MICHIGAN
BAR JOURNAL
MARCH 2026

NEXTGEN BAR EXAM COMING TO MICHIGAN

WHAT IT MEANS FOR LAW SCHOOLS, EMPLOYERS, AND NEW LAWYERS

ALSO IN THIS ISSUE:

- Michigan's name change law amendments: Simplification of the legal name change process is ahead
- Unlocking the power of cellphone records in Michigan civil litigation
- Intoxilyzer 9000 replaces Datamaster DMT for breath tests

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MICHIGAN
BAR JOURNAL

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OF INTEREST

MICHIGAN
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MARCH 2026 • VOL. 105 • NO. 03

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COLUMNS

NOTICES

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MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year from when the complaint was filed as is compounded annually.

For a complaint filed after Dec. 31, 1986, the rate as of January 1, 2025, is 4.083%. This rate includes the statutory 1%.

A different rule applies for a complaint filed after June 30, 2002, that is based on a written instrument with its own specific interest rate. The rate is the lesser of:

13% per year, compounded annually; or

The specified rate, if it is fixed — or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see https://www.michigan.gov/taxes/interest-rates-for-money-judgments.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.

RECENTLY RELEASED

MICHIGAN LAND TITLE STANDARDS

6TH EDITION | 8TH SUPPLEMENT (2021)

The Eighth Supplement (2021) to the 6th Edition of the Michigan Land Title Standards prepared and published by the Land Title Standards Committee of the Real Property Law Section is now available for purchase.

Still need the 6th edition of the Michigan Land Title Standards and the previous supplements? They are also available for purchase.

DUTY TO REPORT AN ATTORNEY'S CRIMINAL CONVICTION

All Michigan attorneys are reminded of the reporting requirements of **MCR.9120(A)** when a lawyer is convicted of a crime

WHAT TO REPORT:
A lawyer's conviction of any crime, including misdemeanors. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or no contest.

WHO MUST REPORT:
Notice must be given by all of the following:
1. The lawyer who was convicted;
2. The defense attorney who represented the lawyer; and
3. The prosecutor or other authority

WHEN TO REPORT:
Notice must be given by the lawyer, defense attorney, and prosecutor within 14 days after the conviction.

WHERE TO REPORT:
Written notice of a lawyer's conviction must be given to **both**:

Grievance Administrator
Attorney Grievance Commission
PNC Center
755 W. Big Beaver Road, Suite 2100
Troy, MI 48084

Attorney Discipline Board
333 W. Fort St., Suite 1700
Detroit, MI 48226

SBM
State Bar of Michigan

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MEETING SCHEDULE

APRIL 24, 2026
JUNE 12, 2026
JULY 24, 2026
SEPTEMBER 18, 2026

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MEMBER SUSPENSION
FOR NONPAYMENT OF DUES

This list of active attorneys who are suspended for nonpayment of their State Bar of Michigan 2023-2024 dues is published on the State Bar's website at michbar.org/generalinfo/pdfs/suspension.pdf.

In accordance with Rule 4 of the Supreme Court's Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective Feb. 15, 2025, and are ineligible to practice law in the state.

For the most current status of each attorney, see our member directory at directory.michbar.org.

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September 18, 2026

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CIRCUIT 55
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CIRCUIT 56
Vacancy
Vacancy

CIRCUIT 57
Christina L. DeMoore

LETTER TO THE EDITOR

Kudos to Joseph Kimble's Plain Language column. Some points of punctuation in the Nov. 2025 Michigan Bar Journal:

"When you start a sentence with And, But, or So, don't follow with a comma."

"Normally, don't capitalize the first word after a colon."

"Use slashes sparingly … we don't use the much maligned and/or or he/she."

I plead guilty on all points - but no longer.

Yours truly,

James A. Johnson
Southfield

IN MEMORIAM

MICHAEL S. ADELMAN, P36071, of Hattiesburg, Miss., died February 10, 2026. He was born in 1940, graduated from University of Michigan Law School and was admitted to the Bar in 1968.

STEPHEN G. ANDREWS, P24975, of Waxhaw, N.C., died January 20, 2026. He was born in 1949, graduated from Detroit College of Law and was admitted to the Bar in 1975.

LORI A. BARKER, P39198, of Lake Orion, died January 3, 2026. She was born in 1961, graduated from Wayne State University Law School and was admitted to the Bar in 1986.

KAREN A. BEIKERT, P58917, of Midland, died July 14, 2025. She was born in 1954, graduated from University of Michigan Law School and was admitted to the Bar in 1998.

J. MICHAEL BERNARD, P38048, of Detroit, died February 8, 2026. He was born in 1960 and was admitted to the Bar in 1985.

JEREMY AICETE-INYANKA BRAVE-HEART, P75630, of Riverview, died November 14, 2025. He was born in 1980, graduated from University of Michigan Law School and was admitted to the Bar in 2011.

HEATHER VALYNN BURNASH, P72303, of Flint, died January 5, 2026. She was born in 1975, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 2008.

ALAN JEROME BUTLER, P83432, of Saginaw, died January 29, 2026. He was born in 1982, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 2019.

FRANCISCO CARREIRA-PITTI, P34971, of Panama City, died August 29, 2025. He was born in 1949 and was admitted to the Bar in 1983.

EDWARD J. CASTELLANI, P30943, of Lansing, died December 24, 2025. He was born in 1952, graduated from Detroit College of Law and was admitted to the Bar in 1980.

LAWRENCE S. CHARFOOS, P11799, of Clinton Township, died January 24, 2026. He was born in 1935, graduated from Wayne State University Law School and was admitted to the Bar in 1959.

MARY E. CIROCCO, P41088, of Grosse Pointe Farms, died December 7, 2025. She was born in 1957, graduated from Detroit College of Law and was admitted to the Bar in 1987.

MICHAEL S. DIAMOND, P48014, of White Lake, died April 14, 2025. He was born in 1953, graduated from Wayne State University Law School and was admitted to the Bar in 1993.

CATHERINE BARNES ELLIS, P28665, of Grand Rapids, died November 29, 2025. She was born in 1947, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1978.

JENNIFER K. ESSARY, P61758, of Harper Woods, died November 16, 2025. She was born in 1966 and was admitted to the Bar in 2000.

GEORGE FEDYNSKY, P28690, of Ferndale, died October 24, 2025. He was born in 1941 and was admitted to the Bar in 1978.

STEVEN J. FISHMAN, P13478, of Vero Beach, Fla., died November 12, 2025. He was born in 1940 and was admitted to the Bar in 1972.

HON. MARVIN F. FRANKEL, P13640, of Fenton, died January 15, 2026. He was born in 1932, graduated from Wayne State University Law School, and was admitted to the Bar in 1958.

MARK E. GALLAGHER, P69377, of New Baltimore, died June 15, 2025. He was born in 1956, graduated from Detroit Mercy School of Law and was admitted to the Bar in 2006.

GARY J. GANCZARSKI, P32695, of Dallas, Texas, died July 5, 2025. He was born in 1952 and was admitted to the Bar in 1981.

HON. LAWRENCE M. GLAZER, P14041, of Okemos, died November 28, 2025. He was born in 1943, graduated from University of Michigan Law School and was admitted to the Bar in 1968.

JAMES S. GOULDING, P14233, of Saint Clair Shores, died December 8, 2025. He was born in 1931, graduated from University of Detroit Mercy School of Law and was admitted to the Bar in 1966.

PETER K. GRANTZ, P49798, of Detroit, died May 28, 2025. He was born in 1958, graduated from Wayne State University Law School and was admitted to the Bar in 1994.

JEROME B. GREENBAUM, P14325, of Southfield, died November 13, 2025. He was born in 1937, graduated from University of Michigan Law School and was admitted to the Bar in 1961.

HAYIM I. GROSS, P14419, of Woodmere, N.Y., died November 18, 2025. He was born in 1947, graduated from University of Detroit Mercy School of Law and was admitted to the Bar in 1971.

ROBERTA M. GUBBINS, P39998, of Mason, died December 13, 2025. She was born in 1936, graduated from Detroit College of Law and was admitted to the Bar in 1987.

ANTHONY A. HAISCH, P14528, of Naples, Fla., died January 30, 2026. He was born in 1939, graduated from Wayne State University Law School and was admitted to the Bar in 1972.

CLIFTON E. HALEY, P14537, of Drummond Island, died May 23, 2025. He was born in 1931, graduated from Detroit College of Law and was admitted to the Bar in 1962.

STEVEN EDWARD JOHNSON, P69692, of Okemos, died February 24, 2025. He was born in 1980, graduated from Michigan State University College of Law and was admitted to the Bar in 2006.

JOHN L. KANARAS, P42264, of Rochester Hills, died March 9, 2025. He was born in 1952, graduated from Detroit College of Law and was admitted to the Bar in 1989.

CHESTER C. LAWRENCE, P16461, of Dearborn, died December 10, 2025. He was born in 1935, graduated from University of Michigan Law School and was admitted to the Bar in 1960.

BRIAN H. LONNERSTATER, P40505, of Novi, died November 14, 2025. He was born in 1962, graduated from Wayne State University Law School and was admitted to the Bar in 1987.

PAUL G. LOWE, P58492, of Royal Oak, died December 17, 2025. He was born in 1967, graduated from Detroit College of Law at Michigan State University and was admitted to the Bar in 1998.

MICHAEL T. MADDLONI, P46733, of Laingsburg, died December 10, 2025. He was born in 1961, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1997.

MICHAEL E. McINERNEY, P35746, of Clarkston, died January 1, 2026. He was born in 1957, graduated from Detroit College of Law and was admitted to the Bar in 1983.

HON. H. GAIL McKNIGHT, P27420, of Northville, died January 31, 2026. She was born in 1945, graduated from Wayne State University Law School and was admitted to the Bar in 1977.

ROBERT D. MEER, P28955, of Oak Park, died December 8, 2025. He was born in 1949, graduated from Detroit College of Law and was admitted to the Bar in 1978.

ELVIRA D. MEZA-DOMBKOWSKI, P33311, of Springfield, Va., died February 3, 2026. She was born in 1952, graduated from Wayne State University Law School and was admitted to the Bar in 1981.

HON. DONNA R. MILHOUSE, P36958, of Detroit, died June 23, 2025. She was born in 1959, graduated from Wayne State University Law School and was admitted to the Bar in 1984.

WILLIAM MITCHELL, III, P31031, of Marietta, Ga., died January 19, 2026. He was born in 1955 and was admitted to the Bar in 1980.

GREGORY J. MLYNAREK, P29267, of Macomb, died June 4, 2025. He was born in 1949, graduated from Detroit College of Law and was admitted to the Bar in 1978.

THOMAS M. O'LEARY, P18466, of Bonita Springs, Fla., died December 30, 2025. He was born in 1944, graduated from University of Michigan Law School and was admitted to the Bar in 1970.

THOMAS H. OEHMKE, P22963, of Key West, Fla., died October 8, 2025. He was born in 1947, graduated from Wayne State University Law School and was admitted to the Bar in 1973.

PHILIP J. OLSON, II, P26746, of Grand Blanc, died December 12, 2025. He was born in 1949, graduated from University of Detroit Mercy School of Law and was admitted to the Bar in 1976.

MICHAEL J. PENDRACKI, P37748, of Southgate, died October 24, 2025. He was born in 1958, graduated from Detroit College of Law and was admitted to the Bar in 1985.

JAMES R. PRINCE, P33063, of Hart, died December 11, 2025. He was born in 1955, graduated from Wayne State University Law School and was admitted to the Bar in 1981.

WILLARD F. RAPPLEYE, P19235, of Jackson, died January 10, 2026. He was born in 1926, graduated from University of Detroit Mercy School of Law and was admitted to the Bar in 1952.

BRIAN ASHLEY ROOKARD, P69836, of Royal Oak, died January 20, 2026. He was born in 1967, graduated from Wayne State University Law School and was admitted to the Bar in 2006.

ELAINE ROSATI, P40528, of Novi, died December 9, 2025. She was born in 1927, graduated from Detroit College of Law and was admitted to the Bar in 1987.

SUSANNE DYE ROSE, P40797, of Suttons Bay, died December 26, 2025. She was born in 1956 and was admitted to the Bar in 1987.

LELAND R. ROSIER, P33827, of Grand Ledge, died January 26, 2026. He was born in 1956, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1982.

HON. DONALD L. SANDERSON, P24179, of Hillsdale, died January 15, 2026. He was born in 1945, graduated from Wayne State University Law School and was admitted to the Bar in 1974.

RICHARD G. SCHREUR, P20067, of South Haven, died June 17, 2025. He was born in 1943, graduated from Wayne State University Law School and was admitted to the Bar in 1971.

PAUL CHRISTOPHER SHAILOR, P78259, of Mount Clemens, died December 29, 2025. He was born in 1988, graduated from Wayne State University Law School and was admitted to the Bar in 2014.

JOHN P. SHERIDAN, P20356, of Dearborn, died November 10, 2025. He was born in 1947, graduated from Wayne State University Law School, and was admitted to the Bar in 1973.

JOHN A. SINCLAIR, P28173, of Farmington Hills, died July 27, 2025. He was born in 1951, graduated from University of Michigan Law School and was admitted to the Bar in 1977.

MATTHEW P. SMITH, P38147, of Ada, died May 18, 2025. He was born in 1954, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1985.

HENRY R. SMITTER, P20723, of Grand Rapids, died December 31, 2025. He was born in 1929, graduated from University of Michigan Law School and was admitted to the Bar in 1955.

RON R. SUMNER, P21162, of Rochester Hills, died December 13, 2025. He was born in 1934, graduated from Wayne State University Law School and was admitted to the Bar in 1962.

PETER A. TAUCHER, P21287, of Troy, died November 10, 2025. He was born in 1932 and was admitted to the Bar in 1966.

MAYNARD L. TIMM, P28177, of Bingham Farms, died May 31, 2025. He was born in 1952 and was admitted to the Bar in 1977.

DAVID J. WAHR, P21898, of Andover, Mass., died March 30, 2025. He was born in 1939, graduated from University of Michigan Law School and was admitted to the Bar in 1966.

KEITH S. WATSON, P56463, of Lansing, died December 23, 2025. He was born in 1964, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1997.

HARRY WEBB, P34240, of East Lansing, died December 30, 2025. He was born in 1933 and was admitted to the Bar in 1982.

MARK E. WEBB, P44688, of Ludington, died December 24, 2025. He was born in 1958, graduated from Thomas M. Cooley Law School and was admitted to the Bar in 1991.

DAVID M. ZESSIN, P33609, of Holland, died April 13, 2025. He was born in 1956 and was admitted to the Bar in 1982.

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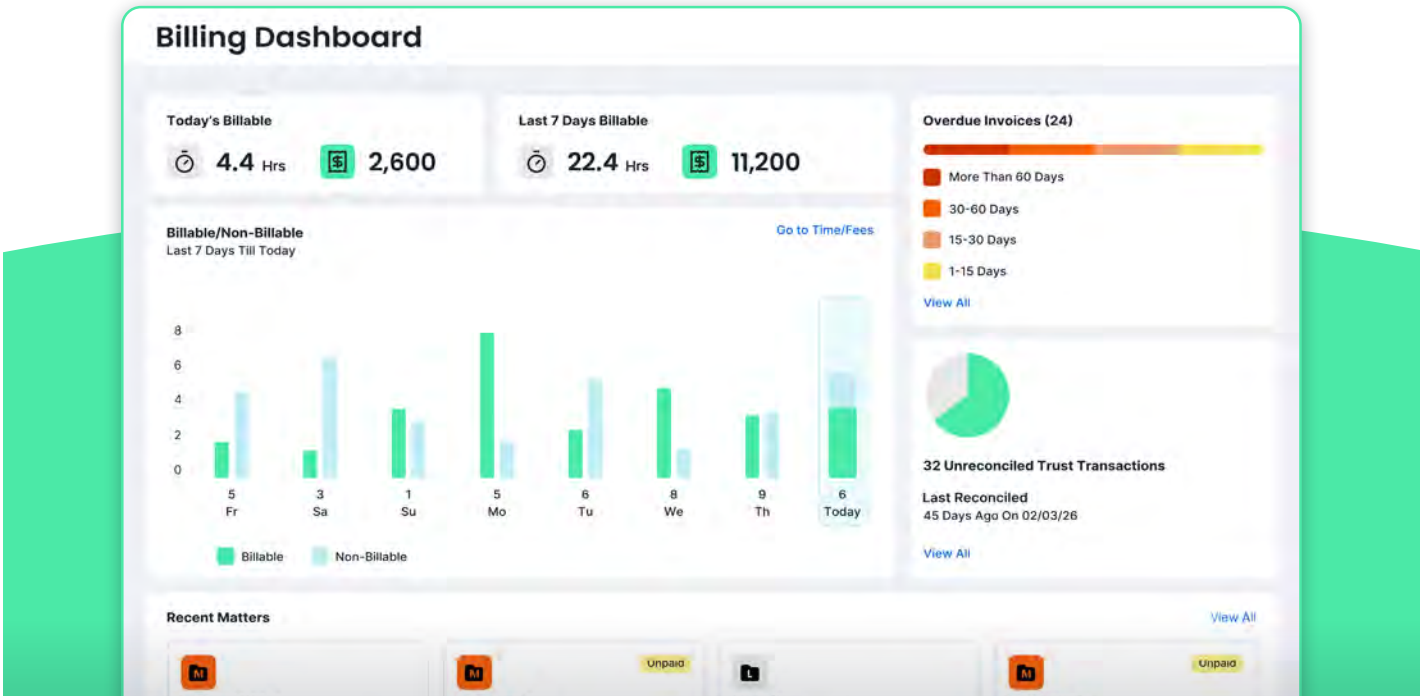

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NEWS & MOVES

ARRIVALS & PROMOTIONS

KASTURI "KAS" BAGCHI has joined the Bloomfield Hills office of Honigman LLP as partner in the transactional and real estate finance practice group.

CHARLES L. BOGREN, MICHAEL D. HANCHETT, AND GREGORY A. STOUT, with Plunkett Cooney, were named as its newest partners.

KERRY K. CAHILL has joined Bodman PLC as a member in the firm's workplace law practice group.

NICOLE COTE has joined Abdnour Weiker.

MICHAEL C. DECKER, with Butzel, has been appointed Practice Department Chair for Litigation.

NICK SPIGIEL of Kreis Enderle has been named leader of the firm's litigation practice group.

ADAM WALLACE started a new job as senior counsel with ITC Holdings Corp.

WARNER named eight attorneys as partners. They are Sarah R. Bileti, Daniel S. Brookins, Sarah Harper, Catherine H. Jacobs, Nina E. Lucido, Ashley E. Racette, Matthew E. Sierawski and Timothy H. Smith.

Five attorneys, with **DICKINSON WRIGHT**, have been elected as members in the Michigan offices.

CADE M. BUNTON, EMMA J. HAISER, JOSH HILL, HARSH D. PATEL, JOHN H. SCHULTE, EARLY L. STEPHENS AND ALEXIS N. TILLERY have joined Warner Norcross & Judd.

HONIGMAN has elected eight attorneys to partner.

Seven attorneys with **KITCH ATTORNEYS AND COUNSELORS, PC** have been promoted.

RON SOLLISH, with Maddin Hauser, has been named their new president and CEO.

DANIELLE WALTON has joined the Genesee County Prosecutor's Office as bureau chief for the Appellate Division.

LINDA WATSON, with Clark Hill, has been appointed chief growth officer.

LEADERSHIP

DEBRA GEROUX, with Butzel, has been appointed to the International Association of Privacy Professionals Advisory Board.

ANNA KATZ has been promoted to partner with McGraw Morris.

DEREK G. MCBRIDE, PATRICK L. RAWSTHORNE, AND BARRETT R. H. YOUNG, with Butzel, were elected shareholders.

LAURA L. BROWNFIELD, a partner with Plunkett Cooney, was named to the Catholic Foundation of Michigan's board of directors.

