In this issue, Columbus Bar Lawyers Quarterly is celebrating the CBA's 150th Anniversary with articles about how the law has changed throughout history. Look inside to find information on privacy laws, immigration law through the ages, a very special piece on the history of the CBA and more. Plus, this issue includes pieces on mediation, flexible work schedules, the experiences of foreign attorneys and more.
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NOTICE: Statements or opinions expressed herein are those of the authors and do not necessarily reflect those of the Columbus Bar Association, its officers, board, or staff. Any statements pertaining to the law contained in this magazine are intended solely to provide broad, general information, not legal advice. Readers should seek advice from a licensed attorney with regard to any specific legal issues.
When I took over the leadership of the CBA, I wanted to find a way to encourage local lawyers to help other local lawyers with the stress and anxiety that sometimes comes along with the practice of law. Although a large percentage of lawyers struggle with their own well-being, there is a stigma against talking about it and, in many cases, doing something positive about the problem. One of the main goals of the task force is to break down this stigma in our local community and create a culture of understanding and acceptance, one that will encourage more attorneys to seek help when they need it. The task force is brainstorming ideas for how the CBA can take an active role through programming, publications, special events and more, in changing how lawyers both view and react to mental health issues among our peers.

We've already held some events that focus on mental well-being, and look forward to planning many more. In October, local attorney Michael Jarosi spoke to a large crowd here at the CBA. He told the story of his own journey to mental well-being and advocated for better legal services to our community. Through CLE programs and the Hazelden Betty Ford Foundation released a study examining lawyer well-being. This national study revealed that an increasing number of lawyers and law students are experiencing chronic stress, high rates of depression and substance abuse. The study also revealed that lawyers who are in their first 10 years of practice have the highest incidence of these problems. In short, the Hazelden study tells us the problem is getting worse instead of better. To be a good lawyer, one has to be a healthy lawyer, and the CBA is dedicated to helping our members be the best lawyers they can be.

It is unfortunate but in the same year of the release of the Hazelden study, I became aware of several local lawyers who succumbed to their mental anguish and committed suicide. Because of the unrefuted evidence that there is a growing problem in the ranks of our fellow lawyers, we have created a Task Force on Lawyer Physical and Mental Well-being, chaired by Bobbie O'Keefe, to address some of the issues that have been highlighted in the Hazelden study. Although my presidency will be ending in June, I am hopeful that this task force will continue to do good work here at the CBA. It has only been in existence for less than a year, but has already been able to provide resources and programming to members of the central Ohio legal community. We want to continue bringing relevant programming that impacts the practice of law in our community. But we cannot do so without your support. We are continuously thinking of and implementing innovative ways to make membership in the CBA more valuable to our members and thereby make them better lawyers who offer better legal services to our community. Through CLE programs and programming that impacts the practice of law.

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As I write these words, the CBA is in the midst of celebrating its 150th birthday: a truly momentous occasion for an organization that started out with five or six lawyers pondering the humble idea of making members of the Columbus bar better lawyers. The current staff and leadership of the CBA take that original charge just as seriously today.

The CBA: 150 Years Old and Still Working for the Good of Lawyers and the Community

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input. Any feedback you have on our efforts and any suggestions for future programs or events are welcome.

As I serve out the last three months of my presidency, I want to thank the staff of the CBA who work tirelessly to provide the services and programs that the CBA offers to those who are members of the legal community including lawyers, paralegals, legal assistants, law students and their families; Thank you.

To our members who have wished me well during my tenure as CBA President, I thank you for putting me in this position and I ask you to continue to support the CBA by renewing your memberships, attending our CLE programs, utilizing the services that the CBA provides and by bringing us your ideas, and even your criticisms, to make us better at what we do for you.

To the members of the Board of Governors who volunteer their time while navigating busy practices to ensure the CBA stays on course and is financially sound, Thank you.

To the many lawyers who volunteer their time to lead the CBA’s 30 substantive law, five professional development and eight Board-appointed committees, your efforts on behalf of these committees is often in the background but is of tremendous value to the organization and our members who benefit from what you do, Thank you.

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On April 4, 2019, attorney Brian Cuban spoke to CBA members about his experiences with clinical depression and alcohol and cocaine addictions, as well as his journey to recovery.

Ohio Litigation Firm of the Year for the fourth time.

We are honored to be named “Ohio Litigation Firm of the Year” by Benchmark Litigation for an unprecedented fourth time, and for the third year in a row.

Endorsed by the continued trust and confidence clients place in us, Ulmer’s litigation team remains on top.

Our commitment is to treat every client as our only client. Let us put our winning strategies to work for you.

“There are other firms who play in the arena, but Ulmer is the best.”

“They know our business very well, which is critical.”

“They are efficient with their time, excellent in their interpretations, and very effective in getting matters resolved.”
How Do You Measure the Value of Membership?

BY JILL SNITCHER MCOUAIN

Ever since the recession of 2010, we have noticed an uptick in the number of members asking for detailed summaries of ROI: “What’s the return on my investment for membership dues; for advertising in the directory; for instructing at a CLE; for taking on leadership roles?”

I get it. Money is tight. And the proverbial “new normal” has made law firms rethink operations and management styles to reduce overhead and deliver more efficient client services. The CBA has done the same—we’ve reduced overhead by 50 percent and reduced staffing by 25 percent since 2010. We’re all trying to do more with less.

But is it all over? Absolutely not. Membership dues are more akin to a 401(k)—something you invest in the future. And that future is not just an incremental one. Memberships are lifelong investments that enable you to move forward with confidence. For example, our directory is a powerful tool that enables you to reach potential clients and partners. By hiring an attorney from the Columbus Bar Association directory, you’re investing in the future of the profession.

The law is still very much a people business. Careers can be made or broken by reputation alone. A recent study revealed that 75 percent of the reason lawyers are hired (either by a client or an employer) has nothing to do with legal skills and everything to do with reputation and relationships. Relationships don’t just happen. They are truly authentic, they are years in the making; decades even. How do you put a dollar figure on that?

Sometimes, we can become so data-driven that we lose sight of the big picture. Engaging with your colleagues through professional association is priceless. Yes, you would expect me to say that as the Executive Director of the Columbus Bar Association. But it is true. I hear it every day. Stories about people who would never be where they are but for the relationships they built, the leadership skills they developed and the opportunities they had to become a thought-leader—all through their involvement with the bar association.

I am really proud to lead the Columbus Bar Association. I think we do some pretty terrific things on behalf of our members, the profession and the public. Our staff is genuinely committed to making our members’ lives a little better—professionally and personally.

We are the sum of our parts. Members need to take an active role in investing in their future and the future of others. If you are at the point in your career where you are enjoying the fruits of past investments, you have a lot to offer those who follow in your footsteps. Lead by example. Share your stories about the value of engagement. Pass on your legacy in the most meaningful way by investing in the future of those who succeed us.

Yes, I know money matters. But think about association membership as an investment in your career and your future. It’s not a line item in your budget that should be questioned—it should be an automatic, just like your 401(k), bar registration fees, CLE and rent. And next time someone asks you what the return on investment is, explain that it’s priceless.
As Gottschall and others explain, it pays to be so narratively nimble, at least in evolutionary terms. Our world is full of stories we must detect to survive well. Think of the plots and gossip we must manage each hour of our social lives, let alone the millions of pieces of sensory input our brain must handle daily. To order this ambiguous abundance, our brains naturally tell stories. Without stories our experience of life would be incoherent, meaningless.

But our storytelling minds are deeply flawed. They can even be dangerous, particularly in the legal domain where witnesses must recount true facts in narrative testimony, where lawyers’ arguments commonly take shape in narrative form, and where jurors tell their own stories to decide cases. Like any good storyteller, our minds hate directionless plots, unmotivated characters, and pure coincidence. Our storytelling mind craves the meaning of soap opera. So craving, in fact, that our storytelling mind will create meaningful patterns in the world even when no such patterns exist. We impose patterns on the world. In the words of Gottschall, “the storytelling mind is a factory that churns out true stories when it can, but will manufacture lies when it can’t.” We should take note of how often it can’t.

Gottschall asks us to consider a thought experiment. Read the following three sentences, then ask yourself what they mean:

Todd rushed to the store for flowers.
Greg walked her dog.
Sally stayed in bed all day.

What did you just come up with? If you’re like most of us, you tried to devise a story that connected these three sentences. In other words, you looked for the “hidden” story. Why did Sally stay in bed all day? Did it have something to do with Todd buying flowers for her? Is that also why Greg walked her dog? How do the three characters know each other – a love triangle, friends, family or complete strangers? You have no idea and neither do I. This is because the three sentences are completely random. They’re made up. But we can’t help asking and answering such questions as our storytelling minds look for the connections, the narrative, the meaning. Only there is no story here other than the one we concoct, just like Sherlock Holmes piecing together the strands of disparate clues into a tapestry of meaning and coherence.

This might seem innocuous until we again consider the implications in courtrooms and legal proceedings across the country, where judges and juries depend on witness testimony to decide the “facts” of cases and the fates of litigants. This is a multi-level problem. First, the witness’ own internal storyteller creates the narrative she will tell in court. As we know, her story may very well suffer from the same confabulation that colors all our stories. When she tells her story, the lawyers will combine it with their own more comprehensive stories based on fault, motivation and cause-and-effect. Such stories are the stock and trade of legal professionals. They are “legal” stories. They come pre-packaged, like the plots of our favorite sitcoms and fairy tales, in containers of blame, responsibility and justice. These combined, patterned stories are then told and re-told among the jurors who must decide what happened, who did what to whom, and why. In this mix and mushrooming of stories, one may emerge – the one that will decide guilt or innocence, fault or exoneration.

But even this story is only the beginning, as the public responds to the official legal story – the verdict – with their own re-tellings, often critical and revisionist in nature. The tale goes on, as it must. But the point remains the same for all those interested in the legitimacy of our legal system. We would do well to attend more closely to legal practice to our inner storyteller, the one that has taken up permanent residence in our minds. It makes us human, wonderfully creative and richly meaningful beings. But our storytelling mind serves one thing above all else – the story, not the truth, not the legal system and, in many cases, perhaps not even justice.

...our storytelling mind will create meaningful patterns in the world even when no such patterns exist. We impose patterns on the world.
This article will highlight significant cases on lawyer discipline decided by the Ohio Supreme Court in recent months. Each of the cases noted below were presented to a panel of the Board of Professional Conduct and then reviewed by the Ohio Supreme Court.

I have focused on discipline cases that involve contested issues under the Rules of Professional Conduct and sanctions. I have not included cases that involve motions, default judgments, resignations or reinstatements after a suspension, since those cases typically do not involve contested issues under the Rules.


Charles Francis Wochna of Bay Village served as a Magistrate in the Cuyahoga County Court of Common Pleas, Juvenile Division. He was charged with ethical violations of both the Code of Judicial Conduct and the Professional Conduct Rules. All the Magistrates were required to work eight hours per day and 40 hours per week; however, the court had a flexible-hours policy.

Wochna was terminated by the court and later made restitution for the amount he was overpaid.

A panel of the Board found that Wochna violated the rules requiring judges to act in ways that promote public confidence in the integrity of the judiciary and prohibit conduct that involves dishonesty, fraud, deceit and misrepresentation. Based on his acceptance of responsibility and the restitution paid, the Board recommended a six-month suspension, entirely stayed. The Court accepted this recommendation and suspended Wochna for six months, all of which was stayed on the condition that he commit no further misconduct.


John Allan Sarver of Rockbridge, Ohio was charged with four counts of ethical violations relating to a sexual relationship he had with a client. The case went through two hearings, each with a panel and Board recommendation of a suspension, but with the entire suspension stayed. In the final decision, the Court found that Sarver committed misconduct, but it would not accept the recommendation that the two-year suspension be entirely stayed. The Court felt that Sarver’s conduct deserved some actual suspension of his license.

In this case, Sarver met J.B. in 2012 when he represented her boyfriend on a legal matter. In 2015, J.B. contacted Sarver for his help in a criminal matter. They met to discuss the case, and then had sex in a parked car. Sarver was charged with rape under this provision was found, the lawyer was actually suspended of two felonies. In 2017, the Relator filed a complaint of an interim basis in 2011 for failure to register and thereafter suspended twice before the current case, once for two years, with the last 18 months stayed on the condition that he comply with his OLAP contract.

The Court essentially took the Board to task by “blaming the victim” for Sarver’s own misconduct. It suspended Sarver for two years, with the last 18 months stayed on the condition that he comply with his OLAP contract, take and pass the Multistate Professional Responsibility exam, and then withdraw from the race for public confidence in the integrity of the judiciary and their clients’ vulnerable circumstances for sex from a vulnerable client, saying:

"These cases all involved attorneys who took advantage of the attorney-client relationship and their clients’ vulnerable circumstances for their own sexual gratification. And in each case, we determined that an actual suspension was the appropriate sanction for their misconduct."
Sciortino’s conviction in 2016, plus additional charges relating to a later indictment. Sciortino and other county officials had been the subject of an Ohio Ethics Commission complaint relating to the proposed purchase by the county of Oakhill Renaissance Center, a former hotel owned by the Ohio Valley Mall Company through a bankruptcy court sale. The Cafaro Company, a local developer, was the owner of Ohio Valley Mall. Cafaro was opposed to the sale of Oakhill because it would lose its current tenant. Sciortino was later indicted on charges relating to his opposition to the Oakhill purchase, and he pled guilty to a fourth-degree felony and two first-degree misdemeanors. He was sentenced to one year of community control and his law license was placed on inactive status. Sciortino was later indicted on other charges relating to his time as County Auditor, including misuse of a government computer and theft in office. He agreed to plead guilty to a fifth-degree felony and a first-degree misdemeanor. He was sentenced to two years of community control and other restrictions.

