, Keating Muething & Klekamp, The Phillips Law Firm, O'Connor, Acciani & Levy, Taft Stettinius & Hollister, and Union Savings Bank for serving as major drop-off and pick-up locations for donations.

If your firm is interested in participating in the 2017 Hunger Knows No Season food drive, please contact LaDonna Wallace Smith, Director of Community Service at lwsmith@cincybar.org or (513) 699-1392.



BLAC
C
B
A
R
O
U
N
D
T
A
B
L
E

BLAC-CBA
R
O
U
N
D
T
A
B
L
E

2016 Minority Law Student Holiday Reception

Monday, December 19th 5 – 6:30 p.m.
Keating Muething & Klekamp
1 E. Fourth St., Ste. 1400, Cincinnati, OH

The Black Lawyers Association of Cincinnati – Cincinnati Bar Association Round Table cordially invites you to attend a Holiday Reception for Minority Law Students hosted and sponsored by Keating Muething & Klekamp.

Please come socialize with local Cincinnati attorneys committed to racial and ethnic diversity and law students from regional and national law schools who are in Cincinnati for the holidays. Dress is casual. Mood is festive! Complimentary cocktails and hors d'oeuvres will be served.

RSVP online by Dec. 15, 2016 at www.cincybar.org. If you have questions, please contact LaDonna Wallace Smith at lwsmith@cincybar.org or (513) 699-1392.

Thanks to our sponsor:

KMK | Law

GIVE YOUR CAREER A

Voice



January 4

Cincinnati Bar Association, 5th floor

8:15 – 8:30 a.m. Registration

8:30 – 9:30 a.m. Program

Register at www.cincybar.org

Craft Your Elevator Speech

Join colleagues to discuss and craft a clear, brief "commercial" about you and your career/business.

Join us for an informative and lively discussion!



Women Lawyers Section



Coffee & Conversation



December 16

8:30 – 9:30 a.m.

The Booksellers on Fountain Square, 505 Vine Street

Mark Your Calendar: All Coffee & Conversations will take place the third Friday of each month. Check the CBA website for registration and details.

Volunteer for Mock Trial

By Julie A. Hein

Every August, like clockwork, I receive a “start of school” email from Kelly Cronin, the teacher at Summit Country Day School who serves as the Mock Trial advisor. She keeps it short and direct, “Are you going to coach Mock Trial this year?” A question she immediately qualifies with a follow-up, “The students really want you to return.”

Because I like to tell the truth — the whole truth and nothing but — I admit that my mind immediately conjures all the things I could do with free Saturday mornings before I happily respond, “yes.”

The whole truth is, while my professional life has afforded me an array of opportunities and experiences, few have been as rewarding or fulfilling as working with the Mock Trial students. I’ve served as Summit’s Mock Trial legal adviser for several years. Anyone who has met me will likely tell you that I have a unique ability to go on and on — and on — about why I love being a Mock Trial coach.

We’re paying by the letter here, so I’ll spare you all that and take my lead from Kelly Cronin.

Are you going to judge the Hamilton County Mock Trial District Competition on Thursday, Jan. 19, 2017? The students really want you to return.

If my limited testimony isn’t enough to drive your affirmative response, please keep reading.

Every October, teachers and legal advisers across Ohio take part in an immense grooming process that challenges Ohio’s high school students and culminates in January with the Mock Trial District Competition. Each of us who volunteer to take part in this process is witness to a metamorphosis enabling high school students to shape the foundations of a legal mind.

For most, the time commitment related to Mock Trial is comparable to coaching a sports team. The students practice during the week and do their

own “conditioning.” In my experience, they work tirelessly to learn about their case, the law, rules of evidence and court procedure, all in an effort to confidently present a case before a member of the CBA.

I’m appealing to each of you to join our YLS Co-chairs Lindsay Lawrence and Jeff Krismer, and me, in serving our students. It’s rewarding and you’re going to love the way it makes you feel. Sign up to volunteer by reaching out to CBA’s Jamie Shiverdecker by sending an email to jlshiverdecker@cincybar.org.

And one more thing, these students prepare for Mock Trial for months on end. That’s who we’re serving in this program. They cannot compete without you. It’s just a bonus that it makes us feel good.



