Spring 2017 Special Edition: Urban Development

In this issue, Columbus Bar Lawyers Quarterly explores the ins and outs of urban Columbus, the pros and cons of regulations and other developments – from the Tenant Advocacy Project to social media and beyond.
We’ve been prepping for your next case for nearly 50 years. And now we are doing it from a brand-new research campus.

Being known for experience and expertise begins with seeking these qualities in the professionals you engage. The advances in technology continue to evolve rapidly, but no matter the level of change, it is always the expertise and experience of extraordinary engineers, investigators, researchers and imaging sciences specialists that can join you in the courtroom to reveal the causes of vehicle accidents, product/equipment malfunctions and structural collapses.

The recently opened S-E-A 47-acre research campus marries time-tested methodologies with some of the most advanced techniques and groundbreaking innovations available for forensic analysis and product testing. Within the 110,000 sq. ft. of building space are: a vehicle accident simulator, biomechanical labs, candle labs, chemical labs and confidential high-bay testing suites. Outdoors, on the Campus, are: a vehicular test pad, fire-reconstruction facilities, and undulating topography for testing off-highway vehicles and equipment.

To support on- or off-site testing, S-E-A has added a drone, 3-D laser scanners and the most advanced Imaging Sciences Practice Group in the industry.

The new Campus has capacity to hold client conferences, continuing education presentations, seminars and industry events for up to 300 people. The opening of the new Campus coincides with our expanded national footprint and advancement of regional office capabilities. We invite you to visit our north Columbus location at 701 Buffalo Parkway.

For more information about S-E-A, including “Customized Testing,” call 800-782-6851 or visit our website www.SEAlimited.com.
The Success
of Our City

BY BRIGID E. HEID

The development in downtown Columbus is simply astounding. Nary a corner nor intersection seems free of a crane, construction equipment or sign heralding the next exciting project coming soon to a neighborhood near you.

All of this growth, coupled with recent development efforts at the Columbus Commons, Scioto Peninsula and Franklinton, makes it a truly exciting time to live here in “Cbus.” According to the latest report of the “State of Downtown Columbus” by Capital Crossroads, 19 residential projects and 34 commercial improvement projects are currently underway, all inside the Outerbelt.

Smart Columbus

As the largest US city without a light rail, Columbus, not coincidentally, has one of the highest ratios of cars per worker downtown (at 87 percent), creating a huge demand for downtown parking and threatening even more congestion as urban living increases in popularity. Fortunately, city leaders joined with private and non-profit partners to meet these transportation challenges and improve the quality of life in our fair city. I-70 / I-71 is being reconfigured, which is all too obvious when driving through downtown. COTA is also improving routes and technology.

And, the City of Columbus beat out 77 other cities to win the Smart City Challenge sponsored by the U.S. Department of Transportation (DOT). The DOT website states, “Columbus was selected as the winner because it put forward an impressive, holistic vision for how technology can help all of the city’s residents to move more easily and to access opportunity.” With nearly $400 million in public and private financing, the City’s goal for Smart Columbus is to “become the nation’s epicenter for intelligent transportation systems” by:

- Improving access to jobs through expanded mobility options in major job centers
- Competing globally through smart logistics
- Connecting Columbus residents to safe, reliable transportation that can be accessed by all
- Better connecting our visitors to transportation options, and
- Developing a more environmentally-sustainable transportation system

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CBA Development

The Columbus Bar Association is equally committed to the holistic development of our local bar by connecting our members to the community, their clients and one another through technology and innovation. With nearly 5,000 members, the CBA has a reputation as a trailblazer for bar associations around the country. Historically, the Association has enjoyed an active, collegial membership, and based on the status of the new lawyers, committees and volunteer members, I am confident that will not change anytime soon. Still, while the City of Columbus projects growth in downtown over the next few decades, not as many of those urban residents and workers will be entering the legal profession as they have in the past. Bar associations across the country are projecting a decline in membership as law school enrollment declines and fewer graduates are finding positions requiring a law degree. The generational tide is shifting and as long-term members retire and become less active in the bar, the CBA is preparing for the possibility of declining membership.

Recognizing the Association exists to serve our members, we are working to bring increased value to our members while remaining a vital resource for the Columbus community.

- We’re exploring opportunities to take monthly committee meetings offsite, to locations where our members gather rather than solely being hosted at the CBA. And improved technology in our meeting rooms will soon allow live, remote access for those who cannot make it in-person but are otherwise able to login remotely.
- A Practice Management Resource Center is being developed for members in private practice interested in finding ways to be more efficient and successful in their practice. Launching later this year, the CBA will present an array of affordable, practical solutions in technology, staffing, client relations and business development, all with the goal of avoiding the need to reinvent the wheel.

A pre-eminent bar association in the fastest growing city in the Midwest, the success of the Columbus Bar Association is intertwined with the success of our City. As my presidency comes to an end and I reflect on the projects underway in our fair city and at the CBA, I am exceedingly confident both the CBA and the City of Columbus are well positioned to remain shining communities for years to come.

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President's Page

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Losing your home and possessions and often your job; being stigmatized with an eviction record and denied government housing assistance; relocating to degrading housing in poor and dangerous neighborhoods; and suffering from increased material hardship, homelessness, depression, and illness—this is eviction’s fallout. Eviction does not simply drop poor families into a dark valley, a trying yet relatively brief detour on life’s journey. It fundamentally redirects their way, casting them onto a different, and much more difficult, path. Eviction is a cause, not just a condition, of poverty. (Excerpt from Matthew Desmond, Evicted: Poverty and Profit in the American City)

Every year, 19,000 evictions are filed in Columbus. On an average morning in Franklin County Municipal Courtroom 11A, dozens of tenants—many flanked by small children—sit in overcrowded rows while waiting for their names to be called. In most cases, a magistrate asks the unrepresented tenant four questions and within two minutes, he or she dismisses the case. In those instances, a tenant is likely to lose his or her home and possessions. Eviction is a legal process that often occurs in courtrooms, at which point the family will have five days to remove all of their earthly belongings or risk a set-out. Although efficient, this process—made possible because the vast majority of tenants attend their hearings without counsel—reveals a dramatic justice gap facing vulnerable Columbus residents.

This gap is uniquely wide in Central Ohio. In 2014, Franklin County had one eviction filing for every 9.8 rental households, comparable to New York City, which saw one eviction filing for every 10.1 rental households. While NYC saw one successful eviction set-out per 93 rental households, Franklin County experienced triple that rate at one for every 30 households. This data is alarming because, as Matthew Desmond describes in the opening quote, housing is vital to ensuring stability for low-income individuals. Maintaining consistent shelter has the potential to impact mental health, safety, employment, and even education and custody of children.

Addressing the eviction crisis in Columbus has become a community-wide initiative. The newly created Municipal Court Self-Represented Resource Center houses an abundance of informational materials for landlords and tenants, and both the Court’s mediation department and Community Mediation Services (CMS) provide quality eviction mediation services every day. Nonetheless, even with CMS serving more than 850 tenants in 2016, existing resources cannot meet the need. Center staff and mediators are unable to give legal advice to tenants who may have unrealized legal defenses that could dramatically impact their case outcomes.

Desmond asserts in his book that “[e]stablishing publicly funded legal services for low-income families in housing court would be a cost-effective measure that would prevent homelessness, decrease evictions and give poor families a fair shake.” The Legal Aid Society of Columbus (LASC) allocates staff to its eviction defense work, but the four-person housing team and its Volunteer Resource Center pro bono referral program only made a small dent in evictions in 2016, collectively providing some level of assistance to an average of about three (out of about 75) families facing eviction every day.

The good news is that Columbus possesses some uniquely positive attributes: a strong pro bono spirit promoted by the Ohio Supreme Court and implemented by the local bar, an infrastructure and knowledge base housed at LASC and a growing pool of interested stakeholders outside the legal community who are determined to address this problem.

Enter the new Legal Aid Society of Columbus (LASC) Tenant Advocacy Project (TAP). With generous financial support from the Ohio State Bar Foundation, The Columbus Foundation and PNC Bank, LASC launched this groundbreaking clinic in March 2017.

TAP features two key components: (a) Daily onsite presence at eviction court of a dedicated staff attorney who can analyze cases, advise tenants and mentor attorney volunteers; and (b) non-attorney volunteers and resource specialists who can help process tenants and connect landlords and tenants with emergency funds that can bring the tenant current in rent and save the tenancy. One of the most important aspects of TAP is its screening, as there is no question that many landlords are dutifully following the law. Cases in which the tenant lacks any defense will be referred for non-TAP mediation services.

Volunteers will be critical to TAP’s success, and fortunately the Columbus legal community is rising to the challenge. The first six TAP Firm Leaders—Porter Wright, Bricker & Eckler, Squire Patton Boggs, Dinsmore & Shohl, Taft Stettinius and Hollister, and Kegler Brown Hill & Ritter—have stepped to the forefront of the initiative. Additional TAP Supporters, including Vorys, Sater, Seymour & Pease, Thompson Hine, Nationwide Insurance and the Moritz Civil Legal Clinic, will also staff clinics throughout the year. The lists continue to grow, with the goal of creating the largest and most impactful Franklin County pro bono project to date.