The Board found that Sciortino’s convictions for having an unlawful interest in a public contract, soliciting or receiving improper compensation and unlawful use of a government computer constituted ethical violations. It recommended an indefinite suspension and other conditions for his reinstatement, but also recommended that he be given credit for the time served under his OLAP contract, certification from professionals that he is capable of returning to the competent, ethical and professional practice of law and restitution of specific amounts to clients.


Mark Alan Deters of Toledo was charged with multiple violations based on criminal convictions for driving while under the influence and violating a civil protective order. In 2017, the Court issued an interim suspension order pending the outcome of the ethics case. Deters was also charged with violations relating to his failure to appear in court on behalf of clients, failing to keep his clients informed of developments in their cases and failing to refund the unearned portion of fees upon termination of the relationship. Relator added additional charges based on Deters’s neglect of two appellate cases for clients and his failure to perform contracted legal work for ten additional clients from whom he received $20,000 in fees. The Board recommended that Deters be suspended indefinitely and the Court accepted the recommendation. It found that Deters engaged in a pattern of misconduct that resulted in numerous violations of the professional conduct rules. The Court said his failure to perform contracted legal work “caused significant delay in the disposition of his clients’ legal matters, triggered issuance of arrest warrants for at least two of his clients, and led to the dismissal of another client’s criminal appeal for lack of prosecution. Deters’s failure to refund unearned fees also deprived multiple clients of their funds for a substantial period of time.” The Court suspended Deters indefinitely and conditioned his reinstatement on compliance with his OLAP contract, certification from professionals that he is capable of returning to the competent, ethical and professional practice of law and restitution of specific amounts to clients.


Robert James Leon, of Westerville, was charged with multiple violations, including failing to deposit a retainer in his trust account, failing to perform contracted legal work for the husband and wife who retained him and engaging in a sexual relationship with the wife while representing the couple. Based on stipulations of both fact and misconduct, the panel and the Board accepted the parties’ joint recommendation of a six-month suspension, all stayed. The Court accepted the finding of misconduct but refused to accept the recommended sanction. The Court reviewed Leon’s conduct. While accepting a retainer from his clients, he failed to file the Chapter 7 bankruptcy that he was retained to file. As a result, the clients lost their home to foreclosure and one of their cars was repossessed. He had a six-month affair with the wife, and when confronted by the husband, he terminated the affair and withdrew from representation. However, it took about 18 months for Leon to refund the retainer to the clients. The Court found that Leon acted with a selfish motive, committed multiple violations, harmed financially vulnerable clients by not providing them with the protection of a bankruptcy and not promptly refunding their retainer and by having an affair with the wife during his representation. The Court held that Leon would be suspended for a year, with six months stayed on the condition that he commit no further misconduct.


Thomas Daniel Pigott of Toledo was charged with multiple violations including failure to enter into written contingent fee agreements, failure to obtain client approval to a settlement statement when he withdrew fees, failure to promptly disburse fees to clients and misappropriating fees for personal use. The parties entered into stipulations of fact and misconduct, and they agreed on a recommended sanction of a six-month suspension. The Court reviewed the facts in detail. It found that Pigott was unable to work for about six months in 2012. At that time, he represented two clients in contingent fee cases. One of the cases resulted in a settlement with payments over time made to Pigott. The other resulted in a judgment for which Pigott received payments pursuant to a garnishment. Because of his distressed financial condition, Pigott delayed making distributions to his clients and misappropriated money in excess of his earned fees. Relator started an investigation when the bank that had Pigott’s trust fund reported overdrafts on the account. Pigott repaid all funds owed to the clients, and the two clients provided letters of recommendation in support of Pigott. The Court reviewed aggravating
and mitigating factors, including Pigott's restitution to the clients and his cooperation in the investigation, and accepted the parties' recommendation of a six-month suspension.


Sarah Ann Miller Driftmyer of Toledo was charged with multiple violations, including neglect of a client's criminal case, failure to notify the client that she did not carry malpractice insurance, failure to deposit an unearned fee in a client trust account, failure to retain a copy of an executed fee agreement and failure to cooperate in the disciplinary investigation into the matter. After a hearing, a panel of the Board adopted the parties' stipulations and recommended an agreed sanction of a six-month suspension, all stayed. The Board accepted the panel's recommendation with the additional sanction that Driftmyer submit to a one-year monitored probationary period.

Driftmyer began working at the Lucas County Public Defender's office as a student extern in law school, and then worked there on a full-time basis starting in 2014. She also maintained a private practice. In 2014, she began representing Ronald Doogs on criminal charges that included rape. Following a jury trial, Doogs filed a grievance against Driftmyer and also requested post-conviction relief based on the claim of ineffective assistance of counsel. Driftmyer supported Doogs' petition for relief with an affidavit in which she admitted in detail that she did not adequately prepare for the jury trial in which Doogs was convicted. At hearing, Driftmyer also admitted to not informing Doogs that she did not maintain malpractice insurance, that she did not deposit his retainers in a client trust account and that she failed to respond to Relator's questions about her trust account. The Court concluded that Driftmyer committed the misconduct as charged, including her failure to provide adequate representation for Doogs and failure to maintain a client trust account. The Court reviewed other cases involving neglect of legal matters where the respondent failed to cooperate in the disciplinary investigation. It accepted the Board's recommended sanction of a six-month suspension, fully stayed, with certain conditions. Driftmyer must submit to a substance-abuse and mental health assessment by OAP, establish and use a client trust account, acquire malpractice insurance or put in place a system of documenting notice to clients that she does not have such insurance, complete additional CLE of 12 hours of criminal trial practice and six hours of law office management, engage in no further misconduct and serve one year of monitored probation.


Daniel Harlan Karp of Cleveland was charged with multiple ethics violations based on alleged neglect of a client's immigration matters, failure to keep his client reasonably informed of developments and failure to maintain client funds separate from his own property. The parties entered into stipulations of fact and misconduct and jointly recommended a two-year suspension, fully stayed. After a hearing, a panel found misconduct but rejected the parties' recommended sanction. Instead, it recommended a two-year suspension with 18 months stayed. The Board agreed and recommended the suspension to the Court.

Karp represented Veronika Gadzheva, a Bulgarian ballroom dancer who came to the US in 2015 on an O-1B visa filed by a New Jersey dance studio. Shortly after she arrived, Gadzheva received a job offer from Patricia West, the owner of a California dance studio. Gadzheva retained Karp to obtain a new I-129 visa that would allow her to work for West in California. From September 2015 to April 2016, Karp consistently and falsely represented to Gadzheva and West that he had filed the application for the I-129 visa. He finally filed it in April 2016, but signed West's name without indicating he had authority to do so. Later in April 2016, Karp received a notice from US immigration authorities requesting additional information and informing him that Gadzheva's original visa had been revoked at the request of her first employer, the New Jersey dance studio. In May 2016, Karp sent West the entire Gadzheva file and believed his representation had ended, even though there was no communication to that effect. Gadzheva retained new counsel to obtain her I-129 visa, which was successful, but Karp's neglect put her future in jeopardy because she now has a record of staying in the US without a valid visa.

The Board reviewed aggravating factors (Karp paid some of his personal expenses from his client trust account) and mitigating circumstances (Karp refunded the fees paid by Gadzheva). The Board accepted evidence that Karp suffered from hyperthyroidism and had a major depressive disorder, which contributed to his misconduct. It recommended that Karp be suspended for two years with 18 months stayed. Karp objected to the recommended sanction and claimed the Board did not give sufficient weight to his mitigating evidence. The Court then reviewed the evidence and found that the aggravating factors, coupled with Karp's dishonesty during the disciplinary investigation, meant that some actual suspension was warranted. The Court suspended Karp for two years, with 18 months stayed, conditioned on Karp entering into a contract with OAP, providing quarterly reports from OAP and treating professionals that he is in compliance with all treatment recommendations and that he engage in no further misconduct.


Judge Angela Salerno was elected to the Franklin County Municipal Court in 2005, and continues to serve on that Court. Judge Salerno was publicly reprimanded by the Supreme Court in 2015 when she criticized jurors in a case pending before her for returning a not-guilty verdict. In this case, she was charged with violations of the Code of Judicial Conduct for her actions in two criminal cases. The parties stipulated to facts and Salerno agreed that she failed to act in a manner that upholds public confidence in the independence and impartiality of the judiciary, failed to apply the law in a fair and impartial manner and engaged in ex parte communications. In the Mendoza case, involving felony drug possession, Judge Salerno gave one of the defendants a $75,000 bond, while the other defendant, Mendoza, received a $350,000 bond. Mendoza's attorney had text communication with Judge Salerno's bailiff, who forwarded the texts to the Judge. Without informing the prosecutor of the ex parte communication, the Judge lowered the bond for Mendoza to $85,000. The second case was a traffic case in which the defendant, Mai Toe, represented herself on charges of making an improper turn. The prosecutor discovered an outstanding warrant for Ms. Toe, based on her failure to appear in an earlier traffic case involving a charge of driving too slowly. Judge Salerno first found Ms. Toe guilty on the improper turn case, but imposed no fines or penalties, and asked the prosecutor to dismiss the earlier charge of slow driving. The prosecutor resisted the Judge's suggestion, and the Judge then reversed her earlier decision of guilt on the improper turn case and found Ms. Toe not guilty. The slow driving case was continued to another date, but the prosecutor dismissed the case when the police officer failed to appear to testify. Judge Salerno testified that she tried to resolve both of Ms. Toe's traffic cases by finding her guilty on one and asking the prosecutor to dismiss the other. When that did not happen, the Judge became frustrated and reversed her decision on the improper turn case and found Ms. Toe not guilty.

The panel considered the evidence of aggravating factors (Judge Salerno's prior discipline case and the multiple offenses in this case) and mitigating factors (Judge Salerno's full disclosure to the Board, cooperative attitude and character witnesses). It recommended a one-year suspension, fully stayed and the Board agreed. The Court accepted the recommended sanction and suspended Judge Salerno's law license for one year, fully stayed, required her to complete within the suspension period an additional six hours of CLE on judicial ethics, specifically related to judicial demeanor and civility, and to engage in no further misconduct.
In a world of remote work, telecommuting, outsourcing and automation, one of the few professions that has remained relatively less affected by these latest trends is the legal career. Locational flexibility remains a challenge in the legal industry, and understandably so, given the heavily-regulated and highly client- and jurisdiction-specific work that attorneys perform.

I was confronted with the challenge of transplanting my legal career from India to the U.S. a few years ago; having navigated the transition with modest success, I outline in this article the process and challenges facing foreign lawyers in the U.S. and the opportunities that the Columbus area specifically offers foreign lawyers in successfully making this transition.

Any aspiring attorney’s journey in the U.S. begins with obtaining the necessary visa to emigrate to the U.S. legally, and the options to accomplish this step are many, depending on one’s personal circumstances.

The most commonly-used visa for such purpose is the student visa (F-1). In my case specifically, it began with coming to the U.S. on a dependent visa (H-4) after getting married to my husband, who was already in the U.S. on a work permit visa (H1-B).

In order to qualify to take the bar exam of any state, one needs to get their educational credentials certified by the appropriate credential evaluation services designated for such purpose of the state bar examiner, e.g., the Supreme Court of Ohio. The purpose of this step is for the bar examiner to confirm that the candidate’s foreign education is equivalent to obtaining a J.D. from a U.S. university. This step helps the examiner to ensure that foreign-educated attorneys are held to the same standards as U.S.-trained attorneys. The bar examiner normally requires most foreign lawyers to undertake further education in the U.S. before permitting them to take the bar exam. The level of additional education demanded varies widely by state. To qualify to take the bar in New York, I had to enroll in a master’s degree in law in order to gather additional educational credits. This is where being in Columbus was a blessing.

One of the biggest professional hurdles faced by foreign lawyers is their lack of U.S.-based experience. While one does get credit for their international work, U.S.-based employers understandably wish to see domestic experience on a résumé. Once again, being in the Columbus area helped immensely, given the wide range of employers across various industries in the area and the diverse variety of law firms that have emerged to serve these clients. Columbus strikes the right balance in terms of a wide range of employers as well as a strong pool of candidates from the local universities.

Additionally, there are several legal organizations that offer both professionals and students opportunities for professional development and networking. I actively pursued these opportunities offered by the Moritz School of Law, the Columbus Bar Association, the Asian Pacific-American Bar Association of Central Ohio and others to develop my skills and contacts in the community. Along the way, I found several mentors and friends, who have been there to guide me through every step of my professional journey in Columbus.