PAUL M. MERSINO, president and CEO with Butzel, has been appointed to the Board of Trustees for Walsh College. More Information

PRESENTATIONS, PUBLICATIONS & EVENTS

BUTZEL is hosting a complimentary webinar from 11 a.m. – Noon, on Wednesday, January 28, 2026, titled, "Navigating the New Federal Contracting Landscape." Butzel attorney Derek Mullins will lead the discussion.

THE INGHAM COUNTY BAR ASSOCIATION will host its 17th Annual Barristers Night on March 12, 2026.

MDTC will host its annual Defense Network 2026 on Friday, January 26, 2026.

The **INGHAM COUNTY BAR ASSOCIATION** will host its 2026 Bench Bar Conference on February 28, 2026. More Information

MDTC will host its 2026 Legal Excellence Awards on Thursday, March 19, 2026.

Have a milestone to announce? Send your information to News & Moves at newsandmoves@michbar.org.

THE NEXTGEN BAR EXAM IS COMING TO MICHIGAN

What it means for law schools, employers, and new lawyers

BY ASHLEY HEIDEMANN

When the Michigan Supreme Court announced in November 2025 that the state would adopt the NextGen Uniform Bar Exam (NextGen UBE) beginning in July 2028, it marked the next step in Michigan's gradual alignment with national bar examination standards.[1]

Despite the new name and structure, the NextGen UBE builds on the same foundation as the current UBE. It continues to test core subjects and analytical skills, just in a more integrated, computer-based format.[2] Examinees will still need to know black-letter law, think critically, and write clearly under pressure. What is different is the packaging which features questions that blend multiple-choice, short-answer, and writing tasks into a single exercise meant to mimic real-world problem solving.[3]

For Michigan's legal community, this transition primarily represents continuity. The state remains aligned with national standards and preserves bar score portability.

WHAT IS THE NEXTGEN UBE?

The NextGen UBE represents the most significant update to the national licensing test in decades.[4] Developed by the National Conference of Bar Examiners (NCBE), the exam will debut in July 2026 in several early-adopter jurisdictions before expanding nationwide.[5] Michigan will begin administering the NextGen UBE in July 2028.[6]

The new exam replaces the "Legacy" UBE currently used in Michigan.[7] While both exams are produced by the NCBE,[8] the NextGen UBE reflects a shift in testing rather than a wholesale overhaul. It narrows the range of tested subjects and weaves in practical lawyering skills into each component.[9]

The NextGen UBE will test nine doctrinal areas: Business Associations and Relationships, Civil Procedure, Constitutional Law, Contracts, Criminal Law and Constitutional Protections of Accused Persons, Evidence, Family Law, Real Property, and Torts.[10] The exam will also test several lawyerly skills: legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, and client relationship and management.[11] The NextGen UBE will test selected Model Rules of Professional Conduct within these skill groups.[12] (The MPRE remains a separate test.[13])

STRUCTURE AND FORMAT

The NextGen UBE will span two days and include three three-hour sessions. Each session includes a mix of three components:[14]

- **Multiple-Choice Questions:** Examinees will answer 120 total multiple-choice questions across the exam, similar to the Legacy UBE, but some questions will include six answer choices with two correct answers.[15]
- **Integrated Question Sets:** These are scenario-based exercises combining short-answer, multiple-choice, and brief writing responses. Each set revolves around a client problem, requiring examinees to interpret statutes, analyze cases, and make recommendations.[16]
- **Performance Tasks:** These simulate real-world assignments such as drafting a client memo or persuasive brief. Examin-

ees will complete three 60-minute performance tasks—one per three-hour session—compared to two 90-minute tasks under the Legacy UBE. [17]

While some questions will provide legal materials, the exam is not open book.[18] Examinees will still need to internalize key principles and apply them efficiently.

Despite the modified bar exam format, the overall goals of the NextGen UBE remain consistent: to test the skills and knowledge needed in the practice of law.[19] In that sense, the NextGen UBE refines rather than replaces the Legacy UBE model.

MICHIGAN'S PATH TO ADOPTION

Michigan's transition to the NextGen UBE follows a deliberate progression. Prior to 2023, Michigan administered its own bar exam, which included a full day of state-specific essay questions.[20] Beginning in February 2023, the state shifted to the Uniform Bar Exam, aligning with the majority of U.S. jurisdictions.[21]

Starting in July 2028, the Michigan Board of Law Examiners will begin administering the NextGen UBE, making Michigan one of more than 45 jurisdictions to officially join the new model.[22]

The adoption of the NextGen UBE carries important implications. First, it reaffirms Michigan's commitment to national standards for entry-level competence for attorneys. Second, it enhances score portability, that is, the ability of Michigan examinees to transfer their bar exam scores to other participating jurisdictions.[23] That portability, in turn, benefits both Michigan examinees seeking out-of-state opportunities, as well as out-of-state examinees hoping to practice in Michigan.

IMPLICATIONS FOR LAW SCHOOLS

The most immediate impact will be felt in law schools, although the change should be more about emphasis than overhaul. Because the NextGen UBE blends doctrinal law and lawyering skills, law schools may need to revisit how and when they teach application of legal knowledge.[24]

Law schools will need to consider tweaking curriculums and assessment methods to include tasks similar to those that will appear on the NextGen UBE, as well as bar exam support programs that reflect the new exam's structure.[25] Law schools should also consider investing in technology that mimics the digital testing software that the NCBE will use to administer the NextGen UBE.[26]

IMPLICATIONS FOR EMPLOYERS

For employers, little will change. Law firms, government agencies, and corporate legal departments will continue to evaluate candidates based on licensing and overall readiness, and not bar exam format. The primary benefit to employers of Michigan's adoption is the continued portability of bar exam scores.[27] Law firms can still recruit confidently across jurisdictions that administer the NextGen UBE, and Michigan examinees will maintain flexibility to practice elsewhere.

IMPLICATIONS FOR LAW STUDENTS AND NEW GRADUATES

For law students and graduates, the NextGen UBE should feel familiar. It tests the same knowledge base and analytical skills as the Legacy UBE, although through question types that require examinees to toggle between issues, statutes, and short writing tasks.[28]

Successful preparation will combine memorization with application.[29] Black-letter law still matters, but so does the ability to use it efficiently in context. Foundational subjects— Civil Procedure, Constitutional Law, Contracts, Criminal Law and Constitutional Protections of Accused Persons, Evidence, Real Property, and Torts—remain central, with Business Associations playing a larger role than it does on the current UBE.[30]

Because the NextGen UBE is fully computer-based, examinees should become comfortable drafting, organizing notes, and reading on-screen.[31] Success will still depend on mastery of core principles and the ability to apply them efficiently under pressure.

THE ROAD AHEAD

Between now and July 2028, Michigan's legal community has time to adjust. Law schools can fine-tune curricula. Employers can anticipate continued consistency in licensure standards. And examinees can focus on what has always mattered most: mastering core subjects, writing efficiently, and staying calm under timed conditions.

In the end, the NextGen UBE is not a new test, so much as a refreshed version of an old one. Its format may change, but its purpose to ensure new lawyers can analyze, communicate, and reason through legal problems remains the same.

Ashley Heidemann is the founder and CEO of JD Advising, Inc., a nationally recognized legal education company specializing in bar exam preparation and law school success. She graduated first in her law school class and earned a top score on the Michigan Bar Exam. Ashley works with law schools, firms, and bar examinees nationwide and frequently presents on bar readiness, curriculum alignment, and the transition to the NextGen Uniform Bar Exam.

ENDNOTES

1. *Supreme Court Approves New Bar Exam*, supra n 1.
2. *NextGen UBE*, *supra* n 2.
3. *Id.*
4. *Id.*
5. *Id.*
6. *Supreme Court Approves New Bar Exam*, supra n 1.
7. *Id.*
8. *Id.*
9. *Preparing for the NextGen UBE*, National Conference of Bar Examiners (NCBE) <https://www.ncbex.org/exams/nextgen/preparing-nextgen-ube>.
10. *Id.*
11. *Id.*
12. *Bar Exam Content Scope*, NCBE (August 1, 2025) <https://www.ncbex.org/sites/default/files/2025-07/NCBE%20NextGen%20UBE%20Content%20Scope-Aug%202025.pdf>.
13. *Will I still need to take the MPRE?*, NCBE <https://help.ncbex.org/hc/en-us/articles/39896137942299-Will-I-still-need-to-take-the-MPRE> (updated Aug 2025).
14. *Preparing for the NextGen UBE*, *supra* n 12.
15. *Official Examinees' Guide to the NextGen UBE*, NCBE (Aug 1, 2025) <https://www.ncbex.org/sites/default/files/2025-07/NCBE-NextGen-UBE-Examinees-Guide%20J26-F27.pdf>.
16. *Id.*
17. *Id.*
18. *Id.*
19. *NextGen UBE*, *supra* n 2.
20. *Supreme Court Approves New Bar Exam*, supra n 1.
21. *NextGen UBE*, *supra* n 2.
22. *Supreme Court Approves New Bar Exam*, supra n 1.
23. *Id.*
24. *NextGen UBE*, *supra* n 2.
25. *Official Examinees' Guide*, *supra* n 18.
26. *Id.*
27. *NextGen UBE*, *supra* n 2.
28. *Id.*
29. *Official Examinees' Guide*, *supra* n 18.
30. *NextGen UBE Content Scope*, NCBE < https://www.ncbex.org/exams/nextgen/content-scope>.
31. *Preparing for the NextGen UBE*, *supra* n 12.

Articulating a duty of obedience in the nonprofit sector

BY PAUL CARRIER

Nonprofit entities may take a variety of forms in the State of Michigan.[1] Corporations with shares and shareholders are included.[2] Additionally, nonprofit companies may take the form of limited liability companies formed under the Michigan Limited Liability Company Act.[3] Charitable purposes may also take the form of a charitable trust pursuant to the Michigan Supervision of Trustees For Charitable Purposes Act.[4] The business form of nonprofits is therefore not prescribed but may take a form provided by other acts so long as their requirements are not inconsistent with or repealed by provisions of the Michigan Nonprofit Corporations Act.[5]

For purposes of protecting the purposes of a for-profit corporation and its shareholders, directors and officers are subject to statutory and common law protections. Directors and officers have a statutory duty to act in good faith,[6] with due care,[7] and in a way reasonably believed to be in the best interests of the corporation[8] in favor of the shareholders. These duties, ensconced in the Michigan Business Corporations Act ("MBCA"), are in addition to common law duties which were not abrogated by the MBCA.[9] Importantly, this has been interpreted to mean that while claims brought pursuant to provisions of the MBCA may be derivative, the Legislature left untouched common law fiduciary duties that permit direct shareholder actions.[10] Direct shareholder actions however must qualify for one of two specific situations: 1) where an individual has sustained a loss separate and distinct from shareholders generally; and 2) where an individual shows the violation of a duty owed directly to a shareholder which is independent of the corporation.[11] The MBCA also contains a shareholder-oppression provision exercisable by in-

dividual shareholders or groups of shareholders rather than only in the name of the company for illegal, fraudulent, or willfully unfair and oppressive conduct against the corporation or a shareholder.[12]

The same is true for limited liability companies, which are governed by their members or by designated,[13] who are subject to duties similar to those of directors of for-profit corporations.[14] There is also a member-oppression provision to prevent improper conduct of managers or members "in control" against the company or other members for illegal, fraudulent or willfully unfair and oppressive conduct toward the limited liability company or to an individual member or group.[15] It would appear that the same requirement for a specific or individualized harm or independent right that is violated applies.[16]

Charitable trusts governed by the Michigan Supervision of Trustees for Charitable Purposes Act[17] are subject to special registration and reporting requirements with the Attorney General.[18] Because of this special layer of oversight, keeping charitable trusts on track with their founding purposes is less problematic than is the case with other nonprofit forms. It is the policy of the State:

> that the people of the state are interested in the administration, operation and disposition of the assets of all charitable trusts in the state; and that the attorney general shall represent the people of the state in all courts of the state in respect to such charitable trusts. This act applies to all trusts and trustees holding property for charitable purposes over which the state or the attorney general has enforcement or supervisory powers.[19]

There are robust reporting requirements that include audit reports.[20] The Attorney General represents the people of the state which covers uncertain or indefinite beneficiaries,[21] and is a necessary party to any litigation to terminate, liquidate, modify the purposes of or to construe provisions of a charitable trust the Attorney General is a necessary party.[22] Trustees subject to this Act must notify the Attorney General and provide a copy of the trust instrument within two months of receipt of charitable trust property.[23] This is done by a probate court where a charitable trust is established by a residuary request in a last will and testament.[24]

As noted above, in the case of for-profit organizations, there are statutory and common law protections that shareholders and members may utilize where there is harm to the entity itself or to individuals or groups being "oppressed." For charitable trusts, there is a guardian of the public interest in the form of the Attorney General which entails protection of beneficiaries, ensured by special reporting and record-keeping requirements.[25] There is a gap, however, in the case of nonprofit corporations or limited liability companies where there are no real "economic" damages to shareholders or members.[26] While there could arguably be some damage to the nonprofit entity itself for breaches of fiduciary duty, for example to its reputation, this could prove to be particularly difficult to quantify. In the case of charitable trusts, the attorney general protects potential recipients of the trust. However, for the other forms of nonprofit organization, potential recipients of the charitable purpose(s) are unlikely to have any legal standing where there are discretionary qualification criteria such as strong academic performance, a charitable track record, or similar.

It would be disingenuous to assert that nonprofits are founded with nefarious intent to surreptitiously seek to secure monetary benefits or even an enhanced personal reputation within a particular community, while enjoying the benefit of tax exempt status. However, and as an example, when the charitable purposes and decision-making requirements are not carefully defined in the founding documents, there is a risk of "mission drift" or "mission creep" or even of masked self-dealing. This could manifest for example after a particularly active founder exerting primary control as a director, manager or members exits such as by passing away, leaving a void sought to be filled by rival factions of directors, managers or members vying for control over charitable activities that could defy effective scrutiny. As an example, a charitable company established to help worthy students in a particular locale to pay for college could be commandeered to focus disproportionately for the benefit a favored college or university rather than to focus on the intended recipients, thereby limiting recipients in a way not contemplated by a founder or by donors. Funds could be misdirected to musical or artistic departments despite a more general educational purpose based on the whims of directors, managers, or members in control. Any such shifts in purpose should be effectuated by changes to the stated purposes of the charitable organization undertaken by proper amendment procedures.[27]

Generally, fiduciaries of nonprofits owe duties of good faith, loyalty, and avoidance of self-dealing.[28] What is not clear is whether a duty to obey provisions of the articles of incorporation, by laws, or of state law falls squarely within the duty of good faith, the duty of loyalty or the duty to avoid self-dealing. While a duty of obedience was once a more robust tenet of corporate responsibility, it is not often referenced in case precedent.[29] Rarely addressed in Michigan case law, the duty of "obedience" was mentioned in at least one unpublished case involving a nonprofit, however that case did not identify the provenance of the duty of obedience nor did it rely on such duty for the holding.[30] It is argued that because the duty of obedience so accurately elucidates the risks addressed herein including weakness of enforcement of fiduciary duties on the nonprofit level,[31] it should be distinctly enshrined in the laws governing nonprofit companies.[32]

Other jurisdictions squarely recognize the fiduciary duty of obedience owed by directors, members, managers or trustees.[33] The requirement is to adhere to the charitable purposes of a nonprofit company as set out in the founding documents.[34] Arguably, this should include the requirement of adhering to any statutory obligations for nonprofit relating to, for example, proper corporate governance such as maintaining the requisite number of directors.[35] As a corollary, this would include making changes to purpose or governance only by a legally sufficient board for example.[36]

For various reasons, mission drift in the nonprofit sector may avoid proper scrutiny for situations other than those involving charitable trusts, particularly when management decisions are subject only to duties of care, loyalty, and avoidance of self-dealing. Specific legal recognition of a duty of obedience could cause nonprofit management to more faithfully adhere to a nonprofit's stated purposes and to ensure notification of changes to purpose by use of proper voting procedure and by amendments to founding documents notified to the Michigan Department of Licensing and Regulatory Affairs. For example, by dedicating a specific cause of action to the problem, it would be easier upon challenge (at least by certain directors, members or managers if not by potential recipients) to recognize shortcomings and to dispel with them quickly in the summary disposition phase of litigation. The exact parameters of the duty of obedience could be quickly identified once the Legislature or a court institutes the application of this duty into law.

Paul Carrier is a staff attorney for the 36th Circuit Court for Van Buren County, prior to which he clerked for Hon. John A. Murphy of the 3rd Circuit Court for Wayne County and for Hon. Matthew J. McGivney of the 44th Circuit Court for Livingston County. He is licensed to practice law in the State of Michigan and the State of Florida.

ENDNOTES

1. MCL 450.2123(1). MCL 450.2123(2) contains a list of more specialized corporate forms such as cooperative corporations (MCL 450.3123), secret societies (MCL 450.133), and ecclesiastical corporations (MCL 450.178).
2. *See* MCL 450.1101 *et seq*. The Michigan Nonprofit Corporations Act includes definitions of "shareholder" and "shares." MCL 450.2109(1)-(2).
3. *See* MCL 450.4101 *et seq*. Membership and members are recognized in the definitions to the Michigan Nonprofit Company Act. MCL 450.2108(1). For purposes of qualifying for federal tax-exempt status, the *raison d'etre* of nonprofit status, members of nonprofits may only be other nonprofits. See McCray & Thomas, *Limited Liability Companies as Exempt Organizations – Update*, p 30 <https://www.irs.gov/pub/irs-tege/eotopicb01.pdf> (accessed Dec 15, 2025).
4. MCL 14.251 *et seq*.
5. MCL 450.2123(1).
6. MCL 450.1541a(1)(a).
7. MCL 450.1541a(1)(b) ("[w]ith the care an ordinarily prudent person would exercise under similar circumstances").
8. MCL 450.1541a(1)(c).
9. *Murphy v Inman*, 509 Mich 132, 153; 983 NW2d 354 (2022).
10. *Id.* at 157-160.
11. *Id.* at 162-165 (analyzing the differences between derivative and direct shareholder actions).
12. MCL 450.1489(1).
13. MCL 450.4401; MCL 450.4402(1)-(4).
14. MCL 450.4404(1).
15. MCL 450.4515.
16. *See Dawson v DeLisle*, unpublished Court of Appeals opinion per curiam, issued July 21, 2009 (Docket No. 283195); *ArcelorMittal Plate LLC v Lapeer Indus, Inc.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued March 11, 2021 (Case No. 19-23527).
17. See MCL 14.251 *et seq*.
18. MCL 14.253(c). Certain trusts such as for religious organizations or educational institutions (MCL 14.253(a)) and where there are remote remainder beneficiaries (MCL 14.253(b)) are excluded.
19. MCL 14.251.
20. MCL 14.256.
21. MCL 14.254(a).
22. MCL 14.254(b). *Cf.* MCR 2.205 on necessary joinder of parties to litigation.
23. MCL 14.255.
24. MCL 14.254(c).
25. MCL 14.256(a)-(d); MCL 14.257.
26. See *Bormuth v Grand River Environmental Action Team*, unpublished Court of Appeals opinion per curiam, issued October 22, 2015 (Docket No. 321865).
27. Without making any value judgment, efforts to diversify nonprofit management could actually lead to "mission drift." Farwell, *Time To Flip The Tables: Board Diversity and Fiduciary Duties of Nonprofit Directors*, 95 Temple L.\ Rev 457 (2023). Unless a law specifically requires it or a nonprofit's stated purposes include a commitment to diversity of a particular kind, attempts to stack the management of a nonprofit without amending the purpose(s) might lead to a change of agenda not necessarily in line with the founding purpose(s) and prior donors' understanding of a nonprofit's purpose(s). Any such changes are perhaps best effectuated by a proper amendment of the founding documents. Opinions on this possibility would likely fall into two camps much like constitutional interpretation, i.e., "intent of the original drafters and framers" versus "living and breathing document."
28. *Prentis Family Foundation v Barbara Ann Karmanos Cancer Institute*, 266 Mich App 39, 49-50; 698 NW23d 900 (2005).
29. Benjamin, *Reinvigorating Nonprofit Directors' Duty of Obedience*, 30 Cardozo L Rev 1677, 1690 (2009); Hazen & Hazen, *Punctilios and Nonprofit Corporate Governance – A Comprehensive Look at Nonprofit Directors' Fiduciary Duties*, 14 U Pennsylvania J Business L 347, 388-389 (2012). *See also* Hazen & Hazen, *Duties of Nonprofit Corporate Directors – Emphasizing Oversight Responsibilities*, 90 North Carolina L Rev 1845,1863-1864 (2012).
30. See *Bormuth*, *supra* n 26. In a way, this case exemplifies one of the problems where there is a somewhat generic group of beneficiaries. The plaintiff was a private citizen who wanted to force a nonprofit to permit environmental sampling of a riverbed as was the directors' duty, but who did not enjoy a fiduciary duty from the directors of the nonprofit. Summary disposition was granted to directors because the plaintiff failed to establish a claim upon which relief could be granted as required by MCR 2.116(C)(8).
31. On weaknesses of the nonprofit governance sector compared to the for-profit sector, advocating specific use of the duty of obedience in the nonprofit sector. See generally, DiPietro, *Duty of Obedience: A Medieval Explanation For Modern Nonprofit Governance Accountability*, 46 Duquesne L Rev 99 (2007).
32. On certain weaknesses of adherence to company purposes in the case of nonprofits. See *Punctilios and Nonprofit Governance*, *supra* n 29 at 363-364 (including the fact that for many nonprofits, the role of director is unpaid).
33. See, e.g., 15 Pa Cons Stat Ann § 5545 (imposing a duty to expend funds properly collected in furtherance of the substantive purpose for which a nonprofit is organized); *Commonwealth by Kane v New Foundations, Inc*, 182 A3d 1059 (2018); *Shorter College v Baptist Convention of Georgia*, 279 Ga 466 (2005), quoting *Manhattan Eye, Ear & Throat Hosp v Spitzer*, 186 Misc 2d 126; 715 NYS2d 575, 593 (NY Sup Ct, 1999):

> It is axiomatic that the board of directors [of a nonprofit] is charged with the duty to ensure that the mission of the charitable corporation is carried out. This duty has been referred to as the "duty of obedience." It requires the director of a not-for-profit corporation to "be faithful to the purposes and goals of the organization," since "[u]nlike business corporations, whose ultimate objective is to make money, nonprofit corporations are defined by their specific objectives."