Through our legal community’s combined efforts to face this challenge, individual attorneys should find the project manageable. Lawyers will provide unbundled legal services in discrete, three-hour clinic increments. Limited scope representation permitted by Ohio Professional Conduct Rule 1.2(C), is ideal for eviction cases, which bifurcate possession and damages claims. TAP volunteers can represent a client exclusively at the eviction hearing, which implicates the tenant’s most

The new Legal Aid Society of Columbus (LASC) Tenant Advocacy Project (TAP) launched in March 2017.
immediate concern of retaining stable housing. LASC will provide malpractice coverage and training; and as an Ohio Supreme Court-recognized sponsor, we can administer pro bono CLE credit and offer opportunities for corporate status-only and emeritus attorneys.

All volunteers will benefit from an onsite LASC housing attorney who will flag legal defenses, review settlement agreements and discuss case strategy. Nonetheless, delving into an unfamiliar practice area can be intimidating, so we asked a few attorneys who have recently handled pro bono eviction referrals to comment on the experience.

Reed Sirak, a 2015 graduate and litigation associate at Squire Patton Boggs, describes his first eviction case: “I had zero landlord-tenant experience when I first started volunteering but I knew that the people that the Tenant Advocacy Project serves really need help.

The attorneys at LASC are incredibly good at educating attorneys about the various legal defenses that exist in these cases and they are always available to answer any questions that you may have.”

2016 law graduate Kevin Ticknor of Porter Wright also just recently completed his first eviction, which he and his co-counsel Jared Klaus won after a contested hearing: “As a first-year attorney, representing a client in an eviction proceeding was a great way to get courtroom experience. While I was unfamiliar with this area of law, I was able to quickly get a workable understanding of landlord-tenant law from the materials provided by LASC.*

The project’s scope is too large to rely solely on Firm Leaders like Squire and Porter. Fortunately, smaller firms and sole practitioners are well-suited for evictions. One such attorney, Orsolya Hamar-Hilt of Bloomfield & Kempf, has shared the experience of having an attorney by her side. "She really didn’t want to leave her apartment. Her grandkids lived with her, and it was the first time they were doing well in school. We were successful in defeating the eviction, and [the client] told me several times that it was the first time she felt like somebody was willing to fight for her.”

Not every day in an attorney’s life will be uplifting and fulfilling, but successfully representing a tenant can serve as a reminder of why many of us went to law school: to help people.

The TAP program will fulfill LASC’s mission of pursuing justice and changing lives, but we cannot do this work alone. To join the program, contact Pro Bono Team Managing Attorney Dianna Howie at dhowie@columbuslegalaid.org.

Kegler Brown’s Jason Beehler has represented eleven low-income tenants referred by LASC since 2011. He recalls one particularly memorable woman who was being evicted for violating her landlord’s pet policy, even though she had removed the pet: “She really didn’t want to leave her apartment. Her grandkids lived with her, and it was the first time they were doing well in school. We were successful in defeating the eviction, and [the client] told me several times that it was the first time she felt like somebody was willing to fight for her.”

Beyond improved outcomes, tenants who have representation are often empowered and deeply appreciative. One of volunteer attorney Barry Epstein’s nine former eviction clients wrote that Barry “helped my family from being very close to homelessness,” and the satisfaction survey from Sirak’s recent client repeatedly referred to him as “Superman.” Another tenant recently summed up the experience of having an attorney as “feeling like I have a voice that will be heard.”

When tenants are represented, their case outcomes are dramatically better. With attorneys by their sides, clients can stand up to bullying landlords, expose unlawful practices and simply achieve negotiated resolutions that do not suffer from the tenant’s lack of legal knowledge. As more tenants assert their rights, courts can address systematic issues, including dangerous code violations, persistent unauthorized practice of law and egregious retaliatory behavior.

Not every day in an attorney’s life will be uplifting and fulfilling, but successfully representing a tenant can serve as a reminder of why many of us went to law school: to help people. To Ticknor “[i]t was a great feeling to know that I had helped keep a family in their home,” and for Hamar-Hilt, it is “immediate gratification.” Fortunately, our supporters already appreciate the importance of TAP. As James Abram explains, “Taft and its Columbus office are committed to ensuring that those who cannot afford access to the legal system in central Ohio are served. Not only are we pleased to participate in this important LASC initiative; but participation permits our attorneys to have a real impact on this under-served population.”

If successful, the Tenant Advocacy Project will shrink the justice gap in Columbus so that we no longer lead the state in eviction filings, so that fewer families face the devastating experience of homelessness and so
Legal organizations of all sizes are looking to create or reinvigorate their diversity plans and initiatives. Historically, the Ohio Attorney General’s Office has placed high value on the diversity of its staff. Today, many individuals who began their legal careers at the Attorney General’s Office (AGO) are notable and accomplished leaders in the legal profession and community.

A commitment to diversity remains an essential component of our office’s strategy. In 2011, Mike DeWine took office as Ohio’s Attorney General and he recognized that the diversity of his staff not only enhanced the delivery of services and protection of Ohio’s families, but was vital to the office’s success. We quickly developed a diversity plan and reinvigorated existing initiatives centering on diversity. In 2016, we built upon the progress made in our original diversity plan and developed a more robust Diversity and Inclusion Plan. Our plan identifies three core diversity and inclusion values, with numerous goals and strategies designed to create a full culture of diversity and inclusion. Our diversity plan defines the objectives of retention, engagement and recruitment as key focus areas for diversity initiatives. Our plan represents the inclusion of the variety of thought, experience and goals from all levels of the organization, and our process focuses heavily on employee input.

Here, we offer a few tips for creating a diversity plan based on our own experiences:

**Tip 1 – Always Think Diversity, and Don’t Forget the “Inclusion” Piece**

In creating a successful diversity plan, an organization must engage in focused planning and have buy-in from all levels of the organization, especially if the organization has multiple layers. An organization should have at least one person dedicated to strategically thinking about what diversity means to the organization. As long as the individual is given access, support and resources to help determine strategy and sustain a diverse culture, job title, level in the organization or full-time/part-time position, work will not matter.

If an organization adds diversity planning duties to an existing position, the priority and value of these responsibilities must be commensurate with existing business duties of the employee. In other words, if a law firm partner manages diversity, these new responsibilities should be valued equally and accounted for just as much as legal responsibilities.

It is not enough for organizations to constantly think “diversity.” To be a great place to work, employees must feel value in the job they perform and a sense of belonging to something greater than oneself. This is where the inclusion piece becomes important. And as our workforce changes, engagement and inclusion of younger generations becomes especially important.

Tapping into the desire for engagement and inclusion, we created several employee engagement or “network” groups. Some examples include an African-American employee group, a newer attorney group, a caregiver group, a professional women’s group and a “generations” employee network group. Arguably our most successful and connected group is that of our newer attorneys, although we see high levels of participation and inclusion in all of our engagement groups. Each network group has a member of senior staff that serves as an executive “sponsor” and each is responsible for creating its own programming and activities, with oversight and assistance from human resources. We also have several engagement groups because they increase innovation. For example, we created a Spanish Translation Team of volunteer employees to translate our written publications and materials and to provide a valuable service to Ohio’s Hispanic community. These successes are attributable to our focus on inclusion.

For a diversity plan to work, it cannot simply be a program. Diversity must become part of the organizational culture. Everyone in the organization must think about it, be committed to it, and be engaged in it. This commitment is established through leadership, carried out by middle management and adopted by employees.

**Tip 2 – Make the Business Case**

Whether your business is to create profit or provide service, a successful diversity strategy should enhance the mission of the organization. A direct tie to the “business” of the organization not only creates value, but justifies resource allocation and employee support.

In our plan, each area of retention, engagement and recruitment is tied to how the organization can better protect Ohio’s families. For example, retention focuses on career growth and advancement opportunities for employees; this focus helps retain employees and encourages excellent public service to Ohioans. Our recruitment efforts center on the premise that all employees affect the recruitment pool coming into the office. From pipeline initiatives to submission of potential candidates, all employees have the ability to create more diversity and strengthen public services.

**Tip 3 – Be Flexible with Measurement**

Diversity must be flexible in approach, but measurable in outcome. There is no cookie-cutter diversity plan. Strategy must be developed specific to the organizational needs and objectives. Organizations cannot be afraid to start with a strategy and change course after finding a better approach, but the objective itself will not change.

Consider again the three key focus areas for the AGO and imagine them on a dial. Tuning the dial to an area of need allows our office flexibility to use a specific strategy to address the greatest need, without losing sight of the others or compromising the overall diversity organizational structure.

Flexibility is also found in the definitions chosen under our plan. For example, we define “diversity” as all qualities that make an employee unique. While traditional definitions of diversity certainly have their place, diversity of thought and experience also serves our mission. The focus is not on what drives people apart, but what makes them similar and looks beyond simply the diversity of one’s appearance.

While hard data on the diversity of an organization, e.g., EEO data, may be easier to obtain, it is more difficult to measure inclusiveness. Being flexible in measurement methods may be necessary to determine success over time.

Creating a diversity and inclusion plan is not easy, but it has produced innovation, stronger ideas and highly engaged employees and professionals at the AGO.

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Advice for Lawyers:
Magistrate Judge Kimberly A. Jolson

BY BRYAN GRAMLICH

Magistrate Judge Kimberly A. Jolson is the United States District Court for the Southern District of Ohio’s newest Magistrate Judge. Judge Jolson is a 2001 undergraduate alumnus of The Ohio State University, summa cum laude with honors, and a 2006 alumnus of the University of Texas Law School where she graduated with honors and served as the Administrative Editor for the Texas Law Review.