The most important prerequisite to launch one’s legal career is, of course, to pass the bar exam. Once I completed my educational requisites and was finally ready to prepare for the exam, the network of relationships and connections with my alma mater offered me plenty
of resources and support to prepare for the bar exam. The J.D. program’s staff at Moritz is particularly supportive in offering students the resources to prepare for the bar exam. Foreign attorneys must keep in mind that they may be able to pursue employment opportunities in law even before passing the bar; however, there are limitations on the nature of responsibilities they can handle for their clients.

Upon passing the bar and acquiring local experience, a foreign attorney’s career path finds a firmer footing. In fact, at this point in their career, foreign attorneys could advertise what was formerly their disadvantage— their foreign experience—as a unique differentiator to employers.

The career path for foreign attorneys is grueling and there are substantial but reasonable barriers to entry. But the American Dream is achievable with some good fortune and willingness to put in the work and navigate the system to establish your career in the U.S. and in Columbus in particular. I now serve as the chair of the International Law Committee of the CBA and the president-elect of the Asian Pacific-American Bar Association of Central Ohio, which makes this journey come full circle for me. This shows how these organizations have embraced me and have given me a chance to reciprocate the opportunities they offered me. I personally believe it is incumbent upon us to give back to the community that we call our new home.

My journey has been nothing short of a rollercoaster ride, but it has been the experience of a lifetime and no matter where I am at the turn of the next decade, I will always look back at those moments with immense fondness and gratitude.

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Alternative Work Arrangements
Work for Law Firms, Too

BY LAUREN RUBIN

As the trend of sharing economies continues to grow, many industry players outside of Uber, Lyft and Airbnb are considering how they can incorporate these concepts. Law firms should be among them. “Attorney sharing” practices, more commonly known in the legal world as alternative work arrangements, have long existed.

But traditional law firms have been reticent to fully embrace these models and, in turn, are missing out on the tremendous value alternative work arrangements can provide. Law firms willing to depart from traditional law firm structures have the potential to gain extensive advantages, from attracting top talent and reducing attorney turnover to increasing productivity and improving profitability. Law firms should consider adopting alternative work arrangements as a competitive business strategy necessary to stay current.

The wide ranging benefits for law firms of alternative work arrangements.

Of the many industries that have incorporated sharing economies, law firms are uniquely situated to take advantage of the benefits these arrangements provide. With the ever-expanding reach of technology, there is virtually no need for an attorney to be in the office to complete most of their day-to-day work. Utilizing remote access software and document management systems, law firms can allow their attorneys to work on their own schedules from anywhere. Overall corporate culture can and will improve. In return for providing this flexibility, law firms are likely to attract top talent, enjoy lower turnover, find their attorneys to be more efficient and productive and receive fewer requests for sick days and vacation days.

Law firms concerned that alternative work arrangements will negatively impact their bottom line need not worry. Profitability actually can be increased. For example, attorneys can be called on to work only when needed and paid only for the hours they work—making the attorney’s work almost pure profit. Some attorneys may not expect benefits if they seek a reduction of hours. These attorneys likely can share—or may not even need—administrative assistants. Furthermore, attorneys that work remotely may not need, or can share, an office—allowing the firm to relocate to a smaller, less expensive office space. Law firms also will stand out to clients who have placed a premium on law firms that embrace inclusivity and diversity. In effect, alternative work arrangements can greatly reduce overhead and result in significant cost savings to the firm while increasing attorney happiness and productivity and even attracting more clients—a win-win for everyone involved.

Issues to consider prior to implementing alternative work arrangements.

Prior to implementing alternative work arrangements, law firms should consider long-term issues that can arise from alternative work arrangements, such as:

- Does the firm have attorneys capable of participating in an alternative work arrangement effectively?
- Will the lawyer be engaged as an employee or independent contractor?
- If the lawyer is engaged as an independent contractor, may they undertake work for other firms? Is an anti-solicitation clause needed?
- How will the attorney be compensated? Will the package include bonuses and benefits?

Overall corporate culture can and will improve where there is an understanding from the top down that flexibility, inclusiveness and lower stress levels are valued.
Alternative work arrangement models that work.
The best alternative work arrangements will be open-ended, implemented on a case-by-case basis and will allow the firm and the attorney to modify the arrangement on an as-needed basis. Beginning with some basic guidelines will help set the stage for long-term success.

A reduced-hours arrangement is the most common and easiest to implement. As all lawyers know, work can ebb and flow and a reduced monthly or annual billable expectation is best suited to account for this variation. A fixed starting and ending time or a set number of reduced days per week can be implemented as well, but can be more difficult in practice. Another option is to employ the attorney on a project-by-project basis. However, the firm might need to allow the attorney to take projects from other firms, thereby running the risk that the attorney is not available at a later date when needed.

Alternative work arrangements also include remote work. To implement a remote working arrangement successfully, the firm and the attorney must be technically savvy. While most firms already have remote access software, such as Citrix, in place, having such software is a key ingredient. Security is also a critical consideration and the firm should, among other things, consider providing the attorney with firm-issued hardware that the firm can remote access to wipe in the event that the hardware is lost or stolen.

Compensation on an hourly basis is recommended. Hourly compensation can also increase the firm’s overall profitability and reduce “face-time” expectations. If paying an attorney on an hourly basis is administratively difficult, a salaried arrangement can be implemented, but the firm and attorney should agree in advance to the number of billable hours expected and a procedure to handle instances where billable hours expectations are not met or are exceeded.

How to implement an alternative working arrangement.
Once a firm has decided to allow for alternative working arrangements, the firm should communicate the availability of these programs and encourage attorneys to take advantage of them. Firm leaders should take active steps to create a firm culture of flexibility and inclusiveness—others will soon follow suit.

Firms should carefully consider which attorneys are permitted to work an alternative schedule, as they are not appropriate for all positions or lawyers. Firms should look for attorneys who have demonstrated their independence, self-motivation and successful time management.

Clear expectations should be set by both parties and agreed to in writing. Considerations to be addressed are:
- What are the hours and days expectations?
- How will it be handled if the hours and days expectations are not met or are exceeded?
- Should a “core hours” expectation be implemented, requiring physical presence in the office during peak periods, such as in anticipation of closings and preparing for trials?
- Is the attorney expected to be available outside of the agreed-to hours?
- How will successful performance of the lawyer be measured?
- What is the career advancement expectation for the attorney taking advantage of an alternative work arrangement? Is the attorney open to being a permanent associate or of counsel to the firm?

An alternative working arrangement policy may be necessary.
The practice of law is changing. Those firms that embrace change, including alternative work arrangements, will thrive. Those that refuse to adapt and continue to employ a hard and fixed traditional culture may miss out on the competitive advantages that the sharing economy and alternative work arrangements provide.

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Mediation has become a very important means of alternative dispute resolution. Over the past several years, it has become the primary method of settling cases with both plaintiffs and defendants. Mediation has become a part of the litigation process in virtually all civil cases.

Mediators are highly skilled and specifically trained in communicating, listening and persuading parties, counsel and insurance representatives to compromise positions in order to achieve a global settlement. Proper preparation for the mediation is crucial to its success. The following includes practical tips for plaintiffs and defendants preparing for mediation.

From the Plaintiff’s Perspective

- **Timing of mediation.** The timing for the mediation is critical. It is best to mediate two to three months before the trial date. That is when you have the most leverage.
- **Obtain initial discovery.** Obtain paper discovery and the depositions of the parties prior to scheduling the mediation in order to permit all parties to be best prepared for the mediation.
- **Keep your trial date.** You have a better chance of achieving a settlement at the mediation if a trial date is looming.
- **Control your expenses.** Keep your expenses as low as possible prior to the mediation. Schedule the video trial depositions of your treating physicians to take place one or two weeks after the mediation date. If the case settles at the mediation you will have time to cancel these depositions without incurring any cancellation fees.
- **Medicare / Medicaid liens.** Request the Conditional Payment Letter from Medicare and an Interim Lien that can be Final from Medicaid in a timely fashion so they are available at the mediation.
- **Mediation Position Statement.** Prepare a great mediation position statement. Focus on both economic and non-economic damages. Provide medical illustrations and photographs depicting injuries and damages. Consider using video evidence to demonstrate restrictions and limitations.
- **Permanent Injury.** If your client has a permanent injury, be sure to include a medical report with your mediation position statement. The medical report should address causation, permanency and future medical care and treatment. This will give you the ability to argue future pain, restrictions and limitations.

Practical Tips for a Successful Mediation

- **Future lost earnings.** If your client has a permanent injury that will prevent them from working, hire an economist to prepare a report about future lost wages. Include the report with your mediation position statement.
- **Properly calculate your Robinson number.** Make sure it includes liens, outstanding bills, out-of-pocket expenses and bills paid by your client. Add to your past Robinson number of future medical care and treatment and future lost income, if applicable.
- **Be realistic.** Make a realistic demand. Remember caps on non-economic damages are $250,000, up to a maximum of $350,000. Evaluate your case fairly, reasonably and rationally.
- **Work with the mediator during negotiations.** Do not take unrealistic positions. Realize that the mediator is working to help you achieve a better result than you would most likely receive from a jury at trial. Be honest with the mediator regarding your financial goals. Trust the mediator’s instincts.
- **Prepare your client for the mediation.** Explain about current and past jury verdicts and arrive at a range of value with your client. Inform your client...
about the cost of trying the case. Keep your client’s expectations low. If the mediation produces a better result than your range of value, your client will be more likely to accept it and feel satisfied.

- **Subrogation.** Communicate with counsel for the subrogated carriers prior to the mediation. Ask counsel for the subrogated carriers to attend the mediation or at least be available by phone. Tell counsel for the subrogated carriers about your liability or causation concerns. If there is a defense medical exam report, send it to counsel for the subrogated carrier prior to the mediation and tell counsel that you will need a significant reduction in the lien in order to settle the case.

- **Make use of the pro rata subrogation statute.** Send it to counsel for the subrogated carrier in advance of the mediation. Argue it. It is powerful.

- **Communicate effectively.** Communicate with counsel for the subrogated carriers during the mediation. Once you have the final settlement offer, call counsel for the subrogated carriers from the mediation. Once you have the final settlement offer, tell counsel for the subrogated carriers about your evaluation. Make sure all parties have the same economic damages so you can properly evaluate the case and there will be no surprises at the mediation.

- **Carefully consider all non-economic damages in your evaluation.** The Robinson v. Bates medical bills are only one factor in evaluating the case. In many cases, the non-economic damages are the primary value drivers.

- **Come to the mediation with a range of value as opposed to an inflexible number.** Evaluating a case is not an exact science. It is necessary to place a range of value for settlement purposes on cases due to the variables each case presents.

- **Be sure to include all expert reports with your mediation position statement regarding liability and damages.** Powerful expert reports will cause plaintiffs to re-evaluate their settlement positions.

By following these practical tips, the vast majority of cases in litigation should settle at mediation. Remember, mediation is about compromise on both sides. This means that plaintiffs accept less money than they want, and defendants pay more money than they want. Generally, it is in the best interests of both parties to avoid the risks and costs associated with a jury trial.

### From the Defendant’s Perspective

Certainly, the practical tips stated above apply to the defense, as well. In addition, defense counsel should consider the following:

- **Have your decision maker present in person at the mediation.** The chances of achieving a settlement are significantly increased if the adjuster or decision maker is present at the mediation as opposed to being available by telephone.

- **Communicate with opposing counsel prior to the mediation.** Communicate with opposing counsel prior to the mediation regarding all economic damages, subrogation liens, outstanding bills, other debts and payments made by the plaintiff. Make sure all parties have the same economic damages so you can properly evaluate the case and there will be no surprises at the mediation.

- **Settlement agreement.** Ask for a written agreement setting forth all of the terms of the settlement from the mediator upon conclusion of the mediation.

- **Timing of settlement check.** Make sure the written agreement addresses court costs and when you can expect to receive the settlement check.

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### Paralegal Pointers

The Paralegal Profession: Past, Present and Future

**By Garth W. Rowbotham**

**Paralegal Pointers**

**The Paralegal Profession: Past, Present and Future**

Compared to the historical time frame of the Columbus Bar Association, or the legal profession as a whole, the concept of what a paralegal is today has existed for a much shorter period of time. In the 1960s, the federal government created the Legal Services Corporation, to fund low cost legal services and clinics to the indigent.

Consequently, attorneys and bar associations endeavored to lower the cost of legal services by increasing efficiency through the use of automation, work flow management and what they called at that time “legal assistants”.

The American Bar Association recognized the concept of legal assistants in 1968 and established a committee on legal assistants, later naming it the Standing Committee on Legal Assistants. Due to ever-increasing specialization, education and complexity of the non-attorney position, the ABA adopted the term “paralegal” in place of “legal assistant” in 2003.

In central Ohio, paralegal education had its beginnings in 1972, when Hon. John W. McCormac (pictured above, presenting an award to paralegal Kathy McGranahan in 2009) wanted to enable legal assistants to perform substantive legal work under attorney supervision. He brought Capital University Law School and the Columbus Bar Association together to form the first paralegal education program and bar association collaborative venture in the U.S. The concept of paralegal utilization would be instrumental in allowing attorneys to concentrate more on tasks that only an attorney can perform, thereby achieving cost reduction and increasing productivity.