Hein

Hein is 2016-2017 chair of YLS.

VIP Jet Travel for Commercial Rates



ULTIMATE
AIR SHUTTLESM

[f](#) [t](#)

ultimateairshuttle.com
800-437-3931

BOGO WEEKENDS!

NOW THRU DEC. 19

\$299⁰⁰

ROUND TRIP

FIRST-TIME FLYERS!

NOW THRU DEC. 23

*BOGO travel must be booked and flown by December 19, 2016. Call 800-437-3931 to book BOGO flight. Ultimate Air Shuttle Cancellation and Change Policy applies to BOGO tickets.
**First time travel on Ultimate Air Shuttle only. Offer ends December 23, 2016.
\$499 price for Charlotte flights booked at least 11 days in advance. Includes all taxes & fees. No discount programs apply.
†Excludes MDW. Ultimate Air Shuttle Flights are public charters sold and operated by Ultimate JetCharters, LLC as direct air carrier.



Check-in as little as 15 minutes before your scheduled departure.



No baggage fees and hassle-free security checks.



No cancellation fees up to 24 hours.



All applicable taxes and fees included. No hidden charges.



Up-close, FREE parking at private facilities.

Congratulations to the New Attorneys!

The CBA celebrated with the new members of the Ohio and Kentucky Bars at the annual Bar Bash on Nov. 3 at Rhinegeist Brewery.

Thanks to our sponsor:



YLS Chair Julie Hein, Arash Hamidi and CBA Executive Director Catherine Glover.

Guests celebrated attendees who passed the bar.



Greg Hoover, Tracy Schwetschenau, and J. Corey Asay.



YLS Chair Julie Hein congratulates new attorneys at the event.



YLS Chair-Elect Faith Whittake, Andrew Johnson and Hon. Karen Litkovitz.

Welcome to YLS

Mayra Carranza
 Samantha Caspar
 Chrissy Dunn Dutton
 Kendall Kadish
 Michael J. Perkinson II
 Jonathan Dennis Pyles
 Collin Ryan
 Curtis Scribner
 Mabelle Ellene Stiehl

Great Adverse Depositions: Principles and Principal Techniques

December 6
9 a.m. – 4 p.m.
5.5 Hours CLE
Featuring Robert Musante, Esq.

More than any other aspect of pre-trial litigation, the skill attorneys wield when taking the deposition of the opposing party most dramatically impacts case outcome, whether that outcome is obtained through a settlement or a trial.

Great adverse depositions require the conscious and conscientious application of the integrated set of logical rules that constitute the discipline of deposition cross-examination, rules that best exploit case theory opportunities and best attack case theory problems.

About Robert Musante



Robert Musante is the nation's foremost teacher of deposition cross-examination. He has taught the logic essential to taking great adverse depositions — of fact witnesses and experts — to more than 45,000 litigators in 42 states. He has made in-house presentations to the attorneys-general of 11 states and to the partners and associates of 80+ litigation law firms.

Rave Reviews from Past Attendees

- “A” seminar...“A” speaker. Great job at teaching and entertaining.
- Excellent seminar...excellent speaker.
- A “10” out of “10.” This seminar is the best I’ve been to.
- Spectacular speaker. By far the most entertaining CLE I have ever taken.

Crisis Communications & Management for Attorneys and Their Clients

December 15
2 – 4:30 p.m.
2.5 Hours CLE
Featuring Bruce Hennes, *Hennes Communications*

About the Program

Especially in today's world of immediate information, when reporters won't wait long for you to return that call before posting the story online and where virtually everyone is a “journalist” armed with a camera and able to reach thousands of people with one simple Facebook message, attorneys and their clients simply cannot wait until a legal decision is rendered. They must be prepared to vigorously defend their situation in a wide variety of venues, as well as media outlets. This seminar will help you prepare for the court of public opinion so that you, the organization you serve and your client are not declared “guilty” before being heard in the court of law.