Judge Jolson began her career in private practice before joining the Ohio Attorney General’s Office as a Deputy Solicitor in the Appeals Section in 2008. Following her stint as a Deputy Solicitor, Judge Jolson clerked for Chief Judge R. Guy Cole, Jr. of the United States Court of Appeals for the Sixth Circuit and served as an Adjunct Professor at the Ohio State University Moritz College of Law, teaching appellate advocacy. Prior to joining the Federal Bench, Judge Jolson returned to private practice, specializing in trial and appellate litigation.

Sworn in on February 12, 2016, I asked Judge Jolson for her advice to new lawyers and for those who have the privilege of practicing in her courtroom:

What are some common traits of the best lawyers you have encountered?
Pragmatism and flexibility. Every case is different—that’s what’s fun about being a lawyer. The best lawyers can analyze how the pieces of a case fit together and adjust when something doesn’t work quite right, which requires an ability to focus on the bigger picture at all times and adapt to change. Pragmatism and flexibility are important not only in case theories and strategies, but might require, for example, adjusting a client’s expectations, changing an approach with opposing counsel or shifting an argument previously made to the Court.

How would you describe the Columbus legal community to a new lawyer?
Although Columbus has grown significantly, the legal community is still tight-knit and very collegial. That’s good news for new lawyers. You have a number of seasoned attorneys who are accessible. The Columbus legal community also values pro bono work and volunteerism. Pro bono opportunities allowed me to represent a greater variety of clients when I was in private practice, and those representations exposed me to diverse subject matters. The Columbus legal community also has active bar associations and non-profit organizations that benefit greatly from the commitment of our local attorneys. New lawyers should be curious and open-minded, seeking opportunities to learn from others and getting involved in ways that are meaningful to them.

What is typical day like for a federal Magistrate Judge in Columbus?
No two days are alike, and all days are busy. The Magistrate Judges in Columbus are fortunate in that the District Court Judges have entrusted them with a great deal of responsibility. On one day that may mean ruling on a motion for leave to amend a complaint, conducting an initial screen on a habeas petition, reviewing and signing a warrant and holding a detention hearing. On another day, that may mean conducting preliminary pretrial conferences or a mediation, resolving a discovery dispute either in a conference or through briefing and advising defendants of their constitutional rights in initial appearances. On yet another day, I may be ruling on a motion for summary judgment in a consent case, issuing a report and recommendation on a Social Security disability benefits appeal or reviewing a prisoner civil rights case. My job requires me to be a generalist on a wide array of cases, which has me constantly learning and growing. It’s one of the things I love most about my job.

What should any lawyer practicing in your court know before they enter your courtroom?
Know that I see the lawyers and myself as a team whose common mission is to achieve a just result as quickly as possible. I appreciate creativity from lawyers on how to resolve disputes, and I routinely ask for out-of-the-box solutions. For example, I appreciate when counsel is willing to do what’s not necessarily required of them under the Rules but will expedite a case. In addition, always err on the side of candor. If there comes a time when it is possible that the Court has a misunderstanding, set the record straight immediately. You will never regret that decision. Finally, don’t be late. I’m an unreasonable stickler for time.

What is one thing that you know now that you wish you had known when you were a new lawyer?
There are countless paths to success within the legal field. Not every path is for everyone, and the path that is right for each of us might change at different points in our lives. In private practice, I travelled often. That routine worked for me until I had children. So, I adjusted, and I charted a different path. Those types of decisions are unique, and they are different for everyone. But, in my opinion, two aspects of a career choice are never negotiable: you have to respect yourself, and the people with whom you work must respect you. If respect is missing, move on.

“Although Columbus has grown significantly, the legal community is still tight-knit and very collegial. That’s good news for new lawyers.”

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Stephanie Hanna Q&A

Why You Should Run for the Columbus Bar Association’s Board of Governors

Stephanie Hanna served on the Columbus Bar Association’s Board of Governors from 2012 through 2015. I recently had the opportunity to sit down with Stephanie to discuss her experience as a Board member, the Board’s role in overseeing the activities of the CBA’s various committees and staff, and why her rewarding experience on the Board is one she recommends for other young lawyers.

Q: How do you become a Board member?
A: There is an election process to join the Board. A Nominating Committee selects a group of interested individuals (who must be CBA members) and then the CBA membership votes to elect the Board members.

Q: Why did you want to become a Board member?
A: Joining the Board was the natural next step in my bar service journey. I became very active in the CBA’s Minority in the Law Committee and knew I wanted to become more active in leading the CBA and advancing our profession. I enjoy working toward a common goal, promoting our profession and being part of a team, and I knew that serving on the Board was the next step for me. I also knew I could take my experience at the local bar level and leverage it to serve at the statewide level. After being elected to serve on the CBA Board, I was confident enough to run for a seat on the Ohio State Bar Association’s Council of Delegates.

Q: How do you campaign for a seat on the Board?
A: First, I learned who was on the Nominating Committee and let it be known that I was interested in running for a seat on the Board. After learning I was a candidate, I campaigned using postcards explaining why I was qualified and interested in serving on the Board. I delivered postcards to approximately 2,500 attorneys in Columbus. I also sent an email to all CBA members with similar information and asked my network to pass along information about my candidacy to their networks. It was time consuming and required a great deal of effort, but it was a labor of love. I knew that being a young attorney who was not from Columbus (and did not go to Capital or OSU), that I would have to work hard to let people know who I was and why I was qualified and ready to serve.

Q: Why should young lawyers consider running for a seat on the Board?
A: Joining the Board, and becoming active in any bar association, is a great way to get your name out there, generate business, and serve our profession in a meaningful way.

Q: What advice or tips do you have for a young lawyer wanting to become a Board member?
A: Show up. If you are interested in joining the Board, become active in the CBA. Join and participate in committees, volunteer to take leadership roles and always follow through on projects you agree to take on. If you volunteer to do something, show up and do it, you are 80 percent of the way there. The rest is just right timing.

Speak up. Let it be known that you are interested – don’t be bashful about it. The more people that know of your goal, the more people there are to help you achieve it.

Q: How has being a Board member impacted your legal career?
A: Serving on the Board has had a great impact on my legal career. It has afforded me many experiences and opportunities attorneys typically do not have early in their career. The Board gave me a great platform to serve and lead our profession as we navigate through some challenging and exciting times.

Being a Board member was also very beneficial to my practice. I was able to refer cases and receive referrals and overall be more knowledgeable about good practitioners in many areas of the law. Lastly, the friendships and personal connections have been invaluable. As many attorneys as there are in Columbus, I am continually amazed at what a small town and bar it really is – it pays to have strong connections.

Q: What was your favorite thing about being a Board member?
A: Absolutely the relationships. I was lucky enough to meet and work with so many wonderful people and formed lifelong friendships through bar service. I’m proud to say I can call somebody at just about every firm or organization in town through a relationship I formed through bar service.

For more information on the CBA Board of Governors, please visit www.cbalaw.org or contact the CBA at (614) 221-4112.
The Social Media Dilemma:
Should Lawyers Be “Friends”? 

BY GINA PIACENTINO

It is almost impossible to find any law firms or lawyers that do not have a presence on social media. Twitter, Facebook, Instagram or even LinkedIn (which, to the author, is Facebook for professionals) are utilized to promote awards of firms or associates, highlight large cases or wins, and even attempt to humanize lawyers by updating personal highlights on their families, or even a wedding or bat mitzvah.

Lawyers tread a very fine line when it comes to the social media conversation. When I speak with older lawyers, they feel as though they are missing out if they do not participate in some form of marketing on social media. Younger lawyers wonder why I am even asking them this question — of course they are on social media. The bigger question I believe lawyers should be asking: What does it mean for a lawyer to be a “friend” with clients on Facebook?

The term friend has lost its value. Oxford Dictionary defines a friend as “a person whom one knows and with whom one has a bond of mutual affection….” Merriam Webster provides a more concise definition: “One attached to another by affection or esteem.” Are lawyers and law firms really “friends” with clients? Should they be?

Lawyers have a high call to duty in the preservation of society, now more so than ever. Perhaps you are saying to yourself, you don’t have any clients as “friends” so this article is not relevant. How about Lawyer W that was “friends” with Susan Smith? Lawyer W went to middle school with Susan Smith, but has not spoken with her in 17 years. Literally. Susan Smith is best friends with a business owner client of Lawyer W. During the judicial campaigns of 2016, Lawyer W highlighted articles and made very biased comments and posts about a candidate that business owner client managed to catch while Susan Smith and business owner were scrolling through her feed. Appropriate? Probably not. Did Lawyer W lose the client? Absolutely.

Take a cautious approach to your “friends.” As a lawyer, you abide by several rules and obligations that other professions do not have to consider. More importantly, though, you have chosen this profession because of its sophistication and respect for others and their confidentiality. You have a duty to uphold that sophistication and respect, even if that means losing all 567 friends in order to preserve one client. Take this to heart before you send another “friend” request.

The Ohio Rules of Professional Conduct, recently amended and effective as of Sept. 20, 2016, carefully lay out the duties, ethical codes and obligations of all lawyers in the state of Ohio. Section [8] of the Ohio Rules of Professional Conduct Preamble states:

Lawyers play a vital role in the preservation of society. A lawyer’s conduct should conform to the requirements of law, both in professional service to clients and in the lawyer’s business and personal affairs. (emphasis added).