Though we are saddened by Hon. John W. McCormac’s recent passing, this former 10th District appellate judge and WWII Navy veteran has left
In central Ohio, paralegal education had its beginnings in 1972, when Hon. John W. McCormac wanted to enable legal assistants to perform substantive legal work under attorney supervision. He brought Capital University Law School and the Columbus Bar Association together to form the first paralegal education program and bar association collaborative venture in the U.S.

Soon after, in 1973, six paralegals got together to form the Legal Assistants of Central Ohio, which was later renamed the Paralegal Association of Central Ohio, growing to 272 voting members in 2008. In 1979, a business relationship between LACO and the CBA was established, forming the Paralegal Association of Central Ohio (PACO). PACO also became a voting member of the National Federation of Paralegal Associations (NFPA), in 1979, which later gave paralegals an opportunity to obtain certification through NFPA’s certification exams.

Today, PACO maintains national visibility, in that PACO’s former President Mindi Schaefer holds the NFPA Board position of director of profession development. Additionally, PACO’s current president, Teresa Scharf, along with the Legal Aid Society of Columbus, formed the nationally recognized PACO/LASC pro bono wills clinic for low-income seniors which utilizes local paralegals and attorneys. This program has also been the blueprint for the Legal Aid Society of Columbus, which partnered with the law firm of Jones Day to create a pro bono wills clinic for low-income seniors which utilizes local paralegals and attorneys. This program has also been the blueprint for the Legal Aid Society of Columbus, which partnered with the law firm of Jones Day to create a pro bono wills clinic for low-income seniors which utilizes local paralegals and attorneys.

The licensure of paralegals has been a controversial subject for several years; however, in 2015, the State of Washington began allowing non-lawyers that are Limited Licensed Legal Technicians, or LLLTs, to provide clients with legal advice on completing forms in limited areas, such as family law. The Washington State Bar Association is even promoting the LLLT concept on their website. Obtaining an LLLT in Washington requires individuals to obtain at least 3,000 hours of work experience under an attorney, as well as complete a specified curriculum at an ABA-approved college and secure financial responsibility for liability.

There are other states, such as California, Oregon, Colorado, and New Mexico, that may follow suit. It appears that the major reason for these states considering LLLTs is to allow access to justice for low income individuals filing civil cases. The Ohio State Bar Association has not been eager to license paralegals, but offers their own voluntary credentialling of paralegals in the State of Ohio, designated by the term “OSBA Certified Paralegal.” Many paralegals in Ohio have obtained this designation, and are also OSBA members.

What does the future hold for the paralegal profession concerning employment? On the positive side, national paralegal employment is projected to grow 15 percent from 2016–2026 (from 285,600 to 327,400), which is a much higher increase than the average for all occupations. The national median paralegal salary is $50,410 per year.1

Individuals and academicians must be aware, however, of the inevitable technological disruption that is occurring in the legal field and virtually every occupation.

“Robotics and AI, according to many studies, are going to wipe out half of the jobs in America in 15 years,” says Ric Edelman, chairman of Edelman Financial Services, at the Digital Asset Strategies Summit in Dallas.2

According to MIT’s Technology Review, “lawyer-bots” are moving into the legal field. The publication estimates that “22 percent of a lawyer’s job and 35 percent of a law clerk’s job can be automated.”3 They also noted that JP Morgan is using software, called Contract Intelligence, that can perform document review tasks in seconds; comparatively, it would take legal aids 360,000 hours to review those same documents. It is also noted in this publication that Harvard’s CaseLaw Access Project wants to “digitize the entire historical record of U.S. court opinions; and make that data available for legal algorithms to read and train on.”

Despite the disruption by artificial intelligence to the legal establishment, paralegals, students and their learning institutions should be proactive by adapting and working alongside this technology as we did with Lexis Nexis, Summation, PracticePanther and other law practice software. After all, do legal professionals really miss the whiteout and typewriter?4

6 For example, see the Judge John W. McCormac Award for Paralegals, https://www.pacoparalegals.org/johnwmccormac.htm.
7 See “OSBA Certified Paralegal.” Many paralegals in Ohio have obtained this designation, and are also OSBA members.
8 “Robotics and AI, according to many studies, are going to wipe out half of the jobs in America in 15 years,” says Ric Edelman, chairman of Edelman Financial Services, at the Digital Asset Strategies Summit in Dallas.9
What’s Next @ the Bar?

For a complete list of events, CLE programs and meetings, visit www.cbalaw.org.

SPRING 2019

Free Webinar for CBA Members: Microsoft Office 365 for Lawyers • 2-3pm

More free webinars: April 18 (2-3pm), May 2 (2-3pm), May 16 (2-3pm), May 30 (2-3pm)

Master Class in Law and History: McKinley • 9:00am-12:15pm
Known as the first “modern” president, William McKinley was assassinated 6 months into his second term. This program, part of a continuing series featuring Ohio Presidents of note, is instructed by scholars steeped in historic knowledge who will explain why this presidency has lasting relevance today. We’ll have artifacts from the time period on display. 3.0 CLE Hours.

Committees & Cocktails (150th Anniversary Edition) • 5-7pm @ the CBA
As usual, this monthly event is free and we will provide beer, wine, soft drinks and snacks. Plus, in celebration of our 150th anniversary, we’ll have some games, surprises and prizes—and a little bit of fun info about the history of the CBA. RSVP to donna@cbalaw.org.

More Committees & Cocktails: May 15 (5-7pm), June 19 (5-7pm).

Bankruptcy Law Institute • 9.5 CLE Hours (1.0 Prof. Conduct)
Sponsored by Allodial Title, Kegler Brown Hill + Ritter, and Isaac Wiles
Great Scott! Join us for the 2019 “Back to the Future” themed Bankruptcy Law Institute! Where else can you hear 3 federal judges help us think fourth dimensionally about the past, present, and future of bankruptcy law? You won’t need a time traveling DeLorean to get up to speed on taxes, technology, and the missing element in Chapter 13 plans.

Probate Law Institute • 6.5 CLE Hours (1.5 Prof. Conduct)
Sponsored by CBS Agency, Inc., Everything But the House, and Reminger
Taught by leaders in the field, topics include a Legislative Update, Transactions in Probate, Medical Necessaries Claims Against a Surviving Spouse, Ethics of Cross-Border Lawyering, Elderly Abuse Reporting Requirements, and a Diminished Capacity Case-Study.

Leadership & Professional Effectiveness: Achieving Excellence
Learn how to improve professional effectiveness in client relationships and work management skills. This program is a powerful, engaging, action-provoking workshop that will improve your professional and personal well-being. 2.5 CLE Hours.

2019 CBA/CBF Annual Meeting and Luncheon
You are cordially invited to attend the 2019 Columbus Bar Annual Meeting on Thursday, June 13 at noon at the Sheraton Columbus Hotel at Capitol Square. Magistrate Amy Koorn will be sworn in as CBA President for 2019-20, and Michael K. Gire will be sworn in as CBF President for 2019-20. The Annual Meeting will include a video history of the Columbus Bar in honor of our 150th anniversary.
I ask you, why, without my permission or knowledge, should someone get to access any part of my private life, e.g. the contents of my refrigerator at a given moment, in order to better advertise to me what I should, no, must buy? Or worse, those to whom the information about my refrigerator’s contents is known might try to condition me to purchase something else I might not even really need, like a constantly-flowing stream of dark chocolate candy.

Twenty years ago, if I went to the library, no one could get the record of what books I had taken to read, unless, of course, I had forgotten to return them on time and then I would hear from the library. Even purchasing a book or a dress using a credit card was relatively private, unless the card records were subpoenaed.

In the kitchen, our refrigerator could be programed to tell me what food in it needs to be replaced. But, I am resisting this. What if I don’t want more milk, the refrigerator decides I should buy it, orders it and it shows up at my house? Who pays? Certainly not the refrigerator.

We forget that the legal right to privacy, and even the concept of privacy itself, was created relatively recently. Probably just about the time the Columbus Bar Association was coming into being approximately 150 years ago, the idea of privacy and the law to back it up was beginning to take shape.

This move to private time and private space was a radical change from the way in which people had existed for centuries. In most cases, families lived in one room or houses without indoor walls, sometimes with their farm animals and often everyone slept in the same bed, including house guests.

Even royalty performed what we think of as totally private, personal activities in front of people. For example, Marie Antoinette reported to her mother, the Empress Maria Theresia, soon after her arrival at Versailles in 1770, that she put on her rouge and washed her hands before an audience of courtiers when her chamber was opened at midday. She gave birth to her first child in 1778 before the extended royal family plus those who enjoyed particular honors at court, as well as her medical team and the King. Her every menstrual period was widely reported, because it meant that she was not producing an heir to the throne that month. Finally, at the end, she lost her head in front of a crowd of jeering commoners. Not much private in her life from birth to death. And, her lack of privacy throughout her life was not unique.

Certainly, the idea that life should be protected and home is a sacred place, a castle, so to speak, that is protected and private, can be traced back to English Common Law. In the late 18th century United States, some privacy provisions were written into the United States Constitution. The First, Third, Fourth and Fifth Amendments to the Constitution can be seen as protecting freedom of conscious, privacy in the home by blocking forced acceptance of soldiers as guests, protection of papers, homes and person from unwarranted searches and protection of accused individuals who gained a right to not be forced to give incriminating testimony.

We can credit the increased interest in a right to privacy in part due to the rise of the middle class in the 19th century, as well as to a variety of improvements in life brought on by the increased interest in a right to privacy.

The real question may be: do we still have “privacy” in 2019?

I ask because our new, smart washing machine could be connected to our WiFi. I could click an app to start a wash when I am not home. But, with that click, this same machine could also give away family secrets about the type of underwear being washed. Who knows what other secrets that device could pick up and sell to an ever-increasing market!

Even ever-increasing market!

PRIVACY:
How Has the Concept Changed During the Last 150 Years?

BY JANYCE C. KATZ
Perhaps the most influential force in the creation of a legal right of privacy in the U.S. was Samuel Warren and Louis Brandeis’ 1890 Harvard Law Review, which began by recognizing a fundamental principle that “the individual shall have full protection in person and in property.” Warren and Brandeis drew on threads of past jurisprudence, constructing a legal concept of personality out of property doctrine, tort law, copyright law, and damage principles. Warren and Brandeis suggested that privacy evolved over time, reflected the social environment in which people lived and was culturally based. They drew a line between information shared between close friends/family and that available for general public knowledge. They thought that in the increasingly complex world in which they lived, both solitude and privacy were essential to the well-being of the individual and of the culture.

Possibly a reason why interest in privacy expanded during the mid-to-late 19th century was a desire to protect the house and family from prying eyes and the wife of said respectable family from unwanted publicity, especially in the creative yellow journalism newspapers. In some cases, privacy was to prevent public knowledge of the then-legal right of a husband to beat his wife. But, even with this development in some realms of society, in poorer households, privacy was still limited—if it existed at all, with families continuing to be cramped into small spaces.ii

The Court continued to broaden the privacy right. It held the right to privacy was sufficiently broad enough to encompass a woman’s decision to carry or terminate a pregnancy. A “zone of privacy” can be protected and respected in instances when data is collected and used for public purposes if there is “a concomitant statutory or regulatory duty to avoid unwarranted disclosures” evidencing a proper concern with, and protection of, the individual’s interest in privacy.iii

By the 1990s, privacy seemed to be rooted in an individual’s search for a means to protect their information and thereby have more control over what happens in their life, more space to “exercise autonomous control over their person” and thereby have more control over what happens in their life, more space to “exercise autonomous control over personality.” The Children’s Online Privacy Protection Act of 1998, the Children’s Internet Protection Act of 2001 and the Health Insurance Portability and Accountability Act of 1996 are examples of laws attempting to protect the privacy of individuals.

The question remains, will we become totally controlled by those who know all our information, or will we be a nation that continues to be a beacon unto the world, a democracy with equal rights and opportunities and justice for all with some protection over our personal information and private identities?

At the same time, Internet and social media use was expanding. We became more connected to the Internet around 2000. The Apple iPhone from 2007 became an indispensable permanent fixture in our lives. At the same time, Google was collecting and digitizing all the books that ever existed. And, my washing machine, refrigerator and telephone were becoming “smart” like my phone, instead of just tools way more advanced than the old ways, like pounding laundry on rocks, sending messages by barefoot mailmen or pigeons or burying food underground to preserve it.

This dream of device as labor reducer is quite catchy. Part of me thinks that if the washing machine would move the dirty stuff into the machine after sorting it and self-load when I push the button, or the refrigerator would join with the stove to cook as well as store food, maybe I would have more of an incentive to hook them to WiFi as it would relieve me of those duties.
It is to cull information useful to others and sell it. It is of helping us reconnect with people for whom we cared social media platforms are not in the “do-good” business cultivate our information and sell it. Facebook and other model of the internet is “surveillance,” with the goal to make our life easier, morphed into a new form of capitalism that could be changing the way our democracy works. Social media entities, like Facebook, have been collecting information and developing a successful business without evidencing a proper concern for or protection of an individual’s interest in privacy. Even as Google and Facebook and others promised us that our information would be private, it was being collected.

