

MICHIGAN

BARJOURNAL

JULY/AUGUST 2026

MICHIGAN'S NEW ANTI-SLAPP LAW

THE UNIFORM PUBLIC EXPRESSION PROTECTION ACT

ALSO IN THIS ISSUE:

- Michigan Lawyers in History: George C. Edwards
- Book Review: Objections, foundations, AI-powered evidence skills coaching, and more — a review of the Michigan Rules of Evidence Handbook

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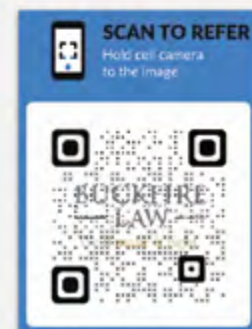
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In accordance with Rule 4 of the Supreme Court's Rules Concerning the State Bar of Michigan, these attorneys are suspended from active membership effective Feb. 15, 2026, and are ineligible to practice law in the state.

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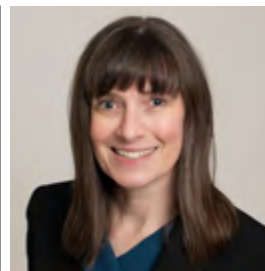
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IN MEMORIAM

HON. JAMES M. BATZER, P29305, of Manistee, died August 28, 2025. He was born in 1943, graduated from Wayne State University Law School, and was admitted to the Bar in 1978.

GINA ANNE BOZZER, P62688, of Traverse City, died March 14, 2025. She was born in 1973, graduated from Vermont Law School, and was admitted to the Bar in 2001.

GORDON CHARLES BOARDMAN, P28457, of Portage, died May 8, 2026. He was born in 1931, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 1978.

JOHN C. BUCHANAN, P11341, of Ada, died May 21, 2026. He was born in 1936, graduated from University of Michigan Law School, and was admitted to the Bar in 1963.

BRANDON CHRISTOPHER BYRD, P83734, of Belleville, died May 15, 2026. He was born in 1981, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 2019.

MICHAEL L. CHOJNOWSKI, P11854, of Gull Lake, died January 19, 2017. He was born in 1945, graduated from University of Michigan Law School, and was admitted to the Bar in 1971.

DAVID E. FIELD, P24298, of Northville, died March 23, 2026. He was born in 1945, graduated from Wayne State University Law School, and was admitted to the Bar in 1974.

WALTER J. GOLDSMITH, P14126, of Bloomfield Hills, died October 12, 2025. He was born in 1935, graduated from Wayne State University Law School, and was admitted to the Bar in 1961.

MARK W. HAFELI, P28908, of Troy, died May 20, 2026. He was born in 1953, graduated from Wayne State University Law School, and was admitted to the Bar in 1978.

RONALD R. HELVESTON, P14860, of Berkeley, died February 9, 2026. He was born in 1938, graduated from Wayne State University Law School, and was admitted to the Bar in 1967.

ARTHUR R. KAINZ, P26454, of Kernersville, N.C., died April 15, 2025. He was born in 1951, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1976.

WARD F. MCDONOUGH, JR., P17381, of Kalamazoo, died January 17, 2026. He was born in 1942, graduated from Wayne State University Law School, and was admitted to the Bar in 1969.

CLINTON MEYERING, P27302, of Taylor, died January 9, 2026. He was born in 1949, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1977.

HON. CHARLES H. MIEL, P17698, of Stanton, died April 13, 2026. He was born in 1938, graduated from University of Michi-

gan Law School, and was admitted to the Bar in 1963.

STUART R. MOLINEAUX, P17879, of Battle Creek, died April 12, 2020. He was born in 1935 and graduated from Wayne State University.

MARK H. TEKLENSKI, P21319, of Warren, died May 10, 2026. He was born in 1935, graduated from Detroit College of Law, and was admitted to the Bar in 1971.

TIMOTHY G. WEGMEYER, P36239, of Marine City, died February 11, 2026. He was born in 1958, graduated from Detroit College of Law, and was admitted to the Bar in 1984.

RICHARD T. WHITE, JR., P22263, of Orion, died April 29, 2026. He was born in 1941, graduated from Wayne State University Law School, and was admitted to the Bar in 1972.

JESSICA SUE YARCH, P77129, of Grand Rapids, died September 15, 2025. She was born in 1979, graduated from Thomas M. Cooley Law School, and was admitted to the Bar in 2013.

K. PAUL ZOSEL, JR., P22757, of Troy, died January 20, 2026. He was born in 1942, graduated from University of Detroit Mercy School of Law, and was admitted to the Bar in 1969.

In Memoriam information is published as soon as possible after it is received. To notify us of the passing of a loved one or colleague, please email barjournal@michbar.org.



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NEWS & MOVES

ARRIVALS & PROMOTIONS

MICHAEL CARTER has joined Honigman LLP as senior counsel.

RON FOSTER has joined Parakletos Law PLC, in Hudsonville, as of counsel.

CATHERINE GAGNON has joined Tamarisk Legal Advisors PLLC.

BRIAN T. KECK has joined the Buckfire Law Firm.

MITCH SICKON has joined Abdnour Weiker.

LEADERSHIP

KIRK PROFIT, with Profit Legal Services, PLLC, has been appointed by Governor Whitmer to the board of regents at Eastern Michigan

University effective Jan. 1, 2027, and named Chair of the board at Michigan Future, Inc.

DAVID M. WALKER, with Bodman, has been appointed to the board of directors of the Michigan Black Business Alliance

PRESENTATIONS, PUBLICATIONS & EVENTS

MDTC will host its 30th Annual Golf Outing on September 11, 2026.

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BOOK REVIEW

Objections, foundations, AI-powered evidence-skills coaching, and more

BY STUART M. ISRAEL



John Barkai, *Michigan Rules of Evidence Handbook—With Common Objections & Evidentiary Foundations (2026)*, with BarkaiBots access. Available at Amazon, \$12.99, 6" x 9" paperback, 133 pages, including the rules and advice on using them in the courtroom.

Professor John Barkai has been on the faculty of the University of Hawaii's William S. Richardson School of Law in Honolulu's Manoa Valley for decades—but his roots are in Michigan. Barkai is an evidence maven and now the creator of BarkaiBots, a unique, AI-powered, computer-delivered, on-demand, self-operated, no-cost, interactive, customizable, simulations-based, practical evidence-skills training program.

Readers of Barkai's *Handbook* can use BarkaiBots to practice and refine their courtroom skills *before* they are called on to examine witnesses, make and respond to objections, present evidentiary foundations, and meet other needs in the heat of trials, depositions, and other adversarial undertakings.

I will review the *Handbook* and acquaint you with BarkaiBots, but first I establish the requisite evidentiary foundation and make disclosures.

FOUNDATION AND DISCLOSURES

Barkai grew up in Detroit and earned his J.D. and two other degrees from the University of Michigan. We were law school classmates and took the Michigan bar together. There was no multistate exam then. As I recall, the bar was 2 and 1/2 days of essay questions, which we answered in bluebooks using number 2 pencils. We passed.

Barkai practiced as a public defender in Detroit and then became a Wayne Law professor. He later migrated to Oahu to be a professor in paradise. Since then, Barkai has been a font of practical wisdom for legions of U-H law students and many Aloha State lawyers and judges on evidence, trial advocacy, negotiation, and dispute resolution.

Written by John Barkai
Independently published
Hardcover | 133 Pages | \$12.99

Barkai should remember that his sustained professional success is in great part due to my example and tutelage at law school, then when we were Detroit criminal lawyers, and later when we were faculty colleagues at Wayne Law and U-H Law during my semester as a visiting professor. But Barkai's memory of my influence is dim. Sunstroke, probably.

Oh, well, Barkai deserves *some* credit. He is an evidence maven, as noted, and he now is the genius behind the eponymously named BarkaiBots. My favorable review of his *Handbook* and BarkaiBots is totally objective. Totally. It is not influenced by our long-time association and will withstand MRE 702-704 scrutiny.

BARKAI'S EVIDENCE-HANDBOOK SERIES

The Michigan *Handbook* is one of a series of similar Barkai-authored evidence handbooks. The series covers many jurisdictions that have rules modeled on the Federal Rules of Evidence, or that use similar evidence principles and procedures. The series covers all states, federal and military courts, and other U.S.-affiliated jurisdictions (like American Samoa, the Federated States of Micronesia, Guam, Palau, and Yap).

The series also covers jurisdictions in Canada, Europe, Asia, and Africa (like the U.K., Australia, New Zealand, Papua New Guinea, Fiji, Hong Kong, the Philippines, Bangladesh, Sri Lanka, Taiwan, Nigeria, Zimbabwe, and India).

All the handbooks are listed in the Michigan *Handbook* at pp. A-80 through A-81. If you plan to travel in the U.S. or abroad to places where evidence questions might come up, like Puerto Rico or the Cook Islands, look at Barkai's Amazon page and get prepared. If, however, the only islands that concern you are Belle Isle, Mackinac Island, and various coney islands, get the Michigan *Handbook* for its stated purpose: to be "at your side" when needed.