About Featured Speaker Bruce Hennes



Hennes is managing partner of Hennes Communications, one of the few firms in the U.S. focused exclusively on crisis communications and crisis management. Hennes Communications serves corporations, government agencies, nonprofits, education and healthcare institutions, as well as law firms and their clients. With over 30 years of experience in communications, Bruce and the firm's past and present clients include the 2016 Cleveland Host Committee for the recent Republican National Convention that was held in Cleveland, ThyssenKrupp, Avery Dennison, Lubrizol, Kent State University, Oberlin

College and the National Aeronautics and Space Administration, as well as scores of municipalities and law firms across the U.S. Bruce serves on the Executive Committee of the Cleveland Metropolitan Bar Association and on the board of the Cleveland Leadership Center.


THE WALT

LUNSFORD

FINANCIAL ADVISORY GROUP

of

RAYMOND JAMES®



RAYMOND JAMES & ASSOCIATES, INC.
4755 LAKE FOREST DR., STE. 200, CINTL., OH 45242
(513) 786-7838

Walter B. Lunsford,
AAMS, Sr. VP, Investments

THE WALT LUNSFORD FINANCIAL ADVISORY GROUP

Visit our website at: www.waltlunsfordgroup.com

DUI Law – The CBA’s Last Live CLE of the 2016!

December 30
9 – 11:45 a.m.
2.5 hours, including
.5 Hour Professional Conduct
Featuring Charles E. Strain, Esq.

Be ready for real-life questions like these:

You’re at a party and a guest asks you: “You’re a lawyer? I’ve always wanted to know: Should I submit to field sobriety tests?”

Your client sees strobing blue lights in his rear view mirror after having had a few drinks. What should you advise him to do, not to do, to say, and not to say?

You’re awakened at 3 a.m. by a phone call from a desperate friend, who asks: “I’m at the police station. Should I take the breath test?”

Join us for the final CLE of 2016! Register at cincybar.org or call (513) 699-4028.

2016 11th Hour Video Replay Series

Up to 12.0 Hours of CLE Credit (3.0 hours CLE credit per session)
Location: Cincinnati Bar Center, 225 East Sixth Street, Fifth Floor, Downtown Cincinnati

Session 1

Wednesday, December 28
9 a.m. – 12:15 p.m.

- Professional Conduct
- Prof. Conduct: Stress and the Young Lawyer
- Ethics: Safeguarding Your Client’s Data

3.0 Hours Professional Conduct CLE Credit
2.0 Hours Professionalism New Lawyer Training Credit

Session 2

Wednesday, December 28
1 – 4:15 p.m.

- Empowering the Client in Decision Making Along the Way
- Software Agreements
- Civil Litigation and the United States: Tips and Considerations

3.0 Hours General CLE Credit
3.0 Hours General New Lawyer Training Credit

Session 3

Thursday, December 29
9 a.m. – 12:15 p.m.

- NLRB Update
- Bicycle Law
- Election Law

3.0 Hours General CLE Credit
3.0 Hours General New Lawyer Training Credit

Session 4

Thursday, December 29
1 – 4:15 p.m.

- Ethics: Conflicts of Interest
- New Lawyer Training: Clients Funds Management
- Professional Conduct: Let’s Get Real — Gambling — An Addiction Akin to Substance Abuse

3.0 Hours Professional Conduct Credit
2.0 Hours Professionalism New Lawyer Training Credit

To register, visit www.cincybar.org or call (513) 699-4028

www.CincyBar.org



Who Will Clean Up After You?

Now would be a good time to take steps to ensure that your clients’ interests are protected, even in your absence. Learn more about the CBA’s Inventory Attorney Program and how to designate your own inventory attorney at <http://www.cincybar.org/news-resources/inventory.php>.

NOMINATING COMMITTEE SOLICITS RECOMMENDATIONS FOR THE CBA BOARD OF TRUSTEES

The Cincinnati Bar Association's Nominating Committee is soliciting recommendations for nominees for the election to certain officer and trustee positions to commence at the CBA's 2017 Annual Meeting. The committee requests nominations for the following positions:

- **Vice President:** Automatically succeeds to president-elect and then to president. Must have been a trustee, secretary, or treasurer within the five-year period immediately prior to the election.
- **Secretary:** One-year term, limit of one term. Incumbent is ineligible for re-election.
- **Treasurer:** One-year term, limit of three consecutive terms. Incumbent is eligible for re-election.
- **General Trustee:** Five positions open. Two incumbents are eligible for re-election. Three incumbents are ineligible for re-election.
- **Trustee:** 12 years or less in practice. One position is open. Incumbent is ineligible for re-election.