Not only is our private information being collected and sold, but some of the entities to which this information has been sold are using it to try to shape our behavior. Zuboff illustrates this concept. One of the examples indicates your smart car is spying on your behavior to help your insurance company determine the price of your insurance and whether you need financial punishment or to have your insurance dropped if you are a terrible driver. This model is not necessarily bad, as it is trying to force a driver to be safe. Same, if a “smart” refrigerator only dictated what food to purchase to increase health.

But the information collected is not really used to benefit us. Zuboff sees the “surplus material” collected from surveillance of us being used to help predict our behavior and to anticipate what we will do now or later. This information is being traded on what she calls “behavioral futures markets.” People are currently making fortunes from anticipating our behavior. To demand respect of our privacy from those creating this new form of capitalism, Zuboff argues, is asking them to destroy the essence of their money-making venture.

The headline of John Naughton’s Observer/Guardian article reviewing Zuboff’s book clearly states what he understands the purpose of our new technology is from his reading of Zuboff’s book and his discussion of it with her: “The goal is to automate us: welcome to the age of surveillance capitalism.” He writes that the changes in our “technological environment” occurring now are going to be as as radical as those sparked by the invention of printing in the late 15th Century. The latter undermined the authority of the Catholic Church, enabled the rise of modern science and thought, changed our conception of childhood and perhaps also changed our brains. Naughton repeats Zuboff’s arguments that this new technology hands some individuals information and knowledge that we don’t have, allowing them to control us far more than we currently understand.

But where U.S. courts and Congress have developed at least some degree of oversight of state surveillance, the US currently has almost no regulatory oversight of its privatized counterpart. At this time, our current leaders are swiftly deregulating what they can. Therefore, expecting them to propose to control this technology before it totally gets out of hand seems improbable.

Our legal system may need to change to face new challenges. Already, we have case law to help us with the hacking of our personal information from banks and from companies storing our credit card information. Will this be sufficient to protect us? Will we lose what little privacy rights we have gained during the last century?
kind of advertisement will make us vote for or against someone, or something worse?

So, as the Columbus Bar Association moves forward into its future, we do not know where our technology and our democratic systems will be in the future. The question remains, will we become totally controlled by those who know all our information, or will we be a nation that will become a beacon unto the world, a democracy with equal rights and opportunities and justice for all with some protection over our personal information and private identities?

As for me, as much as I would like a wand to wave and “poof” the house to be clean, dinner to be cooked and all chores to be completed, I think that I will just manually load the washing machine and the refrigerator. But, what to do about that tell-tale smart phone? That, I don’t know.


2 One glaring exception to the deregulation being advocated comes in the area of women’s reproductive health, which, at least on the state level is increasing the regulation to put the rights of the fetuses/person over the rights of the woman carrying the fetus/person,


5 For example, while there was a law forbidding the opening of mail passed in 1782, Congress in 1825 passed a stronger law that is still in place, 42 USC 1702, prohibiting the opening of mail. See also 1890 https://www.nytimes.com/2017/09/24/us/lake-乔治-华盛顿-mail.html

6 For example, Union Pacific Railway Co. v. Bisbee, 141 US 292 (1891) (can’t force a woman in a civil action to have a surgical examination in advance of a trial. In this instance, the trial involved a sleeping car berth falling on the woman’s head)


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Employment in an Ever-Changing America

BY LAUREN LARRICK

Just as American culture constantly evolves, so does its workplace. Over the past seventy years, the demographics of the workforce and the issues employers and employees face have changed unrecognizably. While there are innumerable contributing factors to explain today’s economic landscape and workplace demographics, several stand out:

Employee Protection and Employer Regulation

The American workplace of 1950 would seem entirely foreign to today’s employees. The typical employee was a white male with a high school degree. Women made up only one-third of the workforce, and minorities only 10 percent. (By contrast, today, almost 47 percent of American workers are women and 22 percent are minorities.) There was very little regulation by the government over private employers. In 1950, the only high-impact employment law in place was the Fair Labor Standards Act, enacted in 1938 to create a right to minimum wage and prohibit most employment of minors.

Since then, several significant laws have been enacted to regulate the workplace:

- **Title 7 of the Civil Rights Act of 1964:** prohibits discrimination against employees on the basis of sex, race, color, national origin and religion;
- **Age Discrimination and Employment Act of 1967:** protects individuals 40 years of age or older from employment discrimination based on age;
- **Occupational Safety & Health Act of 1970:** ensures safe working conditions;
- **Americans With Disabilities Act of 1990:** along with its amendments in 2008 (referred to as the ADAAA), this legislation prohibits discrimination against individuals with disabilities in all areas of public life including employment; and
- **Family Medical Leave Act of 1993:** provides eligible employees job-protected unpaid leave for family and medical reasons.

With each law, employees received more protection while employers’ potential for liability increased. Needless to say, there has been a large uptick in employment litigation since the 1950s.

The Great Recession Shakes Up Workplace Demographics

The Great Recession, which was closely linked to the dramatic decline in housing prices that began in late 2006, also impacted the workplace as we see it today. During that time, the U.S. employment rate dropped from 63 percent in 2007 to 54.4 percent in 2011.1 The economy reacted in two ways to this unemployment rate. The first was an increase in part-time employment. Additionally, the economy saw a rise in individuals going back to school for higher level degrees, in the hopes of becoming more marketable. Attendance at vocational and technical schools declined during the Great Recession, resulting in a higher-educated workforce. In 1980, adults with a bachelor’s degree made up 17 percent of the workforce, and in 2015 this increased to 33 percent.2 This higher-educated workforce was beneficial for women, as they were more likely to be employed in jobs requiring social and analytical skills.3

Additionally, the Great Recession contributed to the rise of several industries (e.g., healthcare, education and hospitality), while creating a massive shortage in skilled workers. We are still experiencing a deficit of manufacturing, construction and transportation workers today. Some employers have implemented creative ideas to attract potential employees, such as partnering with community colleges and vocational schools. However, this shortage can result in increased labor costs for employers who may be more likely to put up with misconduct and safety violations that result from cost-cutting measures.

The Great Recession has also contributed to creating an older workforce. In 1984, the median age of a U.S. employee was 37.7 years old. By 2024, this is expected to be 42.4 years old. Higher education means entering the workforce later. Additionally, increased student loan debt forces employees to stay in the workforce longer to pay off their loans. Federal student loan debt was approximately $600 billion in 2008 and reached $1.32 trillion by 2015.4 While this has spurred various legislative efforts to reduce student loan debt and lower tuition costs, the U.S. continues to struggle with this problem.

The Struggle with Addiction

The United States’ struggle with opioids has been steadily increasing since the 1990s, much of which is related to the increased prescriptions of highly addictive opioid pain relievers. In 2010, more than 38,000 people died of drug overdoses, of which 15,651 were tied to prescription opioids alone or in combination with other prescription medications or alcohol.5

Many opioid-users and addicts are still employed. A national survey on drug use and health conducted in 2015 by the Substance Abuse and Mental Health Services Administration revealed that 75 percent of adults ages 18 to 64 with substance misuse disorders are in the workforce.6 The ADAAA does not protect individuals engaged in the illegal use of drugs, so there is little recourse for employees struggling with addiction. Employers also suffer from lost productivity, increased absenteeism, and workplace injuries. Many employers are starting to rethink some of their workplace policies and procedures, especially in industries where there is a shortage of workers. This includes revising zero-tolerance policies for drugs or increasing the use of employee assistance programs. There has also been an increase in the use of last chance agreements, which gives employees a second chance to get clean rather than face immediate termination.

The workplace as we know it today is unrecognizable from that of our parents or grandparents. Numerous laws are now in place to protect employee jobs, issues from social movements and crises spill into the workplace, and once-dependable industries have collapsed while other job markets rise to fill in the void.
The Debate About Confidentiality in the Wake of “#MeToo”

Employers have long relied on non-disclosure clauses as part of settlement agreements to resolve employment claims. However, this practice has come under intense scrutiny since the #MeToo movement, which gained traction on social media in October of 2017 after the sexual abuse allegations against Harvey Weinstein.

The confidentiality clause in a settlement agreement often prohibits the signing individual from disclosing facts related to the underlying dispute. It has been argued that this practice allows employers to maintain discriminatory practices and harassment in the workplace, as they settle individual claims rather than change their workplace culture. For example, Uber recently settled a class action involving 495 individuals claiming discrimination for $10 million.

Legislatures are grappling with how to address the issue. Effective January 1, 2019, California became the first state to restrict the use of non-disclosure agreements in settlements involving harassment, sexual assault or discrimination based on sex. Other states are following suit, and a “Sunlight in Workplace Harassment Act” was introduced to Congress in 2018 which would require public corporations to publicly reveal any harassment and sexual misconduct settlements.

However, there are disadvantages to such legislation. Employers would have less incentive to settle cases rather than go to trial. Plaintiff attorneys, looking to avoid lengthy litigation and unpredictable juries, might be less likely to take sexual harassment and discrimination cases. Additionally, some argue that victims should be empowered to make their own decisions, including settlements, which may protect their privacy needs and help fund the costs and expenses they incur in dealing with their trauma.

Even some large employers are making changes: in 2017, Microsoft announced it was waiving the requirement for the arbitration of sexual harassment claims in its arbitration agreements. These changes signal the possibility of a more transparent, albeit litigious, workplace, unless employers can successfully challenge or circumvent these restrictions.

Arbitration Trumps Class Actions

Many employers require employees to sign arbitration agreements as a condition of employment, which prevent employees from suing the employer later in court. Instead, the parties go to arbitration, with an arbitrator overseeing the proceedings instead of a judge and jury. The popularity of arbitration agreements increased after the Civil Rights Act of 1991 vested greater authority in juries to decide employment discrimination cases. To avoid the unpredictability of juries, employers began preferring arbitration as a means to resolve employment disputes.

In 2018, in Epic Systems Corp v. Lewis, Ernst & Young v. Morris and National Labor Relations Board v. Murphy Oil USA, the U.S. Supreme Court considered the enforceability of an arbitration agreement waiving an employee’s right to file or participate in a class action.

Class action lawsuits can be preferable to employees because solo actions with smaller recoveries are less likely to incentivize them to bring their claims.

The dissenting opinion in Epic Systems, written by Justice Ginsburg, argued that the NLRA protects workers’ rights to stand together in class actions against their employers when seeking to improve their wages and working conditions. However, the majority ruled that the Federal Arbitration Act permits an employer’s waiver of its right to a class action in favor of individual arbitration. As a result, more employers will likely start requiring employees to sign class waivers as a contingency to employment, reducing the amount of litigation against employers.

Just the Tip of the Iceberg

The workplace as we know it today is unrecognizable from that of our parents or grandparents. Numerous laws are now in place to protect employee jobs, issues from social movements and crises spill into the workplace, and once-dependable industries have collapsed while other job markets rise to fill in the void. The issues and events described in this article are just a sample of the social, political and legal factors that have shaped the American workplace in the last seventy years. The political and social landscape is always shifting, and the issues employers and employees deal with will continue to be representative of our ever-changing values and struggles.

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4 Id.
6 https://www.ncc.org/Portals/0/Documents/returnDrugOverdoseDocuments/RoxiK/.
The subject of immigration has engendered strong opinions and contentious political debate from the early days of American history. Before the Revolutionary War and independence, Americans were already debating the merits of immigration and who should be permitted to reach our shores.

While we think of immigration as the current contentious debate that most recently caused the government to partially close for more than a month while the president and speaker of the House exchanged tweets, barbs and accusations, the debate is older than the Republic. As early as 1761, Benjamin Franklin argued that large numbers of German immigrants should not be permitted to settle in Pennsylvania because they would change the character of the colony:

“Why should Pennsylvania, founded by the English, become a Colony of Aliens, who will shortly be so numerous as to Germanize us instead of our Anglifying them, and will never adopt our Language or Customs, any more than they can acquire our Complexion.”

A complete study of Benjamin Franklin’s views on immigration reflect a more nuanced view. He appreciated the industrious nature of the German immigrants, and sought to understand cultural differences that would explain his observations, but he still insisted that if too many industrious German immigrants were permitted to immigrate to Pennsylvania, the nature of the colony would be transformed. Franklin understood the benefits of immigration and the industrious nature of those who made their way to the colonies to find a new beginning, but he also feared the change that the immigrants might bring to society.

This dichotomy reflects the debate throughout our history. We take pride in the history of our country, that we are a nation of immigrants, welcoming immigrants from around the globe seeking opportunity, religious or political freedom or simply a fresh start in life. We celebrate the immigrants who have become famous and have made enormous contributions to our society.

We take pride in the history of our country, that we are a nation of immigrants, welcoming immigrants from around the globe seeking opportunity, religious or political freedom or simply a fresh start in life. We celebrate the immigrants who have become famous and have made enormous contributions to our society.