EVIDENCE RULES AND TRIAL TECHNIQUES "AT YOUR FINGERTIPS"

For years, I carried a small paperback edition of the FRE in my briefcase. I used it in the heat of legal adversity in courtrooms, labor-arbitrations, and at depositions. I used it to refresh my recollection (or the judge's, the arbitrator's, or the other side's) about what the evidence rules *actually* require. My instant access to the rules occasionally gave me an advantage over others, who maybe missed a law school evidence class or two or dozed off and never quite mastered some rule that didn't seem important in class, but later became quite important in a "proceeding."

Now, with Barkai's *Handbook* in your briefcase, you can have the MRE, plus model techniques and practical advice, to give you an evidentiary edge. The *Handbook* might remind you during a 15-minute trial recess, say, that "Michigan is one of 12 states that

does NOT have a learned treatise hearsay exception."² Compare MRE 803(18) to FRE 803(18). You can consider MRE 707, return to court, and object to the treatise-reliant opinion of your opponent's self-important "expert."

RULES, TECHNIQUES, ADVICE, ACRONYMS, AND MORE

The *Handbook* has the full text of the MRE and *much* more. It includes advice on "making and responding to common objections," covering why (and why not) to object, how to object, how to respond to objections, how judges consider objections, the MRE 103 "key" to objections, offers of proof, motions *in limine*, preserving evidence-ruling errors for appeal, more than 60 "common objections," and additional "voice of experience" information to help you make informed tactical decisions. It will help you deftly use terminology anchored in the MRE, and be prepared for, say, a judge asking for the precise basis of your objection or dealing with opposing lawyers' improper use of "speaking objections" to coach their witnesses or obstruct your witnesses.³

The *Handbook* offers concrete models and practical advice on setting evidentiary foundations, recognizing deficiencies in the other side's foundation efforts, introducing exhibits and moving their admission, impeaching witnesses, refreshing memory, making offers of proof, and presenting expert opinion. The *Handbook* covers many specific contexts, like presenting (or objecting to) evidence in the form of deposition testimony, ESI, phone calls, voicemail, email, texts, social media, website content, and more.

The *Handbook* offers "useful points" about public and business records, computer records, documents that contain double hearsay, demonstrative evidence, and chain of custody. The *Handbook* lists "important evidence rules" that will guide your preparation and your evidence-related trial efforts.⁴

Barkai offers helpful mnemonic devices and acronyms—as law professors are wont to do. Remember **IRAC** (Issue, Rule, Analysis, Conclusion)? One of Barkai's devices, pertinent to assessing the admissibility of paper and electronic documents and presenting the requisite foundation,⁵ is **HARROW**:

Hearsay (MRE 800s)
Authentication (MRE 900s)
Relevance (MRE 401)
Relevance (MRE 403)
Original **W**ritings (best evidence, MRE 1000s)

Another, pertaining to MRE 803(6) and "business records," is **KRAP**: **K**ept in the course of **R**egularly-conducted activity, made **A**t or near the time of the subject matter, based on someone's **P**ersonal knowledge.⁶ Another is **OTP**: lawyers considering the relevance,

admissibility, and necessary foundation of evidence they plan to present should also consider what the evidence will be **Offered To Prove**.⁷ Barkai's acronyms provide checklists to help avoid evidentiary SNAFUs and, more importantly, FUBARs.

THE HANDBOOK'S UNCOMMON VIRTUES

Barkai's *Handbook*, unlike many evidence tomes, is action-oriented. It is designed to help lawyers prepare effectively, avoid problems, and solve problems if they arise. The *Handbook* is succinct, readable, practical, and inexpensive.

The *Handbook* makes the important point that evidence-proficiency requires more than knowing the rules. You must be attuned to the "local legal culture," whether learned experientially or by study. Michigan's civil procedure rules, for example, though modeled on the federal rules, label as "summary disposition" what federal courts and most other jurisdictions call "summary judgment." Out-of-state counsel often ask about this idiosyncratic terminology. Summarily speaking, is it better to *dispose* than to *judge*?

I add that you might strive to master local pronunciation. Is it "vwah dear" or "vore die-er"? I add, too, that you might want to become acquainted with the predilections of the local judges who will control your clients' legal fates.

In Barkai's and my formative years, many judges applied the perhaps facetiously named Detroit Recorder's Court Hearsay Exception. It was unwritten, imprecise, unevenly applied, and sometimes troublesome. It was reminiscent of the definition of the word *lawful* in Ambrose Bierce's *The Devil's Dictionary* (1911): "Compatible with the will of a judge having jurisdiction."⁸ Basically, the exception admitted into evidence, for truth, virtually any out-of-court statement made in the presence of the on-trial criminal-defendant. Later, while working in Columbus, Ohio, I heard this same "in the presence" hearsay "exception" called the Franklin County Hearsay Exception.

I practiced as a labor lawyer for some decades, in a culture that tolerates arbitrators avoiding immediate rulings on evidence disputes. Arbitrators often admit—"for what it's worth"—hearsay, opinions without foundation, and other "fluff and flowers." This keeps hearings moving, unobstructed by a bunch of legal-type stuff. Litigants find out what, if anything, the "evidence" is worth months later, when they get the arbitrator's "final and binding" decision. Barkai notes a similar court phenomenon, accounting for evidentiary rigor in jury trials, less in bench trials.

Barkai thinks that unwritten rules like the Recorder's Court Hearsay Exception may be the progenitors of MRE 801(d)(2)'s situational tolerance for adoptive admissions. *Whatevahs*, as they say in Hawaiian pidgin. Unwritten rules are enforceable in the "local culture" if judges think they are rules.

BARKAIBOTS BENEFITS

New in the current *Handbook* is an introduction to BarkaiBots, Barkai's unique, AI-powered, computer-delivered, on-demand, self-operated, no-cost, customizable, simulations-based evidence-skills training program. BarkaiBots is a mentor *ex machina* at your service. You can master the skills needed to apply the evidence rules, and do it in the comfort of your home, in your spare time, at your own pace. No more CLE classrooms, no more fat, expensive books, no more law professors' dirty looks.

The word *BarkaiBots*, I think, is both singular and plural, like *sheep*, *aircraft*, and *haiku*. Anyway, the *Handbook* explains, BarkaiBots provides "24/7 interactive AI courtroom simulations that function both as responsive practice partners and built-in personal coaches to help users improve their advocacy,"⁹ I add, to hone their evidence instincts. As Archimedes put it: "*Eureka!*"

BarkaiBots provides the evidentiary acumen needed for effective direct and cross-examination, impeachment by inconsistent statements, dealing with evasive witnesses, laying foundations, making and responding to objections, and more. In this age of "vanishing trials," whether you are a sophisticated "been there, done that" litigator, an inexperienced lawyer, or a law student, chances are that BarkaiBots will enhance your skills and teach you something new and useful.

There's more! Users can customize BarkaiBots simulations by uploading their own "fact patterns"—using their "desktop, laptop, phone, or tablet"—and then use BarkaiBots to "rehearse, receive coaching, and refine their advocacy" with tailored practice, aided by AI witnesses, judges, and opposing counsel who pick up the customized facts. BarkaiBots pays attention to your facts and will provide informed real-time feedback.

Users can record their practice efforts on Zoom or otherwise—for later self-assessment, or to screen their practice performance for colleagues eager to provide constructive criticism on substance, theory-of-case consistency, clarity, order, pace, word selection, nonverbal distractions, ill-advised fashion choices, etc. You can do all this *before* you step into the courtroom. As the old joke goes:

Tourist: "Excuse me, how do I get to Carnegie Hall?"

On-the-street sage: "Practice, practice, practice."

As the *Handbook* instructs, you connect to the "Amazon BarkaiBots Start Page" by using the web address or the QR code on page A-84. When you connect, you will find a user guide, links to current BarkaiBots simulations, and more. You will need a free online account with ChatGPT, or a paid ChatGPT Plus account, and an email

address. If you have my limited technological ability, to start, you might need helpful advice from a teenager.

Creating BarkaiBots, Barkai drew on his “more than 50 years as a full-time law professor teaching evidence, clinics, simulations, and externships.”¹⁰ Experience taught him the benefits of extensive practice and structured coaching, both in short supply in law schools and many practice settings. Barkai observes that effective advocacy is “performance” enhanced by practice, done “aloud and repetitively,” focused on “timing, question sequencing, witness control, responsiveness to new information under pressure, and practical application of the evidence rules.”¹¹ With the *Handbook* and BarkaiBots coaching, you can **DIY**—do it yourself.

CONCLUSION

The Michigan Rules of Evidence are intended to ensure that “every proceeding” is “administered fairly” and without “unjustifiable expense and delay” to the “end” of “ascertaining the truth and securing a just determination.”¹²

Fairness, economy, efficiency, alacrity, truth, and justice. Nice. What is to be done? Read Barkai’s *Handbook* and use BarkaiBots to practice, practice, practice. As they say in Hawaii, *pōmaika’i*—good luck.



Stuart M. Israel has practiced law, mostly in Michigan, since a Coney Island chlidog was about 35¢ on Lafayette Boulevard. Israel’s bar-admission certificate has long since qualified as an MRE 803(16) ancient document.