In New York, the duty of obedience appears to be treated as distinct from and not a subset of the duty of care or the duty of loyalty. *Schneiderman ex rel People v Lower Esopus River Watch, Inc.*, 975 NYS2d 369; 39 Misc 3d 1241(A) (2013), Slip Op. 50970(U).
34. A particularly well-crafted definition may be found in Moore, *IV. Governance and the Attorney General*, Advanced Business Law (State Bar of Texas 2017) ("the duty of obedience requires the decision maker to follow the governing documents of the organization, the laws applicable to the organization, and restrictions imposed by doners and ensure that the organization seeks to satisfy all reporting and regulatory requirements.").
35. See Benjamin, *supra* n 29 at 1690 ("amend[*ments to*] their chartered purpose [ ] would require that directors avail the amendment procedures dictated by state law before diverging from their original charter.").
36. As an example, MCL 450.2505(1)(b) requires, with exception for private foundations and for certain corporations founded to provide dental services, that a board consists of three directors. Any decisions made when there are less than three are arguably invalid.

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OF INTEREST

Judge Nancy Garlock Edmunds

BY JOHN RUNYAN

It is 6 a.m. in the Eastern Time Zone and, apart from those long days surrounding the summer solstice, still dark outside. United States District Judge Nancy Garlock Edmunds is awakened by her attentive spouse and begins the ritual she has followed for the past 17 years: She takes her morning dose of synthetic dopamine and tries to shake off the stiffness that has crept into her body overnight. Then it is off to the gym seven days per week, where she spends 30–45 minutes walking briskly on a treadmill or elliptical, followed 30 minutes twice per week of resistance training with a personal trainer.

Edmunds was diagnosed with Parkinson's disease in 2010, when she was 63. The same discipline that she applied to her studies growing up has allowed her to continue her work on the United States District Court for the Eastern District of Michigan for the last 34 years, half of which followed her diagnosis. Judge Edmunds has announced her retirement effective March 31, 2026.

THE EARLY YEARS

Judge Edmunds was born in Detroit on July 10, 1947. Her family moved to Southfield when Judge Edmunds was in junior high school. Her father, Joseph Garlock, was a WWII Navy veteran and a pharmacist who owned Garlock Drugs in Pontiac for 25 years. After he sold the business in 1982, he continued to work as a pharmacist for another 25 years until he was "laid off" in 2007 at the age of 87.

Judge Edmunds' mother, Phyllis Sandelman Garlock, taught gym at the Detroit Public Schools for a few years and then turned her attention to managing the family finances, including investments. She and Joseph lived until their late nineties and were married for 75 years.

AN IMPRESSIVE RESUME

Edmunds graduated from Southfield High School in 1965 at the top of her class. She received a Bachelor of Arts degree (*cum laude*) from Cornell University in 1969 and was elected to Phi Beta Kappa. Edmunds next attended the University of Chicago, from which she received a Master of Arts in Teaching in 1971.

Edmunds graduated first in her class from Wayne State University Law School in 1976, receiving her Juris Doctor degree *summa cum laude*. She also served as Editor-in-Chief of the Wayne Law Review. Her husband, William Edmunds, was a law school classmate who finished second in his and Nancy's class.

Following her graduation from the University of Chicago, Edmunds taught middle school English at the Plymouth-Canton Community Schools. After graduating from law school, she served as law clerk to United States District Judge Ralph M. Freeman. In 1978, Edmunds joined Dykema Gossett's Commercial Litigation Section,

becoming a partner in 1984. Over the course of her 14 years in private practice, she litigated a number of complex cases in both state and federal courts.

On September 11, 1991, Edmunds was nominated by President George H. W. Bush to a seat vacated by Richard F. Suhrheinrich on the United States District Court for the Eastern District of Michigan. She was confirmed by the United States Senate on February 6, 1992, and received her commission on February 10, 1992. Judge Edmunds assumed senior status on August 1, 2012.

JUDGE EDMUNDS' BAR AND COMMUNITY SERVICE

Edmunds served from 1983 until 1991 on the faculty and board of the Federal Advocacy Institute and from 1989 until 1992 and from 1995 until 2000 on the Executive Board of the Federal Bar Association, Eastern District of Michigan.

She served as Chair of the United States Courts Committee of the State Bar of Michigan from 1990–1991, and in 1990 as Commissioner of the 21st Century Commission on the Courts. In 1990, she also served as Program Chair of the Federal Bar Association's Bench/Bar Conference. From 1993 until 1998, Judge Edmunds served on the Board of Trustees for the Historical Society on the United States District Court for the Eastern District of Michigan. She served from 1994 until 2000 as a member of the National Judicial Conference's Committee on Defender Services.

In terms of community service, Edmunds served from 1990 until 1997 on the Board of Trustees of Temple Beth El and from 1999 until 2004 on the Board of Governors of Cranbrook/Kingswood Schools. From 1999 until 2011, she also served as Chair of the Michigan Members/Stratford Shakespearean Festival of America; and from 2002 until 2006 on the Committee of Visitors of Wayne Law School. Judge Edmunds also served from 2006 until 2007 on the Board of Trustees of the Jewish Community Relations Council.

EDMUNDS'S SIGNIFICANT OPINIONS

During her time on the bench, Edmunds has defied categorization. The one constant in her opinions and decision-making has been careful attention to detail. She approaches each case that comes before her with an open mind and takes her time to make sure that she is reaching a result consistent with the relevant facts and the governing law.

IN RE CARDIZEM CD ANTITRUST LITIGATION,[1]

Edmunds presided over a multidistrict antitrust litigation that arose from an agreement between the defendants, Hoescht Marion Roussel, Inc., the manufacturer of the prescription drug Cardizem CD; and Andrx Pharmaceuticals, Inc., a potential manufacturer of a generic version of that drug. The agreement provided that Andrx would refrain from marketing its generic version of the drug even after it had received FDA approval in exchange for quarterly payments of $10 million. Plaintiffs were direct and indirect purchasers of the drug challenging the agreement as a violation of federal and state antitrust laws. During the early stages of the litigation, Judge Edmunds denied the Defendants' motions to dismiss[2] and granted the plaintiffs' motions for partial summary judgment, finding that the Defendants had committed a per se violation of the antitrust laws.[3] Two questions were certified for interlocutory appeal to the Sixth Circuit, which found that Judge Edmunds had properly resolved both questions in reaching her decisions.[4] After a settlement was reached, Judge Edmunds granted motions for approval of class action settlement and motions for attorney fees.[5]

UNITED STATES V. DETROIT HIGHWAYMEN MOTORCYCLE CLUB[6]

After an extensive jury trial on alleged violations of federal racketeering laws and other federal laws involving violent acts, firearms, controlled substances and stolen property by members of the Highwaymen Motorcycle Club that resulted in a guilty verdict, Judge Edmunds ruled that Defendants' Rule 29 motions for acquittal and Rule 33 motions for new trial were not warranted.[7]

UNITED STATES V. ABDULMUTALLAB (UNDERWEAR BOMBER)[8]

In one criminal case, the indictment charged that on December 25, 2009, the defendant flew aboard Northwest Delta Flight 253 from Amsterdam, the Netherlands, to Detroit Metropolitan Airport in Romulus, Michigan, carrying a concealed explosive device in his underwear, was acting on behalf of the designated terrorist organization al Qaeda, that his intent in carrying the explosive device was to cause the plane to crash and kill everyone aboard, and that minutes before landing in Detroit, the defendant detonated the explosive which did not function as intended but instead ignited a fire that caused burns to himself and damage to the aircraft. Judge Edmunds ruled as follows:

1. Because the United States Supreme Court has drawn a distinction between presumed and actual prejudice for pretrial publicity, prejudice cannot be presumed in this matter, and because the extensive jury questionnaire and follow-up individual *voir dire* fashioned by the Court will probe each prospective juror's exposure to any pretrial publicity, a change of venue is not warranted. 2011 WL 4343851 (E.D. Mich. Sept. 14, 2011).
2. The defendant's statements to federal agents at the hospital where he was being treated for burn injuries were voluntary, and the circumstances present at the time of this questioning fall within the public safety exception to *Miranda* recognized by the United States Supreme Court in *New York v. Quarles,* 467 U.S. 649 (1984).[9]

UNITED STATES V. KILPATRICK, ET AL.[10]

In 2012, various pretrial motions were decided by Judge Edmunds with regard to the upcoming criminal trial of the City of Detroit's

former mayor, Kwame Kilpatrick; his father, Bernard Kilpatrick; contractor Bobby Ferguson; and the former head of the City's Water & Sewerage Department, Victor Mercado, including the following:

1. Decision granting the government's motion *in limine* for a pretrial determination of the authenticity of text message exchanges between and among Defendants;[11]
2. Decision addressing Defendants' motion in opposition to empaneling an anonymous jury;[12]
3. Decision denying Defendant Bobby Ferguson's motion to dismiss certain counts for failing to state an offense for aiding and abetting Defendant Kwame Kilpatrick's crime of taking a bribe in violation of 18 U.S.C. 666(a);[13]
4. Decision denying Defendant Bobby Ferguson's motion seeking to exclude the government's "color of official right" theory from its prosecution of certain criminal counts in the indictment;[14]
5. Decision denying Defendant Mercado's motion for severance of his trial from the other Defendants;[15]
6. Decision addressing a potential conflict of interest raised by Defendant Kwame Kilpatrick.[16]

In 2013, following a lengthy jury trial that included charges alleging a RICO conspiracy, multiple counts of extortion under the Hobbs Act, bribery, mail and wire fraud, and false submission of federal tax returns, the jury found Defendant Kwame Kilpatrick guilty on 24 of 30 counts, including the RICO conspiracy; Defendant Bobby Ferguson guilty on 9 of 11 counts, including the RICO conspiracy; and Bernard Kilpatrick guilty on 1 of 4 counts. Several post-verdict decisions were issued, including the following:

1. Decision denying Defendant Kwame Kilpatrick's motion to be released on bond pending sentencing;[17]
2. Decision denying Defendants Kwame Kilpatrick's, Bobby Ferguson's, and Bernard Kilpatrick's motions for judgments of acquittal;[18] and
3. Decision denying Defendants Kwame Kilpatrick's and Bobby Ferguson's motions for a new trial.[19]

CONCLUSION

Those of us who have practiced in the federal court in Detroit over the last four decades are fortunate that Nancy Edmunds was among the judges to whom our cases were assigned. She never sought the spotlight but instead allowed her intellect, work ethic, and judicial temperament to distinguish her. Her colleagues on the bench and members of the Bar will miss her wise counsel and erudite opinions.

John Runyan served as law clerk to United States District Judge Stephen J. Roth, who presided over Bradley v. Milliken, the Detroit school desegregation case. He is a recipient of the SBM John W. Cummiskey Pro Bono Award, the SBM Labor and Employment Section's Distinguished Service Award and the Federal Bar Association's Cook Friedman Civility Award. Runyan currently serves as chair of the SBM standing committee that oversees publication of the Michigan Bar Journal.

ENDNOTES

1. See generally, *In re Cardizem CD Antitrust Litigation*, (Docket No. 99-md-1278) (ED Mich).
2. *In re Cardizem CD Antitrust Litigation*, 105 F Supp 2d 618 (ED Mich 2000).
3. *In re Cardizem CD Antirust Litigation*, 105 F Supp 2d 682 (ED Mich. 2000).
4. *In re Cardizem CD Antitrust Litigation*, 332 F3d 896 (CA 6, 2003).
5. *See In re Cardizem CD Antitrust Litigation*, 218 FRD 508 (ED Mich 2003).
6. See generally, *United States v Nagi*, et al. (Docket No. 06-20465) (ED Mich).
7. *United States v Nagi,* unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 14, 2010 (Docket No. 06-20465) and *United States v Moore,* unpublished opinion of the United States District Court for the Eastern District of Michigan, issued June 23, 2011 (Docket No. 06-20465).
8. See generally *United States v Abdulmutallab*, (Docket No. 10-20005) (ED Mich).
9. *United States v Abdulmutallab*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued September 16, 2011 (Docket NO. 10-20005).
10. See generally, *United States v Kilpatrick*, (Docket No. 10-20403) (ED Mich).
11. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 7, 2012 (Docket No. 10-20403).
12. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 7, 2012 (Docket No. 10-20403) (2012 WL 2326727).
13. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 7, 2012 (Docket No. 10-20403) (2012 WL 3237839).
14. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 8, 2012 (Docket No. 10-20403) (2012 WL 3257825).
15. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 14, 2012 (Docket No. 10-20403) (2012 WL 3464698).
16. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 15, 2012 (Docket No. 10-20403) (2012 WL 345805).
17. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued March 27, 2013) (2013 WL 1273822).
18. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 8, 2013 (Docket No. 10-20403) (2013 WL 4041866).
19. *United States v Kilpatrick, et al.*, unpublished opinion of the United States District Court for the Eastern District of Michigan, issued August 8, 2013 (Docket No. 10-20403) (2013 WL 4029084).

Bonding for fiduciaries: A cautionary tale

BY RICHARD McNALLY

Recently, a medical malpractice claim brought on behalf of a child was resolved. The probate court approved the placement of the net recovery of approximately $250,000 in a court-supervised special needs trust. The mother of the child was named as initial trustee, but neither the involved attorney nor the court required that the mother obtain a surety bond to protect the child's funds. In two years, the child's parents misappropriated most of the funds, leaving the trust without assets.

The mother is now exposed to a surcharge and/or felony criminal embezzlement charges. Inasmuch as the parents are uncollectible, the involved attorney is at risk of a disciplinary proceeding or a legal malpractice claim brought on behalf of the child or a successor trustee to recover the financial losses.

Consultation with other attorneys in the SBM Probate and Estate Planning Section has produced a consensus that the duties, including duty of care in a malpractice context, imposed on attorneys in this or a similar situation are very fact sensitive. Issues include the scope of the retainer agreement, the degree to which the retainer agreement covers the attorney's obligation to manage administra-

tion and the filing of annual accounts, whether the attorney continues an appearance in the Probate Court proceeding supervising the trust, the attorney's knowledge of red flags regarding the proposed trustee that beg protection of the beneficiary, etc.

LEGAL ANALYSIS: LEGAL MALPRACTICE

Court rule and statute provide some guidance. Per MCR 5.206:

> A fiduciary *and an attorney for a fiduciary* must take all actions reasonably necessary to regularly administer an estate and close administration of an estate. If the fiduciary or the attorney fails to take such actions, the court may act to regularly close the estate and assess costs against the fiduciary or attorney personally. [Emphasis added.]

MCL 700.1104(e), part of the definition section of the Estates and Protected Individuals Code, provides that the term "'[f]iduciary' includes, but is not limited to, a … trustee … ." Further, MCL 700.1104(b) provides that "'[e]state' includes the property of the … trust …."

Thus, the administration of an "estate" includes administration of a "trust." If an attorney's omissions amounted to a failure to administer the estate/trust, the attorney faces personal exposure to costs. A legal malpractice attorney may use this duty as the basis for a claim against the probate attorney.[1]

In this case, it was clear to the attorney requesting court approval of the special needs trust that the mother nominated as trustee had no experience in trust administration and was unqualified to be given unfettered access to such a substantial amount of money. This became even clearer as the attorney was unable to obtain from the mother/trustee any documentation for the first annual account showing that funds were used for her daughter's benefit consistent with the terms of the trust, rather than as a personal piggy bank for her own and her husband's whims. At the very least, given the red flags, the attorney should have been more assertive in protecting the child and stemming the losses by either requiring the mother to obtain a bond or petitioning the court to order one before the trust was completely looted.

LEGAL ANALYSIS: AGC DISCIPLINE

Michigan Rules of Professional Conduct Rule1.1: Competence provides in part: A lawyer shall provide competent representation to a client. A lawyer shall not neglect a legal matter entrusted to the lawyer.

The attorney's failure to "take all actions reasonably necessary to regularly administer an estate" could be characterized as "neglect of a legal matter entrusted to the lawyer,"[2] exposing the attorney to action by the Attorney Grievance Commission.

The value of a bond

The child's loss could have been avoided had a bond been obtained, either ordered by the court or required by the involved attorneys. Astute attorneys often arrange for bonds even when a court does not order one. For example, if an attorney is handling an estate for a layperson who is serving as a fiduciary for an estate, a trust, a ward, or a child, the attorney may advise or even require the client to obtain a bond. This would provide protection for the attorney in the event that the fiduciary mismanages the funds and the estate, beneficiaries, ward, or child either makes a claim against the attorney or institutes disciplinary proceedings because the fiduciary has dissipated the funds and is no longer collectible, leaving the attorney subject to a professional negligence claim or AGC action. Even if a malpractice claim is unsuccessful, the attorney must defend it with the cost of the insurance deductible, the effect on professional liability insurance premiums, reputational damage, and worry. Even if no discipline is ordered as a result of an AGC request for investigation, AGC scrutiny poses its own risk and expense.

Costs of fiduciary bonds depend on the amount of the bond to be obtained. For example, the annual premium for a bond for $500,000 would be about $2,500, or one half of one percent of the amount of the bond, which is an allowable expense of the trust or estate. This is a small price to pay for vital protection.

Restricted accounts are often ordered in Probate Court decedent or conservatorship estates. Such accounts may, at first blush, appear more economical, but such accounts involve additional administrative expenses. These include preparation and filing of the attorney's statement to restrict funds, obtaining and filing the bank's proof of restriction, an annual verification of restricted funds, a petition for use of funds, obtaining an order for use, submission of the order to the bank, dealing with each bank's unique procedures, possible time-consuming review by the bank's legal department, and then obtaining the funds. When all these are considered, the flexibility of a bond with the accompanying fixed annual cost and ready access to funds becomes attractive, and the attorney would be well advised to request that the court order a bond in lieu of a restricted account.