Beginning with the Alien and Sedition Acts of 1798, Congress was concerned that immigrants would constitute a Fifth Column, undermining the security of the United States during its early years. During the 1850s, the American Party, better known as the Know-Nothing Party, represented the strong anti-immigrant sentiment of the day. At its height in 1855, the Know-Nothing Party was represented by 43 members of Congress. The party was sufficiently prominent to nominate a candidate for president in the 1856 election, former President Millard Fillmore who had served as president from July 1850 until March 1853.

The clearest example of legislation targeting a specific population of immigrants was the Chinese Exclusion Act of 1887. This law excluded Chinese immigrants, notwithstanding the wide recognition of their contribution to the construction of the transcontinental railroad system. The Chinese Exclusion Act was first limited to 10 years, but was renewed twice before it became permanent. Congress did not repeal the law until 1943.

The national quota system was introduced in 1924, and limited immigration based upon a percentage of immigrants from each country already in the United States as reported in the 1920 census. This quota system had the effect of limiting immigrants to the countries from Western Europe considered desirable. Italians, Eastern Europeans and Africans were limited to a mere handful of immigrants, and Asians were excluded entirely.

The Immigration and Nationality Act of 1952, known as the McCarran-Walter Act, implemented the structure of immigration law that remains in place today. The Act included a number of provisions for family reunification and employment-based immigration as well as provisions to address the continuing refugee crisis from World War II. At the height of the “communist scare,” the Act also included ideological provisions, many of which remain part of the Act today. However, one key component of the 1952 law was that it retained the very restrictive quota system from the 1924 law. While the presentation of the quota provisions was more mild...
The restrictive national quota system was finally eliminated from the law in the 1965 amendments to the Immigration Act.

and less overtly racist, the effect of the law was the same. It was the continued quota system that President Truman cited when he vetoed the bill. His veto message echoed similar arguments that one might hear today as immigration continues to be a contentious issue. He noted the benefits of immigration, expressed concern that our racist policies made it difficult to advance diplomatic initiatives and that immigrants contributed to our workforce to make our economy stronger. Congress voted to override the veto, and the 1952 Act became law over the President’s veto.

The restrictive national quota system was finally eliminated from the law in the 1965 amendments to the Immigration Act. Instead, the law adopted the current structure which does not discriminate against citizens from any particular country and instead established a series of classifications based upon employment and family relationships. These classifications were modified in the Immigration Act of 1990 and remain in place today. There is one remaining limitation based upon country of birth. Each country is limited to seven percent of the total in any one classification, based upon country of birth. For family-based applicants, this quota limitation impacts individuals born in Mexico and the Philippines; for employment-based categories, the limitation restricts those born in India and China. There are currently bills in Congress to eliminate this restriction, and one such bill, H.R. 392, has 327 co-sponsors. Even with this overwhelming bi-partisan support, the bill has been unable to reach a floor vote.

The last major overhaul of the immigration laws was the Immigration Reform and Control Act of 1986. Congress addressed the problem of the estimated 3 million undocumented immigrants by providing a process for legalization. Immigrants who could prove they had lived in the United States without lawful status from Jan. 1, 1982 until the enactment on Nov. 6, 1986, were permitted to apply for temporary resident status. After 18 months, and a period in which their applications were screened for criminal behavior and other disqualifications, they were permitted to apply for full resident status. In exchange for this legalization program, Congress also enacted the employers’ sanctions provisions that required employers to verify the employment eligibility of every new employee by completing Form I-9 and reviewing documents to demonstrate eligibility. Theoretically, proponents of the legislation argued, this solved the problem of the undocumented immigrants and also set up a system to discourage further undocumented immigration.

The 1986 law, however, failed to provide a sufficient process for future legal immigration, known among the policy wonks as the future flows. A number of factors impact the demand for immigrant visas, including political and economic conditions in the United States and around the world, employment markets and for many individuals, family developments. Congress established levels of immigration in the Immigration Act of 1990, and while this has been appropriate for the early 1990’s, by the end of the decade, the numbers were already obsolete. However, the law does not permit flexibility and the levels of immigration were not sufficient to meet either the economic or humanitarian demands. The law of supply and demand overwhelmed the immigration system, leading to significant dysfunction and we again find ourselves in a similar situation that prompted the 1986 Act. Estimates are that there are between 10 and 13 million immigrants in the United States without lawful status. Questions of compassion, humanitarian treatment, work force demands and security still have the capacity to roil the public discourse. In 1952, President Truman wrote that “I am sure that with a little more time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the public conscience and the good sense of the American people will assert themselves, and in time and a little more discussion in this country the 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The History of the Columbus Bar Association

BY DAVID M. GOLD

A Shaky Foundation:
1869-1900

In this year of the Columbus Bar Association’s sesquicentennial, the CBA can claim to be Ohio’s oldest bar association in continuous existence. It wasn’t the first such organization in Ohio—in 1868, a group of Dayton lawyers filed a certificate of incorporation with the secretary of state for the original Dayton Bar Association, which went out of existence in 1896—but there does not appear to be another today that goes back as far.

Members of the Columbus bar had been meeting before then for social reasons or to memorialize colleagues who had passed away. In 1869, though, an item in the Ohio State Journal revealed a more professional purpose to the gatherings of lawyers. At a “well-attended” meeting of the members of the Columbus bar on Feb. 3, Otto Dresel, the chairman of a committee previously appointed to prepare a minimum fee schedule for Franklin County attorneys, presented his report. The meeting agreed that the schedule would take effect when two-thirds of the bar members signed it. The newspaper story further stated: “An effort will be made to form a Bar Association and purchase a library. The proposal meets with much favor.”

The juxtaposition of these two issues—the establishment of a fee schedule and the formation of a bar association—was no mere coincidence. Both indicated a desire on the part of attorneys to enhance the character, prestige and finances of their trade; in other words, to professionalize. Dramatic changes in post-Civil War America posed challenges for the law business. Lawyers had to be better educated and better organized in order to acquire and deliver the skills needed in the complex world of urbanized, industrialized America.

On March 22, 1869, Dresel submitted to a meeting of the Columbus bar a resolution in favor of creating a bar association, along with a draft constitution and bylaws. Over the next couple of weeks, additional meetings were called to debate the proposition and wrangle over the wording of the constitution. On April 20, the lawyers of Columbus and vicinity met and approved a constitution for the Franklin County Bar Association. (The Franklin County Bar Association changed its name to the Columbus Bar Association around 1920, but for the sake of convenience Columbus Bar Association, or CBA, will be used in the rest of this article.) Fifty-four attorneys signed on as charter members. On June 3, the members met and elected the officers, executive committee and board of trustees.

The CBA’s purposes, according to the constitution, were “to promote harmony, good feeling and closer union among the members of the bar; to maintain professional honor and dignity; to encourage the highest attainments in legal knowledge; and to promote generally the professional interest of its members.” The constitution also required the Association to provide a “comfortably furnished” room to be kept open at fixed hours where books and periodicals purchased by the Association would be made available.

Historians have often noted the elitist nature of early bar associations, but the CBA does not seem to have restricted its membership to the “better sort.” A Columbus directory for 1875 lists 80 lawyers in the city. Even if the directory was not comprehensive and did not cover the rest of the county, the 54 charter members suggest an openness missing from the early big-city organizations and the American Bar Association.

Notwithstanding its promising start, the CBA soon foundered. A committee appointed to prepare rules of court issued a report, but within a month the report disappeared, borrowed by a judge and never returned. The Association showed some interest in court-related legislation in the early 1870s, but it then went seven years without meeting. By 1873 one of the trustees had been “expelled from the bar.”

If the law library ever got off the ground, it didn’t make enough of an impact to merit mention in the newspapers, and the independent Columbus Law Library Association was incorporated in 1887.

The apparently moribund CBA might have disappeared altogether. Such a fate would not have been unusual; nearly half of the state bar associations established between 1878 and 1888 died away. But the creation of the Ohio State Bar Association in 1880 injected some life into the CBA. The OSBA practically invited any member of the Ohio bar in good standing to join. The initiation fee and annual dues were both fixed at two dollars. At about the same time, the CBA, perhaps influenced by the OSBA’s liberality, reduced its initiation fee from 10 to five dollars and its dues

Dramatic changes in post-Civil War America posed challenges for the law business. Lawyers had to be better educated and better organized in order to acquire and deliver the skills needed in the complex world of urbanized, industrialized America.
from five to two dollars. The reduction probably contributed to an increase in membership from the 32 reported at the meeting of Oct. 7, 1880, to 43 two weeks later. By mid-November, the number had risen to 100.

The very existence of the OSBA gave the CBA a reason to awaken. Hosting meetings of the state organization gave local bar associations significant responsibilities and a sense of importance. The convention that created the OSBA met in Cleveland in July 1880, but adjourned to Columbus, where it reconvened in December. The CBA entertained the members at a banquet at City Hall on Dec. 29. The program began with a 6 p.m. reception for the OSBA and invited guests at the statehouse, followed by the banquet at City Hall, with numerous speeches and toasts, all interspersed with music.

But the CBA soon fell into another period of “innocuous desuetude,” from which it began to emerge in the late 1880s. Committee work, while “not vigorous,” did occur. “Committees on judicial administration and legal reform, fee bill and rules of practice were appointed and functioned.” Several lectures and discussions took place under the auspices of the Association, addressing issues such as the relations between doctors and lawyers, judicial reform and codification of the common law. But until the end of the century, wrote former CBA president Earl F. Morris in 1951, the CBA’s chief occupations, “except for occasional brief resurgences of committee activity,” were meetings to attend funerals of local attorneys and the adoption of memorial resolutions."

Actually, the CBA showed a bit more life than that. In the 1890s, the CBA displayed a renewed interest in formulating rules of practice, attempting to get an additional judge in formulating rules of practice, postponed due to poor attendance.

Getting Established: 1900–1946
In the early 20th century the CBA enjoyed a burst of activity. Membership grew to more than 200. The organization drafted and pushed hard for passage of a “shyster bill” that would restrict the practice of law by non-attorneys and thereby protect the learning opportunities of novice lawyers, particularly in the justice courts. A committee tracked legislation, and the CBA took stands on a variety of legislative issues, such as codification of the law of evidence, the creation of new courts and judicial salaries. The CBA adopted rules for the probate and common pleas courts that for the most part won the approbation of the judges.

One of the CBA’s major achievements was the establishment of a legal aid bureau. A CBA committee began studying the provision of legal aid to the poor in 1912, but it took the great flood of 1913 and the financial distress it caused to push the organization into action. CBA volunteers began offering free legal assistance to flood victims, and that in turn led to the creation of a permanent legal aid bureau. The CBA’s legal aid committee would soon be reporting that hundreds of clients were receiving free legal assistance.

The CBA also began to endorse candidates for judicial office, sending representatives to meet with the governor regarding the filling of vacancies and giving the voters its members’ preferences ahead of elections.

In December 1912, the CBA launched a membership campaign intended to get all Franklin County attorneys signed up. Within two weeks the CBA had 60 new members. Perhaps buoyed by this success, the new president promised an “aggressive year” in 1914. The “aggression” included a great deal of conviviality. Saturday noon lunches, with speakers discussing a wide range of topics, became a regular activity, and the CBA’s first annual picnic drew 150 attorneys. The outings and lunches (subsequently moved to Wednesdays), along with annual banquets, testimonial dinners and like events would continue on a more or less regular basis for decades to come. In an early form of continuing legal education, older, experienced lawyers would address their younger colleagues on various topics of professional interest at monthly meetings.

Columbus, Ohio, 1920s
National crises impelled the CBA into new activity. During World War I, CBA members assisted the Red Cross and YMCA in their war work, sold Liberty bonds and helped prospective draftees fill out their classification questionnaires. During the Great Depression of the 1930s, when lawyers were suffering along with the rest of the country, the CBA vigorously contested the practice of law by financial institutions, realtors and collection agencies. The Association’s great success in that area came with a decision in 1937 that originated with a complaint filed by the joint grievance committee of the CBA, the Lawyers Club and the Barristers Club.

World War II also inspired new action. The CBA created a special committee on American citizenship to deal with naturalization issues. The Association launched a radio program, “Liberty under Law,” which would become the model for an OSBA program distributed to other bar associations. Federal tax legislation adopted to fund the war effort led the CBA to initiate tax-help programs for taxpayers and intensive training programs for attorneys. The CBA also remitted the dues of active-duty members and offered more general legal assistance to servicemen and, after the war, to returning lawyer-veterans.

Through all the upheaval, the CBA continued to aid indigent members of the general public. Among other things, the Association helped law students at Ohio State establish a legal aid clinic. It also kept up its educational programs for the public (through radio broadcasts and newspaper articles) and the bar (through law institutes, mentoring and, of course, the weekly lunches). Often, these events, both social and professional, took place under the joint sponsorship of the CBA and one or both of the two other groups of attorneys, the Barristers Club and the Lawyers Club.