ENDNOTES

1. Barkai, *Federal Rules of Evidence Handbook* (CreateSpace Independent Publishing Platform: 2020).
2. *Id.* at A-58 (emphasis in original).
3. *Id.* at A1-16.
4. *Id.* at A17-77.
5. *Id.* at A-28.
6. *Id.* at A-31.
7. *Id.* at A-28.
8. Bierce, *The Devil’s Dictionary* (1911) <<https://perma.cc/AK2M-RDCC>> (accessed July 9, 2026).
9. Barkai, *supra* n 1 at p i.
10. *Id.* at p 132.
11. *Id.* at A-85.
12. MRE 102.

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PUBLIC POLICY REPORT

AT THE CAPITOL

HB 5281 (Harris) **Financial institutions: other; Civil procedure: civil actions; Consumer credit: lending practices.** Financial institutions: other; third-party litigation funding transparency; provide for. Creates new act.

POSITION: Oppose as drafted. (Position adopted via roll-call vote.

Commissioners voting in support of the position: Barton, Barr, Bryant, Burrell, Christenson, Clark, Clay, Crowley, Davis, Detzler, Easterly, Eccleston, Evans, Hamameh, Howlett, Kitchen-Troop, Larsen, Lerner, Liggins, Low, Lowe, Luckenbach, Mansoor, Mantese, Mason, Murray, M., Murray, T., Ohanesian, Perkins, Simmons, Timmons. Commissioner voting in opposition of the position: Anderson.)

HB 5880 (Meerman) **Taxation: excise taxes.** Taxation: excise taxes; excise tax on certain services; provide for. Creates new act.

POSITION: Oppose.

HB 5831 (Steele) **Crimes: terrorism; Crimes: penalties.** Crimes: terrorism; penalties for acts of terrorism; modify. Amends sec. 543f of 1931 PA 328 (MCL 750.543f).

HB 5907 (St. Germaine) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the vehicle code; require. Amends secs. 601b, 602a, 617 & 625 of 1949 PA 300 (MCL 257.601b et seq.).

HB 5908 (St. Germaine) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the riots act; require. Amends sec. 4 of 1968 PA 302 (MCL 752.544).

HB 5909 (Hoadley) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the Medicaid false claim act; require. Amends sec. 6 of 1977 PA 72 (MCL 400.606).

HB 5910 (Wozniak) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the social welfare act; require. Amends sec. 60 of 1939 PA 280 (MCL 400.60).

HB 5911 (Bruck) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the identity theft act; require. Amends sec. 9 of 2004 PA 452 (MCL 445.69).

HB 5912 (Johnsen) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes regarding contraband in jails; require. Amends secs. 2, 2a, 3 & 5 of 1981 PA 7 (MCL 801.262 et seq.).

HB 5913 (Johnsen) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes regard-

ing contraband in prisons; require. Amends secs. 1, 3, 3a & 5 of 1909 PA 17 (MCL 800.281 et seq.).

HB 5914 (Schuette) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the public health code; require. Amends (See bill).

HB 5915 (Kuhn) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the sex offender registration act; require. Amends sec. 9 of 1994 PA 295 (MCL 28.729).

HB 5916 (Kuhn) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes in the revised judicature act; require. Amends sec. 2950 of 1961 PA 236 (MCL 600.2950).

HB 5917 (Pavlov) **Criminal procedure: sentencing.** Criminal procedure: sentencing; mandatory sentencing for certain crimes; require. Amends (See bill) & repeals sec. 145g of 1931 PA 328 (MCL 750.145g).

HB 5918 (Pavlov) **Criminal procedure: sentencing guidelines.** Criminal procedure: sentencing guidelines; sentencing guidelines for certain crimes; update. Amends (See bill).

POSITION: Oppose the legislation to the extent that the bills would limit judicial discretion by imposing a mandatory minimum sentence of incarceration. (Position adopted via roll-call vote. Commissioners voting in support of the position: Anderson, Barton, Barr, Bryant, Burrell, Christenson, Clark, Clay, Crowley, Davis, Detzler, Easterly, Eccleston, Evans, Hamameh, Howlett, Kitchen-Troop, Larsen, Lerner, Liggins, Low, Lowe, Luckenbach, Mansoor, Mantese, Mason, Murray, M., Murray, T., Ohanesian, Perkins, Simmons, Timmons. Commissioner abstaining from voting: Liggins.)

HB 6028 (McFall) **Courts: veteran's court; Veterans: other.** Courts: veteran's court; veterans treatment court; modify. Amends secs. 1200, 1201, 1203, 1205, 1206 & 1209 of 1961 PA 236 (MCL 600.1200 et seq.).

POSITION: Support.

HB 6081 (Kuhn) **Criminal procedure: preliminary examination; Criminal procedure: evidence.** Criminal procedure: preliminary examination; certain rules and procedures for conducting a preliminary examination; revise. Amends sec. 11b, ch. VI of 1927 PA 175 (MCL 766.11b) & adds sec. 11c to ch. VI.

POSITION: Oppose. (Position adopted via roll-call vote. Commissioners voting in support of the position: Anderson, Barton, Bryant, Burrell, Clark, Clay, Crowley, Davis, Detzler, Easterly, Eccleston, Evans, Hamameh, Howlett, Kitchen-Troop, Larsen, Lerner, Liggins, Low, Lowe, Luckenbach, Mansoor, Mantese, Mason, Murray, M.,

Murray, T., Ohanesian, Perkins, Shapiro, Simmons, Timmons. Commissioner voting in opposition of the position: Holloman.)

HB 6092 (Hope) Criminal procedure: DNA. Criminal procedure: DNA; postconviction DNA testing; modify. Amends sec. 16, ch. X of 1927 PA 175 (MCL 770.16).

POSITION: Support.

HB 6110 (MacDonell) Civil procedure: civil actions; Civil rights: other. Civil procedure: civil actions; violation of constitutionally or legally provided civil rights; provide a cause of action for. Creates new act.

POSITION: Support in concept. (Position adopted via roll-call vote.

Commissioners voting in support of the position: Anderson, Barton, Bryant, Burrell, Clark, Clay, Crowley, Davis, Detzler, Easterly, Eccleston, Evans, Hamameh, Holloman, Howlett, Kitchen-Troop, Larsen, Lerner, Low, Lowe, Luckenbach, Mansoor, Mantese, Mason, Murray, M., Murray, T., Ohanesian, Perkins, Shapiro, Simmons, Timmons. Commissioner abstaining from voting: Liggins.)

SB 0909 (Chang) Civil procedure: remedies; Civil procedure: evidence. Civil procedure: remedies; wrongful imprisonment compensation act; modify evidence requirements. Amends secs. 2, 4, 5 & 7 of 2016 PA 343 (MCL 691.1752 et seq.).

POSITION: Support.

SB 1089 (Chang) Courts: funding. Courts: funding; trial court funding; provide for. Amends secs. 880d, 8727 & 8827 of 1961 PA 236 (MCL 600.880d et seq.); adds secs. 1495, 1496 & 1497 & repeals secs. 8729 & 8829 of 1961 PA 236 (MCL 600.8729 & 600.8829).

SB 1090 (Damoose) Courts: funding. Courts: funding; trial court funding; provide for. Amends sec. 13, ch. II, secs. 1k & 5, ch. IX & secs. 1, 3, 3c & 3e, ch. XI of 1927 PA 175 (MCL 762.13 et seq.).

SB 1091 (Cavanagh) Courts: funding. Courts: funding; trial court funding; provide for. Amends sec. 907 of 1949 PA 300 (MCL 257.907) & repeals sec. 908 of 1949 PA 300 (MCL 257.908).

POSITION: Support the legislation with an additional amendment adding a fourth factor to the proposed indigency de-

termination: An individual determined to be indigent under the MIDC standard for the purpose of appointing counsel in a criminal matter should be presumed indigent for the purpose of assessments issued at sentencing.

IN THE HALL OF JUSTICE

Proposed Addition of Rule 2.114 and Amendment of Rule 7.209 of the Michigan Court Rules (ADM File No. 2026-10) – Special Motions Under the Uniform Public Expression Protection Act; Bond; Stay of Proceedings (See *Michigan Bar Journal* June 2026, 53).

STATUS: Comment Period Expires 8/1/26; Public Hearing to be Scheduled.

POSITION: Support.

Proposed Addition of Rule 6.426 and Amendments of Rules 7.216 and 7.315 of the Michigan Court Rules (ADM File No. 2024-15) – Appointment of Appellate Counsel Following Remand by Michigan Supreme Court; Miscellaneous Relief; Opinions, Orders, and Judgments (See *Michigan Bar Journal* June 2026, 53).

STATUS: Comment Period Expires 8/1/26; Public Hearing to be Scheduled.

POSITION: Support.

Proposed Amendment of Rule 7.316 of the Michigan Court Rules (ADM File No. 2024-34) – Miscellaneous Relief (See *Michigan Bar Journal* June 2026, 53).

STATUS: Comment Period Expires 8/1/26; Public Hearing to be Scheduled.

POSITION: Support ADM File No. 2024-34 with an additional amendment allowing 14 days to file a late application for leave to appeal.

Proposed Adoption of Administrative Order No. 2026-X (ADM File No. 2025-30) – Pilot Project to Study Informal Domestic Relations Docket (See *Michigan Bar Journal* June 2026, 53).