For estates with relatively large assets, a combination of a restricted account and a bond may be advantageous. Imagine an estate with assets of $800,000, with anticipated annual expenses of $100,000. The Court may be approached with a petition for a restricted investment account for $700,000 of the funds, with a bond for a separate operating account of $100,000. This allows the fiduciary the flexibility to spend $100,000 each year for the expenses without having to petition the Court for use of funds, and as that sum is consumed each year, the fiduciary can, when filing for approval of the annual accounting, request movement of $100,000 from the restricted investment account to the operating

account protected by a bond. This arrangement would considerably reduce bond costs.

CONCLUSION

This scenario, which is all too common, is a cautionary tale for attorneys who practice in this field of law. Practitioners would do well to heed the advice of Hon. Allen Nelson (1938-2020), who served as Genesee County probate judge for 20 years before his retirement in 2006. Judge Nelson often offered this keen insight:

> "Trust the family if you will, but bond the hand that holds the till."

Richard McNally, P29713, is an SBM member, belongs to the Probate and Estate Planning Section, and owns the McNally Mason surety bonding agency representing CNA Surety (www.mcnallymasonagency.com) in Flint, which specializes in probate and fiduciary bonds.

ENDNOTES

1. For a discussion of malpractice based on tort and third-party beneficiary theories, see *Mieras v DeBona*,452 Mich 278 (1966).
2. MRPC 1.1.

PUBLIC POLICY REPORT

AT THE CAPITOL

Executive Budget for the Michigan Indigent Defense Commission for the 2027 Fiscal Year

POSITION: Support.

Executive Budget for the Department of the Judiciary for the 2027 Fiscal Year

POSITION: Support.

IN THE HALL OF JUSTICE

Proposed Adoption of Administrative Order No. 2026-X, Proposed Rescission of Administrative Order No. 2012-7, and Proposed Amendments of Rules 2.407 and 8.110 of the Michigan Court Rules (ADM File No. 2019-40) – Adoption of Administrative Order Regarding aJudicial Officer's Remote Appearance; Videoconferencing; Chief Judge Rule (See *Michigan Bar Journal* XXX, XX).

STATUS: Comment Period Expired 4/1/26; Public Hearing to be Scheduled.

POSITION: Support ADM File No. 2019-40 in principle and underscore SBM's previous position that attorneys and parties should not be required to appear in person if the judicial officer is participating remotely in a proceeding.

Proposed Amendment of Canon 3 of the Code of Judicial Conduct (ADM File No. 2024-08) – A Judge Should Perform the Duties of Office Impartially and Diligently.

STATUS: Comment Period Expired 4/1/26; Public Hearing to be Scheduled.

POSITION: Support.

OTHER

Amendment to Michigan Department of Corrections Policy Directive PD 05.03.118(QQ)(8)

POSITION: Oppose the amendment to PD 05.03.118(QQ)(8) prohibiting incarcerated individuals from receiving hard cover books.

LEGAL NOTICE

NOTICE OF APPOINTMENT OF INTERIM ADMINISTRATOR

The 10th Circuit Court has ordered that:

Attorney **Udak-Obong Bellomy,** P84745
120 N. Michigan Ave. STE 203
Saginaw, MI 48602
989.355.0900

is hereby appointed Interim Administrator to serve on behalf of:

Attorney **Alan Jerome Butler, Jr.**, P83432
4580 State St. #346
Saginaw, MI 48603

Ordered by 10th Circuit Court on Februart 10, 2026.
Case no. 26-00253-PZ

MICHIGAN BAR JOURNAL

STATE BAR OF MICHIGAN ELECTION NOTICE

GENERAL ANNOUNCEMENT

Members of the State Bar of Michigan are notified that the following elections will be held in June 2026:

- A statewide election for a non-judicial member of the Judicial Tenure Commission
- Elections for 81 members of the Representative Assembly in 41 judicial circuits
- Elections for 6 members of the Board of Commissioners in 4 commissioner districts
- Elections for 11 members of the Young Lawyers Section Executive Council in 3 districts

Nominating petitions may be filed no earlier than April 1, 2026, and no later than April 30, 2026. Ballots will be distributed no later than June 1, 2026, and must be completed online no later than June 15, 2026. Nominating petitions for all elections are available at michbar.org/programs/forms.

JUDICIAL TENURE COMMISSION

Active members will elect one non-judicial member of the Judicial Tenure Commission for a term of three years, beginning on January 1, 2027, and expiring on December 31, 2029. Article 6, Section 30 of the Michigan Constitution provides that three of the Commission's nine members shall be State Bar members elected by the members of the State Bar. One of these shall be a judge and two shall not be judges. The seat to be filled by an election in June 2026 is to be held by a member who is a non-judicial member.

It is now held by:
Dawn N. Ison, Detroit

Any active member of the State Bar who is not a judge may be nominated by petitions bearing the signatures of not fewer than 50 active members of the State Bar. No member may sign a nominating petition for more than one Judicial Tenure Commission candidate. All signatures in violation of this rule will be deemed invalid. It is suggested to people circulating petitions that at least 75 signatures be obtained to ensure that at least 50 valid signatures remain should any be ruled invalid or be found illegible and therefore unverifiable.

REPRESENTATIVE ASSEMBLY

Active members in certain judicial circuits will elect members of the Representative Assembly for their circuits as follows:

1. The terms of certain elected members of the Assembly from judicial circuits as indicated below will expire at the close of the September 2026 meeting of the Representative Assembly. These seats are to be filled by election in June 2026 for terms of three years.

2. Vacancies in certain judicial circuits as indicated below are to be filled by election for the balance of the respective unexpired terms. The candidates elected will assume their office immediately upon the certification of their election in June 2026.

3. Terms of Assembly members in certain judicial circuits as indicated below, who serve by virtue of interim appointment by the Representative Assembly to fill seats for which there were no candidates for election in 2025, expire immediately upon certification of the election of their successors in June 2026 for the balance of the respective unexpired terms.

2ND CIRCUIT – BERRIEN COUNTY

Elect one for a three-year term.

3RD CIRCUIT – WAYNE COUNTY

Elect eight for a three-year term.
Elect one for a one-year term.
Incumbent eligible for reelection:
Robbie J. Gaines, Jr.
Dawn S. Lee-Cotton
Shanika A. Owens
Richard M. Soranno
Delicia A. Taylor-Coleman
Macie Tuiasosopo Gaines
Kimberley A. Ward

6TH CIRCUIT – OAKLAND COUNTY

Elect ten for a three-year term.
Elect four for a two-year term.
Incumbent eligible for reelection:
Michael J. Blau
Spencer M. Bondy
Mary A. Bowen
Ashley F. Eckerly
Toya Y. Jefferson
Rhonda S. Pozehl
Kymberly K. Reeves

(+Tanisha M. Davis is an incumbent, but under the applicable rules, her tenure is extended without election so she can serve as chair in 2027-2028.)

7TH CIRCUIT – GENESEE COUNTY

Elect one for a three-year term.
Elect one for a two-year term.
Incumbent eligible for reelection:
Julie A. Winkfield

8TH CIRCUIT – MONTCALM AND IONIA COUNTIES

Elect one for a three-year term.
Incumbent eligible for reelection:
Katie M. Johnson

9TH CIRCUIT – KALAMAZOO COUNTY

Elect one for a three-year term.

10TH CIRCUIT – SAGINAW COUNTY

Elect two for a three-year term.
Incumbent eligible for reelection:
Krystal K. Pussehl

11TH CIRCUIT – ALGER, LUCE, MACKINAC, AND SCHOOLCRAFT COUNTIES
Elect one for a three-year term.

12TH CIRCUIT – BARAGA, HOUGHTON, AND KEWEENAW COUNTIES
Elect one for a two-year term.

13TH CIRCUIT – ANTRIM, GRAND TRAVERSE, AND LEELANAU COUNTIES
Elect two for a two-year term.

14TH CIRCUIT – MUSKEGON COUNTY
Elect two for a one-year term.
Incumbent eligible for reelection:
Shawn L. Perry**
Jennifer J. Roach**

15TH CIRCUIT – BRANCH COUNTY
Elect one for a one-year term.

16TH CIRCUIT – MACOMB COUNTY
Elect one for a three-year term.
Elect one for a two-year term.

17TH CIRCUIT – KENT COUNTY
Elect two for a three-year term.
Elect two for a two-year term.

18TH CIRCUIT – BAY COUNTY
Elect two for a two-year term.

19TH CIRCUIT – BENZIE AND MANISTEE COUNTIES
Elect one for a three-year term.

20TH CIRCUIT – OTTAWA COUNTY
Elect one for a three-year term.
Elect one for a two-year term.
Incumbent eligible for reelection:
Anna C. White

21ST CIRCUIT ISABELLA COUNTY
Elect one for a three-year term.
Incumbent eligible for reelection:
Becky J. Bolles

22ND CIRCUIT – WASHTENAW COUNTY
Elect three for a three-year term.
Elect two for a two-year term.
Incumbent eligible for reelection:
Toi E. Dennis
Amy S. Krieg

23RD CIRCUIT – ARENAC, IOSCO, ALCONA & OSCODA COUNTIES
Elect one for a three-year term.
Incumbent eligible for reelection:
Duane L. Hadley**

24TH CIRCUIT – SANILAC COUNTY
Elect one for a three-year term.

25TH CIRCUIT – MARQUETTE COUNTY
Elect one for a three-year term.
Elect one for a two-year term.
Incumbent eligible for reelection:
Karl A. Weber

26TH CIRCUIT – ALPENA AND MONTMORENCY COUNTIES
Elect one for a three-year term.

27TH CIRCUIT – LAKE AND NEWAYGO COUNTIES
Elect one for a three-year term.

28TH CIRCUIT – MISSAUKEE AND WEXFORD COUNTIES
Elect one for a three-year term.
Incumbent eligible for reelection:
Alexander S. Mallory

30TH CIRCUIT – INGHAM COUNTY
Elect two for a three-year term.
Elect one for a two-year term.
Incumbent eligible for reelection:
Elizabeth K. Abdnour

31ST CIRCUIT – ST. CLAIR COUNTY
Elect two for a two-year term.

35TH CIRCUIT – SHIAWASSEE COUNTY
Elect one for a one-year term.

36TH CIRCUIT – VAN BUREN COUNTY
Elect one for a two-year term.

37TH CIRCUIT – CALHOUN COUNTY
Elect one for a two-year term.

38TH CIRCUIT – MONROE COUNTY
Elect one for a one-year term.
Elect one for a two–year term.
Incumbent eligible for reelection:
Sean M. Myers**

39TH CIRCUIT – LENAWEE COUNTY
Elect one for a two-year term.

41ST CIRCUIT – DICKINSON, IRON, AND MENOMINEE COUNTIES
Elect one for a two-year term.

42ND CIRCUIT – MIDLAND COUNTY
Elect one for a two-year term.

44TH CIRCUIT – LIVINGSTON COUNTY
Elect one for a two-year term.

45TH CIRCUIT – ST. JOSEPH COUNTY
Elect one for a three-year term.
Incumbent eligible for reelection:
Keely A. Beemer

48TH CIRCUIT – ALLEGAN COUNTY
Elect one for a three-year term.
Incumbent eligible for reelection:
Michael J. Becker

49TH CIRCUIT – MECOSTA AND OSCEOLA COUNTIES
Elect one for a three-year term.
Incumbent eligible for reelection:
Steven M. Balkema

50TH CIRCUIT – CHIPPEWA COUNTY

Elect one for a two-year term.

53RD CIRCUIT – CHEBOYGAN AND PRESQUE ISLE COUNTIES

Elect one for a one-year term.

Incumbent eligible for reelection:
Anthony M. Juillet**

54TH CIRCUIT – TUSCOLA COUNTY

Elect one for a three-year term.

Incumbent eligible for reelection:
Ashley K. Swick**

56TH CIRCUIT – EATON COUNTY

Elect two for a two-year term.

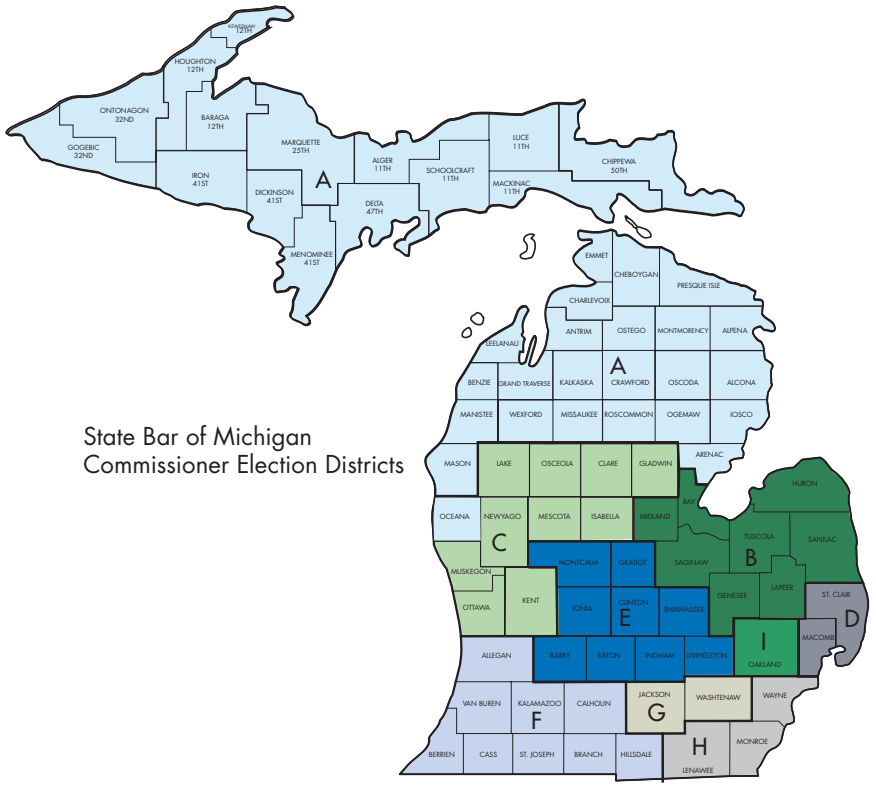
BOARD OF COMMISSIONERS

Board of Commissioners Active members in certain commissioner election districts will elect members of the Board of Commissioners for their districts as follows: The terms of the following commissioners of the State Bar will expire at the close of the September meeting of the 2025-2026 Board of Commissioners.

The seats are to be filled by election in June 2026 for terms of three years, commencing at the close of the September meeting of the 2025-2026 Board of Commissioners. The following are the districts in which elections are to be held, the number of seats to be filled, and the names of the incumbents.

Commissioners are nominated from among the active members of the State Bar having their principal offices within the commissioner election district. Any active member may circulate petitions for a candidate for district commissioner in his or her district. Five valid signatures of members entitled to vote in that district are required to be nominated.

No member may sign nominating petitions for more district commissioner candidates than there are seats to be filled in the district. All signatures in violation of this rule will be deemed invalid. It is suggested to people circulating petitions that at least seven signatures be obtained to ensure that at least five valid signatures remain should any be ruled invalid or found illegible and therefore unverifiable.



State Bar of Michigan
Commissioner Election Districts

DISTRICT B – JUDICIAL CIRCUITS 7, 10, 18, 24, 40, 42, 52, AND 54

Elect one.

One seat – one vacancy

DISTRICT E – JUDICIAL CIRCUITS 8, 29, 30, 35, 44, AND 56

Elect one.

One seat - one incumbent
Incumbent eligible for reelection:
Robert A. Easterly, East Lansing

DISTRICT H – JUDICIAL CIRCUITS 3, 38, AND 39

Elect two.

Two seats - one incumbent, one vacancy
Incumbent eligible for reelection:Ponce D. Clay, Detroit
Vacancy

DISTRICT I – JUDICIAL CIRCUIT 6

Elect two.

Two seats - one incumbent, one vacancy+
Incumbent eligible for reelection:
Joshua A. Lerner, Royal Oak
Vacancy

(+David C. Anderson is an incumbent, but under the applicable rules, his tenure is extended without election so he can serve as president in 2028-2029. The authorized number of Board members is increased accordingly. The Board seat allocated to District I is filled by election.)

YOUNG LAWYERS SECTION EXECUTIVE COUNCIL

The members of the Young Lawyers Section will elect members of the Executive Council for their districts as follows: The terms of the following Executive Council members expire at the close of the Young Lawyers Section Executive Council meeting in September 2026.

These seats are to be filled in by election in June 2026 for two-year terms. The following are the districts in which elections are to be held, the number of seats to be filled, and the names of the incumbents.

DISTRICT 1—MACOMB AND WAYNE COUNTIES

Elect four.

Incumbents eligible for reelection:
Myles J. Baker, Detroit

Joseph S. Pernicano, Grosse Pointe Farms
Vacancy
Vacancy

DISTRICT 2 – OAKLAND COUNTY

Elect five.

Incumbents eligible for reelection:
Kathryn L. Ahlbrand, Birmingham
Elizabeth N. Erickson, Southfield
Antwuan M. Hawkins, Southfield
Matthew J. High, Birmingham
Vacancy

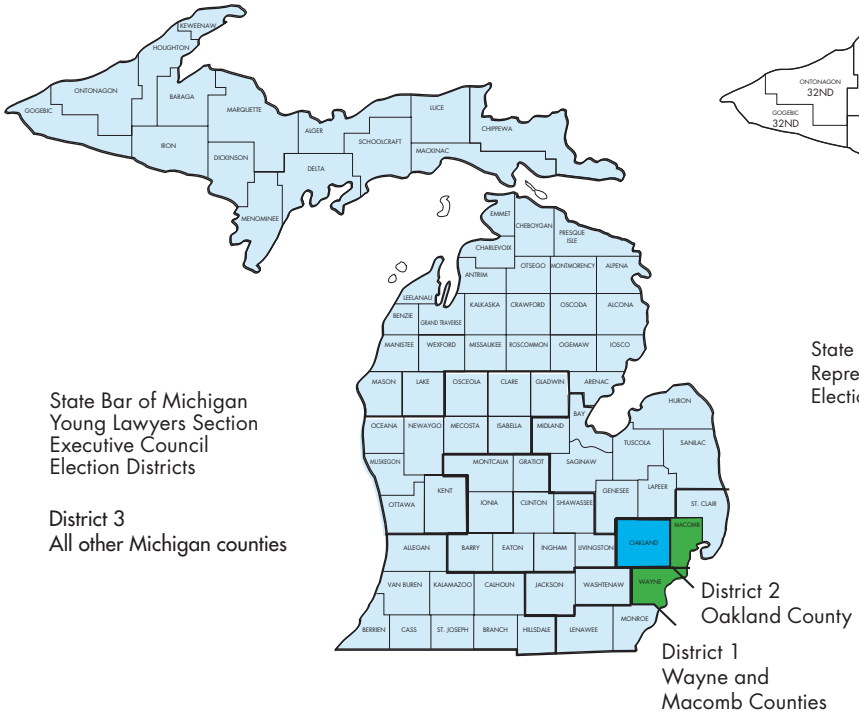
DISTRICT 3—ALL MICHIGAN COUNTIES EXCEPT MACOMB, OAKLAND, AND WAYNE

Elect two.

Incumbents eligible for reelection:
Chad L. Antuma, Grand Rapids
Ashley E. Chalut, Hartland

Executive Council members shall be elected from the active membership of the Young Lawyers Section in the three districts by the active members having their address of record on file with the State Bar. Any active member may circulate petitions for a candidate for Council member in his or her district. Five valid signatures of members entitled to vote for the nominee are required to nominate that person.

No member may sign nominating petitions for more Executive Council candidates than there are seats to be filled in the district. No member may sign nominating petitions for candidates outside of their district. All signatures in violation of these rules will be deemed invalid. It is suggested that at least seven signatures be obtained by the people circulating the petition to ensure that at least five valid signatures remain should any be ruled invalid or found illegible and therefore unverifiable.