In 1940, CBA president Waymon B. McLeskey gave the ABA Journal a list of his organization’s recent activities. These included “cleaning up abuses in Ohio Industrial Commission compensation cases; holding of bar forums; joint meetings with professional and other groups; successful opposition to reinstatement of disbarred lawyers; a goodwill survey of Columbus law business; inauguration of a committee in law enforcement; radio broadcasts and maintenance of a speakers’ bureau.” To handle the growing volume and variety of activity, the CBA created a host of new standing committees. In 1923, there were six standing committees: Grievance, Legislative and Legal Reform, Memorial, Membership, Entertainment and Legal Aid. A new constitution in 1930 added Bankruptcy, Judicial and Admission to the Bar. By 1939 there were committees on Education, Civil Liberties and Bar Organization.

The CBA never succeeded in inducing all Franklin County attorneys to join. Of the estimated 500 attorneys in Franklin County in 1920, 350 (about 70 percent) were CBA members. The hard times of the 1930s may have depressed growth. In 1940, McLeskey reported 540 members, and that was after the recent addition of 140 members. After the war, though, the membership rose dramatically, and the CBA underwent a major reorganization.

The CBA’s major achievements was the establishment of a legal aid bureau. A CBA committee began studying the provision of legal aid to the poor in 1912, but it took the great flood of 1913 and the financial distress it caused to push the organization into action.

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The Bar Association Business: 1946–1984

The third phase of the CBA’s history was bracketed by major constitutional changes. By the end of World War II, the clubby nature of the CBA was giving way. The organization had more members, more committees and more responsibilities than it had had in the early part of the century. At a meeting on Dec. 9, 1946, CBA members engaged in a “spirited discussion” of the Association’s “inability to meet the increasing demands of the public and the members without having a telephone, headquarters and someone in charge to devote full time to the work of the organization.” In other words, the CBA had to be run like a business.

To accomplish this goal, the CBA adopted a new constitution. Among other things, the constitution set dues at $20 (a nearly seven-fold increase), abolished honorary memberships and gave to the president and Executive Committee the authority to create and appoint all other committees. Most importantly, the constitution empowered the Executive Committee to hire an executive secretary. The Executive Committee and executive secretary would eventually become the board of governors and executive director.
outstanding achievements, he thought, was its continuing legal education program, with its two peerless annual institutes and weekly luncheon lectures. Dunbar's remarks were reported in Columbus Bar Briefs, a publication launched by the CBA in 1946. Originally a mimeographed newsletter containing items of interest to local lawyers—recent court decisions, practice rules, notices of CBA activities and so on—Bar Briefs would morph into a small magazine in 1960.

Technological advances affected the CBA's activities. By 1952, the CBA was offering a photocopying service to its members. While continuing to produce radio shows and newspaper columns, the Association also forayed into television. In 1957, the ABA conferred an Award of Merit twice in a row. In 1959, it received the National Legal Aid and Defender Association's highest honor. The purpose of the proposed service seems to have been to help the members financially, but the public also benefited. After the service was finally set up in 1947, the Ohio State Journal praised it as "an aid to folks who...suddenly find themselves with a legal problem. In the short time it has been in operation, several hundreds of persons have availed themselves of the bureau's services and have found it helpful and advantageous."xiii

Of course, the CBA continued its traditional activities: polling its members on judicial candidates, investigating complaints of attorney misconduct, hosting lunches and dinners, providing speakers for Law Day and other occasions and so on. By 1958, membership exceeded 1,000, and the CBA had 39 committees running the alphabetical gamut from A (Admission to the Bar) to V (Visiting, i.e., the sick). In addition, the CBA was now offering group health insurance (the first group hospitalization program began in 1943) and a Keogh plan.

The following year the CBA helped strengthen legal services by bringing about the merger of the Legal Aid Society and the Columbus public defender's office. In 1949, it became the first local bar association to win an ABA Award of Merit twice in a row. The immediate cause of the move to the Virginia Hotel. That clearly would not do for the invigorated Association. There soon began a series of moves. In 1954, after a stay of several years in the Huntington Bank Building on South High Street, the CBA moved into a three-room, street level apartment at 40 West Gay Street. The officers and staff, reported a law journal, "feel that these fine quarters typify the progress made since they first set up housekeeping in a single 6 by 8 foot room formerly used for beer storage in the basement of a hotel which donated it free in consideration of the holding of weekly luncheons in the hotel."xv But the CBA didn't stay there long. In 1957, it moved to the University Club building at 40 South Third Street, then to 22 North Front Street, to the savings and loan building at 66 South Third, and finally back to the University Club. The latter move would coincide with another reorganization and a new era in the CBA's history.

CBA, Inc.: 1984–2019

The immediate cause of the move to new offices was the CBA's inability to renew its lease because the landlord needed the space. Beyond that, the CBA anticipated the need for more room, which it got by leasing the entire sixth floor of the University Club building. Some female members of the CBA were unhappy with the move. Women made up perhaps 12 percent of the total membership at the time. The all-male University Club, which was a premier organization for professional networking, did not actually own the building, but its name was prominently displayed on the exterior. Just about the time the CBA announced its move, a majority of club members, but not the two-thirds needed to amend the club's constitution, voted to admit females. By another vote in 1985, the club opened its doors to women.

Before the 1980s, women's participation in the CBA came mostly through employment as staff and through the Women's Auxiliary. The small number of female members is illustrated by the notices of Auxiliary events, to which members "and their wives" were invited.xvi

"In the decade or so after its reorganization, the CBA received other major awards. In 1949, it became the first local bar association to win an ABA Award of Merit twice in a row. In 1959, it received the National Legal Aid and Defender Association's highest honor... for "distinguished service" in strengthening legal services by bringing about the merger of the Legal Aid Society and the Columbus public defender's office."
As the number of women members rose (to 2,319, or 28 percent, in 2001), the Women’s Auxiliary became just the Auxiliary (1887) and eventually the Alliance (2008). In 1996, Sandra J. Anderson became the CBA’s first woman president.

In the latter half of the 1980s, the CBA, in conjunction with major law firms, Columbus’s law schools and a local association of black attorneys, embarked upon a program to enhance racial diversity in the city’s legal profession. The program’s goal was to get law firms to hire minority law students as clerks and to provide training and support to improve their chances of success. In 2000, the CBA elected its first black president. The next year the CBA joined another cooperative effort intended to increase hires of minority attorneys by local firms, the Managing Partners Diversity Initiative. Within four years, the Columbus Dispatch pronounced the program a success, as the number of minority attorneys in participating firms had more than doubled.

In addition to the move in new quarters, 1984 witnessed the CBA’s incorporation, an act prompted by the desire to ensure the Association’s continued tax-exempt status. Concerned about the amount of taxable revenue generated by publication advertising, secretarial placement and training and other sources, the CBA reorganized as a not-for-profit corporation, with the for-profit Columbus Bar Services, Inc. as a wholly-owned subsidiary. The constitution in effect became the corporation’s code of regulations.

CBA president Robert Wistner hoped that the new structure would “stimulate expansion of services to members.” Those services already included continuing education, advice on professional economics, a group purchasing service, insurance programs, conference rooms, and a secretarial placement service. Expanded services in the coming years would include new lawyer orientation, advice for solo practices, and small firms, more continuing legal education programs (especially afterCLE became mandatory in 1989), a trial advocacy program, free access to the Fastcase research service and professional liability insurance.

One venerable institution that disappeared was the noon luncheon. For decades, the weekly events had promoted learning and collegiality. However, as the number and activity of substantive law committees increased, and as committee meetings fulfilled the social and educational functions of the luncheons, the need for the luncheons faded. The growth of CLE programs, the shift of law offices away from downtown and the rising cost of luncheons also contributed to the demise of the old noontime get-togethers.

The CBA’s public services in the early 1980s included judicial preference polls, studies of the local courts, the lawyer referral service and public education (including a television show called “The Judge”). All of that activity would continue. Television shows have come and gone, but today, CBA volunteers still offer televised advice on “Ask the Attorney.” Public service has taken other forms as well—for example, pro bono services for the homeless and a People’s Law School consisting of four weekly two-hour classes. The CBA became a pioneer in alternative dispute resolution, sponsoring a presuit tort mediation pilot program and an “annual settlement week” in which members mediated conflicts in an effort to unlog court dockets. The Columbus Bar Foundation, an affiliated organization incorporated in 1950, awoke from its slumber and began making major grants to the Legal Aid Society and other entities that provide legal services to the poor. Columbus Find a Lawyer, an online service launched in 2014, helps consumers who need legal advice find appropriate CBA members: “in a straightforward and friendly way.” The CBA website, which dates to 1996, has links to the Foundation, to Find a Lawyer and to other resources for the public.

The website symbolizes the changes to the CBA wrought by technology. In 1978, Bar Briefs carried an item on scanning—not the scanning with which we are familiar today, but “the technique of text editing where the dictator or author generates drafts that are typed on any Selectric typewriter” and a hand-corrected draft “is fed into an OCR [optical character recognition] device,” which then “interfaces to a word processor that swiftly and accurately reduces it to copy ready for signature.” Soon, personal computers would render the Selectric obsolete. In 1986, the CBA decided it was time for a standing committee to keep track of, and educate its members about, the impact of rapidly changing technology on the legal profession. The committee didn’t last, but other committees took up its concerns.

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Bar Briefs itself changed in 1986, becoming a quarterly supplement to the Daily Reporter. In 2007, while still a supplement to the Reporter, it turned into the Columbus Bar Lawyers Quarterly, a slick and substantive journal that appeared in print for a decade before becoming an exclusively electronic publication accessible on the CBA website.

In 1990, with the University Club building scheduled for demolition, recently mandated CLE, committee meetings on the rise and a staff of around 30 serving more than 3,500 members, the CBA moved into new, larger quarters at 175 S. 3rd Street. There, it had sleek new offices and plenty of space, including a training room that could seat 100 and a courtroom for mock trials, hearings and other purposes.

The financial crisis of 2008 hit lawyers along with everyone else. That contributed to a drop in CBA membership from a peak of about 5,000 to a current count of 4,746, and it may have accelerated a trend toward a reduction in staff that set in after 2000. But the CBA is now flourishing in its modern offices, its membership rolls holding steady, its staff recently increased from 17 to 19, its finances on solid ground and its future bright enough for the CBA to look forward to its bicentennial.
Musings of an OLD PRACTITIONER

BY DICK L. LOVELAND

Articles in Legal Connections and “Reflections from the Bench” prompted me to present to you a few musings from a practitioner. At age 88 and in my 62nd and probably final year of practice of law in Central Ohio, I thought it appropriate to muse about the old times and changes in the practice.

I remember when:

• gas was 30 cents a gallon and cigarettes 25 cents a pack.
• we all worked at our offices at least six-and-a-half days a week.
• the words of most songs were understandable.
• you made a telephone call and actually reached the person you were calling.
• you didn’t get called by politicians, solicitors or con-men.

• you didn’t have to know how to type; all our written work was typed by “Tillie the Toiler” (the secretary), and all you had to do was to dictate to or talk to Tillie in a machine and let Tillie type the product.
• you didn’t have to worry about punctuation or syntax, and sometimes organization. Tillie would take care of that.
• copies were made on a wet-process mimeograph machine (what a mess) or by carbon copies (the third copy, usually the file copy, was almost illegible, and faded after about six months so as to be unreadable).
• there were no such things as Snopake or Wite-Out correcting fluids, or Selectric or memory retaining typewriters, so changes meant erasing (gumming up the typewriters) or retyping.
• life was in some aspects much simpler than now. No car phones, computers or faxes.
• fees were established by “minimum fee schedules,” created by local bar associations or “community practice.” The minimum fee for hourly-based fees was $20 per hour in 1957, $25 per hour in 1967 and $35 per hour in 1970.

In many respects the practice has changed, some for the better and some not. For most of us, the practice of law has been challenging, demanding and all-consuming!

• most of us knew almost all other practitioners or their reputations. Knowing of their professionalism, we would accept their commitments and concurrences without question. A fellow lawyer’s word was binding, and such things as agreements or continuances didn’t need filings or paper confirmations.
• virtually every attorney had a library consisting of an encyclopedic set, such as Ohio Jurisprudence, and a compendium of Ohio’s statutory law. In addition, each of us was blessed monthly with the “green book,” a compilation of recent written Ohio opinions, legislative enactments, pending legislation and current bar happenings. These publications gave us the ability to keep up, at least cursorily, with legal developments outside of our usual areas of practice!
• the explosion of the participation of women and minorities in the practice. In my law school graduation class of about 90 there were three women and one African-American.
• the Columbus Bar Association met weekly for lunch and most of us attended. We have been blessed over the years with a bar association with outstanding staff and lawyer leadership.
• our Association’s committee chairpersons were referred to as “Chairman” or “Madam Chairman.”
• the Columbus Bar Foundation was in its infancy. During my years of practice, it has raised, through contributions and investments, over $8.8 million, expended over $4.6 million in legal good works and has a current endowment of over $4 million!
• lawyer advertising was non-existent. Clients came from referrals by others, reputation and law directories.
• professionalism was a given, and we all wore coats and ties on workdays and suits for court appearances.

Dick Loveland, Esq.
Loveland Law, LLC
rloveland@lovelandlaw.net

In many respects the practice has changed, some for the better and some not. For most of us, the practice of law has been challenging, demanding and all-consuming! Nevertheless, and maybe because of these attributes, most of us have truly enjoyed the practice, feel we have been fortunate and privileged to have been able to participate and lucky to have been a part of the central Ohio legal practice experience.
Networking: Its Role in Attorney Wellbeing

BY SCOTT R. MOTE, ESQ. AND STEPHANIE HANNA, ESQ.