STATUS: Comment Period Expires 8/1/26; Public Hearing to be Scheduled.

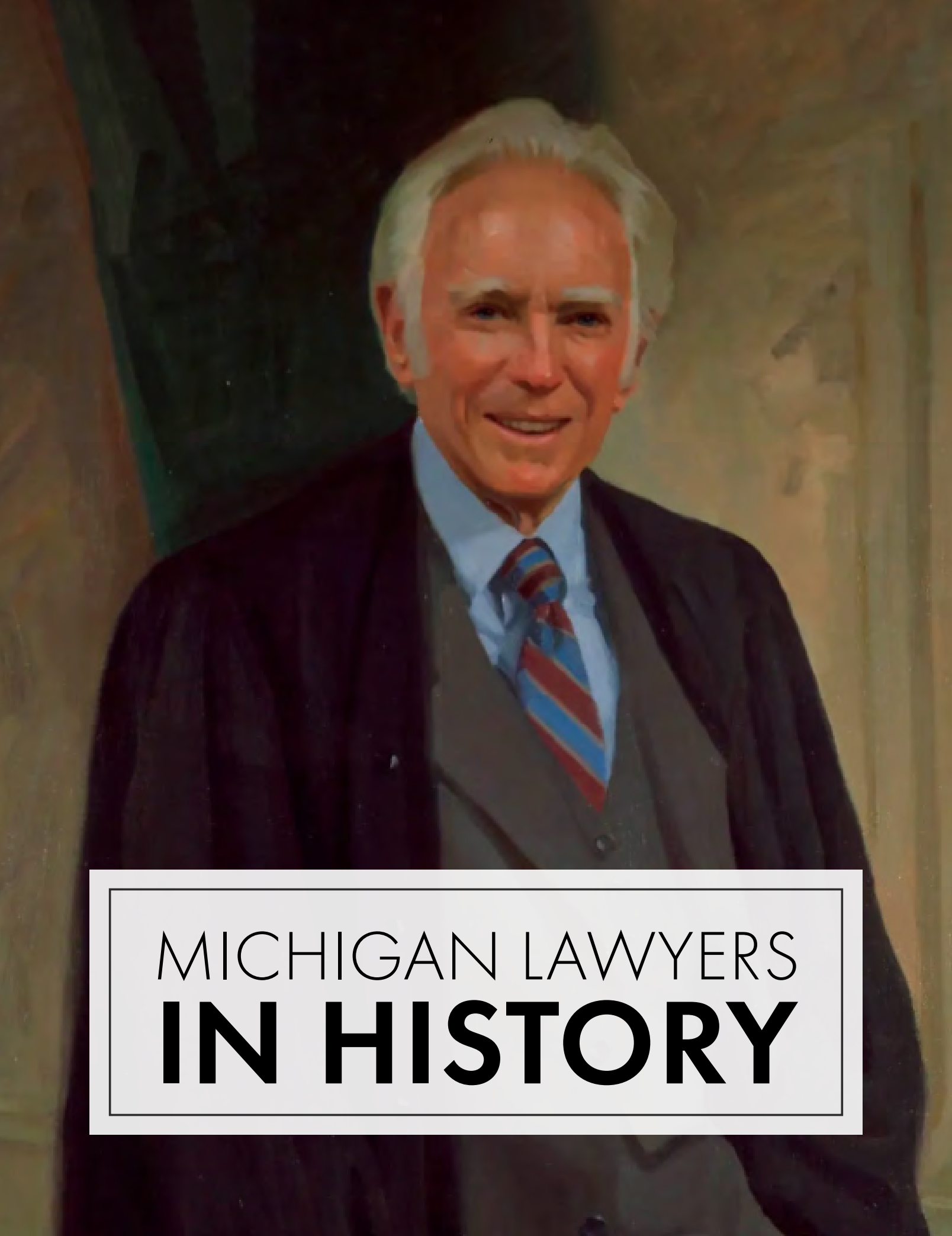
POSITION: Oppose.

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A portrait of an elderly man with white hair, smiling, wearing a dark suit, a light blue shirt, and a striped tie. The background is a textured, mottled brown and green.

MICHIGAN LAWYERS **IN HISTORY**

George Clifton Edwards, Jr.

BY JOHN R. RUNYAN, JR. AND CARRIE SHARLOW

In 1934, when George Clifton Edwards, Jr. graduated from Harvard University with a master's degree in literature, he had great plans for his future. He "wanted to help (1) end war; (2) end poverty; (3) end race injustice. In [his] spare time [he] thought [he] might try writing the great American novel."¹ Nowhere in that idealistic list of goals was a venture into the practice or profession of law.

After all, his father, grandfather, and at least one uncle were attorneys, and that was enough for one family. In fact, his father, George C. Edwards, Sr., was working very hard at fulfilling his own mission to end war, poverty, and racial injustice. George, Sr. initially started his professional career as a teacher — including beginning a night school for the local mill workers² — before he was fired for his vocal interest in socialism and various extracurricular activities, one of which involved editing and publishing a pro-labor newspaper.³ After his dismissal, George, Sr. read law in his father's office and was admitted to the Texas bar. His first criminal case was utterly horrific and ended without a trial when the African American defendant was forcibly removed from the courtroom and lynched by a mob.⁴ George, Sr. — never one to hide his light under a bushel — condemned the "frenzied barbarians" in a non-anonymous editorial in the weekly labor newspaper.⁵ Before long, George, Sr. was known as "the labor lawyer, the ACLU lawyer, the NAACP lawyer" in town; this was in addition to being an avowed socialist, in favor of Prohibition, and vehemently anti-KKK.⁶

George, Jr. was born in 1914, the baby of the family, the only son and youngest surviving child. The early years of the family were filled with tragedy as the older Edwards put their money where their mouths were and resided in the same cotton mill district as their night-school students.⁷ Their first two children — Purnell⁸ and Elva Gray⁹ — died of dysentery as infants, and both George, Sr. and his wife Octavia contracted tuberculosis.¹⁰ Not surprisingly, the parents were particularly protective over their two surviving children. George, Jr. recalled spending many days in bed, missing

school, due to a cold or the thought of a cold or other childhood ailment.¹¹ In a contradictory fashion, these multiple missed days actually caused him to be leaps and bounds ahead of his classmates; both of his parents were trained teachers, and with nothing to do in a sickbed, George, Jr. read. At age 15, he graduated high school near the top of his class.¹²

That was also the same year he decided that he would *not* go into the law. He'd helped in his father's law office most summers and watched some trials, even assisting in the investigation for one. But he also read — by parental command — Blackstone's *Commentaries*. It was dry and unexciting, and he read it with "all the comprehension [he] would have brought to Sanskrit" and decided that the law was not for him.¹³

Instead, he headed off to Southern Methodist University, ready to study literature, set to become an author. He graduated in three years, again near the top of his class, and at 19 — when most of his peers were finishing their first year of college — George left Texas for Massachusetts to obtain a further degree in literature from Harvard.¹⁴ He was so eager to change the world and start his novel that he skipped the graduation ceremony in 1934.¹⁵

After a two-year stint as an organizer for the League for Industrial Democracy, a "social reform agency,"¹⁶ George relocated to Detroit. There are conflicting recollections about the move Midwest. Most regularly referenced is that George headed to Detroit to conduct research for his great American novel.¹⁷ And while that explanation would suit this article perfectly, it's more likely that George moved to Detroit for the same reason that many people did in the 1930s: a good job in the auto industry.¹⁸

He arrived in the city during the labor union upheaval of the 1930s and promptly became involved with the UAW. Before long, George was using his organization skills to the benefit of the UAW, and even-

tually he was appointed “national director of the Welfare Department of the [UAW].”¹⁹ In 1937, he took part in a sit-down strike and was sentenced to 30 days in jail for defying a court order to vacate the plant.²⁰ In an ironic twist, that sentencing judge, Circuit Judge Arthur Webster, would later hold George’s robe during the younger man’s swearing-in ceremony as a probate judge 14 years later.²¹

His dislike of Blackstone’s dry writing notwithstanding, George started attending classes at the Detroit College of Law, contrary to his earlier professional inclinations. He received a Certificate of Completion in 1944 and a Juris Doctor several years later,²² in between studies, service with the Detroit Housing Commission and the Detroit Common Council, and military service during World War II.²³

Upon his return from war, George returned to the law (practicing with Theodore Bohn, who would go on to his own judicial career)²⁴ and the Detroit Common Council, where he would serve four terms.²⁵ Of course, the next stepping-stone was the office of mayor, and George threw his hat into the race.

The city was at a crossroads. Heavy migration during the war years had doubled the Black population, and opposition to integration was forcing much of that portion of the population to live in densely populated enclaves east of Woodward Avenue. Accordingly, housing emerged as a principal issue in the election. With his vocal desire to “end racial injustice,” George didn’t stand a chance against the conservative city treasurer, Albert Cobo, a man now known for his divisive legacy.