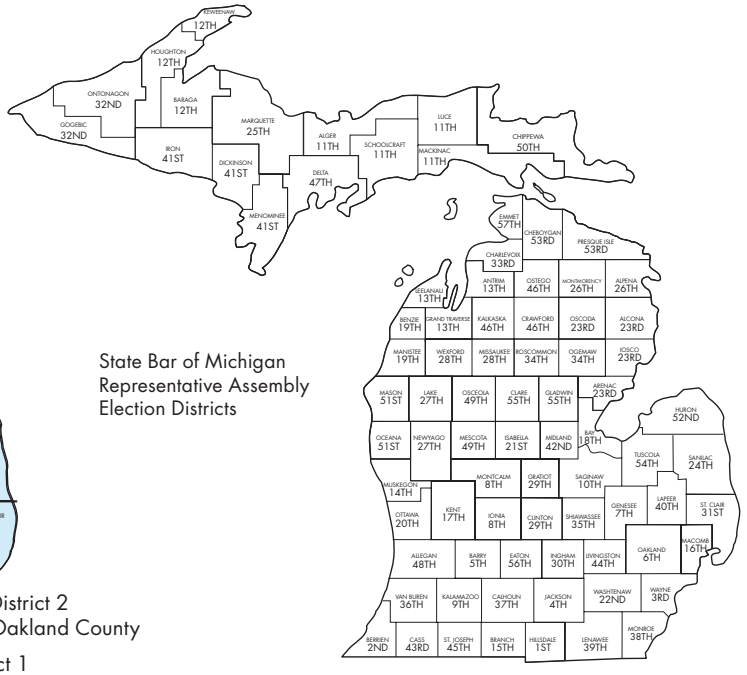


State Bar of Michigan
Young Lawyers Section
Executive Council
Election Districts

District 3
All other Michigan counties

District 2
Oakland County

District 1
Wayne and
Macomb Counties



State Bar of Michigan
Representative Assembly
Election Districts

BEST PRACTICES

Why you should use Word's document templates

BY JASON D. KILLIPS

Lawyers are professional writers, and we should want our documents — briefs, letters, contracts, trust documents — to reflect that professionalism. We should strive for documents that are formatted to be welcoming, authoritative, easy to navigate, and easy to read. We should also strive for consistency so that a package of contracts we deliver or a set of briefs we file all look like they came from the same law office. But lawyers are also busy and don't have much time to format documents and, especially, to make sure that they are formatted consistently.

One *good* solution is to reuse documents. A lawyer who carefully formatted his last appellate brief might use that brief as the basis for their next one. It will already have many of the necessary components, after all, and some of the formatting decisions (typeface, line spacing, margins, etc.) will be preserved, at least for the body text. This is better than starting with a blank document but will still require some new formatting work — ensuring that each heading is on the same page as the first text that follows it and that the non-body text (such as block quotes and bulleted lists) is formatted correctly and consistently.

There's a *better* solution, though, and that solution is to use Microsoft Word's *document templates*. (Other programs have similar features; Word is simply the most used.) Document templates are Word files that save all your formatting decisions for future use. Each formatting decision is then only a mouse click away.

WHAT IS IT LIKE TO USE A DOCUMENT TEMPLATE?

To understand what it is like to use a document template, imagine a litigator preparing an appeal brief. They open their "appeal brief.dotx" template file, and a mostly blank document appears. This document has some of the framing for a caption, a mostly empty table of contents, and headings for the necessary parts of the brief (authorities, basis of jurisdiction, questions presented, facts, etc.). More importantly, Word's Home ribbon displays, in the Styles section, buttons for "Normal," "Block Quote," "Heading 1," "Heading 2," and the like.

The lawyer moves to the facts section. They click the "Heading 1" style, and the text becomes bold, left-aligned, and single-spaced,[1] with a hanging indent for the heading number.[2] The lawyer types "**1. Mr. and Mrs. Smith sign a prenuptial agreement.**" Then the lawyer hits ENTER. Automatically, the "Normal" style is selected, and the text switches to roman (not bolded, italicized, or underlined), double-spaced, and fully justified. The lawyer begins writing a narrative about how the couple met, what assets they had, and why they decided on a prenuptial agreement. The next paragraph begins, "In the prenuptial agreement, the parties carefully defined their separate property." Now the lawyer wants to insert the agreement's definition, so they hit ENTER and click the "Block Quote" style. Immediately, the format changes to single-spaced text, with each side indented a half inch. The lawyer types or pastes in the

"Best Practices" is a regular column of the *Michigan Bar Journal* edited by George Strander of the Michigan Bar Journal Committee. To contribute an article, contact Mr. Strander at gstrander@yahoo.com.

definition and hits ENTER, and the formatting is "Normal" again. When the lawyer is done, they update the table of contents, and all the headings they typed into the document instantly appear, properly formatted and linked to the correct page.

Not once did the lawyer have to think about whether a heading should be bolded or italicized or about how to space or indent a block quote. They made those decisions long ago when they created the template. So now they need only to click on the style they want for the formatting to be applied. That is the beauty of a document template.

PARAGRAPH STYLES — THE KEY TO EFFORTLESS FORMATTING

The most important part of any document template is the paragraph styles that are built into it. A paragraph style is a collection of formatting choices that can be applied to a paragraph, such as font, type size, line spacing, indentations, tabs, and emphasis (bold, italics). These choices can even include advanced settings like "keep with next" (which keeps a heading on the same page as the text that immediately follows it) and "keep lines together" (which ensures that half a heading does not end up on the next page). They can also specify what the style of the following paragraph will be so that hitting ENTER after typing a "Heading 1" will begin the next paragraph in "Normal." These formatting decisions can be saved as a paragraph style that appears in the Home ribbon, named as you see fit. This makes applying those settings as simple as clicking your mouse. And using paragraph styles ensures that each body-text paragraph looks the same, that each heading looks the same, and that each block quote looks the same — just as you would expect in a professional document. (A quick aside: Word comes with many paragraph styles by default. These are terrible, particularly for professionals, because they include unattractive formatting choices that simply do not match a professional document. Modify them, or create new ones.)

Creating these paragraph styles takes some work. First, you determine how you want your body text to look, then your block quotes, your headings, your numbered or bulleted lists, and the rest. Then you need to build those choices into a set of paragraph styles. While formatting and creating paragraph styles are both beyond the scope of this column, there is a lot of help online. To learn formatting, check out Matthew Butterick's *Typography for Lawyers*, a terrific website and book with simple and clear explanations.[3] And to learn the mechanics of creating, working with, and using paragraph styles, check out Deborah Savadra's excellent *Legal Office Guru* website.[4] She even has an article specifically about creating new paragraph styles.[5]

HOW TO GET STARTED

While the mechanics of creating document templates should be learned elsewhere, here is some general advice for getting started.

Start with your most common document type. This could be a brief, a letter, a contract, or a will, for example. We will use a brief as our example here.

Decide how you want the bulk of that document to look. While a brief will have a caption, headings, block quotes, and a signature block, most of it consists of ordinary paragraphs, which might be saved as your "Normal" style. What font do you want to use, and at what size? What line spacing should you use? How far should the first line be indented? Making these decisions about your most common paragraph style will make the choices for other styles easier.

Determine what styles are related to this first style ,and build them from it. In Word, one style can be based on another style. For example, a block quote probably looks a lot like a normal paragraph, except that its lines are closer together and that both sides are indented. So, when you create your "Block Quote" style, you can base it on "Normal," changing only what is necessary. This saves time both at the start and if you need to make changes later. (For example, if you later change the font for "Normal," it will also change for any styles based on "Normal" that don't have an overriding font choice.) "Footnote" and "List Paragraph" styles also might be based on "Normal."

Work on other styles that are not based on "Normal." Headings, for example, might not share any formatting choices with your "Normal" paragraphs. So, you might create "Heading 1" as a style that is not based on another style and then base the other heading styles on "Heading 1." For example, you might have "Heading 1," "Heading 2," and the like as different heading levels that look alike except for how far they are indented. So, "Heading 2" could be based on "Heading 1" and so on.

You can link styles to the table of contents. A very useful option is to link styles, like headings, to the table of contents.[6] In this way, your table of contents can update automatically as you edit your brief. This allows you to create a complete table in seconds. And if you use Adobe to convert your briefs to PDFs before filing, the Adobe plugin can convert your table into PDF bookmarks, a real aid for your readers.

Learn to use the Style Gallery. Creating styles is one thing. The next-level skill is managing your Style Gallery — the collection of styles that appears in the ribbon — so that those you use most are easiest to find.[7]

Add initial text and structure. Finally, consider whether this template needs some initial text or structure. You may wish to rough out a caption and include headings for the necessary brief sections and a signature block. You might also choose to structure your brief so that the preliminary pages are numbered with romanettes (i.e., lower case Roman numerals, such as "i" and "ii"), while the introduction begins on page 1. You can save this initial text and structure to your template so that it is ready for you the second you open the template file.

CONCLUSION

Creating your first document template takes some time, but there is plenty of help available. It is also time well spent, because once you've created a template, using it will be a matter of a few mouse clicks, likely for years to come.

Mr. Killips is a member of Brooks Wilkins Sharkey & Turco PLLC in Birmingham, Michigan. He specializes in complex litigation, appeals, and supply-chain counseling. Mr. Killips has created full sets of litigation document templates for each of his last two law firms and uses them every day in practice.

ENDNOTES

1. Please do not use Word's single- or double-space settings. See https://typographyforlawyers.com/line-spacing.html for both an explanation and a better way.
2. Do not worry if you do not understand all these formatting concepts. The *Typography for Lawyers* website (https://typographyforlawyers.com/) covers them all simply and clearly; it is well worth your time.
3. Butterick, *Typography for Lawyers* (2nd ed, Thompson Reuters: 2018) <https://typographyforlawyers.com/> (all websites accessed Feb 13, 2026).
4. Legal Office Guru <https://legalofficeguru.com/>.
5. *Creating new Style in Microsoft Word*, Legal Office Guru <https://legalofficeguru.com/creating-new-styles-in-microsoft-word/>.
6. See *Table of Contents: Everything You Ever Wanted to Know*, Legal Office Guru <https://legalofficeguru.com/table-contents-ultimate-guide/>.
7. See *How to clean up your Style Gallery … permanently*, Legal Office Guru <https://legalofficeguru.com/clean-up-style-gallery/>.

PLAIN LANGUAGE

Gathering opinions on new legal writers

BY WAYNE SCHIESS

The author's survey was done a few years ago. It would be interesting to know how AI would figure into the consultants' responses today. —JK

During the summers of 2022 and 2023, I had lunch meetings with 28 local lawyers in Austin, Texas. I was seeking input from practicing lawyers about how I could improve my teaching of first-year legal writing. These lawyers (my "consultants") worked for commercial law firms both large and small, public-interest organizations, and government agencies.

Before meeting with them, I asked them to consider these four questions:

1. What kind of writing projects do you ask new lawyers to do?
2. What do you think of the writing abilities of new lawyers?
3. What do you think of new lawyers' ability to manage research-and-writing projects?
4. What are some additions to law-school legal-writing instruction that you would recommend?

1. WRITING PROJECTS

I learned that the type of writing that new lawyers are asked to do varies widely—much more widely than I realized, especially when the new lawyers work for government or public-interest organizations. The typical building blocks of legal writing in first-year courses are objective analysis (in a memo) and persuasive argument (in a brief). But new lawyers are asked to do numerous kinds of writing.

Many supervising lawyers assign these kinds of projects:

- Traditional research memos, email memos, email correspondence, case summaries, CLE or presentation papers, PowerPoint presentations, editing others' writing.

But in certain practice areas, the following:

- Administrative law: correspondence with complainants and complainees, demand letters, petitions, discovery documents, motions, settlement agreements, closing arguments, enforcement orders, administrative rules.
- Civil litigation: demand letters, petitions, discovery documents, pretrial motions, trial motions, proposed orders.
- Criminal cases: pretrial motions, trial motions, proposed orders.
- Judicial writing: bench memos, recommendation memos, drafting judicial opinions, one-page assessments of a case, summaries of a petition's grantworthiness, oral-argument questions.
- Legislative work: statutory reports and history documents.
- Web-based legal advice and information for nonlawyers.

I think my first-year legal-writing course does a good job of covering legal analysis and professional writing, but my course does not and cannot address the wide variety of legal writing my consultants described.

2. WRITING ABILITIES OF NEW LAWYERS

I was pleased to learn that, according to my consultants, the writing ability of new lawyers these days is okay. No one was gushing about it—after all, new lawyers need lots of practice and experience to become skilled legal writers. But I was pleased that I didn't hear any "the sky is falling" or "sound the alarm" reports.

I think that's partly because formal legal-writing instruction in U.S. law schools, once almost nonexistent, has been transformed in the last 30 years. At many or even most schools, legal writing has moved from a low-credit, pass–fail course taught by teaching assistants to a graded course taught by full-time faculty.

Still, there's room for improvement, and the most common concerns

"Plain Language," edited by Joseph Kimble, has been a regular feature of the *Michigan Bar Journal* for 42 years. To contribute an article, contact Prof. Kimble at Cooley Law School, 300 S. Capitol Ave., Lansing, MI 48933, or at kimblej@cooley.edu. For an index of past columns, visit www.michbar.org/plainlanguage.

expressed about new lawyers' writing fell into three categories: tone, concision, and organization.

Tone. My consultants said that new lawyers sometimes write too formally, with a stiff or stilted tone. They guessed that new lawyers might be trying to sound lawyerly. This is understandable, of course, and it's a phase that nearly every lawyer passes through. You've entered a learned profession, and you've become a licensed attorney, so you want to sound like one.[1] Yes, writing with an unduly formal tone is a flaw, but it's not a major one. With some good feedback about audience and purpose, new lawyers will adapt to expectations and begin to adopt a readable tone.

Occasionally, new lawyers overqualify their conclusions or hedge too much—they may be worried about taking a strong position. My consultants encourage new lawyers to be bold and let the senior lawyer ask questions to test the conclusions.

Concision. New lawyers' writing is sometimes wordy and verbose, my consultants said. They see long sentences, complex structures, and big words. But mostly, they said, they see documents that are too long. A memo that the assigning lawyer thought would be five pages is ten; an email message that could be two or three paragraphs is five. New lawyers need to weed out extraneous details and unnecessary background and deliver the key information or analysis efficiently.

Although I agree that concise writing is a challenge for new lawyers, my perspective as a teacher of first-year students makes me aware of a risk to keep in mind. If you apply pressure on novice legal writers to be concise, they might cut useful or necessary content just to achieve concision. In other words, to get the five-paragraph email down to three paragraphs, the beginner might just cut two paragraphs in total—perhaps removing a key legal standard or an important piece of the analysis.

What we want, of course, is for the writer to carefully edit all five paragraphs, removing a few words here, dropping an unnecessary comment there, and then consolidating so that we end up with three paragraphs. Ideally, the new lawyer learns to achieve concision by a series of small edits that add up.

Organization. Even a concise piece of legal writing that uses the right tone still needs to be well organized, and in this area my consultants had two key comments: First, they wanted more up-front, bottom-line summaries in nearly everything they read. Spill the beans: get to the point first and put the background second, they said. It's a good recommendation for all legal writing.[2] Second, the rest of the document should be sensibly ordered, with headings if necessary and strong topic and transition sentences.

These two key comments—the need for an up-front summary and the importance of a sensible, discernible order—highlight the reality of law practice: that lawyers are busy. These two techniques help busy lawyers read and understand efficiently.

3. NEW LAWYERS' ABILITY TO MANAGE RESEARCH-AND-WRITING PROJECTS

The responses to this question fell into three categories: getting assignments, checking in, and following up.

Getting assignments. I practiced law before the internet, cellphones, and email, so I got assignments by going to someone's office with a pen and pad in hand. I sat and took notes. That's still a good idea, according to my consultants.

If possible, the assigning lawyer and assignment-receiving new lawyer should meet in person to discuss the assignment. The new lawyer should have something to write with—probably not just a cellphone or laptop.

Even when getting an assignment by email (the most common method, according to my consultants), it's usually a good idea to drop by and talk. The new lawyer should ask about the assigning lawyer's expectations on timing, depth, length, and so on to be sure they understand the assignment.

Checking in. After some initial work, the new lawyer should check in with the assigning lawyer to be sure they're on the right track. Based on my meetings in both summers, I learned that finding the right amount of checking in is a small but recurring problem—certainly understandable behavior by novices who don't know much about the law or the way that the employer's organization works.

Some new lawyers might hesitate to ask questions for fear of looking uninformed. In fact, some new lawyers and law students tell me that they sometimes avoid checking in with questions because they don't want to seem inept or ignorant.

But my consultants said that, in fact, not checking in with the assigning lawyer is a bigger problem than checking in too much. Although it doesn't happen often, doing the research and writing up a project that isn't what the assigning lawyer wanted is a serious problem. And it's best to check in only after completing at least some research, to have something concrete to report.

Actually, inadequate follow-up is a common enough concern that several of my consultants told me that their organization has built-in policies or systems for encouraging or requiring the new lawyer to check in with the assigning lawyer before completing the project.

Following up. According to my consultants, new lawyers should aspire to do more than merely answer the question; one recommendation is to include a short report on the best cases for and against the outcome predicted. In addition, new lawyers should invest in the problem: ask about it, care about it, try to get involved.

Some new lawyers make the mistake of assuming that it's a senior lawyer's job to get them involved and pull them into projects. But getting involved is a new lawyer's job. The new lawyer should become invested in the problem, ask follow-up questions, and care about the result for the client.

4. RECOMMENDED CHANGES OR ADDITIONS TO LAW-SCHOOL LEGAL-WRITING INSTRUCTION

My consultants had lots of ideas, and I've listed some below. There are some great suggestions, but given that my focus is on first-year legal-writing courses, I've categorized them into two groups:

(a) Good ideas that my colleagues and I are already doing, are hoping to do more of, or are planning for the future:

- Oral assigning of projects.
- Assignments given and responded to by email only.
- Assignments that ask, "The client has done [or wants to do] X. What do you recommend?"

(b) Good ideas that might become part of an upper-division course or clinic but that would be difficult to implement in the first-year legal-writing course:

- Assignments to adapt a template motion or brief into a motion or brief on a different topic.
- Assignments to find motions, briefs, and other pleadings prepared by opposing counsel.
- Training in transactional drafting.
- Assignments to boil down a complex transaction into a concise report.

Ultimately, the most important thing I learned is that new lawyers' writing is not terrible or weak. It is generally good, is rarely poor, and is sometimes excellent. That was wonderful to hear.

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ENDNOTES

1. Schiess, *The Sound in Your Head*, Austin Lawyer (Nov 2009), p 6.
2. Schiess, *Legal Writing Nerd: Be One* 25–29, 30–36 (CreateSpace Independent Publishing, 2018).

LIBRARIES & LEGAL RESEARCH

The law firm librarian's role in educating new lawyers

BY KAITLIN KLEMP-SKIRVIN

Academic legal research instruction is foundational and indispensable. Law school librarians teach students valuable research methods and philosophies that shape how they read, analyze, and synthesize information. However, because law school curricula are designed for a general student body, law school librarians cannot realistically deliver the personalized and practice-oriented research instruction each future lawyer needs. The transition from theoretical research to applied research requires guided training – something law firm librarians are uniquely equipped to provide. Law firm training complements the work of law school instruction by asking new lawyers[1] to apply their research knowledge to real matters under new pressures. As practical legal research methods evolve, structured support from law firm librarians is increasingly essential for both professional competency and excellent client service. Providing law firm librarians a seat at the table also ensures consistency in training and strengthens each incoming associate class.

WHAT LAW FIRM LIBRARIANS CAN TEACH NEW LAWYERS

The training and resources provided by law firm librarians guide new lawyers' application of critical thinking and problem solving to client matters. Not only must a client's issue be resolved, but it must also be resolved efficiently, defensibly, and cost effectively. Law firm librarians hold unparalleled expertise in teaching practical research methods, guiding resource and tool selection, and clarifying research expectations in the law firm environment.

Applied Research Methods

Law firm librarians educate new lawyers on practical research methods across several core areas, including caselaw, statutory, administrative, and litigation.