Networking plays an important role in the overall wellbeing of attorneys. Building and maintaining relationships is a vital part of an attorney’s career – and the ability to form lasting connections is a skill that pays off professionally and personally. If you find yourself struggling with the art of networking, follow these tips:

Shift your mindset

Shifting your mindset before getting into the strategies of networking makes a huge difference.

Think: Giver, not taker

Instead of approaching networking as looking to receive something (e.g., a job, a client, more business), try thinking about things you can give (e.g., a connection, book recommendation, a resource). Consistently being on the hunt for something is an uphill battle that leads to exhaustion, burnout and eventually abandonment.

When you are a giver, people want to help you in return.

Think: Long-term, not short-sighted

Relationships don’t just need to be built, they need to be maintained. Look at networking as a long-term investment into your professional development. This mindset shift helps you recognize the amount of work required to maintain relationships and that it is supposed to take time to nurture and develop strong relationships.

Think: Quality, not quantity

Instead of trying to meet every person at every event you attend, focus on making connections with just a few people. This mindset shift makes networking less overwhelming, makes the goal attainable and takes the pressure off. Consistently look for easy wins by meeting one to three people each time you are being intentional about building new relationships.

Be confident!

Networking events can be more awkward than meeting the parents, but if you remain confident in your approach, the event will be an enjoyable and beneficial experience.

Be the friendly face

Instead of looking for the friendly face, get comfortable being the friendly face. Look for the person standing alone and strike up a conversation or invite them to join your group. This tactic instantly takes the pressure off and gives you something to focus on if approaching others makes you uncomfortable.

Have a list of prepared topics

Develop a list of topics to talk about and think about your answers to these questions. Think of your favorite podcasts, vacations and books ahead of time so you’re prepared to make recommendations, ask questions and be comfortable without fear of running out of things to say.

Stay upbeat

This is a social event, so keep it light and positive. Don’t complain about work, and never talk negatively about other colleagues, clients or anyone. The world is much smaller than we think, and you never know how others are connected.

Make a graceful exit

It can be awkward when having nothing else to talk about and attempting to make your exit. Know when to end it and have a few key phrases lined up: “So glad we connected,” or, “It was great catching up. I have a few other people to catch up with.”

Practice

Practice delivering a few rehearsed lines with confidence. Whether it’s with someone you trust, the mirror or in the car on your way to the party, taking the time to practice is one of the smartest ways to invest in your professional development.
Instead of looking for the friendly face, get comfortable being the friendly face.

Build networking into your day

If you want to build your client base, get referrals, establish your brand and be a better professional, networking is required. But when you’re already busting your tail to do your job, be involved in your community, stay somewhat healthy and maintain your personal relationships, networking often falls to the bottom of the list. Here are three easy ways to make networking part of your routine.

Networking can happen anywhere

Approach the people you are already interacting with as opportunities to build networking relationships. Say hello to the person in the elevator, strike up a conversation with another parent at your kid’s basketball game, make a friend at the gym. It may sound insignificant, but one of the biggest mistakes people make when networking is turning it into something much harder than it is. Just start connecting with the people already around you!

Do what works best for you

Would 10 minutes a day or an hour once a week be best? Think about your current routine and what makes the most sense. Often, we feel like we have to do what’s working for someone else because we think that’s the only option. That’s the first way to turn yourself off from a task! Think of the easiest way to build networking into your day, and build a plan around that.

Schedule it

Don’t forget to add networking into your calendar. Schedule a recurring appointment to write thank-you notes, to scour publications for articles your contacts might like or to look for ways to congratulate colleagues on their accomplishments. Spend the allotted time focusing on these tasks, just as you would anything else on your appointments list.

Networking doesn’t have to be a chore. These tips can help you feel more confident as you build relationships. The more you do it, the easier it gets.
It’s not unusual for Chanda L. Brown to rise at 4:00 a.m. and begin crafting in her basement “Craft Cave”. It’s a good time, she says, to concentrate on designing and executing her projects. Chanda is ready a few hours later to wake and feed her three- and five-year-olds, Caleb and Ryla, and begin her work day as a civil rights attorney.

Chanda’s current crafting is wide-ranging. Her design and printing creations are on t-shirts, dinnerware, invitations, marketing products and wall signs. She also crafts items such as beaded bracelet bands for smart watches. Her sister, Shilonqua, and she formed an online company, Custom Visions LLC (www.customvisionsllc.com), to market their creations and take orders for small batches of personalized wares. Recently, she designed and printed 20 t-shirts for a high school band. She has also made personalized items for weddings, church groups and family reunions.

When she has an order for t-shirts, she uses either screen printing or heat transfer vinyl for the personalization. Chanda first creates a design for the product and then uses her Cricut computerized cutting machine to cut either a stencil or the heat transfer vinyl. If she is using the vinyl, her Cricut burns the screen for the printing and vinyl cutting. She says it might take her about an hour to create a design if only one color is used and about 15 minutes to apply the vinyl lettering to each t-shirt.

When she is making customized plates, glasses or wall signs, Chanda designs and cuts a stencil to use for hand-painting the design onto each item.

Chanda grew up in Dayton, the daughter of an IT specialist and an elementary school teacher/principal, both of whom also craft. Her father, now into photography, built props and sets for their church plays, and her mother made clothing, costumes and art projects. Chanda and her siblings quickly learned these skills from their parents and assisted as needed. When she was in high school, she directed the church’s plays and oversaw set and costume design. Chanda also taught computer graphic design techniques to the senior members of her church.

She returned, after graduating from Alabama State, to attend law school at the University of Dayton (J.D. 2006). She was hired as a staff attorney to Federal Judge Mosser, who handled U.S. Department of Labor cases. She and her husband, Robert, moved to Columbus two years later and she began working for a local personal injury firm, where she quickly moved up to head their litigation department.

In 2015, Chanda joined Sean Walton, a friend since elementary school, to form the downtown law firm of Walton + Brown, LLP, handling personal injury, civil rights and employment law cases. She has a passion, she says, to protect the rights of women and children.

Chanda will always be involved in crafting. She and her sister have an immediate goal to earn enough money from their crafting to purchase tickets to the Broadway show “Harry Potter and the Cursed Child.” She has more early morning trips to her “Craft Cave” in store, she foresees, before this goal is reached.
Civil Jury Trials
Franklin County Common Pleas Court

$96,595.20
($21,595.00 economic; 75,000.00 non-economic).

Automobile Accident.

On Aug. 30, 2014, Plaintiff Amy Peterhaensel was driving with her family westbound on I-70 near downtown Columbus when traffic came to a stop. She was able to stop her vehicle, but was rear-ended by a vehicle driven by Defendant Shreya Reddy. Ms. Peterhaensel complained of pain in her head, neck and back, and was transported from the scene to the emergency room for treatment. Ms. Peterhaensel was later diagnosed with a labral tear in her left shoulder, which required surgery. Her orthopedic surgeon testified that the injury was caused by the automobile accident. Defendant Ms. Reddy did not dispute liability, but contested Ms. Peterhaensel’s claim that her shoulder injury was related to the accident. Medical Specials: $76,588.42 ($22,567.37 accepted as payment). Last Settlement Offer: $3,000.00. Plaintiff’s Expert: Michael Willard, M.D. (orthopedist). Defendant’s Expert: None. Length of Trial: four days. Counsel for Plaintiff: Gregory B. Mathews and John M. Gonzales. Counsel for Defendant: Jason M. Jason Founds. Magistrate Jennifer Hunt. Amy Peterhaensel, et al. v. Shreya V. Reddy, et al. Case No. 16 CV 008138 (2018).

Verdict: $2,984.00.

Automobile Accident.

On June 21, 2016, Plaintiff Teddy Begashaw was at the intersection of East Broad Street and Noe Bixby Road in Columbus when his vehicle was struck by a vehicle driven by Defendant Shewalem Tebeke Bekele. Mr. Begashaw claimed to have suffered injury to his neck and back for which he received treatment from a chiropractor. Defendant Bekele did not dispute that his negligence was the cause of the accident, but disputed Mr. Begashaw’s claim of injury from the relatively minor impact. The jury awarded a portion of the claimed medical bills, but nothing for pain and suffering. Claimed Damages: $3,284.00. No information about settlement negotiations was available. Plaintiff’s Expert: John Stuart Riddel, D.C. Defendant’s Expert: None. Length of Trial: two days. Counsel for Plaintiff: Ross A. Gillespie. Counsel for Defendant: Daniel M. Best. Magistrate Pamela Browning. Teddy Begashaw v. Shewalem Tebeke Bekele, et al. Case No. 17 CV 3081 (2018).

Defense Verdict.

Employment.

In July of 2016, Defendant Zenith Academy hired Plaintiff Georges Jerome as a math teacher for the 2016-2017 school year. Mr. Jerome signed a one-year teaching contract. The contract indicated that employees of Zenith Academy were "at will" employees and that the school board could extend the one-year contract at its discretion. The contract also provided that Zenith Academy could terminate an employee’s contract if enrollment did not meet expectations or if the teacher failed to renew a teaching certificate. Mr. Jerome alleged that, shortly after the start of the school year, he was approached by Zenith’s principal and another employee and was asked to improperly inflate his students’ grades. He refused. In early November, Zenith terminated Mr. Jerome’s employment. Mr. Jerome claimed that he was not given an explanation for his termination. Zenith denied that anyone asked Mr. Jerome to inflate his students’ grades. Rather, within a month after school started, Zenith became aware that Mr. Jerome was making errors in his lectures and lacked control over his classroom. According to Zenith, Mr. Jerome was not responsive to their efforts to help him improve and his performance continued to deteriorate. Therefore, Zenith was forced to terminate his employment. Cross-motions for summary judgment were denied on the basis that there was a factual dispute about whether Mr. Jerome was terminated for cause. Claimed Damages: $24,000.00. No information about settlement negotiations was available. Length of trial: three days. Counsel for Plaintiff: Chris A. Brown. Counsel for Defendant: Daniel M. Best. Magistrate Pamela Gillespie. Case No. 16 CV 001953 (2018).

Defense Verdict.

Consumer Sales.

Plaintiff Tim Flinn purchased a 2013 Dodge Ram 1500 from Defendant Performance Chrysler Jeep Dodge of Columbus on June 22, 2016 for $32,072.80. Mr. Flinn claimed that Defendant’s sales staff made false and misleading statements about the vehicle’s history including misrepresentations about prior repairs and providing him an edited version of a CarFax report, which omitted the fact that the vehicle had been purchased at auction. Mr. Flinn also claimed that the staff assured him that the odor of cigarette smoke in the vehicle would be removed through a special process to be performed by the dealership. According to Mr. Flinn, he relied on these representations when purchasing the vehicle. However, the odor was not removed and the vehicle had the same mechanical problems that Defendant told him had been repaired. Defendant disputed that its sales staff made any material misrepresentations about the vehicle. Neither side presented expert testimony. The jury found that Defendant had not made any material misrepresentations or otherwise violated the Consumer Sales Practices Act. Claimed Damages: $32,072.80. No information about settlement negotiations was available. Length of Trial: three days. Counsel for Plaintiff: Charley Hess. Counsel for Defendant: David Brown and John Camillus. Judge William Woods. Teddy Begashaw v. Performance Chrysler Jeep Dodge, Case No. 16CV08-7604 (2018).
Auto Accident Jury Trials, 2018

- Eight of the nine auto accident trials ended in plaintiff's verdicts.
- The damages awarded to plaintiffs ranged from approximately $1,400 to $100,000. The mean of the verdicts was $33,353.87. The median verdict was $18,380.
- There were three cases with verdicts below $4,000. In two of those cases, the juries awarded nothing for noneconomic damages. In the third, the noneconomic damage award was $50. In the cases with verdicts over $4,000, the non-economic damages awards varied significantly. In one case, the jury awarded the plaintiff noneconomic damages that were approximately ten times the economic damages. In the remaining cases, the noneconomic damage award ranged from 15 to 77 percent of the total verdict.

### By comparison:

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<td>$16,734</td>
<td>$12,415</td>
</tr>
</tbody>
</table>

Medical Malpractice Jury Trials, 2018

- Six medical malpractice cases were tried to verdict in 2018. In two of those cases, the plaintiff prevailed.

### By comparison:

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td># of jury trials</td>
<td>6</td>
<td>8</td>
<td>10</td>
<td>11</td>
<td>16</td>
</tr>
<tr>
<td>% of all civil trials</td>
<td>18%</td>
<td>19%</td>
<td>27%</td>
<td>28%</td>
<td>25%</td>
</tr>
<tr>
<td>% Plaintiff’s verdicts</td>
<td>33%</td>
<td>25%</td>
<td>50%</td>
<td>9%</td>
<td>19%</td>
</tr>
</tbody>
</table>

* The list of civil trials was derived from a list of cases for which jurors were requested from the Franklin County Clerk of Courts Office.

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mwaller@lanealton.com

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