In her 1998 book about Edwards, *Bridging the River of Hatred*, historian Mary Stolberg writes that Cobo “draped his opinions with a racially neutral patina, which did little to obscure his underlying racist message. His opposition to public housing was directed mostly at African American residents, and he was vocally against integrated housing.”²⁶ In contrast, Edwards saw his campaign as a “civic crusade,” which Stolberg described as a drive to “modernize city government, extend services to the poor and offer racial justice.”²⁷ His plans also included an ambitious wish list: improvement of the riverfront, expanding public recreational facilities, “construction of a municipal auditorium,” and even a new airport.²⁸ By the end of the election period, the results were surely not shocking to anyone: Cobo won in a landslide.²⁹ George — bitter by his loss — returned to the practice of law, and the media predicted his public career was at an end.³⁰

They were wrong; instead, he moved to another political arena. In September 1951, he “was appointed probate judge of the Wayne County”³¹ Juvenile Court, and in 1954, he was elected to the Wayne County Circuit Court.³² Two years later, he was appointed to the Michigan Supreme Court³³ and subsequently reelected. He had made it. Without a doubt, it would be easier to end war, poverty, and race injustice at the top of the state’s legal community.

Then, to the shock of many, Justice Edwards resigned after less than five years of service. Surely the expectation was that he would continue his service for many more years and perhaps even reach the U.S. Supreme Court. Instead, at the height of his legal career, George resigned from the bench to take a nonjudicial, nonlegal position as Detroit Police Commissioner.

He was jumping out of a frying pan and into an active volcano. A little over a year before Edwards’ appointment, a declaration of “war on crime” commenced an infamous “crash program” that led to the arrest of 1,500 African American men over two months during a murder investigation.³⁴ Over the next several months, “more and more African Americans were unfairly interrogated, searched, arrested, and brutalized.”³⁵ In the midst of the crisis, Commissioner Edwards took charge of the “4,300 man [police] force.”³⁶

Edwards promised “‘vigorous law enforcement’ with equal treatment under the law, which he believe[d] would encourage more citizens ... to assist the police department in fighting crime.”³⁷ Unfortunately, a key player was not interested in playing ball: “from the outset, the [police] department’s top commanders tried to undermine his efforts, seizing every opportunity to discredit him,”³⁸ including data manipulation.³⁹

Still, Edwards continued on, working to build the trust of the community through promises of greater police professionalism.⁴⁰ He wanted to provide higher wages and “promoted human relations training of officers so that they would understand”⁴¹ the constitutional rights of the city’s citizens and “be more sensitive to residents of different races and backgrounds.”⁴² He “pledged to hire more African American police officers ... [and] guaranteed nondiscrimination in hiring” and “even promised to publicly discuss any case where the [department] rejected a qualified person because of race.”⁴³ He vowed to “build bridges of understanding across the river of hate running through the city.”⁴⁴ The “multimedia digital exhibit” *Detroit Under Fire* noted that when Edwards resigned from his position at the end of 1963, it was “with a decidedly mixed legacy.”⁴⁵

Well before that time, Edwards was a well-known figure across the country, and there were rumors of a federal appointment.⁴⁶ He was nominated by President Kennedy to a seat on the United States Court of Appeals for the Sixth Circuit. With Edwards’ history, the confirmation process must have been fascinating: “the ABA screening panel did what one official called ‘a double take’ when it discovered that [Edwards] once had been convicted of contempt of court”⁴⁷ — and his involvement in the League for Industrial Democracy and his father, “the best known Socialist in Texas.”⁴⁸ A Judiciary Committee member noted that Edwards’ nomination, coupled with another, “produced more letters of protest than any other judicial nominations.”⁴⁹ His confirmation was by no means a sure thing and even brought objections from the FBI Director J. Edgar Hoover,⁵⁰ but in the end he was approved by the United

States Senate via voice vote and sworn in on December 20, 1963. After a lifetime of work, it would be his last job. He served as Chief Judge of the Sixth Circuit from January 16, 1979, to September 30, 1983, and assumed senior status on January 15, 1985. By the end of Judge Edwards' judicial career, he had written over 1,000 signed opinions.

Edwards died 10 years after assuming senior status, over 60 years after his graduation from Harvard. In the end, he didn't end war or poverty or even racial injustice. Instead, he served as a "labor organizer, big city housing director, councilman, council president, lawyer, juvenile court judge, state circuit judge, state supreme court justice, Detroit police commissioner, and federal circuit judge," all with a lifelong "passion for justice."⁵¹ He never wrote the great American novel either; instead — as he later reminisced — he'd lived it.⁵²



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. Cumiskey 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.



Carrie Sharlow is an administrative assistant at the State Bar of Michigan.

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Michigan's new anti-SLAPP law: The uniform public expression protection act

BY ALEXANDER S. RUSEK

"Congress shall make no law...abridging the freedom of speech, or of the press..."¹

"[I]t is the public policy of this state to promote the rights of citizens to vigorously participate in government"² and to "[p]rotect citizens from the chilling effect of retributive and abusive strategic lawsuits against public participation, commonly referred to as SLAPP suits."³ To further these public policies, Michigan has become the latest

state to have its version of the Uniform Public Expressions Protection Act ("UPEPA") enacted.⁴ For practitioners, the UPEPA represents a sea change in how defamation, invasion of privacy, tortious interference, nuisance, or other similar claims will be litigated when they intersect with protected speech.

This article will address the background of the UPEPA, its purpose, and the new set of procedures that aim to: "Provid[e] for expedited

judicial review[;]" "Provid[e] for a stay on discovery and other time and money consuming maneuvers during the expedited judicial review[;]" "Proscrib[e] the evidence that may be considered in the expedited judicial review[;]" "Establish the burden of proof for the expedited judicial review[;]" and "Provid[e] for sanctions."⁵

Background and Purpose of Anti-SLAPP Legislation

On their face, strategic lawsuits against public participation ("SLAPP") bring causes of action for defamation or similar, but their true goal is *not* to prevail on the claims, but to intimidate and financially exhaust defendants. The Uniform Law Commission ("ULC") has set forth that "[t]hese kinds of abusive lawsuits are particularly troublesome when defendants find themselves targeted for exercising their constitutional rights to publish and speak freely, petition the government, and associate with others."⁶

Starting in the early 1990s,⁷ states began enacting legislation to provide methods to dismiss SLAPP cases in a judicially efficient and economical manner by providing a path to early dismissal. Michigan has now joined the more than 30 states that have enacted anti-SLAPP legislation, by and through the UPEPA, which permits a defendant to file a motion to dismiss a SLAPP at its onset while also staying discovery in the case (except in certain limited circumstances). According to the ULC, the model UPEPA serves two purposes: (1) Protection of "individuals' rights to petition and speak freely on issues of public interest;" and (2) Simultaneous protection of "the rights of people and entities to file meritorious lawsuits for real injuries."⁸

THE UPEPA'S "ELIGIBLE CAUSES OF ACTION"

Before taking any action under the UPEPA, a litigant must first establish that the action they seek to dismiss under the UPEPA is an "eligible cause of action."⁹ An "eligible cause of action" must arise after March 24, 2026 and be based on one of the following: (1) "A communication by the person in a legislative, executive, judicial, administrative, or other governmental proceeding[;]"¹⁰ (2) "A communication by the person on an issue under consideration or review in a legislative, executive, judicial, administrative, or other governmental proceeding;"¹¹ or (3) "The person's exercise of the right of freedom of speech or of the press, the right to assemble or petition the government for a redress of grievances, or the right of association, guaranteed by the United States Constitution or the state constitution of 1963 on a matter of public concern."¹²

However, some eligible causes of action are exempt from the UPEPA's procedures.¹³ An otherwise eligible cause of action is *not*

eligible if "[i]t is against a person primarily engaged in the business of selling or leasing goods or services if the cause of action arises out of a communication related to the person's sale or lease of the goods or services."¹⁴ Further, otherwise eligible causes of action are *not eligible* if the claim is made by an individual for a violation of:

- The Elliott-Larsen Civil Rights Act, 1976 PA 453, MCL 37.2101 to 37.2804;
- The Persons with Disabilities Civil Rights Act, 1976 PA 220, MCL 37.1101 to 37.1607;
- The Whistleblowers' Protection Act, 1980 PA 469, MCL 15.361 to 15.369;
- The Worker's Disability Compensation Act of 1969, 1969 PA 317, MCL 418.101 to 418.941;
- The Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246;
- Title VII of the Civil Rights Act of 1964, 42 USC 2000e to 2000e-17, including, but not limited to, the Pregnancy Discrimination Act, 42 USC 2000e(k);
- Title IX of the Education Amendments of 1972, 20 USC 1681 to 1689;
- The Age Discrimination in Employment Act of 1967, 29 USC 621 to 634;
- The Americans with Disabilities Act of 1990, Public Law 101-336;
- The Family and Medical Leave Act of 1993, Public Law 103-3; and
- The Fair Labor Standards Act of 1938, 29 USC 201 to 219.¹⁵

For eligible causes of action, the next step is for a litigant to file a "special motion for expedited relief" ("Special Motion") under the UPEPA's procedures.¹⁶

THE UPEPA'S SPECIAL MOTION AND STAY OF PROCEEDINGS

Not later than 60 days after being served with a complaint or other pleading that asserts an eligible cause of action, a party may file a Special Motion seeking "to dismiss the action or part of the action."¹⁷ However, the filing timeframe may be extended by a court for good cause shown.¹⁸ Under Michigan Court Rule 2.114(B), a Special Motion "must also include a statement that the motion is a special motion being filed pursuant to MCL 691.1853 *et seq.* and state the basis for the motion under MCL 691.1857."¹⁹