Please send recommendations to nominations@cincybar.org. All nominations must be received by Jan. 23. For questions, please contact Nominating Committee Chair Eric Combs at eric.combs@dinsmore.com.

Ready for retirement?

- Pre-retirement assessments
- Investment management
- Retirement income strategies



Francis J. Niehaus, JD, CFP®



Kevin J. Walsh, CFP®



Michael W. Jarrold-Grapes, CFP®



Laura A. Davitt



Financial planning and investments since 1987

5600 Harrison Ave. • Cincinnati, OH 45248
(513) 471-9600 • www.niehaus3.com

Securities offered through Securities America, Inc., Member FINRA/SIPC and advisory services offered through Securities America Advisors, Inc., Niehaus Financial Services, LLC and Securities America are independent entities.

Bring Cheer through Giving

Each year, the Greater Cincinnati legal community comes together to bring good cheer to children in need. For more than 20 years, the Giving Basket program has provided thousands of gifts to less fortunate children during the holiday season. Please join us to continue this great tradition of giving. Gifts benefit children served by the Boys & Girls Club, Boys Hope/Girls Hope, Hearne House, and ProKids.

Give a Gift

1. Visit <http://givingbasket.cincybar.org>
2. Choose a wish list gift tag (includes gender and age)
3. Purchase an age appropriate gift for \$25 - \$30
4. Place the unwrapped gift in a gift bag and attach the gift tag
5. Drop the gift off at Dinsmore & Shohl LLP, First Financial Center, 255 East Fifth Street, Ste. 1900, Cincinnati, OH 45202 between Dec. 7-12.

Questions? Please contact the YLS Community Service Co-chair Angela Chang at achang@cms.hamilton-co.org or the CBA's Director of Community Service LaDonna Wallace Smith at lwsmith@cincybar.org or (513) 699-1392.

**Remember!
Fill the
Giving Basket
by Dec. 12!**



2017 Mock Trial Competition Held During New Dates and Times

By Lindsay Lawrence and Jeffrey Krismer

The CBA will hold volunteer judges' training sessions for the Annual Mock Trial Competition on Friday, Jan. 13 from 12–1 p.m. The training session is not mandatory, but will provide attorneys who will be serving as judges for the program with basic information on their role. In addition, volunteers will be provided with a packet of materials in advance of the competition to acquaint themselves with the issues and judging criteria.

For information on this year's case, please visit the Ohio Center for Law Related Education's website at www.ocle.org.

The competition is an excellent way to introduce high school students to the legal system, and volunteer lawyers are crucial to the success of the program. More than 350 Cincinnati area high school students will compete in our district tournament with the winners advancing to region-

al and then the statewide competition in Columbus, Ohio. A panel of three judges will score the individual competitors on their performance and will evaluate each team on its development of case theory, development of case strategy, and persua-

your assistance.

This year's competition will take place on Thursday, Jan. 19 from 4 – 6 p.m. and 7 – 9 p.m. with the first round beginning at 4 p.m. and the second round beginning at 7 p.m. at the Hamilton County Courthouse. Also, new this year, there will also be a regional competition that we will need volunteers for on Feb. 10, 2017 from 1-3 p.m. and 4 – 6 p.m.

If you would like to volunteer or have any questions about this year's Mock Trial Competition, contact Jamie Shiverdecker at the CBA at (513) 699-4013 or jlshiverdecker@cincybar.org. Get involved in the 2017 Mock Trial Competition. The time commitment is minimal and the student competitors greatly appreciate

your help with this big event.

Lawrence and Krismer are co-chairs of the Mock Trial Committee.



siveness. To ensure that the competition is judged as fairly as possible, it is imperative that each argument is judged by a panel of three volunteer judges. The CBA is anticipating a need for at least 100 volunteers per round of competition and is seeking

Ethical Quandary?

December Ethics Hotline Attorneys

Michael J. Bronson 723-4492
Samuel M. Duran 357-9378

The members of the CBA Ethics & Professional Responsibility Committee listed above are available to help you interpret your obligations under the Ohio Rules of Professional Conduct. Questions posed should be framed hypothetically and should relate to your own prospective conduct. The committee also accepts requests for written opinions.