Yes, personal affairs. Remember that bakery you visited in the Short North and were tagged, along with forty-seven other people, and, standing behind you in the photo was, accidentally, the client you represent? Quickly you lost the client and your forty-seven friends watched the entire dialogue take place on the internet. Not good. How about that small-business you represent? Those photos of you in South Carolina at your best friend’s wedding dancing with Defendant X in a claim you have? You probably should have stopped and thought about where your role of counselor/advocate/attorney ceased and you violated the ethics rules by grabbing a Corona and doing the mambo with said Defendant X. While these stories may draw laughter and some memories of decisions gone wrong, these were both true stories. And both lawyers were fired and humiliated.

The Weldele & Piacentino Law Group Co., LP A Dispute Advisory Services CPA, CFF, CVA, MAFF

We believe numbers are a powerful tool to help our clients resolve critical issues

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Resolve Your Case from the Comfort of Your Home

BY VERONICA M. CRAVENER

Picture this: You receive a court summons and complaint notifying you that the City of Columbus Division of Income Tax has filed a Small Claims lawsuit against you for unpaid taxes. You see that the hearing date is coming up fast and it’s during business hours. You want to resolve the matter but you can’t make the trip downtown.

Perhaps the day and time of the hearing conflicts with work or school, or presents transportation or childcare challenges. You may be faced with the difficult choice of either missing work to go to court or skipping the court date and facing a default judgment. For some, the burden of coming to court is insurmountable. As a court date and facing a default judgment. For some, of either missing work to go to court or skipping the challenges. You may be faced with the difficult choice work or school, or presents transportation or childcare Perhaps the day and time of the hearing conflicts with you can’t make the trip downtown.

Hours. You want to resolve the matter but you can’t make the trip downtown.

Enter online negotiation: “With the help of technology we can connect parties together and resolve disputes without anyone stepping foot in court,” says Alex Sanchez, Manager for the Franklin County Municipal Court Small Claims Division and Dispute Resolution Department. The City of Columbus Division of Income Tax, the Small Claims Division and a company called Court Innovations developed an online negotiation platform that connects plaintiffs and defendants together to negotiate mutually satisfactory agreements that resolve cases. The Court’s online negotiation platform improves access to justice and court services. The initial pilot focuses on City Income Tax cases and is provided by the court at no cost to the parties. Defendants receive a notecard along with their summons and complaint which notifies them of the option to resolve their case online, as well as the platform’s website.

The results are impressive. A judgment is a matter of public record, so it is something that could be picked up by the credit bureaus and shown on a credit report. For those who are interested in avoiding a judgment, online negotiation gives them one more avenue to reach a resolution that may result in a full dismissal. “We’re really encouraged by online negotiation so far. Communications with citizens via online negotiation are cordial, we’re working out payment arrangements, and those arrangements are being followed,” says Paul Khoury, attorney for the City of Columbus.

Online negotiation is not a substitute for a Small Claims trial, and online negotiation may not be appropriate for every case. However, for those who are interested, online negotiation at the Franklin County Municipal Court provides a user-friendly option to resolve this one subset of small claims cases—for now—and perhaps others in the future.

Parties that resolve their dispute together with the assistance of the court enjoy a higher level of satisfaction with both the outcome and the court. “Many of the individuals using the platform live and work in the city, so there’s more of a reason to maintain a high level of satisfaction. Online case resolution is a straightforward and cost effective way to resolve disputes and provide access to justice,” said Michael T. Brandt, Administrative Judge for the Franklin County Municipal Court.

For taxpayers who want to work out an arrangement with the City of Columbus prior to their Small Claims court date, online negotiation provides an accessible and easy way to do just that,” says David Jump, Administrative Magistrate for the Franklin County Municipal Court.

Here’s how it works: Defendants access the website—via a computer or mobile device—enter their contact information and then select the type of arrangement they’d like to negotiate. If there is any additional information that they would like the City to consider, they can provide that as well. The City’s attorney can then review proposals, respond to offers and confirm agreements. When the City responds, the online platform sends a notification via text and email to the defendant with a link to the negotiation. Parties can continue to send messages back and forth to each other, much like a text message or email conversation, until either an agreement is reached or the negotiation is terminated by a party. Agreements can be documented and signed via the online platform. If there is no agreement, both sides can proceed to their next court date.

Here’s why it works: The negotiation platform allows parties to resolve their case on their own time with a plan that works for them. Many people are already familiar with text messaging and online transactions like shopping or mobile banking, and the fact that it’s accessible anywhere 24/7 eliminates the anxiety associated with making a court date. The platform is user-friendly and contains videos and an FAQ section to guide users through the negotiation process.

The Franklin County Municipal Court Small Claims Division and Dispute Resolution Department

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Malpractice Advice
from Beyond: Shakespeare's Polonius

In William Shakespeare’s Hamlet, Act I, Polonius gives advice to his son, Laertes, in which he tells him, “Neither a borrower nor a lender be.” If Polonius were presently a legal malpractice defense lawyer, I am sure he would advise lawyers: “Either a successor counsel or malpractice counsel be.”

When a client believes that his lawyer has committed malpractice during the pendency of the case and seeks the advice of successor counsel, the client files the first lawyer, Lawyer 1, and retains Lawyer 2 (successor counsel). Lawyer 2 concludes the matter, in one form or another, and the issue is whether or not Lawyer 2 can or should become successor counsel. Lawyer 2, having dismissed the case and files a third-party complaint to be dismissed? And is it in her best interest? One would think that Mrs. Jones, who wants to settle the case, would like to have as many insurance companies at a settlement conference as possible. If her own counsel’s insurance company would be at the table at a settlement conference, is that not advantageous to Mrs. Jones?

How can Lawyer 2 continue to be counsel in the case for Mrs. Jones when it may be to the advantage of Mrs. Jones to have Lawyer 2’s insurance company involved in the case? Does it really make a difference whether Lawyer 2 is a party to this case or a potential defendant, in a contribution action which would later have to be filed by Lawyer 1 against Lawyer 2 in the event that there would be a verdict and judgement in favor of Mrs. Jones against Lawyer 1?

Anytime Lawyer 2 also becomes malpractice counsel there is a possibility, quite often a distinct one, that Lawyer 2 has made some decision in the handling of the claim for the client which could result in a claim of contribution being made by Lawyer 1. Not only is there such a possibility, but Lawyer 2, as both counsels, may not have the best interests of Mrs. Jones at heart in handling the remaining underlying case.

If Lawyer 2 fails to mitigate damages, or anything else that may have reduced the client’s potential recovery, then Lawyer 2, who presumably has a contingent fee contract with regard to the malpractice claim, has put himself or herself in the position of being subject to the argument that what malpractice counsel did as successor counsel was to increase the value of the client’s malpractice claim such that the fee of malpractice counsel, on a contingency basis, would be greater.

In another case I’ve handled where the successor counsel was malpractice counsel, successor counsel took over the case after there had been a hearing before a magistrate in a landlord-tenant case. After the magistrate had made a decision, Counsel 1 was fired and Counsel 2 was retained.

Counsel 2, as successor counsel, failed to adequately object to the magistrate’s report and failed to point out that had the prospective tenant (defendant) gone forward with the lease agreement that the landlord (plaintiff) had provided $50,000 for a build out, it would have been a reduction from any liability of the prospective tenant. Both Counsel 1 and Counsel 2 failed to recognize the set off. When the lawsuit was filed by the tenant, Counsel 2 against Counsel 1, a third-party complaint was filed, alleging among other things that successor counsel had failed to get a credit for the $50,000 build out which would have been a set off had the client gone forward with the lease agreement. Counsel for the plaintiff was now a third-party defendant.

The argument being made by Counsel 2, as the third-party defendant, permitting the third-party complaint, while not dismissing it, leaves Counsel 2 in an untenable position. While that may be true, the argument can easily be made.

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Shakespeare was a pretty smart guy, after all.

If you are successor counsel and you and your client believe that the client's former lawyer committed malpractice, a lawsuit against the former lawyer should be filed at the conclusion of the legal matter which you are handling and within the time limited for the commencement of such actions. Heed the advice of Polonius and do not become malpractice counsel. It may be advisable to refer your client to potential malpractice counsel at a time when you are still counsel for the client and the case has not yet been concluded. Shakespeare was a pretty smart guy, after all.

Constitutional Conversations: Federalism, States’ Rights & the ACA
Presented monthly, these events are informal, moderated conversations on modern-day constitutional issues. They are free and open to the public. In May, moderated by an academic and attorney/journalist, we’ll talk about what our First Amendment rights mean to us today.

Bankruptcy Law Institute (Three 3.0 CLE hour modules - mix and match)
Not your father’s BLI! This year’s institute contains three 3.0 hour modules. Mix and match! Plus, this year’s institute is CLE Easy Pass eligible. The third module focuses on the intersection between bankruptcy and domestic law.

Probate Law Institute (6.0 CLE hours)
This annual program is a must for the serious probate and estate planning professional. The event includes instruction on probate land sales, recognizing and preventing predatory behavior in probate matters, the intersection of bankruptcy and probate, LGBT issues in probate, and case law update.

Cross Border Legal Issues: Cuba. Emerging Law/Trade/Culture (3.0 CLE hours)
From business opportunities to civil rights and culture, this CLE promises to give a fascinating glimpse into the growing area of cross-border practice issues.

Columbus Bar Annual Meeting & Luncheon
You are cordially invited to attend the 2017 Columbus Bar Annual Meeting on Thursday, June 8 at noon at the Sheraton Columbus Hotel at Capitol Square. Tickets for the event are $45 per person or $450 per table of ten. Contact: Donna Sweet at (614) 221-4112 or donna@cbalaw.org.