Practical caselaw research requires creativity and flexibility because a clear-cut answer is often difficult to find. It also depends on a strong grasp of both index-based and Boolean search strategies. Keyword selection is critical to finding the best case to defend an argument – or undermine opposing counsel's argument. Practical caselaw research methods are introduced during law firm librarian-led training and strengthened through experience. Law firm librarians also provide guidance on what to do when a new lawyer cannot find a strong case to include in a memo.

Practical statutory and administrative research requires looking beyond the text of a law or regulation to make a winning argument. Law firm librarians train new lawyers to find legislative intent by breaking down a statute's history using multiple digital and print resources. Administrative intent is found by gathering rulemaking and guidance documents, sometimes across multiple agencies. It can be a daunting task to locate historical and regulatory materials. Law firm librarians, wielding all tools of the trade, bridge a new lawyer's knowledge of familiar, streamlined commercial databases with unfamiliar, limited state and federal websites that house crucial materials.

Practical litigation research requires locating and analyzing dockets and documents. Modern litigation research also includes using analytical tools to gain insight into parties, judges, opposing counsel, and case trends. Law firm librarians provide uniform training on judicial and administrative forums to help all new lawyers adjust to working in a fast-paced environment with high stakes. Even new lawyers who participated in trial practice or clinic programs can benefit from a holistic research training session.

Resource and Tool Selection

Law firm librarians guide new lawyers as they navigate resources and tools used in practice. The transition from using a law school's seemingly endless array of legal research tools to using a law firm's curated suite of resources can be an obstacle to fully integrating into practice. A new lawyer's favorite tool may no longer be accessible due to cost constraints. Further, familiar tools become unfamiliar because they are used differently in practice than in an academic environment. Librarian-led demonstrations include tips for peak utilization, discussion of the tool's strengths and weaknesses, and a highlight of nuances that a casual researcher would not be expected to find on their own.

Librarian-led training on resource selection and search strategies also helps new lawyers build research habits that are financially responsible and that maintain client trust. For law firms that assign research costs to clients, every tenth of an hour or click of the mouse counts. A lawyer must determine the fastest, most cost-effective, and most reliable tool for completing a task. While law firms are businesses in pursuit of profit, their primary role is customer service. It is easier and more ethical to justify premium billing rates for meaningful client work than for hours spent struggling with inefficient resource use.

Clarity on Deliverables and Expectations

Law firm librarians help clarify expectations for a new lawyer's research journey and work product. As centralized service professionals within the firm, they see the organization through an objective lens, including its overall culture and individual attorney preferences. They assist a new lawyer's integration into a practical research workflow: understanding the parameters of an assignment, determining the appropriate level of detail, and knowing when to escalate questions to a supervising attorney. Just as important, law firm librarians help new lawyers understand what constitutes a finished research product in practice – whether the deliverable should be a formal memo, a detailed email, or a quick phone call. As information professionals, librarians guide new lawyers in presenting their work confidently and concisely, with an appropriate tone for the intended audience.

WHY LAW FIRM LIBRARIANS DESERVE A SEAT AT THE TABLE

Law librarianship is a niche profession that requires unique credentials and work experience. Most positions require a Master of Library and Information Science (MLIS). MLIS curricula explore research design, knowledge management, information and technology literacy, and effective communication. Thus, law firm librarians are both trained educators and specialized service professionals. Even when teaching occurs in informal, one-on-one settings, their involvement in new lawyer integration strengthens training quality and consistency.

Librarians provide a safe space for questions. New lawyers are often quite candid with librarians because librarians do not influence hiring decisions or participate in evaluations. Openness leads to better learning outcomes and reduces avoidable mistakes. There is no stigma in asking so-called "stupid," "basic," or "embarrassing" questions. In fact, asking questions shows a level of humility and care for doing one's best.

The fluid nature of law librarianship means many law librarians gain experience in multiple settings over the course of their careers. This could be in a law school, court, government, or corporate setting. Law firm librarians with a J.D. are equipped with practical knowledge of the law and bring experience-based empathy for new lawyers. This range of experience gives law firm librarians a broad, cross-institutional perspective.

Effective use of law firm librarians produces many downstream benefits for the firm. Librarians are trained to see patterns in questions, recurring knowledge gaps, and research pitfalls. This pattern recognition positions them as strategic partners in onboarding and continued learning. They understand the culture of the firm, helping new lawyers become acclimated. With librarian-led training, new lawyers are better prepared to complete assignments with timeliness and accuracy, thus reducing partner frustration and rework. Efficient research lowers client costs and improves trust. Consistent librarian-led training also mitigates risk associated with outdated or incomplete research, as well as overreliance on AI tools.

THE LAW FIRM LIBRARIAN AS A UNIQUE PARTNER IN PRACTICE READINESS

Law schools teach students to think like lawyers; law firms teach them to act like lawyers. Within that transition, law firm librarians serve as educators and collaborative partners in developing competent, confident, and efficient researchers. They play a critical role as new lawyers integrate into practice and remain a resource to support lawyers throughout their careers. Inviting librarians into the training process is not just a courtesy; it is a practical choice that standardizes education, strengthens research outcomes, and ultimately enhances client service.

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ENDNOTES

1. For the purposes of this article, a "new lawyer" is a Summer Associate, postgraduate Law Clerk, or licensed Junior Associate.

PRACTICING WELLNESS

The health benefits of writing fiction

BY MIRANDA KESKES

If you're an avid reader, you likely know the health benefits of a daily reading habit: reduced stress, improved sleep quality, and endorphin boosts, just to name a few.[1] Reading fiction, in particular, is an effective way to relax and escape reality, even if just for 20 minutes a day.

What you may not realize is that *writing* fiction is another positive way to improve your health and overall well-being. While reading fiction provides an escape, writing fiction provides an escape into a world of your own creation.

THE HEALING POWER OF WRITING

Many people turn to journal writing as a form of stress relief. Journal therapy is a recognized form of therapy, like art or music therapy.[2] Writing in a journal can be an effective way to calm the mind and body. However, writing fiction can be therapeutic as well. In 2024, a systematic review and meta-analysis published by PubMed revealed that creative writing can significantly improve depressive symptoms.[3] Writing fiction provides an opportunity for creativity and escapism but also introspection and empathy. By writing fiction, you have the power to invent characters and worlds, either heavily or loosely inspired by your experiences. That's the beauty of writing fiction. You control the narrative.

Lawyers can especially benefit from writing fiction, as it can help alleviate depression, anxiety, and stress. Empirical studies show that practicing attorneys have high rates of all three.[4]

WHY LAWYERS MAKE EXCELLENT FICTION WRITERS

In addition to the health benefits, there are many reasons lawyers make excellent authors. To illustrate, let's examine just a handful of skills and traits needed to write fiction, particularly a novel.

Creative thinking. This skill is obvious, but it is essential to crafting a novel. An author needs to use their imagination to develop compelling characters with full story arcs.

Problem-solving skills. Writing a novel is challenging. It requires designing a logical story with a cause-and-effect trajectory.

Attention to detail. Writing a novel involves tracking characters, plots, subplots, and settings, ensuring the details and descriptions don't contradict or confuse readers.

Empathy. Writing a novel that resonates with readers means tapping into the emotional resonance of characters, creating situations that ring true.

Time Management. Writing a novel takes time, and time spent wisely. Without an effective plan for writing, revising, and learning the craft, the novel will never get finished.

Perseverance. Writing a novel is akin to running a marathon; it takes commitment and perseverance. Authors need to expect setbacks and have a plan to push past them.

"Practicing Wellness" is a regular column of the *Michigan Bar Journal* presented by the State Bar of Michigan Lawyers and Judges Assistance Program. If you'd like to contribute a guest column, please email contactljap@michbar.org.

As a lawyer, you hone these skills every day in your profession, and they translate seamlessly into fiction writing. Now, this doesn't mean you have to write a legal thriller because you're a lawyer. Jane Pek is a practicing lawyer who writes literary mysteries.[5] Jasmine Guillory, a Stanford law grad, writes romance,[6] while Pam Jenoff teaches law and writes historical fiction.[7]

The point? Write what you love. Write what you feel moved to write. If you love reading romantasy and think to yourself, "I could write this," then do it! Giving time and space for your dreams to flourish will improve your mental health and keep those endorphins flowing.

Deciding to write a novel does not mean you're making a career shift. In fact, there are very few people who write novels for their career. A survey by the Authors Guild revealed that only about 21% of published authors make enough to write books as a sole career.[8] The vast majority work at least part time or full time to make a livable wage. What does this mean? Writing a novel is about the joy of writing, not making money. Most authors write in their spare time, prioritizing their passion for creative, written expression.

HOW TO START CULTIVATING A FICTION WRITING HABIT

Start small. If writing a novel sounds too overwhelming, start with flash fiction. It's a relatively new form of writing that involves writing a story under 1,000 words. Microfiction, a subset of flash, consists of stories that are 300 words or less. These can be very satisfying to write because you can write an entire story in a relatively short period of time. There are also many opportunities to publish in literary journals and anthologies.[9]

Write in 15-minute stretches. Feeling too busy is a common complaint among writers. For this reason, writing in short bursts can be really productive, as it leads to big gains over time. Once you build the habit, it becomes routine, and you'll find ways to fit your 15 minutes of writing into your day. As you develop the muscle to write in short sprints, try longer stretches when opportunity strikes.

Explore your "why" and your point. If you find yourself with an idea for a novel, spend some time writing about why you must write this book. What compels you to write it? This leads naturally to your point; what will readers glean from reading your novel? Once you land on your "why" and your point, keep revisiting them. They will keep you focused.

Find a fellow writer, writing group, or book coach. Writing a novel can be a lonely process. Having someone to confide in, learn from, and commiserate with can be invaluable because it provides accountability, helping ensure you'll finish your novel.

Enjoy the process. You don't have to become the next John Grisham or Scott Turow. Just write. Write with an eye for curiosity and playfulness, and see where it takes you, whether it's short pieces of prose, full-length novels, or an entire series. The most important part of writing fiction is loving and embracing the process. Getting published can be a goal, but it doesn't have to be *the* goal. The act of writing is where the health benefits kick in.

The next time you pick up a book to read and feel the urge to pick up a pen as well, do it! By writing fiction, you open your heart and your mind to creativity and imagination. Let your ideas flow, and then bring them to life on the page.

Miranda Keskes is a certified fiction book coach, author, and educator. She provides aspiring authors with the tools, mindset, and accountability needed to transform their vision into a finished novel. Learn more at keskesink.com.

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LAW PRACTICE SOLUTIONS

AI is scary for clients, too

BY ROBINJIT K. EAGLESON, J.D.

Lawyers continuously express their excitement and apprehension surrounding the use of artificial intelligence (AI). But what we forget is that AI is not so comforting to the general public, either. Some of the general public have embraced AI and are immersed in it, full steam ahead. Others are concerned. As the use of AI continues to rise across industries, lawyers face new challenges not only within their businesses but also with addressing clients' concerns about its potential impact. The nervousness surrounding AI, particularly in the legal sphere, can range from privacy and security concerns to its actual use when it comes to decision-making.

No one can deny that AI has made incredible strides in recent years. What we thought was impossible five to ten years ago is now possible. Advancements are seen through automation, data analytics, document review, and predictive legal outcomes. We are seeing a rate of growth with AI that we have not seen before in the legal field. While these advancements offer efficiency, productivity, and cost savings, they can also provoke fear and trepidation, especially among clients who may not fully understand the technology and who come to the lawyer for their expertise, that of a program. Some common themes of fear from clients include the following:[1]

1. Job Displacement: Clients may worry that AI will replace human workers, including legal professionals, which brings a sense of concern as to whether a program knows more than a human and when a program may not take the human element into consideration.

2. Privacy and Security: With AI systems handling sensitive data, clients may be concerned about the risks of data breaches or misuse of personal information.

3. Ethical Concerns: AI decision-making can sometimes feel opaque. Clients may fear that AI will be used in ways that lack transparency or fairness.

4. Loss of Human Touch: Legal clients often seek personal connections and advice from their lawyers. They may fear that AI-driven legal services will undermine the personal nature of legal counsel, leading to a dehumanized experience.

The first step in addressing AI intimidation is to demystify the technology for the client. AI, while powerful, is a tool. By educating clients about the tool's capabilities and limitations, a lawyer may alleviate some of the client's fears. It also helps to clarify the role of AI and explain that it is a tool designed to assist, not replace, human decision-making. For example, legal AI platforms may aid the lawyer in reviewing documents, providing contract analyses, or completing legal research, but each still requires human oversight, review, and judgement.[2] The next step is to emphasize transparency[3] and explain the mechanics behind AI systems. When clients understand how AI works, whether through machine learning, natural language processing, or other technologies, they may feel more in control and less anxious about its use. Also, show practice examples of how AI is currently being used in the legal industry. Examples of use provide confirmation that this is a practice being used by the profession and shows a certain level of trust of the tool being used while ensuring continuous human oversight.

Some AI tools have the ability to make decisions based on data, raising important ethical questions. Clients may worry that the AI tool being used may perpetuate bias or is

"Law Practice Solutions" is a regular column from the State Bar of Michigan Practice Management Resource Center (PMRC) featuring articles on practice, technology, and risk management for lawyers and staff. For more resources, visit the PMRC website at michbar.org/pmrc/content or call our helpline at 800.341.9715 to speak with a practice management advisor.

influenced by flawed algorithms. This is the time to reassure clients that ethical AI development is a top priority for the legal community. Ensure that any AI tools used by the firm are subject to rigorous internal audits and bias checks and are regularly updated to ensure fairness and transparency. Continue to emphasize that while AI may assist with data analyses and decision-making, human lawyers continue to oversee the final outcomes, providing a safety net that mitigates the risks of AI biases.

PRIVACY AND SECURITY CONCERNS

In an era when data breaches and cybersecurity threats are constant worries, clients are obviously and understandably concerned about the security of their personal information when using any type of tech tools, including AI. Further, the use of AI by lawyers is continually being tested within the courts.[4] Clients should be educated on Michigan privacy laws, which regulate the use of personal data. Additionally, the AI platforms that are used within a law firm should ensure that cybersecurity and encryption protocols are prioritized before being implemented within the firm. If a client remains uncomfortable with the AI tool, lawyers should be flexible and use human-driven alternatives when personal information is involved.

PROVIDING PERSONALIZATION AMID AI INTEGRATION

While some may not realize it, clients do fear the loss of personalized legal services in favor of robotic, one-size-fits-all solutions. The fears center on AI stripping away the empathetic, human side of legal counsel. This is where the lawyer can help the client feel more at ease by stressing that AI does not eliminate the need for human expertise but instead enhances it. AI automates routine tasks, giving lawyers more time to engage in meaningful client interactions and provide tailored advice. Lawyers should propose a hybrid model approach where AI is used for efficiency in areas like document review or legal research but stress that any output would still be reviewed by the lawyer and their team. While AI is assisting in efficiency, lawyers can focus on maintaining personalized and human-led legal strategies. This offers the best of both worlds: technology for efficiency and human lawyers for emotional intelligence, empathy, and professional judgment.

BUILDING TRUST IN THE LEGAL PROFESSION'S AI USE

Lawyers should be transparent about their use of technology and build trust with clients through clear communication.[5] Clearly explaining when and how AI will be used in the client's case assists the client in feeling comfortable about how their case will be handled with professionalism and human oversight, which helps quell the client's fear concerning the use of AI.

CONCLUSION

In a variety of ways, AI is transforming how lawyers practice. It boasts efficiency, improves client services, and allows lawyers to stay competitive within the legal field. As the field of AI evolves, it is essential for lawyers to acknowledge and address the legitimate fears of clients. Embracing AI thoughtfully and strategically will allow lawyers to thrive in an increasingly technological world while ensuring clients feel heard, understood, and protected. By providing clear information, offering assurances, and demonstrating a commitment to transparent use of AI, lawyers can help clients navigate AI intimidation while maintaining the human connection and legal expertise that form the foundation of successful lawyer-client relationships.

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FROM THE MICHIGAN SUPREME COURT

ADM File No. 2021-29
Amendment of Rule 6.201 of the Michigan Court Rules

To read this file, visit perma.cc/RK8D-ERQC

ADM File No. 2025-42
Amendments of Rules 3.207 and 3.613 of the Michigan Court Rules, Rules 612, 703, and 803 of the Michigan Rules of Evidence, and Administrative Order No. 2003-1

To read this file, visit perma.cc/Y6R6-KLZY

Michigan Rules of Evidence

Rule 612 Writing or Object Used to Refresh a Witness<u>'s Memory</u>

[Rule unchanged.]

Rule 703 Bases of an Expert<u>'s Opinion Testimony</u>

[Rule unchanged.]

Rule 803 Exceptions to the Rule Against Hearsay

The following are not excluded by the rule against hearsay, regardless of whether the declarant is available as a witness:

(1)-(12) [Unchanged.]

(13) (Family Record. A statement of fact about personal or family history contained in a family record, such as a Bible, genealogy, chart, engraving on <u>a</u> ring, inscription on a portrait, or engraving on an urn, or burial marker.

(14)-(23) [Unchanged.]

Administrative Order No. 2003-1 – Concurrent Jurisdiction Paragraphs 1-5 [Unchanged.]

A plan of concurrent jurisdiction <u>takes effect as ordered</u>~~will not take effect until at least 90 days after it is approved~~ by the Supreme Court. Each plan shall be submitted to the Supreme Court in the format specified by the State Court Administrative Office.

Staff Comment (ADM File No. 2025-42): These amendments update cross-references and make other nonsubstantive revisions to clarify the rules.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

ADM File No. 2025-46
Administrative Order No. 2026-1
Adoption of Concurrent Jurisdiction Plan for the 39th Circuit Court, the 2A District Court, and the Lenawee County Probate Court

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan, effective immediately:

- The 39th Circuit Court, the 2A District Court, and the Lenawee County Probate Court.

The plan shall remain on file with the State Court Administrator.

Amendments to concurrent jurisdiction plans governing internal court management may be implemented by local administrative order pursuant to MCR 8.112(B).

ADM File No. 2025-47
Administrative Order No. 2026-2

Rescission of Administrative Order No. 2015-7 and Adoption of Concurrent Jurisdiction Plan for the 26th Circuit Court, the 88th District Court, and the Alpena and Montmorency County Probate Courts

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- The 26th Circuit Court, the 88th District Court, and the Alpena and Montmorency County Probate Courts.

The plan shall remain on file with the State Court Administrator.

Amendments to concurrent jurisdiction plans governing internal court management may be implemented by local administrative order pursuant to MCR 8.112(B).

FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions has adopted amendments to M Crim JI 16.1 (First-Degree Premeditated Murder), M Crim JI 16.4 (First-Degree Felony Murder), M Crim JI 16.5 (Second Degree Murder), M Crim JI 16.6 (Element Chart First-Degree Premeditated Murder and Second-Degree Murder), M Crim JI 16.7 (Element Chart First-Degree Felony Murder and Second-Degree Murder), M Crim JI 16.8 (Voluntary Manslaughter), M Crim JI 16.10 (Involuntary Manslaughter), M Crim JI 16.11 (Involuntary Manslaughter – Firearm Intentionally Aimed), and M Crim JI 17.3 (Assault with Intent to Murder). The amended instructions remove the language concerning the "without justification or excuse" requirement, which is addressed in the instructions on affirmative defenses. See People v Spears, 346 Mich App 494 (2023). Additionally, M Crim JI 16.8 has been modified for greater consistency with M Crim JI 16.9, and M Crim JI 16.11 has been modified to remove duplicative language and to reflect statutory involuntary manslaughter's status as a cognate lesser included offense of murder, see MCL 750.329; People v Smith, 478 Mich 64 (2007). The amended instructions are effective June 1, 2026.

PROPOSED

The Committee proposes a new instruction, M Crim JI 32.4 (Malicious Destruction of Trees or Plants), to address the crime set forth in MCL 750.382. This instruction is entirely new.