In Remembrance

We fondly remember the following member of our legal community:

Kathleen Bruvold
November 2, 1943 -July 8, 2016

To submit a memorial for a decedent, please contact amyowell@cincybar.org. Please help us track the lives of those we wish to remember in our legal community. To report a decedent, please contact amyowell@cincybar.org.

KNOW AN EXCEPTIONAL LAWYER? HEED OUR CALL.

NOW ACCEPTING AWARD NOMINATIONS

The Cincinnati Bar Association is accepting nominations for the following awards to be presented at the CBA's 2017 Annual Meeting. All replies will be handled with the strictest confidence.

Themis Award

The Themis Award is the highest award given by the Cincinnati Bar Association for truly extraordinary service by an attorney to the Cincinnati Bar Association, the legal profession and/or the general community. The recipient must display a high level of commitment, dedication or courage.

Trustees' Award

The Trustees' Award is presented for outstanding service by an attorney to the Cincinnati Bar Association, the legal profession and/or the general community, which displays a high level of commitment, dedication or courage.

To nominate someone for either of the above awards, please direct your nominations to the CBA Awards Committee by Jan. 20, 2017, Cincinnati Bar Association, 225 E. Sixth Street, Second Floor, Cincinnati, OH 45202.

John W. Warrington Community Service Award

Presented in memory of John W. Warrington, this award recognizes an attorney who has performed extraordinary volunteer community service. The recipient must be a CBA member and must have spent a minimum of three years as an attorney.

To nominate someone for this award, please visit the CBA Community Service Interest Group page at www.cincybar.org or contact LaDonna Wallace Smith at (513) 699-1392 or lwsmith@cincybar.org by Jan. 5, 2017.

John P. Kiely Professionalism Award

This award recognizes a trial lawyer for possessing outstanding trial skills and demonstrating the highest degree of professionalism, civility and ethical standards in his or her daily practice. Nominees must be members of the Cincinnati Bar Association.

To nominate someone for this award in honor of attorney John P. Kiely, please contact Maria Palermo by Jan. 31, 2017 at (513) 699-1402 or mcpalermo@cincybar.org.

If you are a Cincinnati Bar Association member and you've moved, been promoted, hired an associate, taken on a partner, received a promotion or award, or have other news to share, we'd like to hear from you. News of CLE presentations and political announcements are not accepted. Generally, the CBA Report will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.). Notices are printed at no cost, must be submitted in writing (preferably by email) and are subject to editing. We also request a current, high-resolution, directory-style photo. Items are printed as space is available. News releases regarding lawyers who are not Cincinnati Bar Association members in good standing will not be printed. We publish news about our members. Submit items to communications@cincybar.org. Please submit address changes to info@cincybar.org.



Stimac



Tracy



Whittaker



Verticchio



Yoder

The Cincinnati law firm of Keating Muething & Klekamp PLL is pleased to announce that it has elected four new partners: **Alison J. Stimac**, **Philip A. Tracy**, **Anthony M. Verticchio**, and **Bryce J. Yoder**. **Stimac** practices with KMK Law's Intellectual Property Group counseling clients on transactional and litigation matters involving all aspects of domestic and international trademark and branding matters, copyright, advertising, Internet, social media, licensing, promotions and marketing matters. **Tracy** advises domestic and international corporate clients of the firm's Business Representation and Transactions Group on a variety of complex and sophisticated corporate and financial transactions. He also practices in the firm's Mass Tort Bankruptcy Settlement Trust Group, where he serves as counsel to the trustees of several large trusts on all aspects of trust creation and administration, including the wide range of corporate and bankruptcy law-related matters facing such trusts. **Verticchio** practices with the firm's Litigation and Insurance Coverage Groups. He has successfully represented a wide variety of business clients in the Greater Cincinnati area and nationally, including a recent case in which he acted as a trial attorney in a 15-week ERISA litigation trial that resulted in a favorable defense judgment for his business-owner client. **Yoder** practices with the firm's Litigation Group assisting clients in litigation and dispute resolution, with a focus on complex commercial litigation. He has successfully represented a wide variety of corporate clients regarding contract disputes, corporate governance, securities, employment, and consumer class action lawsuits.