After a Special Motion has been properly filed, all proceedings between the moving party and responding party, including discovery and pending hearings or motions, are stayed (except in specific, limited circumstances).²⁰ If there are other parties to the action not

subject to the Special Motion, then the moving party may move to stay discovery and pending hearings and motions “if the hearing or ruling on the motion would adjudicate, or the discovery would relate to, an issue material” to the Special Motion.²¹ The stay remains in effect until the entry of an order ruling on the Special Motion and the expiration of the time for the moving party to appeal the order²² or the conclusion of an appeal by the moving party.²³

However, a judge does have authority under the UPEPA to allow limited discovery “if a party shows that specific information is necessary to establish whether a party has satisfied or failed to satisfy a burden under [the UPEPA]”²⁴ and the “information is not reasonably available unless discovery is allowed.” A motion for costs, attorney fees, and expenses under the UPEPA is not subject to the stay,²⁵ nor does the stay prevent a party’s ability to voluntarily dismiss the action or parts of the action (but not without consequences).²⁶ If a party appeals an order on a Special Motion, all “proceedings between all parties in the action are stayed until the conclusion of the appeal.”²⁷

UPEPA HEARINGS AND APPEALS

The UPEPA and Michigan Court Rule 2.114, *et seq.* create a framework for courts to hear Special Motions. This framework will be familiar to practitioners that have brought or defended motions for summary disposition under Michigan Court Rules 2.116(C)(8) (failure to state a claim on which relief can be granted) and 2.116(C)(10) (except as to the amount of damages, there is no genuine issue as to any material fact, and the moving party is entitled to judgment or partial judgment as a matter of law).²⁸

A hearing on a Special Motion must be held not later than 60 days after the Special Motion is filed, unless the court permits limited discovery or for good cause.²⁹ If limited discovery is permitted, then the hearing must be held within 60 days after the court orders the discovery.³⁰ A court shall rule on a Special Motion not later than 60 days after the hearing on the Special Motion.³¹

When ruling on a Special Motion, similar to a ruling on a motion for summary disposition under MCR 2.116(C)(10), a judge shall “consider the pleadings, the motion, any reply or response to the motion, affidavits, depositions, admissions, or other documentary evidence.”³² A court “shall dismiss with prejudice” an action or part of an action when certain conditions are met.³³ Further, the UPEPA “must be broadly construed and applied to protect the exercise of the right of freedom of speech and of the press, the right to assemble and petition the government for a redress of grievances, and the right of association, guaranteed by the United States Constitution and the state constitution of 1963.”³⁴

First, to prevail on a Special Motion, the moving party must prove that the cause of action *is* an eligible cause of action under the UPEPA.³⁵ Correspondingly, the responding party must fail to es-

tablish that the cause of action *is not* an eligible cause of action.³⁶ Second, one of the following must occur:

1. “The responding party fails to establish a prima facie case as to each essential element of the cause of action[.]”³⁷ or
2. The moving party establishes that the responding party either: “failed to state a cause of action on which relief can be granted[.]”³⁸ or that “[t]here is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law on the action or part of the action.”³⁹

UPEPA litigation will likely look to interpretations of MCR 2.116(C)(8) and MCR 2.116(C)(10) for guidance until Michigan’s appellate courts weigh in on the UPEPA. Importantly, if a Special Motion is denied or denied in part, the moving party may appeal as a matter of right.⁴⁰ Appeals must be filed not later than 21 days after the entry of the order and must be filed in accordance with MCR 7.204, *et seq.*⁴¹ The stay in the trial court will remain in effect during the pendency of the appeal.⁴²

UPEPA FEE SHIFTING AND SANCTIONS

In addition to establishing the process to file and have a Special Motion heard, the UPEPA also establishes a mandatory fee-shifting framework that practitioners should take note of.⁴³ Under the UPEPA, a court *must* “award court costs, reasonable attorney fees, and reasonable litigation expenses related to the special motion” to the moving party if the moving party prevails on the Special Motion.⁴⁴ Conversely, a court *must* “award court costs, reasonable attorney fees, and reasonable litigation expenses related to the special motion” to the responding party if it “prevails on the motion and the court finds that the motion was frivolous or filed solely with intent to delay the proceeding.”⁴⁵

A responding party cannot voluntarily dismiss an action or part of an action *without prejudice* to purposefully avoid sanctions under the UPEPA, as such a dismissal “does not affect a moving party’s right to obtain a ruling on [a] motion and seek costs, attorney fees, and expenses under [the UPEPA].”⁴⁶ Importantly, if a responding party voluntarily dismisses an action or part of an action under the UPEPA *with prejudice*, then the dismissal “establishes for the purpose of [the UPEPA] that the moving party prevailed on the motion.”⁴⁷ As discussed above, a motion for sanctions under the UPEPA is not subject to a stay under the UPEPA.⁴⁸

CONCLUSION

As courts begin to interpret and apply the UPEPA, litigators must quickly understand and adapt to its expedited framework and mechanics to effectively advocate for their clients. By imposing mandatory stays of discovery, demanding early evidentiary showings, and shifting the financial risk of litigation via attorney fee awards, the UPEPA aims to ensure that the courtroom cannot be used as a tool for censorship. Only time will tell if the UPEPA accomplishes this lofty goal.



Alexander S. Rusek is a Shareholder with Foster, Swift, Collins & Smith, P.C. in Lansing, Michigan, and an adjunct professor of law in the Michigan State University College of Law Trial Practice Institute, where he teaches trial advocacy courses primarily to third-year law students. Mr. Rusek's practice focuses on complex mass action, class action, and crisis civil litigation, criminal law, government relations and investigations, and appellate law. Mr. Rusek has represented established businesses, new businesses, non-profits, professionals, and individuals, notably representing over 100

survivors of sexual assault in the Michigan State University/Larry Nassar and University of Michigan/Robert Anderson litigations and a defendant in the Flint Water Crisis related civil and criminal litigations (all charges dismissed). Mr. Rusek is a graduate of Oakland University and the Michigan State University College of Law, cum laude.

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19. MCR 2.114(B)(1).
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21. MCL 691.1854(1)(b); MCR 2.114(C)(2).
22. MCL 691.1854(3); MCR 2.114(C)(3).
23. MCL 691.1854(2); MCR 2.114(C)(4).
24. MCL 691.1854(4); MCR 2.114(C)(5).
25. MCL 691.1854(5); MCR 2.114(F)(3).
26. MCL 691.1854(5); MCL 691.1854(6); MCR 2.114(C)(6).
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35. MCL 691.1857(1)(a); MCR 2.114(D)(3)(a).
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43. MCL 691.1860; MCR 2.114(F).
44. MCL 691.1860(a); MCR 2.114(F)(1)(a).
45. MCL 691.1860(b); MCR 2.114(F)(1)(b).
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PLAIN LANGUAGE

The will to change

BY JOSEPH KIMBLE

Why do legal writers resist or dismiss plain language? I addressed that question in my book *Writing for Dollars, Writing to Please*: “You can point to an assortment of reasons . . . , but . . . they come down to . . . lack of will, lack of skill, and lack of time.”¹ I’ve explored each of these three reasons in more detail in the book.

This column will be a test—primarily of writers’ will to change. Why? Because I’ll offer four prime examples of needless, antiquated formalisms that would take no skill and no time to eradicate. You merely need the will to wipe them out.

Before getting to the examples, let me repeat what I said about lack of will:

[It] has its own fairly obvious causes. Probably the main one is the two-fisted grip of habit and pure inertia, admittedly powerful forces. It’s usually easier to do things the old way—to copy an old form, for instance, or to fall back on jargon. Another cause is a false notion of power and prestige, of being in control, of having the status conferred by a mysterious and seemingly magical language. Yet another is a belief in the very myths addressed in this part of the book, along with a profoundly misplaced confidence in traditional style—by writers who must not realize how ineffective, inefficient, unnecessary, and prone to uncertainty that style is.²

I need to emphasize that writing in plain language is a skill acquired through hard work; that it involves dozens of guidelines and techniques; and that it requires reading, practice, and critique.³ But anyone who cannot take the teeny-tiny steps of cutting the four formalisms in boldface below is forever stuck.

Now comes the plaintiff, blah, blah, blah. This column is in its 42nd year. Early on, in October 1987, we did one of the first surveys that tested reader preferences for plain language versus legalese. We asked participants to check off their preference for the A or B version of six different paragraphs from various legal documents. We did not identify the choices as either “legalese” or “plain English.” We received responses from 425 Michigan judges and lawyers. The same study was later repeated in three other states—Florida, Louisiana, and Texas. And in all four states, the participants preferred the plain-language version by margins running from 80% to 86%.⁴

One of the six choices was between two versions of how to begin a complaint:

A[] Now comes the above named John Smith, plaintiff herein, by and through Darrow & Holmes, his attorneys of record, and shows unto this Honorable Court as follows:

B[] For his complaint, the plaintiff says:

So here’s the question. How do you begin your complaints? If you follow something like the A model, why—when other readers, including judges, overwhelmingly prefer the B model? And if you have never seen these results until now, will you change?