[NEW] M Crim JI 32.4
Malicious Destruction of Trees or Plants

(1) The defendant is charged with the crime of malicious destruction of trees or plants. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that there [was / was a / were] [tree(s) / shrub(s) / grass / turf / plant(s) / crop(s) / soil] [standing / growing / located] on land or property that did not belong to the defendant.

(3) Second, that the defendant [cut down / destroyed / damaged] the [tree(s) / shrub(s) / grass / turf / plant(s) / crop(s) / soil] [standing / growing / located] on that land or property without permission of the owner or possessor of the land or property.

(4) Third, that the defendant did this knowing that it was wrong, [without just cause or excuse,][1] and with the intent to damage or destroy the [tree(s) / shrub(s) / grass / turf / plant(s) / crop(s) / soil].[2]

(5) Fourth, that the extent of the damage was[3]

[*Choose only one of the following unless instructing on lesser offenses:*]

(a) $20,000 or more.

(b) $1,000 or more, but less than $20,000.

(c) $200 or more, but less than $1,000.

(d) some amount less than $200.

[*Use the following paragraph only if applicable:*]

(6) You may add together damages caused in separate incidents if part of a scheme or course of conduct within a 12-month period when deciding whether the prosecutor has proved the amount required beyond a reasonable doubt.]

Use Notes

1. Use only where evidence supports a legally recognized defense that the destruction was done with just cause or is legally excused.
2. This is a specific intent crime.
3. M Crim JI 32.1, Fair Market Value Test—Malicious Destruction of Property, should be given when applicable.

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by May 1, 2026. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes four new instructions on rioting offenses. M Crim JI 40.9 (Riot) addresses the crime set forth in MCL 752.541. M Crim JI 40.10 (Incitement to Riot) addresses the crime set forth in MCL 752.542. M Crim JI 40.10a (Incitement to Riot at Correctional Facility) addresses the crime set forth in MCL 752.542a. M Crim JI 40.11 (Unlawful Assembly) addresses the crime set forth in MCL 752.543. These instructions are entirely new.

[NEW] M Crim JI 40.9
Riot

(1) The defendant is charged with the crime of riot. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant and four or more other people acted together and with a common purpose to engage in violent conduct.

(3) Second, that when the defendant engaged in violent conduct, [he / she] either intended to place a segment of the public in fear of personal injury or property loss or consciously disregarded a serious risk that [his / her] conduct would place a segment of the public in fear of personal injury or property loss.[1]

(4) It is not necessary for the prosecution to prove that the defendant personally committed any acts of violence. It is sufficient if the defendant acted in concert with others in furtherance of the group's wrongful and violent conduct. You may consider a defendant's presence and conduct at the scene, along with other evidence, to determine whether the defendant shared the common purpose of the group or intended to advance its purpose.[2]

Use Notes

1. MCL 752.541 requires proof that the defendant "wrongfully engage[d] in violent conduct and thereby intentionally or recklessly cause[d] or create[d] a serious risk of causing public terror or alarm." The court of appeals has held that a defendant causes "public terror or alarm" whenever "'a segment of the public is put in fear of injury either to their persons or their property.'" *People v Kim*, 245 Mich App 609, 615; 630 NW2d 627 (2001) (quoting *People v Garcia*, 31 Mich App 447, 456; 187 NW2d 711 (1971)).
2. *See Garcia*, 31 Mich App at 453-454.

[NEW] M Crim JI 40.10
Inciting a Riot

(1) The defendant is charged with the crime of inciting a riot. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant committed one or more of the following acts or urged or encouraged other persons to commit such acts:

[*Select from the following according to the charges and evidence*:]

(a) an act of unlawful force or violence [or]

(b) the unlawful burning or destruction of property [or]

(c) unlawful interference with a [police officer / peace officer / firefighter / member of the Michigan national guard / member of the armed services]1

(1) Second, that, by engaging in such conduct, the defendant intended to start or continue a riot.

A riot occurs when five or more persons act together to wrongfully engage in violent conduct with the intent to place a segment of the public in fear of personal injury or property loss or in conscious disregard of a serious risk that a segment of the public would be placed in fear of personal injury or property loss.

Use Note

1. Include any of the bracketed terms that may apply according to the charges and the evidence.

[NEW] M Crim JI 40.10a
Causing or Conspiring to Cause a Riot in a State Correctional Facility

(1) The defendant is charged with the crime of causing or conspiring to cause a riot in a state correctional facility. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant [provoked / caused / attempted to cause / assisted in causing / conspired to cause]1 a riot at [*identify state correctional facility*], a state correctional facility in Michigan.

(3) A riot means three or more persons acting together to intentionally or recklessly engage in violent conduct in a state correctional facility that threatens the security of that facility or threatens the safety or authority of persons responsible for maintaining the security of the state correctional facility.

(4) Second, that the defendant did so on purpose, intending to cause a riot at [*identify state correctional facility*].

Use Note

1. Include any of the bracketed terms that may apply according to the charges and the evidence.

[NEW] M Crim JI 40.11
Unlawful Assembly

(1) The defendant is charged with the crime of unlawful assembly. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant gathered with four or more other persons or acted together with four or more other persons at [*provide location*].

(3) Second, that the defendant gathered or acted together with others there to engage in a riot or that the defendant was present or acting with four or more other persons when or after a riot developed and intended to help the riot to continue.

A riot occurs when five or more persons act together to wrongfully engage in violent conduct with the intent to place a segment of the public in fear of personal injury or property loss or in conscious disregard of a serious risk that a segment of the public would be placed in fear of personal injury or property loss.

The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by May 1, 2026. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes three new instructions on election-related crimes. M Crim JI 43.5 (Election Official Destroying, Falsifying, or Removing Ballots or Election Records) addresses the crime set forth in MCL 168.932(c). M Crim JI 43.6 (Disclosing Elector's Vote) and M Crim JI 43.6a (Obstructing an Elector While Attempting to Vote) address the crimes set forth in MCL 168.932(d). These instructions are entirely new.

[NEW] M Crim JI 43.5
Election Official Destroying, Falsifying, or Removing Ballots or Election Records

(1) The defendant is charged with the crime of destroying, falsifying, or removing ballots or election records. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant was [a / an / the] [*identify election official position*]1 for [*identify political entity*] for the [primary / general / special] election of [*provide election date*].

(3) Second, that the defendant had custody of the [ballots / (*describe election documents alleged*)]2 for that election.

(4) Third, that the defendant [destroyed / mutilated / defaced / falsified / removed / hid / altered / erased] all or part of the [ballots / (*describe election documents alleged*)] or allowed another person to do so.

(5) Fourth, that when the defendant [destroyed / mutilated / defaced / falsified / removed / hid / altered / erased] all or part of the [ballots / (*describe election documents alleged*)] or allowed another person to do so, [he / she] did so willfully [and with the intent to cheat or deceive]3 rather than by accident or mistake.

Use Notes

1. MCL 168.932(c) describes several election officials: "An inspector of election, clerk, or other officer or person having custody." Whether the alleged office or position fits within that statutory wording appears to be a question of law for the trial court to resolve. Whether the defendant held that office or position at the time alleged is the question of fact for the jury.
2. MCL 168.932(c) lists several kinds of election documents: "any record, election list of voters, affidavit, return, statement of votes, certificates, poll book, or . . . any paper, document, or vote of any description, which pursuant to this act is directed to be made, filed, or preserved." Whether an election document fits within this wording appears to be a question of law for the trial court. Whether the defendant had custody over that document and destroyed, damaged, falsified, or removed it at the time alleged are the questions of fact for the jury.
3. Only some of the acts prohibited by MCL 168.932(c) require an intent to defraud. Accordingly, the bracketed language requiring an intent to cheat or deceive should be read only when it is alleged that the defendant or someone else "fraudulently remove[d] or secrete[d]" election documents or "fraudulently ma[d]e any entry, erasure, or alteration." *See* MCL 168.932(c). For purposes of this statute, the term *fraudulently* means "the specific intent to cheat or deceive." *People v Hawkins*, 340 Mich App 155, 175-176; 985 NW2d 853 (2022) (quoting *People v Miller*, 326 Mich App 719, 739; 929 NW2d 821 (2019)).

[NEW] M Crim JI 43.6
Disclosing Elector's Vote

(1) The defendant is charged with the crime of disclosing an elector's vote. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name targeted elector*] was an elector[1] who had a right to vote in [*identify location where the targeted elector would be voting*][2] in the [*date of election*] election. To be qualified as an elector, a person must be a citizen of the United States, at least 18 years of age, a resident of the state of Michigan for at least 6 months, and a resident of [*identify location where the targeted elector would be voting*] for at least 30 days.[3]

(3) Second, that [*name elector*] filled out a ballot to vote in [*identify location where the targeted elector voted*][2] in the [*date of election*] election.

(4) Third, that the defendant saw [*name targeted elector*]'s ballot.

(5) Fourth, that the defendant told another person who [*name targeted elector*] voted for or how [*name targeted elector*] voted on a ballot question.

Use Notes

1. In MCL 168.10 of the Michigan Election Law Act, the phrase *qualified elector* means "a person who possesses the qualifications of an elector as prescribed in section 1 of article II of the state constitution of 1963 and who has resided in the city or township 30 days." Mich Const 1963 art 2, §1, defines *elector* as "[e]very citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law." US Const amend XXVI, §1, provides, "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age."
2. E.g., "the City of Detroit" or "Ada Township."
3. Add any other requirements of local residence provided by law per Mich Const 1963 art 2, §1, if there are any such requirements.

[NEW] M Crim JI 43.6a
Obstructing an Elector While Attempting to Vote

(1) The defendant is charged with the crime of obstructing an elector while attempting to vote. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [*name targeted elector*] was an elector[1] who had a right to vote in [*identify location where the targeted elector would be voting*][2] in the [*date of election*] election. To be qualified as an elector, a person must be a citizen of the United States, at least 18 years of age, a resident of the state of Michigan for at least 6 months, and a resident of [*identify location where the targeted elector would be voting*] for at least 30 days.[3]

(3) Second, that the defendant [obstructed / tried to obstruct] [*name targeted elector*] from voting or attempting to vote by [*describe alleged obstructive conduct*].

Use Notes

1. In MCL 168.10 of the Michigan Election Law Act, the phrase *qualified elector* means "a person who possesses the qualifications of an elector as prescribed in section 1 of article II of the state constitution of 1963 and who has resided in the city or township 30 days." Mich Const 1963 art 2, §1, defines *elector* as "[e]very citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law." US Const amend XXVI, §1, provides, "The right of citizens of the United States, who

are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age."
2. E.g., "the City of Detroit" or "Ada Township."
3. Add any other requirements of local residence provided by law per Mich Const 1963 art 2, §1, if there are any such requirements.

[AMENDED] M Crim JI 16.1
First-Degree Premeditated Murder

(1) The defendant is charged with the crime of first-degree premeditated murder.[1] To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].[2]

(3) Second, that the defendant intended to kill [*name deceased*].[3]

(4) Third, that this intent to kill was premeditated, that is, thought out beforehand.

(5) Fourth, that the killing was deliberate, which means that the defendant considered the pros and cons of the killing and thought about and chose [his / her] actions before [he / she] did it. There must have been real and substantial reflection for long enough to give a reasonable person a chance to think twice about the intent to kill. The law does not say how much time is needed. It is for you to decide if enough time passed under the circumstances of this case. The killing cannot be the result of a sudden impulse without thought or reflection.

Use Notes

1. Second-degree murder is a lesser included offense of first-degree murder and should be instructed upon if supported by the evidence. *People v Cornell*, 466 Mich 335, 358 n13; 646 NW2d 127 (2002). Use M Crim JI 16.5 for this purpose. Manslaughter is also a lesser included offense of murder and should be instructed upon if supported by the evidence. *People v Mendoza*, 468 Mich 527; 664 NW2d 685 (2003). See M Crim JI 16.9 and 16.10. In lying-in-wait or poisoning cases, use M Crim JI 16.2 or 16.3, respectively. The Time and Place (Venue) instruction can be found at M Crim JI 3.10.
2. Where causation is an issue, see the special causation instructions, M Crim JI 16.15-16.23.
3. This is a specific intent crime.

[AMENDED] M Crim JI 16.4
First-Degree Felony Murder

(1) The defendant is charged with first-degree felony murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.

(4) Third, that when [he / she] did the act that caused the death of [*name deceased*], the defendant was committing [(or) attempting to commit / (or) helping someone else commit] the crime of [*state felony*]. For the crime of [*state felony*], the prosecutor must prove each of the following elements beyond a reasonable doubt: [*state elements of felony*].

[Use (5) or (6) where factually appropriate:]

(5) To establish an attempt, the prosecutor must prove beyond a reasonable doubt that the defendant intended to commit the crime of [*state felony*] and that [he / she] took some action toward committing that crime but failed to complete it. It is not enough to prove that the defendant made preparations for committing the crime. Things like planning the crime or arranging how it will be committed are just preparations; they do not qualify as an attempt. In order to qualify as an attempt, the action must go beyond mere preparation, to the point where the crime would have been completed if it had not been interrupted by outside circumstances. To qualify as an attempt, the act must clearly and directly be related to the crime of [*state felony*] and not some other objective.

(6) The defendant must have been either committing or helping someone else commit the crime of [*state felony*]. To help means to perform acts or give encouragement, before or during the commission of the crime, that aids or assists in its commission. At the time of giving aid or encouragement, the defendant must have intended the commission of the [*state felony*].

[AMENDED] M Crim JI 16.5
Second-Degree Murder

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of] second-degree murder.[1] To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].[2]

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.[3]

Use Notes

(1) Where there is a question as to venue, insert M Crim JI 3.10, Time and Place (Venue).

(2) Where causation is an issue, see the special causation instructions, M Crim JI 16.15-16.23.

(3) Second-degree murder is not a specific intent crime. *People v Langworthy*, 416 Mich 630; 331 NW2d 171 (1982).

[AMENDED] M Crim JI 16.6 Element Chart— First-Degree Premeditated and Second-Degree Murder

First-Degree Premeditated Murder	Second-Degree Murder
(1) victim's death	(1) same
(2) death caused by defendant	(2) same
(3) defendant actually intended to kill victim, and	(3) defendant actually intended to kill victim, or defendant intended to do great bodily harm to victim, or defendant knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions
(4) defendant premeditated victim's death, and	
(5) defendant deliberated victim's death	

Use Note

This chart may be distributed to jurors when first-degree premeditated and second-degree murder are the only potential verdicts, *or* when jurors request further clarification of the differences between the two offenses. To avoid undue reliance on the charts, the committee recommends that they only be distributed when written copies of all instructions are also distributed to jurors. This chart is intended for the supplemental guidance of the jury, rather than as a substitute for the comprehensive murder definitions contained in M Crim JI 16.1, 16.4, and 16.5.

[AMENDED] M Crim JI 16.7 Element Chart— First-Degree Felony and Second-Degree Murder

First-Degree Felony Murder	Second-Degree Murder
(1) victim's death	(1) same
(2) death caused by defendant	(2) same
(3) defendant actually intended to kill victim, or defendant intended to do great bodily harm to victim, or defendant knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions	(3) same
(4) defendant was committing or attempting to commit a specified felony at the time of the act causing victim's death	

Use Note

This chart may be distributed to jurors when first-degree felony and second-degree murder are the only potential verdicts, *or* when jurors request further clarification of the differences between the two offenses. To avoid undue reliance on the charts, the committee recommends that they only be distributed when written copies of all instructions are also distributed to jurors. This chart is intended for the supplemental guidance of the jury, rather than as a substitute for the comprehensive murder definitions contained in M Crim JI 16.1, 16.4, and 16.5.

[AMENDED] M Crim JI 16.8 Voluntary Manslaughter

(1) The defendant is charged with the crime of voluntary manslaughter.1 To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.

Use Note

1. If instructions on voluntary manslaughter are being given as a lesser offense to murder, use M Crim JI 16.9.

[AMENDED] M Crim JI 16.10 Involuntary Manslaughter

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of] involuntary manslaughter. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

[Use (3) when gross negligence is alleged:]

(3) Second, in doing the act that caused [*name deceased*]'s death, the defendant acted in a grossly negligent manner.1

[Use (4) when the act requires an intent to injure:]2

(4) Second, in doing the act that caused [*name deceased*]'s death, the defendant intended3 to injure [*name deceased*]. The act charged in this case is assault and battery. The prosecution must prove the following beyond a reasonable doubt: First, that the defendant committed a battery on [*name deceased*]. A battery is a forceful or violent touching of the person or something closely

connected with the person. The touching must have been intended by the defendant, that is, not accidental, and it must have been against [*name deceased*]'s will. Second, that the defendant intended to injure [*name deceased*].

Use Notes

1. For a definition of *gross negligence*, see M Crim JI 16.18.
2. An unlawful act that is committed with the intent to injure is not limited to an assault and battery. The applicable elements of that offense are set forth in this instruction because assault and battery is the most common type of unlawful act needed to support a charge of involuntary manslaughter.
3. This is a specific intent variant of the crime.

[AMENDED] M Crim JI 16.11
Involuntary Manslaughter-Firearm Intentionally Aimed

(1) The defendant is charged with the crime of involuntary manslaughter. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
(2) First, that the defendant caused the death of [*name deceased*].
(3) Second, that death resulted from the discharge of a firearm.1
(4) Third, at the time the firearm discharged, the defendant was intentionally aiming or pointing it at [*name deceased*].

Use Note

1. *Firearm* is defined in MCL 750.222(e) as "any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive."

[AMENDED] M Crim JI 17.3
Assault with Intent to Murder

(1) The defendant is charged with the crime of assault with intent to murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:
(2) First, that the defendant tried to physically injure another person.
(3) Second, that when the defendant committed the assault, [he / she] had the ability to cause an injury, or at least believed that [he / she] had the ability.
(4) Third, that the defendant intended[1] to kill the person [he / she] assaulted.[2]

Use Notes

1. This is a specific intent crime.
2. Where appropriate, give special instructions on particular defenses (see chapter 7), on mitigation (M Crim JI 17.4), and transferred intent (M Crim JI 17.17).

The Committee on Model Criminal Jury Instructions has adopted amendments to M Crim JI 3.17 (Single Defendant-Single Count), M Crim JI 3.18 (Multiple Defendants-Single Count), M Crim JI 3.20 (Single Defendant-Multiple Counts-More Than One Wrongful Act), and M Crim JI 3.22 (Multiple Defendants-Multiple Counts-More Than One Wrongful Act). The purpose of these amendments is to present the possible verdicts in a consistent sequence, with the "not guilty" option appearing first. The amended instructions are effective June 1, 2026.

[AMENDED] M Crim JI 3.17
Single Defendant-Single Count

You may return a verdict of not guilty or guilty of the alleged crime [, or guilty of a less serious crime].

[AMENDED] M Crim JI 3.18
Multiple Defendants-Single Count

You must return a separate verdict for each defendant. This means that, for each individual defendant, you may return a verdict of not guilty or guilty of the alleged crime [, or guilty of a less serious crime].

[AMENDED] M Crim JI 3.20
Single Defendant-Multiple Counts-More Than One Wrongful Act

(1) The defendant is charged with ___ counts, that is, with the crimes of _____ and _____. These are separate crimes, and the prosecutor is charging that the defendant committed [both / all] of them. You must consider each crime separately in light of all the evidence in the case.
(2) You may find the defendant not guilty or guilty of all or [any one / any combination] of these crimes [, or guilty of a less serious crime].

[AMENDED] M Crim JI 3.22
Multiple Defendants-Multiple Counts-More Than One Wrongful Act

(1) The defendants are each charged with ___ counts, that is, with the crimes of _____ and _____. These are separate crimes, and the prosecutor is charging that each defendant committed [both / all] of them. You must consider each crime separately in light of all the evidence.
(2) You must return a separate verdict for each defendant. For each defendant, you may return a verdict of not guilty or guilty of one or more of the alleged crimes [, or guilty of a less serious crime]. Remember that you must consider each defendant separately.

The Committee on Model Criminal Jury Instructions has adopted a new preliminary instruction, M Crim JI 1.10 (Referring to Jurors by Number), that directs jurors not to draw any inferences from the use of juror numbers in lieu of names. The new instruction is effective June 1, 2026.