Dinsmore & Shohl LLP's **Faith C. Whittaker** received the "Outstanding Alumna of the Past Decade Award" from Northern Kentucky University's (NKU) Chase College of Law. Whittaker graduated cum laude from the University of

Dayton with a B.A. in History. Following undergraduate, she attended Chase College of Law, earning her J.D. in May 2007. While attending Chase, Whittaker served as the Symposium Editor for the Northern Kentucky Law Review and co-authored "Survey: How Recent Kentucky Courts are Applying the Retaliation Claim in Employment Cases," Northern Kentucky Law Review. She also served as Secretary for the Student Bar Association. Whittaker began working for Dinsmore & Shohl in its labor and employment law department in September 2007, making partner effective January 2016. She has significant experience guiding clients through issues that arise in the workplace.



Thweatt

Dinsmore & Shohl LLP enhances its tax and benefits group by adding **James "Jay" W. Thweatt III** to its Cincinnati office. Thweatt brings extensive experience in the areas of employee benefits and executive compensation and joins Dinsmore from another major Cincinnati law firm. Thweatt helps companies with the design, formation and operation of tax-qualified retirement plans, nonqualified deferred compensation plans, and welfare benefit plans, including compliance with the Affordable Care Act, COBRA, FMLA, and USERRA. He also has extensive experience with ERISA fiduciary issues and assists clients with employment agreements, stock options and other equity-based compensation arrangements, and severance agreements. Thweatt routinely appears before the IRS and Department of Labor on behalf of clients' employee benefit-related matters.



Suder

Calfee, Halter & Griswold LLP is pleased to announce that **Sean S. Suder** has joined the Cincinnati office as a partner in the Real Estate Practice Group. Suder's practice focuses on land use and zoning, real estate acquisitions, sales and leasing, economic development, and public-private partnerships, historic preservation law, real estate property financing and taxation, and municipal and legal government law.

Get your case headed in another direction

Use Cincinnati Bar Association Arbitration Services.

- An outstanding panel of local arbitrators you know and trust
- Easy to use
- Cost-effective
- Administered by CBA staff

Language for your contracts — as well as more information about the panel and the services — is at www.cincybar.org or contact CBAAS Coordinator Jamie Shiverdecker at jlsh@cincybar.org or at (513) 699-4013.

OFFICE SPACE

MONTH-TO-MONTH OFFICE SPACE

AVAILABLE at 810 Sycamore Street. Receive 6 months free rent, with a 5 year lease. Receptionist (M-F, 8-6 / Sat. 9-1), internet, cable, state-of-the-art phone system, two (2) conference rooms on each floor and large, fully equipped kitchen with balcony. Please contact Kelly Farrish at (513) 621-8700 or (513) 403-9699.

MONTH TO MONTH: EXECUTIVE OFFICE

available in suburban law office, convenient to Ronald Reagan Highway. Full Service office including Internet. Alternative rental arrangements available. Excellent opportunity for recently admitted attorney desiring to build a law practice. Call Steve Halper (513) 793-4400

HISTORIC FOURTH STREET BUILDING.

Entire building or part: 2,000-20,000 sf. Professional Offices and/or Storefront, Terms flexible. Contact: John Stillpass (513) 936-0800 ext. 1

MODERN OFFICE SPACE: Modern office space with receptionist M-F 9-5/state of the art phone system, large conference room, fully equipped kitchen. Great suburban location at 1-275 and Montgomery Road-Corporate Office Park-free easy parking. Access to Hamilton, Warren, Butler and Clermont Counties within 30 minutes. Room for 1 attorney with secretary, referrals available-large established client base. Ideal for startup attorney or established attorney. Please contact Scott Schweiger at 513-489-0881.

OPPORTUNITIES:

ASSISTANT GENERAL COUNSEL (14661)

Essential Function: The Assistant General Counsel will assist the General Counsel and other members of the Office in providing legal advice and services to the University community in a variety of areas including Ohio's Sunshine Laws, purchase of goods and services, public bidding and award, contract compliance, and regulatory compliance. The position requires the ability to work on a level of parity with experienced outside counsel and to interact successfully with senior officers of the University in a fast-paced, high-volume legal environment with abundant good humor.