Know all men by these presents. Another otiose opener. A while ago, I hired a property-law expert to prepare some documents for me. When he sent me the draft of one of them, it began with this silly phrase. (Bryan Garner calls it a “flotsam phrase—as sexist as it is inscrutable to most readers—that needlessly begins many legal documents.”⁵) At the end of a phone call discussing some of the

¹“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.

substantive matters in the documents, I gently kidded the lawyer for using it. When he sent me the final draft, it was gone. Easy as can be.

Further affiant sayeth naught. Now we turn to formalistic endings. This one, of course, still appears at the end of many affidavits—a further testament to habit and inertia. The commentators call it a “gratuitous traditional tagline of legalese”⁶ and “useless verbiage.”⁷ It “[a]dds nothing to sense.”⁸ You should “use [it] not.”⁹

In Witness Whereof, blah, blah, blah. I was recently presented with a publishing contract that ended like this: “IN WITNESS WHEREOF we have hereunto affixed our hands and seals this _____ day of _____, two thousand twenty five.” You will see different versions of this concluding paragraph (before the signature block), but they are all “overblown,”¹⁰ “extravagantly verbose,”¹¹ “flourishes of a style long dead.”¹² Thomas Haggard calls *In Witness Whereof* “an antique phrase” and proclaims that “nothing has contributed more to the bad reputation of legal writing than these archaic phrases.”¹³

Is this clause needed at all? Garner doesn’t use it in a sample contract, but settles for a signature block with names and titles (the effective date having been stated earlier).¹⁴ Kenneth Adams gives arguments for and against having a concluding clause, but offers this example if drafters decide to include one: “Each party is signing this agreement on the date specified for that party’s signature.”¹⁵ Notice: no *In Witness Whereof*.

So there you have it: four hopelessly antiquated expressions. The second and third should be liquidated entirely. The first and fourth (if needed at all) can easily be replaced with plain language, if lawyers have the will to do it. Maybe then they could start moving on to all the harder parts of plain writing.

A shorter version of this column appeared in the ABA Journal’s *Your Voice* online column.



Joseph Kimble taught legal writing for 30 years at Cooley Law School. His fourth and latest book is *Essentials for Drafting Clear Legal Rules* (with Bryan Garner). He is a senior editor of *The Scribes Journal of Legal Writing*, editor of the Redlines column in *Judicature*, and a drafting consultant on all federal court rules. He led the work of redrafting the Federal Rules of Civil Procedure, Federal Rules of Evidence, and Michigan Rules of Evidence. In 2023, he won a Roberts P. Hudson Award from the State Bar of Michigan. In 2024, he won the Golden Pen Award from the Legal Writing Institute.

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1. Kimble, *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* (Durham: Carolina Academic Press, 2d ed, 2023), p 24.
2. *Id.* at 24–25.
3. For an outline of guidelines for writing in plain language, see *id.* at 5–10.
4. For a breakdown of the six paragraphs and the results, see Kimble & Prokop, *Strike Three for Legalese*, 69 Mich B J 418 (May 1990), https://www.michbar.org/file/generalinfo/plainenglish/pdfs/90_may.pdf.
5. Garner, *Garner’s Dictionary of Legal Usage* (New York: Oxford University Press, 3d ed, 2011), p 512; see also Butt, *The Lawyer’s Style Guide* (Oxford: Hart Publishing, 2021), p 459 (calling the phrase “unforgivably archaic and sexist”).
6. Child, *Drafting Legal Documents: Principles and Practices* (St. Paul: West Publishing Company, 2d ed, 1992), p 79.
7. Garner, *The Redbook: A Manual on Legal Style* (Eagan, Minnesota: West Academic Publishing, 5th ed, 2023), p 256.
8. Mellinkoff, *Legal Writing: Sense and Nonsense* (New York: Charles Scribner’s Sons, 1982), p 134.
9. Garner, *Garner’s Dictionary of Legal Usage*, p 383.
10. Burnham, *The Contract Drafting Guidebook* (Charlottesville: The Michie Company, 2d ed, 1992), p 475.
11. Butt, *The Lawyer’s Style Guide*, p 423.
12. Mellinkoff, *Mellinkoff’s Dictionary of American Legal Usage* (St. Paul: West Publishing Company, 1992), p 254.
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BEST PRACTICES

Land contract best practices

BY KYLER MCGILLICUDDY

A once popular option for selling property, seller financing (land contracts) has been largely overshadowed in the last 50 years by the conventional mortgage market. The sheer size of the conventional mortgage market has made the necessary documents standardized and easy to obtain. However, in this current tight real estate market, land contracts are becoming more common as a means of selling property.

For clients who own property, the benefits of a land contract are fairly obvious: cash down payments, profit from the interest rate, potentially steady payments, and retention of legal title to the property during its pendency. In addition, there is the ability to sell the land contract outright in the secondary real estate market. On the flip side, a land contract can be an excellent path to homeownership for a client who does not qualify for a conventional mortgage.

However, in spite of their growing appeal, most land contracts are written by individuals or drafted without the help of a knowledgeable attorney. This article is intended to provide a basic introduction to land contracts, guidance for basic drafting, and tips to pass along to clients looking to sell in this manner.

THE BASICS

Land contracts and traditional mortgages both accomplish the same task but by different means — that is, by securing a debt with different collateral property. While the outcome is basically the same, the legal ownership, documentation, assignment, and recovery options do vary.

As to legal ownership, land contracts transfer use of the property to the vendee (buyer), while the vendor (seller) retains legal title until the vendee fully performs. Rather than having a separate mortgage and promissory note, a land contract is both the security and the obligation all in one and can be transferred by assignment or deed.

Another unique characteristic of a land contract is recovery of the property via forfeiture rather than foreclosure. While forfeiture is gen-

erally quicker, and less expensive, there are some drawbacks, the largest being limitations in monetary recoveries. When considering a land contract, make sure to review the legal requirements for forfeiture, starting with the statutes governing summary proceedings.¹

DRAFTING BASICS

Though land contracts differ from traditional mortgages, many of the provisions will be substantially similar. At a minimum, make sure to include provisions detailing the parties, the property's legal description, repayment, responsibility for taxes and insurance, title being conveyed, default remedies, assignments, other encumbrances, and costs to close. It is also typical for land contracts to contain provisions that are more suited to leases than mortgages. Example provisions include rights to enter and inspect the property after notice, duties to repair, and prohibitions on waste. Many of these may seem obvious, or basic contract-drafting skills, but you might be surprised how often the information is missing or incorrect. This article is not intended to provide guidance on all the provisions which could be included, but let's quickly cover a few of the most important.

REPAYMENT

To start, the repayment provisions need to provide specifics on the terms of repayment. Details to provide include the total contract price, amount of any down payment, total amount financed, interest rate, term, payment amount, first and continuing payment date, balloon payment (if any), and any grace periods and late fees. The payment amount should indicate whether it is principal and interest only or includes other expenses, such as homeowners association fees, taxes, and/or insurance. Also, if you are going to escrow for taxes and insurance, remember to include that the payment amount may increase.

TAXES & INSURANCE

Ensure it is clear which party is responsible for taxes and when that responsibility begins. Some contracts make the vendor responsible along with the buyer for reimbursement. However, a better solution

¹"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.

is to place the responsibility solely on the vendee with, or without, the funds escrowed by the vendor. Remember when drafting that some accrued tax will already be owed at the time the land contract is executed. Is the vendor responsible for that amount, or will the entirety of the next payment be due from the vendee? This may seem like a trifle, but courts have looked at the payment of taxes as evidence that a vendee had not defaulted on the contract in the eyes of the vendor.² Clear responsibility and execution can help in reclaiming the property or establishing the lack of default.

Regarding hazard insurance, land contracts are unlike any traditional mortgage, which always requires the owner to provide hazard insurance. Land contracts should clearly define who will be paying for hazard insurance, the acceptable amount of coverage, and how the proceeds will be applied in the event the worst occurs. Should the parties agree to have the vendee insure the property, it is a good idea to require the vendee to provide proof of the insurance upon request. In such cases, make sure the insurance is payable to the vendor and vendee jointly or to the vendor as mortgagee.

A final tip here is to include a provision allowing the vendor to pay the past due taxes and insurance on the vendee's behalf to protect the asset and add the amount paid back into the principal of the debt if not paid timely.

TITLE

Transferring title is another key provision to ensure you get right. Properly drafted, this should specify that title is only delivered to the buyer after full performance of the contract. Further, it needs to detail what kind of title is being delivered (quit claim, warranty, etc.). Quit claim is most common, as warranty deeds can get a bit tricky if the seller later decides to allow the buyer to assume an underlying mortgage and take title early. A title policy, or search at a minimum, is prudent to ensure the property isn't already encumbered or affected by other ownership interests.

Be careful with title transfers, as another aspect of a land contract is that a vendor's interest in the contract transfers with the land by deed. A vendor may accidentally convey their interest in the contract without knowing it. Estate planning is most often the reason a vendor may do this, transferring the property to a family member without considering the underlying land contract. It has been my experience that some vendors will also title the property without the contract being completed for almost no reason at all. Either way, make sure your client is informed up front, and hopefully it will save you some headaches on the back end.