[NEW] M Crim JI 1.10
Referring to Jurors by Number

During jury selection and throughout trial, the lawyers and I will refer to you by number rather than by name. The use of juror numbers is for administrative purposes only. You must not allow this procedure to influence your decision in any way. Your decision must be based solely on the evidence presented.

ORDERS OF DISCIPLINE & DISABILITY

DISBARMENT AND RESTITUTION WITH CONDITION

John F. Calvin, P74477, West Bloomfield. Disbarment, Effective January 7, 2026[1]

The Grievance Administrator filed a six-count formal complaint against respondent. Based on respondent's default, the panel found that respondent neglected five client matters, failed to communicate with his clients regarding the matters for which respondent had been retained, failed to take reasonable efforts to protect the clients' interests upon conclusion of the representation, including failing to refund unearned fees, and failed to file an answer to several requests for investigation.

Specifically, the panel found that respondent engaged in professional misconduct by: neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c) [Counts One through Four]; failed to act with reasonable diligence and promptness in representing the client, in violation of MRPC 1.3 [Counts One through Four); failed to keep the clients reasonably informed about the status of their matters and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a) [Counts One through Five); charged or collected a clearly excessive fee, in violation of MRPC 1.5(a) [Count Two]; upon termination of representation, failed to take reasonable steps to protect a client's interests, such as surrendering papers and property to which the client is entitled or refunding any advance payment of fee that has not been earned, in violation of MRPC 1.16(d) [Counts One through Five]; failed to make reasonable efforts to expedite litigation consistent with the interests of the client, in violation of MRPC 3.2 [Count One]; engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b)]Counts One and Two]; failed to respond to a lawful request for information from a disciplinary authority, in violation of MRPC 8.1(a)(2) [Count Six]; failed to file an answer to a request for investigation, in violation of MCR 9.104(7) and MCR 9.113(A) and (B)(2) [Count Six]; and, attempted to obtain an agreement that the professional misconduct shall not be reported to the administrator, in violation of MCR 9.104(10)(a) [Count Two]. The panel found respondent's conduct to also have violated MCR 9.104(1) and MRPC 8.4(c) in Count Six, and MCR 9.104(2)-(4) and MRPC 8.4(a) in Counts One through Six.

The panel ordered that respondent be disbarred, effective January 7, 2026, that he pay restitution totaling $8,321.00, and that he be subject to a condition relevant to the

established misconduct. Costs were assessed in the amount of $1,825.96.

1. Respondent's license to practice law in Michigan has been continuously suspended since January 29, 2025. See Notice of Interim Suspension Pursuant to MCR 9.115(H)(1), issued on January 29, 2025, in *Grievance Administrator v John F. Calvin*, 24-64-GA.

REPRIMAND (BY CONSENT)

Erica C. Cicchelli, P58553, Southfield. Reprimand, Effective January 10, 2026

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Reprimand in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Tri-County Hearing Panel #51. Based on the parties' stipulation and respondent's admissions, the panel found that respondent negligently selected her IOLTA, instead of a separate family bank account, to make an ACH payment for a credit card purchase. The ACH payment was not honored.

Specifically, the panel found that respondent failed to hold property of clients or third persons in connection with a representation separate from the lawyer's own property, in violation of MRPC 1.15(d). The panel found respondent's conduct to have also violated MCR 9.104(1)-(4) and MRPC 8.4(a) and (c).

In accordance with the stipulation of the parties, the panel ordered that respondent be reprimanded. Costs were assessed in the amount of $763.54.

REPRIMAND (BY CONSENT)

Roger G. Cotner, P36569, Grand Haven. Reprimand, Effective January 27, 2026

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Kalamazoo County Hearing Panel #2. The stipulation contained the parties' agreement that paragraphs 20-22 and subparagraphs 38(c) and 38(e) of the formal complaint be dismissed, and respondent's admissions to the remaining factual allegations and allegations of professional misconduct set forth in the formal complaint. Based on the parties' stipulation and respondent's admissions, the panel found that respondent committed professional misconduct when he filed a lawsuit against a deceased client's stepdaughter and subsequently recorded a lien on the deceased client's home seeking $6,545.58 for alleged services despite having a retainer agreement with his client, prior to his death, that capped fees of $1,000.00.

Based upon respondent's admissions and the stipulation of the parties, the panel found that respondent entered into an agreement for, charged, or collected an illegal or clearly excessive fee, in violation of MRPC 1.5(a); brought a proceeding, or asserted or controverted an issue therein, without a basis for doing so that is not frivolous, in violation of MRPC 3.1; violated or attempted to violate the Rules of Professional Conduct, or knowingly assisted or induced another to do so, or did so through the acts of another, in violation of MRPC 8.4(a); engaged in conduct that is prejudicial to the administration of justice, in violation of MCR 9.104(1) and MRPC 8.4(c); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3); and, engaged in conduct that violates the standards or rules of professional conduct adopted by the Supreme Court, in violation of MCR 9.104(4).

In accordance with the stipulation of the parties, the panel ordered that respondent be reprimanded. Costs were assessed in the amount of 762.14.

DISBARMENT AND RESTITUTION (PENDING REVIEW)

Michelle L. Elowski, P74608, Alpena. Disbarment, Effective January 30, 2026[1]

The Grievance Administrator filed a formal complaint against respondent. Based on respondent's default, witness testimony cor-

ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

roborated the findings, the documentary evidence supporting the allegations in the formal complaint, and respondent's no contest plea to the criminal charges in *People of the State of Michigan v Michelle Lynn Elowski,* Oscoda County, 23rd Circuit Court, Case Nos. 24-1953-FH and 24-1954-FH), the panel found that respondent misappropriated funds from several clients in matters for which respondent had been retained, and in doing so, engaged in illegal conduct that resulted in her criminal conviction.

The panel specifically found that based on respondent's default and the evidence presented by the Grievance Administrator established that respondent: failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3; failed to keep her clients informed as to the status of their cases, in violation MRPC 1.4(a); failed to explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation, in violation of MRPC 1.4(b); failed to pay or deliver funds or other property that a client or third person was entitled to receive, in violation of MRPC 1.5(b)(3); failed to hold the property of the client or third person in connection with representation separate from the lawyer's own property by depositing funds into her personal account, in violation of MRPC 1.15(d); knowingly made a false statement of material fact in connection with a disciplinary matter, in violation of MRPC 8.1.(a); engaged in conduct involving dishonesty, fraud, deceit or misrepresentation and that the conduct reflected adversely on the attorney's honesty, trustworthiness or fitness to practice as an attorney, in violation of MRPC 8.4(b); engaged in conduct that exposed the legal profession to obloquy, contempt, censure or reproach in violation of MCR 9.104(2); engaged in conduct contrary to justice, ethics, honesty or good morals in violation of MCR 9.104(3); engaged in conduct violating the standards or rules of professional conduct, in violation of MRPC 8.4(a) and MCR 9.104(4); engaged in conduct that violated the criminal laws of the State of Michigan and the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5); and, knowingly made a misrepresentation of any facts or circumstances surrounding a request for investigation or complaint, in violation of MCR 9.104(6).

The panel ordered that respondent be disbarred, effective January 30, 2026, that she pay restitution totaling $266,091.90. Costs were assessed in the amount of $3,933.69.

On January 29, 2026, respondent timely filed a petition for review pursuant to MCR 9.118. Respondent's petition for review is currently pending before the Board.

REPRIMAND (BY CONSENT)

Derek E. Miller, P73278, Sterling Heights. Reprimand, Effective January 21, 2026

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Reprimand in accordance with MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Tri-County Hearing Panel #101. Based on the parties' stipulation and respondent's admissions, the panel found that respondent committed professional misconduct during his tenure as the Chief of Operations for the Macomb County Prosecutor's Office under Prosecutor Eric Smith. Respondent pled guilty to a misdemeanor violation of MCL 750.485 for refusing or neglecting to account for county funds, with sentencing delayed. Respondent's criminal conviction was dismissed on September 25, 2024, after he complied with all court-ordered conditions, including probation, fines, community service, and no-contact requirements.

Specifically, the panel found that respondent engaged in conduct that is prejudicial to the administration of justice, in violation of MCR 9.104(1) and MRPC 8.4(c); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2); engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3); and engaged in conduct that violates a criminal law of a state, in violation of MCR 9.104(5).

In accordance with the stipulation of the parties, the panel ordered that respondent be reprimanded. Costs were assessed in the amount of $1,035.92.

NOTICE OF DISBARMENT

Jesse J. Monville, P66760, White Pine. Disbarment, Effective January 8, 2026[1]

The Grievance Administrator filed a combined Notice of Filing of a Judgment of Conviction and Formal Complaint against respondent. The Notice of Judgment of

1. Respondent's license to practice law in Michigan has been continuously suspended since January 16, 2025. See Notice of Automatic Interim Suspension, issued on February 27, 2025, in *Grievance Administrator v Michelle L. Elowski,* 25-15-AI.

Conviction, filed in accordance with MCR 9.120(B)(3), advised that on or about October 8, 2020, respondent was convicted by guilty plea, in *United States of America v Jesse James Monville,* United States District Court, Western District of Michigan, Case No. 2:20-cr-6-01, of Possession With Intent to Deliver 50 Grams or More of Methamphetamine, a felony, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A)(viii). The formal complaint alleged that respondent failed to provide written notice of his conviction to the Attorney Discipline Board and the Attorney Grievance Commission within 14 days of the acceptance of his plea, in violation of MCR 9.120(A).

After proceedings conducted pursuant to MCR 9.115 and MCR 9.120, Upper Peninsula Hearing Panel #1 found that respondent committed professional misconduct as alleged in the Notice of Filing of a Judgment of Conviction, and that by virtue of his default for failure to answer the formal complaint, respondent committed professional misconduct as alleged in the formal complaint, in its entirety.

Specifically, the panel found, based on respondent's conviction, that respondent engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5) and MRPC 8.4(b). Based on respondent's default and the record, the hearing panel found that respondent failed to provide written notice of his conviction to the Attorney Discipline Board and the Attorney Grievance Commission within 14 days of the acceptance of his plea, in violation of MCR 9.120(A)(1); engaged in conduct prejudicial to the administrator of justice in violation of MCR 9.104(1) and MRPC 8.4(c); exposed the legal profession or the courts to obloquy, contempt, censure or reproach, in violation of MCR 9.104(2); and, engaged in conduct that is contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3).

The panel ordered that respondent be disbarred, effective January 8, 2026. Costs were assessed in the amount of $1,997.80.

1. Respondent's license to practice law in Michigan has been continuously suspended since May 14, 2018. See Notice of Interim Suspension issued June 4, 2018, in *Grievance Administrator v Jesse J. Monville,* Case Nos. 17-140-JC; 17-141-GA.

2. Respondent admitted this in Paragraph 9a of his untimely Answer to Complaint.

3. While Respondent raised several issues that could be considered in mitigation, he did not identify them pursuant to the ABA Standards. As such, the panel considered the issues raised by Respondent and independently correlated them to the ABA Standards.

4. In response to Respondent's purported personal and emotional problems, counsel for the Grievance Administrator noted Respondent's extensive disciplinary history, and that that Respondent referenced the same trauma as a mitigating circumstance in ADB Case No. 17-140-JC and Case No. 17-141-GA. (Tr, 35:1-6)

5. The Panel notes that this suspension ran consecutive to Respondent's two-year suspension with restitution which was effective 5/14/18 so that respondent was continuously suspended for three years. It was the intent of that panel that Respondent be required to be reinstated by a hearing panel and recertified by the Board of Law Examiners.

SUSPENSION WITH CONDITIONS (BY CONSENT)

Erik C. Rakoczy, P86620, Southfield. Suspension — 30 Days, Effective January 8, 2026

Respondent and the Grievance Administrator filed an Amended Stipulation for Consent Order of Discipline, which was approved by the Attorney Grievance Commission and accepted by Washtenaw County Hearing Panel #3. The stipulation contained respondent's admission that he was convicted by a no contest plea on March 4, 2024 in People of the *City of Ann Arbor v Erik Christopher Rakoczy,* 15th Judicial District Court of Ann Arbor, MI, Case No. 23-0633-OD, of Operating While Visibly Impaired, a misdemeanor, in violation of MCL 257.625(3). The amended stipulation also contained the parties' agreement that respondent's license to practice law in Michigan be suspended for 30 days and that he be required to comply with conditions relevant to the established misconduct.

Based on respondent's conviction, admission and the parties' stipulation, the panel found that respondent committed professional misconduct when he engaged in conduct that violated a criminal law of a state or of the United States, an ordinance, or tribal law pursuant to MCR 2.615, in violation of MCR 9.104(5); and engaged in conduct involving dishonesty, fraud, deceit,

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misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b).

In accordance with the stipulation of the parties, the panel ordered that respondent's license to practice law be suspended for 30 days and that he be subject to conditions relevant to the established misconduct, effective January 8, 2026. Costs were assessed in the amount of $1,050.28

1. Amended to include the panel's approval of the parties' Amended Stipulation for Consent Order of Discipline filed October 30, 2025; to include (By Consent) as part of the title; and to remove incorrect references to MCR 9.123(B) and MCR 9.124.

SUSPENSION

Deborah K. Schlussel, P56420, Southfield. Suspension — 30 Days, Effective January 10, 2026

Based on the evidence presented at a hearing held in this matter in accordance with MCR 9.115, Tri-County Hearing Panel #55 found that respondent committed professional misconduct in connection with her representation of two clients in their separate compassionate release matters.

Specifically, the panel found that respondent neglected a legal matter, in violation of MRPC 1.1(c) (Counts One and Two); acted without reasonable diligence and promptness in representing a client, in violation of MRPC 1.3 (Counts One and Two); failed to keep a client reasonably informed about the status of the matter, in violation of MRPC 1.4(a) (Counts One and Two); and, failed to take reasonable steps to protect the client's interests upon termination, in violation of MRPC 1.16(d) (Count One). The panel also found respondent's conduct to have violated MCR 9.104(1)-(3) and MRPC 8.4(b) (Counts One and Two).

The panel ordered that respondent's license to practice law in Michigan be suspended for 30 days. On October 16, 2024, respondent timely petitioned the Board for review of the panel's final order, and requested and received a stay pursuant to MCR 9.115(K). After proceedings in accordance with MCR 9.118, the Board issued an Order Affirming, In Part, and Vacating, In Part, Findings of Misconduct, and Affirming Order of 30-Day Suspension.

Respondent's discipline was stayed upon the timely filing of a motion for reconsideration pursuant to MCR 9.118(E) on June 20, 2025. Respondent's motion was denied by the Board on August 8, 2025.

Respondent timely filed an application for leave to appeal pursuant to MCR 9.122(A), which was denied by the Supreme Court on December 19, 2025. The 30-day suspension of respondent's license to practice law in Michigan was stayed for the pendency of the appeal and, pursuant to MCR 9.122(C), became effective on January 10, 2026. Costs were assessed in the total amount of $3,143.76.

1. We note that Dr. Young's testimony was not, and was not purported to be, probative of any "defense" to the charges at issue. Instead, Dr. Young's testimony related to respondent's state of mind and mental heath, and was thus more suitable to testimony in mitigation at a sanction hearing

2. We have also considered two cases raised by the parties as applicable precedent in this matter. In both Grievance Administrator v Joseph Ernst,14-116-GA (ADB 2015), and *Grievance Administrator v Donald Teichman,* 92-31-GA (ADB 1993), the Board affirmed hearing panel orders of reprimand in cases where the respondents provided false information to clients regarding the status of their cases. However, this matter is distinguishable from both

Ernst and Teichman because those cases involved singular instances, whereas respondent's conduct in this case was a pattern involving two separate clients.

SUSPENSION

Rebecca S. Tieppo, P62311, Livonia. Suspension — 180 Days, Effective January 21, 2026[1]

After proceedings conducted pursuant to MCR 9.115, Tri-County Hearing Panel #10 found that respondent committed professional misconduct during her representation of a client in a criminal matter by failing to adequately prepare for the representation, failing to communicate with her client, and making false statements of material fact to her client. Respondent's failure to adequately prepare for the representation led to a judicial finding of ineffective assistance of counsel.

Based on respondent's default, the hearing panel found that respondent handled a legal matter without preparation adequate in the circumstances, in violation of MRPC 1.1(b); failed to keep a client reasonably informed about the status of a matter, in violation of MRPC 1.4(a); failed to make reasonable efforts to expedite litigation consistent with the interests of the client, in violation of MRPC 3.2; knowingly made or failed to correct a false statement of material fact to a tribunal, in violation of MRPC 3.3(a)(1); engaged in conduct involving dishonesty, fraud, deceit, misrepresentation, or violation of the criminal law, where such conduct reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer, in violation of MRPC 8.4(b); and, made knowing misrepresentations of facts or circumstances surrounding a request for investigation or complaint, in violation of MCR 9.104(6). The panel found respondent's conduct to also have violated MCR 9.104(1)-(3) and MRPC 8.4(c).

The panel ordered that respondent's license to practice law in Michigan be suspended for 180 days. Costs were assessed in the amount of $1,761.86.

1. Respondent's license to practice law in Michigan has been continuously suspended since May 29, 2025. See Notice of Suspension With Conditions, issued on May 29, 2025, in *Grievance Administrator v Rebecca S. Tieppo*, Case No. 22-82-GA.

2. MCR 9.123(B) provides that an attorney whose license to practice law has been revoked or suspended for more than 179 days is not eligible for reinstatement until the attorney has petitioned for reinstatement under MCR 9.124 and has established MCR 9.123(B)(1)-(9) by clear and convincing evidence at a hearing before a panel.

REINSTATEMENT

On October 3, 2025, Tri-County Hearing Panel #17 entered an Order of Suspension and Restitution with Condition (By Consent) in this matter suspending respondent from the practice of law in Michigan for 30 days, effective December 1, 2025. On January 5, 2026, respondent filed an affidavit pursuant to MCR 9.123(A), attesting that he has fully complied with all requirements of the panel's order and will continue to comply with the order until and unless reinstated. The Grievance Administrator did not file an objection to respondent's affidavit pursuant to MCR 9.123(A); and the Board being otherwise advised;

NOW THEREFORE,

IT IS ORDERED that respondent, **Zachary Hallman,** P78327, is **REINSTATED** to the practice of law in Michigan, effective January 13, 2026.

REINSTATEMENT

David Hossein Safavian, P48165, Alexandria, Virginia. Reinstated, Effective January 30, 2026

Petitioner was disbarred effective January 4, 2012, in Grievance Administrator v David Hossein Safavian, Case Nos. 08-186-AI; 11-133-JC. On November 4, 2024, petitioner filed a petition for reinstatement pursuant to MCR 9.123(B), which was assigned to Tri-County Hearing Panel #8. After a hearing on the petition, the panel entered an order of eligibility for reinstatement on April 3, 2025.

On January 26, 2026, the Board received written verification from the State Board of Law Examiners that petitioner is entitled to recertification and that petitioner paid his bar dues in accordance with Rules 2 and 3 of the Supreme Court Rules concerning the State Bar of Michigan.

The Board issued an Order of Reinstatement reinstating petitioner to the practice of law in Michigan, effective January 30, 2026.

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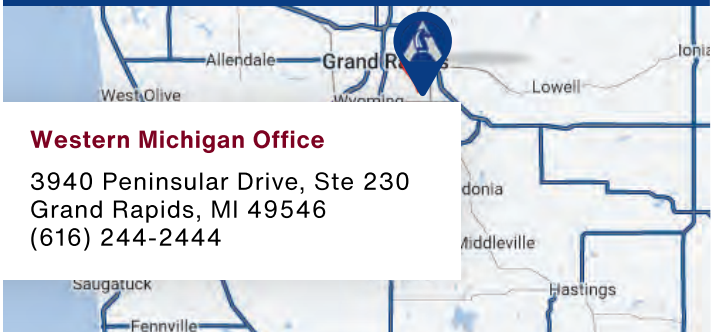

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