Primary Responsibilities: Provide a high level of legal services to the University in a variety of areas including Ohio's Sunshine Laws, purchase of goods and services, public bidding

and award, contract compliance, transactional matters, intellectual property, student affairs, litigation and regulatory complaint and employment matters. Work at the highest professional level with integrity, excellent judgment, attention to detail and discretion. Requires strong critical thinking and problem-solving skills and an ability to work cooperatively and collegially, both proactively and reactively, to address legal issues within the context of the University's mission and goals in a fast-paced, high-volume legal environment.

Minimum Qualifications: J.D. degree from an ABA accredited law school, presently licensed and practice law and in good standing in the State of Ohio, excellent legal research and writing skills; admission to the Ohio Bar; at least 4 – 6 years experience practicing in the legal areas listed above; excellent general communication, analytical, and interpersonal skills; and qualification for appointment as an Assistant Attorney General for the State of Ohio. Excellent communication skills (written and verbal). Excellent organizational skills; Ability to multi-task; work with and meet tight deadlines; A commitment to diversity and the ability to work with divergent personalities. Possess high ethical standards.

Preferred Qualifications:

Professional experience in a higher education setting or in the public sector is strongly preferred.

Application: To apply please visit <http://bit.ly/2fs2Grc>

The University of Cincinnati, as a multi-national and culturally diverse university, is committed to providing an inclusive, equitable and diverse place of learning and employment. As part of a complete job application you will be asked to include a Contribution to Diversity and Inclusion statement.

The University of Cincinnati is an Affirmative Action / Equal Opportunity Employer / M / F / Veteran / Disabled.

REAL ESTATE PARALEGAL – PORT OF GREATER CINCINNATI DEVELOPMENT AUTHORITY

The Port of Greater Cincinnati Development Authority is a quasi-public entity that works across Cincinnati and Hamilton County to acquire, finance, and redevelop underutilized real estate to promote economic development. The Port Authority is growing and searching for a real estate paralegal to fill a full-time, non-exempt position. Overtime may be required on occasion, but rarely so. Please send a cover letter and resume to Joseph Hall at jhall@cincinnatiport.org.

Duties will include:

Preparing initial drafts of basic legal documents such as purchase contracts, deeds, affidavits, and closing documents, from forms and with oversight.

Coordinating and preparing for real estate closings, including helping to clear title problems.

Using our web-based property management system to update property information, track the status of projects, and run reports.

Helping attorneys answer phone calls and respond to emails about Port Authority programs and the status of projects.

Assisting with the preparation and submission of reimbursement documents for state programs and grants.

Supporting a two-attorney legal team in coordination with the legal administrative assistant.

Helping develop and implement a new filing system.

Filing documents and interacting as necessary with various City of Cincinnati and Hamilton County departments.

Communicating with members of the public to gather information about properties and applications.

A successful candidate will have the following skills and qualities:

A track record of actively monitoring projects and managing them to completion. The successful candidate will work closely with the Real Estate Counsel and other staff, but will need to be able to solve minor problems independently and take initiative to move projects forward.

A close attention to detail. The Port Authority and its associated entities own hundreds of properties and prepare a high volume of legal documents, and producing high-quality, detail-oriented work product on a consistent basis is essential to successful performance. A high level of professionalism, including professional dress, decorous office behavior appropriate for an open-format work environment, polite phone manners, and discretion with sensitive information.

The ability to write and communicate concisely and accurately.

A love for Cincinnati and Hamilton County, and a desire to work with people to improve the communities where they live. The successful candidate should be comfortable interacting with people from diverse socioeconomic and racial backgrounds.

Some experience in a real estate law firm or title company setting is preferred.

REQ: 14661

CINCINNATI LAW FIRM SEEKING AN ASSOCIATE OR PARTNER LEVEL BUSINESS ATTORNEY.