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

Affordable Homes

BY AMY KLABEN

The Need
The Columbus Metro region is growing at a phenomenal rate. When the 2050 plan was rolled out a few years ago, the prediction was that our region would grow by 500,000 people by 2050; and now we should reach that number by 2029.

With a growing region comes a demand for more housing. From 2000 to 2010, rents rose faster than income and new housing that is being built is mainly high-end. The result: low-income renters have a difficult time finding affordable homes in central Ohio.

To afford an average market rate, a single worker can earn working full time on a minimum wage of $8.10/hour, which is not nearly enough to afford a market rate apartment.

A safe, decent and affordable home is critical to economic success and is a stable foundation on which families thrive. A discussion of the need for affordable and workforce housing cannot be separated from a discussion of educational opportunities and poverty in central Ohio. Twenty-five percent of children in central Ohio live in poverty, with most living in high poverty neighborhoods. A recent study in Cleveland found children living in neglected houses and neighborhoods had “estimated literacy scores 15 percent lower than those living in the best housing conditions.”

The Solution
A safe, decent and affordable home is critical to economic success and is a stable foundation on which families thrive. Studies show that communities are more prosperous and resilient when opportunity is broadly extended. When low-income children live in safe neighborhoods and attend good schools, they are much more likely to go to college, get a better, higher paying job, delay having children and avoid engaging in activities that can land them in prison.

Central Ohio’s future economic success depends upon families living in neighborhoods with a high-quality mix of educational, environmental, social, economic and health-related opportunities to provide environments that empower household independence, opportunity, mobility and wellness.

This is the way to end poverty while at the same time ensuring that our economy continues to grow.

In addition, studies show that businesses perform better when employees can find affordable living options near their jobs. Short commutes allow employers more choices of employees, and happier employees with less stress have more time with their families.

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We need to create mixed-income neighborhoods with homes that children can afford when they grow up, where seniors can live on fixed incomes and where workers of all incomes can thrive.

The most effective strategy for lifting families out of poverty is to enable them to move to a completely new neighborhood away from their past lives in areas of concentrated poverty. This strategy stems from a plethora of research over the past 50 years. According to Alex Polikoff, one of the attorneys who filed a lawsuit in Chicago in 1966 to create mixed-income housing opportunities, “We know so much about the harm of young kids growing up in severely distressed neighborhoods. If we have a way to enable kids to escape to better life opportunities, it’s immoral not to do that.”

How is Central Ohio Addressing These Issues?

There are many place-based revitalization projects underway in high-poverty neighborhoods in central Ohio. Nonprofit organizations, corporations, foundations and the City of Columbus have been working together on comprehensive revitalization projects on the south side of Columbus (south of Nationwide Children’s Hospital), Weinland Park (south of OSU) and in King Lincoln (east of downtown). The City is currently focusing its revitalization efforts in Linden (northeast of downtown) and the Hilltop (west of downtown). The developer of an East Franklinton (west of downtown) redevelopment project was recently offered an incentive by the City to include affordable housing in its development. These projects include demolition, renovation and new construction with federal low-income housing tax credits if they receive these awards. Coordinated social service programs are also provided in some areas.

The goal for revitalization and housing development must be the creation of income-integrated neighborhoods so families can remain and move up the economic ladder. To do this, all area municipalities must start using tools, such as requiring the inclusion of affordable homes in high-opportunity neighborhoods with homes that children can afford when they grow up, where seniors can live on fixed incomes and where workers of all incomes can thrive.

Thank you to Rachel Garshick Kleit, PhD, The Ohio State University, for her contributions to this article.

2 Affordable Housing Alliance of Central Ohio, What We Do, http://www.ahaco.org/whatwe.htm
5 http://kohroger.griffith@gmail.com
6 Ohio Housing Block Grant, http://kohroger.griffith@gmail.com
Regulations as a Positive Force

BY JANLYCE C. KATZ

Regulations help our economy as well as protect our democratic system and its citizens. This statement may seem radical because we have been hearing for years that regulations strangle our freedom, limit business opportunities and prevent individual innovation.

Contrary to the rhetoric, since the executive branch of federal and state governments began creating agencies to focus on specific needs in our society, like protection of our food supply or defense, we have benefited from regulations.

Because of the importance of regulations in interpreting ambiguities in statutes, the US courts have been called upon to promote regulations in interpreting an existing law. The bill has come to out of committee, be voted upon the floor, go to the second house, do the same and be signed by the governor or president, with lobbying to change or kill it going on throughout the bill's journey.

Regulations properly written and enforced protect us and encourage us to use services and businesses, thereby helping the economy.

Think about going to a beauty salon. We expect that when we go into such a place, we will come out looking better. We don’t worry about whether the tools were cleaned properly, we assume they were and we assume we will be safe if we use these services.

We assume a bank won’t steal our money. We also assume there are laws and rules to punish the offending entity and person and to try to prevent a reoccurrence of the same problem. This is why we continue to use these services. These simplistic examples are meant to also apply to the much more complex financial instruments used for investments, the mortgages backing not only our personal homes, but also the construction of large buildings.

We are sure, as a society that relies on regulations, that they do what they are supposed to do, and to eliminate the confusion where some rules seem to contradict others. While anyone who has worked with rules and regulations knows that some of them may overlap or contradict each other, that doesn’t mean they should be eliminated or set to an arbitrary to go for every one-written standard.

Rules, and laws that can be explained by rules, as well as a strong, clear system to enforce them are essential to the functioning of our economic system and to our democratic system. They protect people and businesses. This is why we should think long and hard about their total elimination and even about how we eliminate the overlap and inconsistencies among the rules that do exist.

The great “freedom” from regulations and governmental control that some argue we should have, could, in reality, endanger our businesses, our property and our lives.

Regulations properly written and enforced protect us and encourage us to use services and businesses, thereby helping the economy.

Regulations as a Positive Force

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1 476 U.S. at 844.

2 579 U.S. ____ (June 20, 2016).


4 For example, at the FCC, its new Chairman Ajit Pai is trying to wipe away the net neutrality rules put in place to prevent broadband companies from creating fast and slow lanes on the Internet.

5 Dick Drofa could be gutted, freeing up Wall Street to more “innovative” investment policies like those that brought us the 2008 crises. And, the resignation of Daniel K. Tarullo from the Federal Reserve's board could mean that many of the regulations promulgated requiring banks to hold higher capital standards and forced many lenders to cut back.

6 The Consumer Financial Protection Agency, currently headed by former Ohio Attorney General Richard Cordray, created in the wake of the 2008 financial crises to protect consumers and given extensive rule-promulgation power to do so can also be gutted, given the alleged plans of US Congressional Rep. Jeb Hensarling, head of the House Financial Services and others in Congress.

7 Yale University Press, 2015.

8 See Chevron v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984). The Court in Chevron developed a two-prong legal test for analyzing regulations; prong one essentially asking if the intent of Congress in passing the statute was clear, in which case a regulation is not needed. Prong two, if the statute was not clear, the court must determine if the agency's construction of the statute is a permissible construction of the statute. The Court built its decision on the premise that Congress sometimes explicitly delegated rule making power to agencies. Anne M. Gluck proposed the EPA at the time the question about the meaning of this as an EPA statute arose.
President Donald Trump said that he would like to wipe out 75 percent of federal regulations. He has a lot of work to do if he wants to keep that promise. Through 2015, there were 178,277 pages in the Code of Federal Regulations. These are regulations that Congress never debated or voted on, nor were signed by the President. Instead, politically unaccountable bureaucrats implement new rules that have the same force as any statute to impact your life, wallet and freedom.

**Regulations In a Representative Government**

In Federalist 47, James Madison wrote: “When the legislative and executive powers are united in the same person or body, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner.”

Making substantive policy decisions by regulation is just bad government. A fundamental principle of our republican government is that those who make the laws we live under must face their constituents to retain power. When the executive and legislative powers are united in the same person or body, there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner. The absence of checks and balances in a legislation-executive-congressional system, according to James Madison, is what makes the American government different from the British, which had a bicameral legislature.

Vague, enabling statutes allow legislators to set up utopian goals that many will agree with conceptually, without dirtying their hands with the specific policy details. For example, Congress has given and the Supreme Court has upheld, wrongfully in my opinion, broad directions to executive agencies, such as its direction to OSHA to “set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer any impairment of health.”

When the EPA makes a rule under the Clean Air Act that greatly exceeds its jurisdiction – which it did in its new rule defining the “waters of the United States” – legislators can simply point their constituents to the faceless bureaucracy of the EPA rather than take responsibility.

After the Democratic Congress passed the Affordable Care Act in 2010, voters were able to hold those politicians accountable in that year’s midterm election – Senate Democrats lost six seats and House Democrats lost 63 seats and the majority. Some may point to the rule-making process as a way for concerned citizens to be heard. While it is true that rule-making includes a comment period, there is no guarantee the agency will listen. Lobbyists and special interest groups drown out average citizens. And, many times, regulatory agencies purposefully fail to meet statutory deadlines so special interest groups friendly to the agency can sue for compliance. The agency can then join a settlement agreement with the friendly plaintiff that includes an expedited rule-making process for the purpose of suppressing opposition. The controversial Clean Power Plan was promulgated under such a settlement.

In the ultimate example of unaccountability, federal agencies often want to be the judge, jury and executioner. In Sackett v. EPA, the EPA claimed the Sackett family did not have a right to appeal an EPA decision to a federal court while the EPA was fining the Sackett family more than $30,000 daily. Regardless of a person’s political affiliation or how he or she feels about the EPA and its mission, the lack of due process should be startling to anyone just as it was to the U.S. Supreme Court, which rejected the EPA’s unfair decision in a unanimous 9-0 opinion.

**Regulations Slow Economic Growth and Innovation**

According to the National Association of Manufacturers, federal regulations cost businesses $2.028 trillion in 2012. That year the entire U.S. GDP was only $16.15 trillion. In addition to the cost of compliance, researchers at the Mercatus Center at George Mason University show that the U.S. economy is $4 trillion smaller than it would have been had regulations stayed at 1980 levels. Proponents of regulation often cite public safety as the main concern: citizens need protection from big corporations only seeking to increase their profits. It’s true, big corporations are worried about regulations and their success in the market, that is exactly why they favor regulation. Large corporations can afford lobbyists to shape regulations and the compliance attorneys to monitor them – emerging competitors often cannot.

**Criminalization by Regulation**

Many times, it’s people who need protection from regulation. There are an estimated 300,000 federal regulations with criminal penalties attached. The familiar maxim “ignorance of the law is no excuse,” is troubling in an age where no one can begin to know what is prohibited, even in subject areas they encounter every day. A prominent legal scholar argues the average American breaks several laws daily without even knowing it.\(^1\)

Unfortunately, we have ample examples: Lawrence Lewis saved a military retirement home’s hospice unit from raw sewage by following orders to divert the sewage through another pipe. Despite Mr. Lewis’s noble intent, he was also charged with a felony violation of a Clean Water Act regulation.\(^2\)

A prominent legal scholar argues the average American breaks several laws daily without even knowing it.\(^3\)

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\(^1\) http://nypost.com/2017/01/23/trump-im-cutting-75-of-regulations-maybe-more/
\(^2\) https://regulatorystudies.columbian.gwu.edu/reg-stats
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\(^5\) https://www.pacificlegal.org/cases/case-writers-1-1-407
\(^7\) 556 U.S. 123 (2012).
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The Function of Form-Based Codes

BY THOMAS F. SCHMITT

In my first days of law school, we began property law by learning adverse possession – right after the professor told us we’d never use it again. Literally, at 9:00 a.m. on my first day in an office, one of the firm’s municipal clients was served with an adverse possession lawsuit. I quickly learned there’s a lot more in the real world than we learned in law school, and it’s always changing.

Somewhere in those classes, we read about Village of Euclid v. Ambler Realty Co., 272 US 365 (1926) – the seminal U.S. Supreme Court case endorsing a municipality’s ability to exercise its police power through zoning ordinances to regulate the use and development of property. And while that basic framework is approaching a century of use and interpretation, municipalities have always sought different ways to efficiently and effectively regulate land use. Among the “new” methods to emerge, form-based zoning codes have literally changed the landscape for municipalities and developers alike. During a recent lunch with Chris Meyers, of Meyers + Associates Architecture, I found myself discussing some of the benefits and challenges of form based codes – from the municipal side and the builder/architect side.

Named for the municipality in that Supreme Court case, “Euclidean zoning” is the method of regulating based on how land is used. This structural framework solidified its importance when then-Secretary of Commerce Herbert Hoover appointed a New York City lawyer to draft the Standard State Zoning Enabling Act, a model statute published by the Department of Commerce and ultimately used by every state. The 1920s theory allowed cities to avoid nuisances between citizens by directing certain uses to dedicated zones, which also improved health and safety. Municipalities faced dirty factories, noisy mills and smelly pig farms to stay away from quiet residential neighborhoods, clean churches and peaceful schools. Pollution and commercial truck traffic was consequently separated from the neighborhood streets and playgrounds where families played and enjoyed fresh air.

As the world changed, so did those uses: they became more diverse, harder to identify and classify, and other factors helped reduce the nuisance implications on neighboring properties. Nowadays, Ohio suburbs can usually find churches and schools in a traffic-congested retail strip mall or a defunct business space, and industrial buildings converted to gyms, art studios or residential uses. Then there’s the ubiquitous coffee shop and home office made possible by cultural shifts and technological advances that were inconceivable in the 1920s. While all of these are likely permitted uses under those zoning codes, they usually don’t advance the goals of the municipality’s zoning ordinances: ensuring quality development that comports with the community’s desired image and functionality.

Often times, developers pushed the boundaries of common discretionary regulatory terms like “compatible” or “high-quality materials,” and their meaning and application would wind up in litigation. In response, a municipality would likely attempt to correct an area’s appearance by changing the permitted and conditional uses, and then further complicate matters by adding multiple review processes and subjective criteria to obtain approval.

Amidst the changes in zoning ordinances, some municipalities are turning their focus towards regulating the size and shape of developed land, and placing less regulatory emphasis on the uses occurring thereon. Form-based zoning codes are a regulatory framework that focus more on building metrics such as heights, setbacks, floor heights and fenestration (the amount of windows/doors on an exterior wall), while also using minimums and maximums to regulate what can be built. Form-based zoning codes place far less emphasis on the use, or other less-predictable standards like density or floor-area-ratio, and direct attention to the public realm – the areas the public uses and sees, such as streets, sidewalks and building exteriors. Along with this shift in regulatory focus away from uses, form-based zoning codes strive to simplify the terms and procedures by using graphics, tables and pictures to easily convey the regulation, and emphasizing administrative review and approval.

Proponents of form-based zoning codes argue from "widespread dissatisfaction with suburban sprawl." By mandating single-use zones (i.e. residential, commercial and office) and establishing tough setback, parking and low-density requirements, conventional zoning encourages municipalities to spread indefinitely, often without a comprehensive organization. Proponents argue that thanks to technological advances such as modern sewer systems and fire prevention, separating uses has become largely irrelevant. Some go further to argue that Euclidean zoning has exacerbated the problems it sought to avoid. The curvilinear streets and cul-de-sacs of residential neighborhoods slow emergency services that are now spread over larger jurisdictions, the separation of uses leaves residential areas largely vacant during the working day for burglars to strike, and the streets’ character and use naturally lend to increased pedestrian accidents. Families now need to dedicate more time to chauffeuring children between different “use” areas, people are foregoing healthy physical exercise by driving more and walking/biking less and senior citizens are left to care facilities because vehicle-dependence is virtually implied.

However, form-based zoning codes can often struggle against the years of practice and precedent behind Euclidian zoning. Developers and architects have spent considerable time learning to read the structure and legalese of most Euclidian zoning codes, and have comfort knowing what can be accomplished and how to get it done. A new form-based zoning code can make it challenging to locate the without a comprehensive organization. Proponents argue that thanks to technological advances such as modern sewer systems and fire prevention, separating uses has become largely irrelevant. Some go further to argue that Euclidean zoning has exacerbated the problems it sought to avoid. The curvilinear streets and cul-de-sacs of residential neighborhoods slow emergency services that are now spread over larger jurisdictions, the separation of uses leaves residential areas largely vacant during the working day for burglars to strike, and the streets’ character and use naturally lend to increased pedestrian accidents. Families now need to dedicate more time to chauffeuring children between different “use” areas, people are foregoing healthy physical exercise by driving more and walking/biking less and senior citizens are left to care facilities because vehicle-dependence is virtually implied.

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applicable requirements among the charts and graphs that are a hallmark characteristic. Some argue that this can be alleviated using “optional” implementation – using a form-based overlay that incentivizes compliance by providing faster approval processes and increased building options, but complicates landowners who seek to determine which regulations apply.

Among legal difficulties, those who draft a form-based zoning code must stretch to rely on precedents of case law that have provided great deference to a municipality’s authority and interpretation of time-honored Euclidean zoning terms, phrases and processes. To some extent, form-based zoning codes inherently limit creativity, because they prescribe multiple elements of a building and land that a Euclidean zoning code presumably leaves wide open. Furthermore, one of the key sales pitches of a form-based code is that it provides predictable results, which naturally lends itself to homogeneity and rigidity.

Then comes the challenge of discretionary review under Euclidean zoning, this has taken the form of a hearing before a planning commission or zoning board. Although these hearings allowed municipalities to preserve control over what is ultimately built, they have also created an unknown element that deters development because of the time and expense involved. They further lend themselves to arbitrary decisions or worse, discrimination based on the user themselves. While the more descriptive nature of form-based codes allows greater safety in administrative reviews (i.e. faster processes with less discretion on each application – concepts that developers and architects seem to appreciate more than anything), they create unease and tension from those who rely on slow process and public comment to vet each user and thus establish some measure of comfort in welcoming them to the neighborhood.

While a property owner is not guaranteed to be free from zoning changes, altering the fundamental structure of zoning regulations on use-based to form-based can open the door to new legal challenges directed at the underlying principles and amounts of regulation. By way of example, existing case law provides guidance as to when a zoning regulation rises to the level of an unconstitutional taking of property. The relative unfamiliarity of form-based zoning codes lends itself to new judicial interpretation that may not be as favorable. Ultimately, the way a code’s standards and processes are enforced can create significant legal liability. While all regulations must comport with constitutional guidelines for due process and clearly articulate expectations, they also cannot be so prescriptive to rise to a prior restraint on expressive activity in derogation of the First Amendment.

Among all the pros and cons, two challenges seem the same among either type of code. First, although Euclidean zoning codes are criticized for slower processes and less predictable results, these could be mitigated through evaluating and reshaping procedural guidelines and criteria, without shifting to form-based code. Second, although stringent architectural regulations and design guidelines are more often attributed to form-based zoning codes, a community can easily stifle development and create disinteresting uniformity through overregulation under either a use-based or a form-based code.