Strauss Troy Co. LPA, founded in 1953, a full service law firm with diverse expertise and a history of proven success, is seeking an experienced Business Attorney with a concentration and expertise in Business Organizations and Transactions including Trademark, and Copyright law. Must be licensed in Ohio. Please send Resume to: Judy A. Cunningham, Director of Human Resources, Strauss Troy, Co., LPA, 150 East Fourth Street, Cincinnati, Ohio 45202 OR EMAIL: jacunningham@strausstroy.com

PARALEGAL-INSURANCE DEFENSE. Marshall Dennehey Warner Coleman & Goggin, a large defense litigation firm, seeks a Paralegal with 3-5 yrs experience in Insurance Defense for its Cincinnati office. Casualty experience preferred. Applicants must have a Paralegal Certificate from an ABA-approved program, a Bachelor's degree or an Associate's degree. Send resume to hrrecruiter@mdwgc.com for consideration.

TAX/ESTATE PLANNING ATTORNEY.

Lindhorst & Dreidame Co., LPA, a downtown Cincinnati law firm, is looking for an attorney with a minimum of two years of experience in the areas of taxation, estate planning and probate/trust administration. Existing business or clients is desirable but not required. Flexible work schedule may be considered. Send resume in confidence to Barry F. Fagel at bffagel@lindhorstlaw.com or 312 Walnut Street, Suite 3100, Cincinnati, OH 45202.

FEDERAL POSITION - UNITED STATES BANKRUPTCY COURT, COLUMBUS, OH - TERM LAW CLERK.

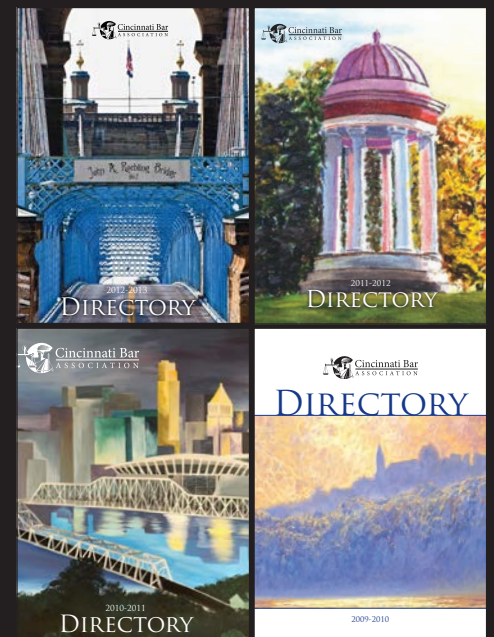
Opening Date: November 4, 2016 - Closing Date: December 31, 2016. The entire vacancy announcement is available on our web site www.ohsb.uscourts.gov.



Be featured on the cover!

CBA Seeks Art for Next Legal Directory Cover

Are you an attorney with an artistic side? The CBA is accepting submissions of artwork or photography for the cover of the next Legal Directory. Deadline for submission is Jan. 31, 2017. The winner will receive a complimentary six-hour CBA CLE pass. For more information, contact Monica Weber at (513) 699-1395 or moweber@cincybar.org.





**cincinnati
find a lawyer.org**



Get found.

Be part of the Cincinnati Bar Association's Cincinnati Find a Lawyer.

Cincinnati Find a Lawyer is more than an online listing — it's a dynamic, engaging site for prospective clients to easily find an attorney. And because Greater Cincinnati already have confidence in the CBA as a resource for their legal needs, you'll be part of a bank of attorneys which users know they can respect and trust.

For more information, visit cincinnati.findalawyer.org or contact Maria Palermo, (513) 699-1402, mcpalermo@cincybar.org,



Cincinnati Bar
ASSOCIATION

Published by the Cincinnati Bar Association
The Cincinnati Bar Center
225 East Sixth Street, 2nd Floor
Cincinnati, OH 45202-3209

NON PROFIT
U.S. POSTAGE PAID
CINCINNATI, OHIO
PERMIT NO. 5415

CHANGE SERVICE REQUESTED



Why do it yourself at this price?



\$ 1.99 lb

**Laundry Cleaned
and Folded**

The \$1.99 bulk laundry price is not valid with any other offer or discount



Looking Great is good for Business.

The results of professional garment cleaning and finishing are easy to see. Even more important is how they make others see you. It's perhaps the best reason to trust your clothes to Widmer's Cleaners.

Free Pick-Up & Delivery

30% off
Dry Cleaning
for 30 days



(513) 321-5100

widmerscleaners.com

Not valid with other offers. Present with incoming order.
Valid on new accounts only.