Ultimately, a municipality’s decision to structure zoning regulations on form rather than use depends on the desired function of the restrictions. Where the desired function is to relax control on the uses of property and ensure that anticipated future conforms to the community’s vision, then form-based codes provide municipalities with that framework.

Tuscany has more to offer than just beauty and romance. Historic places and characters, stunning architecture and renowned works of art, accompanied by friendly people and culinary pleasures, accessible through an excellent network of expressways, roadways and rails.
The first night, we filled up on salad and bowls of a scrumptious pasta creation only to discover it was the first of three entrees followed by mouth-watering cakes, pies and gelato. We paced ourselves much better after that.

from San Luis Obispo, California, were the first to arrive at the villa on the first day of our week-long stay. Tim, Bill and Pete have been friends since their childhood in Mingo Junction, Ohio and they came to Tuscany after touring Barcelona and Rome. “The greatest pleasure is the quiet,” Tim said of life at the villa.

We were the next to arrive with Pete and his wife, Kathie. Having enjoyed the previous week in Rome and points on both the east and west coasts, the four of us took a train from Rome to the small town of Chiussi, less than an hour’s drive from the villa. Next came David and Carolyn Bruns (David recently retired as an EMT in Westerville), John and Cathy Ferroni and Michelle and Hector Morales from Atlanta. They, too, visited Rome on the way. Carolyn, John and Michelle are cousins of Pete who obviously found a way to combine hometown and family reunions. Finally, Magistrate Chris Lippe and her attorney husband, Jerry, arrived with Larry, also an attorney, and Karen Johnson. They had spent several days in Normandy.

The second day at the villa, we drove in a caravan to the central Italian city of Assisi in Umbria, most famous for being in the birthplace of St. Francis of Assisi who founded the Order of the Franciscans. A small chapel that Francis renovated in an open field now sits in the sanctuary of a beautiful cathedral in a splendid valley overlooked by the mountaintop part of the city where churches, museums, shops and restaurants make for a pleasant and exciting visit. One of the churches holds the tomb of St. Francis who is known for quotes like, “Lord, make me an instrument of thy peace. Where there is hatred, let me sow love.” Sadly, uniformed military officers guard the entrances to many of the churches, just as they did in Rome.

The next day, we drove on secondary roads about 50 miles west to Siena, home to great artworks and one of the most beautiful plazas in Europe. We parked at the bottom of the mountain and rod an escalator to the city center where we found the Duomo Di Siena, a captivating Gothic and Romanesque cathedral with dark green marble striping the white marble facade and loaded with sculpture and artworks and connected to a tower and museum. A couple blocks from there is the famous woven-brick plaza, the Piazza Del Campo, about the size of four football fields, shell-shaped and gradually descending to the midpoint of the lower side in front of a palace/museum featuring another distinctive tower. Twice a year, the plaza becomes the site of horse races that date back 300 years.

Some of us had set aside the following day for Firenze, or Florence as we say in America; just like Roma is Rome; and Napoli is Naples. Pete had reserved tickets for the Galleria dell’Accademia, the home of one of the world’s most famous sculptures, Michelangelo’s “David”. At Julia’s suggestion, we took the train from a park-and-ride station in the village of Castiglione del Lago, just a few miles from the villa. That made the 60-mile trip much more enjoyable and we avoided urban traffic and parking problems. It’s a good thing we saved some patience for the mass of humanity we encountered when we got there: a two to three-hour wait outside the Accademia was worthwhile as the number of people inside at any given time was kept reasonably small. And seeing the 13-foot 5-inch tall white marble “David” up close was an unforgettable experience.

Michelangelo studied cadavers in his youth and he carved “David” in his late twenties. His mastery of muscles and veins is readily apparent in David’s massive body, naked except for a sling over the left shoulder and a stone in the right hand. His face reflects total concentration as he stares into the distance with a furrowed brow. Michelangelo was born in 1475 and spent most of his life in Rome. He returned to Florence in 1501 when commissioned to carve “David” — originally intended to be in a high location outside the Florence Cathedral, hence it’s large size. Between 1508 and 1512, he went back to Rome to create the amazing frescoes, reflecting scenes from the book of Genesis, that cover the curved ceiling 60 feet above the floor in the Sistine Chapel at the Vatican. Michelangelo was buried in Florence at the age of 89. The Accademia also features works by Lorenzo Bartolini and Michele Antonio Grandi, along with ancient musical instruments such as Stradivari vialinos and dulcimers and hurdy-gurdies from the 18th Century. Almost every restaurant in Italy had spaghetti and pizza: and it was always good. But another wonderful experience in Florence is Florentine steak. Can’t say why it is different and so good, but I know when I taste it. The waiter almost had a heart attack when someone asked for salt and pepper and I thought he was going down for sure when someone asked for ketchup.

Our last trip from the villa was a short one by car to the village of Deruta, well known for its great pottery shops. We returned to Rome by rail and spent our last night in the Trastevere area, west of the Tiber River, a former Jewish ghetto, an interesting place to walk, shop and eat. Shortly after returning to Columbus, I was in a gym discussing our trip with Produce Vendor Jimmy Sanfillipo, who has visited the country several times. “People ask me where they should go in Italy,” he commented. “I just say ‘yes’.”
Cuba’s Legal System
Provides Educational Opportunity

BY KRISTIN ROSAN

In July of 2015, after being closed for 54 years, the United States reopened its embassy in Cuba. This event was one in a series to come that symbolized a shift in relations between the two nations. Early in 2016, President Obama became the first US president to visit the island since 1928. This resulted in frequent news stories about fewer restrictions that accompanied the restoration of diplomatic relations between the countries.

For example, in late 2016, American Airlines started offering non-chartered flights to the island. US banks are on the verge of conducting business in Cuba, paving the way for visitors and tourists from the US to use credit cards as opposed to cash. Restrictions that remain limit US travel to the island for one of only 12 purposes. Likewise, despite the US and Israel abstaining from a UN resolution calling for an end to its economic embargo against Cuba, the US embargo (or blockade as the Cubans refer to it) remains in place.

It was among these changing times, that I, along with a group of colleagues affiliated with the Columbus Bar Association, traveled to Cuba. The purpose was to learn about the Cuban legal system, but of equal interest to me was a close-up glimpse at a culture and society largely unknown to most Americans. Prior to my visit, when I thought of Cuba I thought of Guantanamo Bay and the Cuban Missile Crisis. I paid little attention, and had little interest, in the island’s culture, form of government or laws. Our group was provided a once-in-a-lifetime opportunity to learn about all three, in what, for me, was a life-changing and eye-opening experience. Although unreasonable to discuss the entire trip in this article, I’d like to share some high points now and invite you to attend a CLE my colleagues and I will provide, through the CBA, on what we learned about the Cuban government, laws, business and culture.

The first word I learned was Malecon, I think I was the only one of our group that didn’t know about it. It is the name of the seawall and promenade that extends about five miles along the Havana coast. It is a popular destination for tourists and Cubans alike and is near much redevelopment that is starting to occur in Havana. The hotel for our stay in Havana, the Melia Cohiba, is located along the Malecon and has breathtaking views of both the sea and the Vedado district in Havana.

Each morning our day started with a visit to the Union of Cuban Jurists in Havana, where we met Director Dorys Quintana. She would moderate daily speakers about the Cuban legal system, from the structure of the Cuban government, to labor and domestic relations laws.
Old Havana was both breathtaking and disturbing. Some buildings looked like they’d been bombed, crumbling from years of decay and neglect, coexisting alongside apartments and small shops and cafes. Most apartments don’t have doors, windows or refrigerators, and washers and dryers are luxury items. I asked our guide how people secure their belongings from theft with no windows or doors and his response was that crime isn’t a problem – after all what is there to steal? More interesting yet was to learn Cuban doctors or lawyers earn the equivalent of $50 per month. This is significantly less than Cubans lucky enough to work for one of Cuba’s new private enterprise hotels or restaurants.

For Cuban arts, we were treated to the workshop of Cuban artist Jose Fuster, who turned his home and studio into a work of art by placing ceramic pieces in a mosaic on every surface: walls, ceilings, stairs – I mean every surface – of the compound. He also created oversized whimsical figures and applied the same treatment, with a dizzying array of color and texture. His artwork then extended out into his village of Jaimanitas, where neighboring homes are adorned with the same treatment. The result is an astonishing and unforgettable bright spot in an otherwise ordinary and unremarkable Havana suburb.

To me, it was clear that the Cuban people are ready for change, and eager for an end to the embargo and all of the advantages that trading with the US will bring. How quickly and in what form that change will take is anyone’s guess. Through all of the decay and faded colors of the buildings, you could see what was once a prosperous and vibrant city, a hot spot for American movie stars and aristocrats. With the slow introduction of private enterprise to Cuba, I can only hope that the Cuban people benefit economically and achieve a louder voice in their government. If you’d like to learn more about our trip and the opportunities for business in Cuba, join us for a Columbus Bar Association CLE on May 24. Those that attended the trip along with local experts are working to put together an informative and insightful program. We hope to see you there.
A chance encounter years ago with Judge Cindy Lazarus, who was on her way to a knitting class, led Lisa Sadler into the art and craft of knitting. Curiosity about this art form encouraged her to join Cindy in classes at the Knitting Nomad in New Albany. Lisa says she knew she was a real knitter when she picked out her first pattern and fiber and began a project of her own choosing.

This appellate judge has to use her decisive skills for each new project: for whom and what to create, which pattern to use, what color(s) and in what quantities, which type of fiber and what size and material of needles to use. Lisa often relies on fibers that feel good to her own sight and touch, such as mohair and silk. She frequently chooses to use large wooden knitting needles, resulting in faster project completion. It is satisfying to her to create a tangible product—the opposite of her daily work of research and writing.

Her projects tend to be structural garments, such as sweaters and wraps. Some she keeps for herself, the rest are gifts for friends and family. The projects also result in skeins of leftover yarn, which she donates to her church's knitting group.

This sports enthusiast, the daughter of the Westerville South Wildcats coach, Bill Sadler, admits that many of her knitting projects have been crafted during travel to and from sporting events, whether for her son's baseball games, or to Indians, Cavs or Steelers games.

After graduation from Westerville South High School, she earned her undergraduate degree in Social Work at The Ohio State University, and her Juris Doctor in 1984 from Capital Law School. Lisa then worked successively for the Columbus City Prosecutor, the Columbus City Attorney and as Deputy Chief Legal Counsel for Governor Voinovich. The latter appointed her to the Municipal Court in 1992, and to the Common Pleas Court in 1996. She successfully retained those seats, and since 2003, has been elected to her present seat on the 10th District Court of Appeals.

Lisa's husband, Larry Champlin, is a retired Columbus Police Lieutenant, and their son, Trent, is a senior at Wittenberg. Lisa's also been a Big Sister to Amy, then 8 when they first met. Amy participated in Lisa and Larry’s wedding, and a few years ago, Lisa officiated at Amy’s own wedding.

In addition to her family, work and church, Lisa serves on the Maryhaven Board, heading their Program Committee, and previously sat on the Salvation Army Advisory and Catholic Social Services boards. Lisa has also taken leadership roles in the legal profession including her service as co-chair of the OSBA’s Jury Instructions committee, and service on the Ohio Supreme Court’s Commission on Rules of Practice and Procedure.

Lisa enjoys golfing, traveling to Europe with girlfriends and taking relaxing beach vacations with her husband. She looks forward to continuing on the appellate bench, serving on community boards and finding new knitting projects to create for herself and others.
Civil Jury Trials
Franklin County Common Pleas Court

By Monica L. Waller

Verdict: $47,840.00
($30,830.00 in Economic Damages; $12,000.00 in Non-Economic Damages; $5,000.00 in Loss of Consortium).

Automobile Accident.

On February 7, 2012, Plaintiff Nardos Meles was driving westbound on East Broad Street. As she approached the intersection of East Broad Street and Brice Road, Defendant Cheryl Browning, who was eastbound on East Broad Street, turned left in Ms. Meles’ path and the cars collided.

Ms. Meles was taken from the scene by ambulance to Mount Carmel East Hospital emergency room. She complained of pain to her chest, lower back and right knee. She was diagnosed with a concussion, chest wall contusion, acute lumbar sprain and right knee contusion. She followed up with her family physician and received physical therapy through May 2012 primarily for lower back and right knee pain. She continued to complain of back pain for the next several months leading up to the birth of her child in October 2012.

She sought no additional treatment for lower back or right knee pain until April 2013. In June 2013, she had an MRI of her knee that showed inflammation under the kneecap; she received a steroid injection in July of that year. Thereafter she sought treatment only sporadically; her physicians predicted that she would continue to have ongoing intermittent inflammatory pain in the right knee. After Ms. Meles filed suit, the defense had her examined by neurologist Gerald Steiman, M.D. Dr. Steiman concluded that Ms. Meles suffered a concussion and mild soft-tissue injuries in the automobile accident which required a minimum treatment of two months post-accident.

At the time of the accident, Ms. Meles was working at the Starbucks at the airport; she missed 60 weeks from work in total from the date of the accident through April 2013. Her total lost wages for 60 weeks was $20,677.20. However, Ms. Meles conceded that she would have taken maternity leave for 16 weeks within that 60-week span.


Verdict: $9,772.49. Breach of Contract.

In 2011, Defendants Kent and Julie Mercker hired Plaintiff Kenneth Forrester to remodel the Merckers’ home. The Merckers paid $347,363.82 for the work, but failed to pay the final invoice of $9,772.49. The Merckers explained that they did not pay the invoice because they believed that they had been overbilled.

Mr. Forrester filed suit against the Merckers in Municipal Court for breach of contract demanding $9,772.49 for the outstanding invoice. The Merckers filed a counterclaim against Mr. Forrester for breach of contract. According to the Merckers, Mr. Forrester’s overbilling constituted a material breach of the contract. They claimed over $28,000.00 in damages for overbilling. Since the Merckers’ counterclaim exceeded the jurisdictional limit of the Municipal Court, the case was transferred to the Common Pleas Court. The jury found in favor of Mr. Forrester and awarded him the $9,772.49 for the final invoice.


Defense Verdict. Medical Malpractice.

On March 24, 2011 Plaintiff underwent a laparoscopic hysterectomy for removal of her fallopian tubes and ovaries. The procedure was performed by Defendant Michelle Lowe, M.D. During surgery, Dr. Lowe found a thinned area of bladder wall that had to be dissected from the uterus and reinforced with sutures to prevent rupture. She then injected blue dye to confirm that there were no leaks in the repaired bladder.

Dr. Lowe was negligent in her management of Plaintiff’s bladder in the post-operative period and should have requested a urology consult sooner.


Defense Verdict. Slip and Fall.

Plaintiff Matthew Kelley leased a home owned by Defendant Andrew J. Devantier and managed by Defendant Myers Real Estate. The home had concrete covered steps at the front entrance. On June 21, 2011, Mr. Kelley was standing on the steps reaching for his mailbox when the steps collapsed and his right leg fell through the concrete up to his knee. He suffered an adductor strain, groin injury and numbness and pain in his right leg radiating into his thigh; he also claimed lost wages.

Mr. Kelley asserted that the steps collapsed as a result of defendants’ negligent maintenance and failure to repair the steps. The defendants asserted that the failure of the steps was not foreseeable because they had no notice of a problem with the steps. There was no evidence of weakness in the steps prior to the collapse. Defendants also had no prior experience with the collapse of a concrete structure like these steps. The jury agreed that Defendants had no notice of a defect in the steps prior to their collapse.

Defense Verdict.

Employment.

Plaintiff Michael Lucas was employed as a blaster/painter for Defendant DeLille Oxygen Company. On Oct. 18, 2012 Mr. Lucas was painting an empty gas canister and inadvertently opened the canister valve. Within 30 seconds to a minute he began feeling funny. He learned from a co-worker that the canister had contained carbon monoxide; he closed the valve, reported the incident to his manager and went to the hospital to be evaluated. However, he had no symptoms of carbon monoxide by the time he reached the hospital.

In February of the following year, Mr. Lucas sought treatment from his family doctor for headaches, difficulty tasting and smelling and occasional nausea. He filed a workers’ compensation claim.

On February 18, the day before he was to return to work, Mr. Lucas obtained another work excuse for an additional week off work, which he brought into work the same day and gave to his supervisor. The supervisor asked him to call or come in the following day for a meeting and Mr. Lucas failed to do so. Therefore, on February 21, DeLille’s President made the decision to terminate Mr. Lucas’s employment for three days due to “no call/no show.”

According to DeLille, at the time of his termination, DeLille’s president was unaware that Mr. Lucas had carbon monoxide exposure in October 2012 or that he had filed a workers’ compensation claim. Mr. Lucas sued DeLille asserting both a workers’ compensation retaliation claim and a claim for wrongful termination in violation of public policy. DeLille asserted that Mr. Lucas was fired for his violation of the attendance policy and that it was not and could not have been in retaliation for filing a workers’ compensation claim because DeLille was not aware of the workers’ compensation claim at the time they fired him.

The supervisor asked him to call or come in the following day for a meeting and Mr. Lucas failed to do so. Therefore, on February 21, DeLille’s President made the decision to terminate Mr. Lucas’s employment for three days due to “no call/no show.”


Defense Verdict.

Consumer Rights.

Plaintiff Mary Rogers took her 2000 Ford Focus to Defendant Monroe Muffler Brake, Inc. (Monro) in September 2012 for new tires and wheel alignment. She returned a few days later for new front brakes, a wheel axle and side spindles on the front passenger side. Approximately five days after Monro replaced the wheel axle, Ms. Rogers’ vehicle made a cracking sound and came to a dead stop in the middle of the road. Ms. Rogers returned the vehicle to Monro where it was determined that the wheel axle had failed; Monro replaced the wheel axle at no charge.

A month later, Ms. Rogers’ vehicle slowly lost power and stopped while she was at Easton Town Center. Ms. Rogers took the vehicle to another repair shop where a problem with her vehicle transmission was discovered. Ms. Rogers claimed that Monro initially lead her to believe that it would pay for repairs to her vehicle. However, Monro failed to pay for the repairs and the damage worsened until the vehicle became inoperable without a new transmission.

Mr. Rogers sued Monro claiming that Monro violated the Consumer Sales Practices Act by misrepresenting the quality of the repair and making misleading statements that her vehicle was in good working order. Monro asserted that the problems with Ms. Rogers’ transmission were completely unrelated to the repairs performed by Monro, none of which involved the transmission. Monro attributed the transmission problems to the vehicle’s age and high mileage. In September 2012, the vehicle was 12 years old with 187,530 miles on it.


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