DEFAULT REMEDIES

Land contracts have three options for recovery in the event of buyer default: breach of contract, forfeiture, and foreclosure. Breach of contract and foreclosure claims are both available even if not written in the contract. However, forfeiture is only an option if it is included, in the contract. While all three remedies do not have to be included, it is best to do so to provide the seller with options in the event of default.

ASSIGNMENTS

Unless otherwise prohibited, land contracts are assignable by either party. In the secondary market, sellers of land contracts do not want the vendee to be free to assign their interest to another. This ensures their due diligence on the current vendee is not wasted and helps determine the risk in purchasing the contract. So, from a vendor's perspective, it is best to prohibit the vendee from assigning the contract while allowing the vendor to assign their interest in the event they wish to sell the contract. From the vendee's perspective, they may want the flexibility to allow the contract to be assumed if they run into payment problems or need to move. However, most vendors don't allow this for the reasons mentioned above.

OTHER ENCUMBRANCES

Often, vendors have underlying mortgages which take priority over the land contract. What happens if the vendor defaults on the underlying mortgage? In this situation, it is best to allow the vendee to take over the payments and pay the underlying mortgage directly on the vendor's behalf. Even if the property is currently free and clear, it makes sense to include a provision which limits the vendor from taking a mortgage on the property, or which limits the amount of the indebtedness to less than the balance now due on the land contract.

COST TO CLOSE

Most people might associate costs to close with traditional mortgages but forget that land contracts also have expenses. Deed preparation, recording, title searches, and transfer taxes are all applicable. Transfer taxes especially often get missed because the tax isn't applicable until the legal ownership officially changes hands.³ Transfer tax in Michigan is by statute the obligation of the seller,⁴ and since the official transfer happens well after execution of the contract, the seller may be caught off guard.

OTHER TIPS

Most attorneys, and vendors, are unaware that a market exists for the sale of executed land contracts. As stated at the beginning, this article is written keeping that idea in mind. The existence of the market opens up opportunities for vendors down the road that might not be considered when drafting the contract. Following the tips presented, you should have a decent handle on the basics of drafting a land contract. And don't forget, once the land contract is properly drafted and executed, make sure it gets recorded with the county!

Born and raised in Michigan, **Kyler McGillicuddy** graduated from Brooklyn Law School in 2008. He is licensed in both NY and MI and is currently an executive with First National Bank of America, where he has been for over 10 years. His experience in this area comes from exposure to the acquisition of thousands of existing land contracts from private sellers by the bank, and every problem that accompanies.

ENDNOTES

1. MCL 600.5701 *et seq.*
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3. MCL 207.505.
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LIBRARIES & LEGAL RESEARCH

Finding court records: A few tips & tricks

BY ALLIE PENN, PHD

Court documents are such an essential part of the work we do, but they can often be a little tricky to track down. While there are different databases that can aggregate information, many states and counties operate in ways that work best for them. For researchers, this leads to mixed results when trying to locate information.

A first step for me, as a law librarian, is the litigation resources within Westlaw, Lexis, and Bloomberg. These tools (Westlaw dockets,¹ CourtLink,² and Bloomberg Dockets³) aggregate the data that is available online and compile the information in one place for users. It is a great starting point to see what immediately turns up. It can also be helpful if it is unclear where a business was located, and/or if information is needed about which additional courts need to be reviewed.

Other court docket aggregators, such as Trellis⁴ and Case Portal⁵ (formerly known as Courthouse News Service), are available and can be utilized for reviewing court cases. These tools allow for reviewing dockets and documents and tracking potential new cases that may be filed. These types of resources can be beneficial for business development, allowing for increased awareness of newly filed cases.

In Michigan, we are fortunate to have MiCOURT Case Search.⁶ While it does still require researchers to review content by court, it is an incredible resource. It enables locating those smaller court cases that can often be missed. If a county of residence for an individual, or place of operation for a business entity is known, the MiCourt database can be a game changer. The system does have limitations. As noted, it does not allow system wide searching, only by individual court. Bulk downloading of data from the site is not possible, and there are limits within different courts about what is available.

When it comes to locating a Michigan appellate document or case, many of the items are available in one place. The Michigan Courts website has links to the most recent Court of Appeals opinions, Supreme Court opinions and orders, and dockets showing the case history for each case.⁷ Moreover, it has a process for ordering other documents from the case history that it doesn't automatically provide online.⁸

The individual courts of Michigan operate under individual policies and procedures. Some have robust online systems that allow documents to be ordered online via that portal and deliver the documents directly via email. Other courts have thorough websites with case histories and directions on how to order court records. Some still require in-person ordering for the best results. Each court operates in the way that works best for it. If the court is new to a researcher, it can take a lot of learning to figure out the best way of accessing the records needed while also following that individual court's guidelines.

For federal courts, many of the legal research platforms—Bloomberg, Lexis, and Westlaw—may provide access to federal court documents, depending on a firm's subscription level. Also at hand is PACER: Public Access to Court Electronic Records.⁹ PACER allows for cost-effective access to documents and is open to the public. Anyone can have a PACER account to access documents and run searches, so long as they can pay for the materials.

The costs for access are, however, important to note. PACER charges nominal fees for accessing records, including charges for name searches, a \$2.40 charge per audio file, and a \$0.10 per page access fee. They do waive costs under \$30.00 per quarter on accounts and also limit individual document fees to \$3.00 per document.¹⁰

State courts have different guidelines. Some charge a \$10.00 fee per search for a person's name or for a business. Others are happy to search for users or simply confirm an online search and then charge a \$0.50 per-page copy fee for documents. Each court has its own policies and fees.

In the age of AI that we live in, I encourage double-checking everything. Interrogate the resources used in the search. Additionally, there are many scam sites popping up that mimic legitimate court websites. Lastly, while information is available online, if it doesn't seem correct, reach out to the court to confirm the case. Another note is that tracking down any sort of court record can be tricky if key bits of information, like a date of birth, are unknown. Names can be very common, and online results may require further digging to be certain that this is the correct case, entity, or individual.

An important note: a very wise law librarian colleague recently reminded a group of law librarians that these Westlaw, Lexis, TLO, etc. reports are all just aggregators. They can be super beneficial when trying to conduct speedy research, but are by no means your final stop. If, after talking to your client or reviewing discovery documents, you feel like something is missing from these aggregated reports, odds are that it is. That's where running own litigation

search or asking for help from your friendly neighborhood law librarian can come in handy.

ENDNOTES

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3. *Court Dockets Search*, Bloomberg Law <<https://perma.cc/45RB-J3VT>>.
4. *Trellis*, <<https://perma.cc/F5B4-T5ED>>.
5. *CasePortal*, Courthouse News Service <<https://perma.cc/YV7X-FVXB>>.
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8. *Cases, Opinions, & Orders*, Michigan Judiciary, <<https://perma.cc/BBU7-EV97>>.
9. *PACER* (Public Access to Court Electronic Records), Administrative Office of the United States Courts <<https://perma.cc/EXJ8-RDKV>>.
10. *PACER Pricing: How fees work*, PACER <<https://perma.cc/4D4S-N4CX>>.



Allie Penn, PhD, is the Manager of Library and Research Services at Dickinson Wright. Before that, she was the Library & Research Services Manager at Butzel Long. Penn completed her graduate studies at Wayne State University, where she finished her master's in library & information science and her MA and PhD in History. She is the current past-president of the Michigan Association of Law Libraries.

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ETHICAL PERSPECTIVE

Sharing office space

BY DELANEY BLAKEY

Even in today's increasingly online world, many lawyers still prefer to have a physical office. Those that do often find it convenient (and, importantly, cheaper) to share office space with other legal or non-legal professionals. Sharing office space, whether with another lawyer or someone outside of the legal profession, is not prohibited. However, there are a few ethical risks that Michigan lawyers should be careful to avoid so that they do not violate the Michigan Rules of Professional Conduct (MRPC). Several rules of professional conduct and Ethics Opinions impose duties on lawyers sharing office space, but they all boil down to one important principle: The independence of the practices must be thoroughly maintained.

OFFICE SHARING DEFINED

First, it must be established whether two or more lawyers sharing office space are merely office sharing or if they constitute a "firm" under the definition of firm found in the MRPCs. MRPC 1.0 defines the term "firm" as "a lawyer or lawyers in a private firm, lawyers employed in the legal department of a corporation or other organiza-

tion, and lawyers employed in a legal services organization." Further, the Comment to 1.10 provides the following explanation:

Whether two or more lawyers constitute a firm within this definition can depend on the specific facts. For example, two practitioners who share office space and occasionally consult or assist each other ordinarily would not be regarded as constituting a firm. However, if they present themselves to the public in a way suggesting that they are a firm or conduct themselves as a firm, they should be regarded as a firm for purposes of the rules.

Thus, determining whether two or more lawyers make up a firm or are merely sharing office space is a fact-specific analysis and must be determined on a case-by-case basis. Moreover, if the lawyers are "of counsel," they are considered one firm for the purposes of conflicts of interest.¹

ADVERTISING AND ACCURACY OF COMMUNICATIONS

All lawyer advertisements must comply with the MRPCs 7.1-7.5, which govern communications regarding legal services, advertising, and solicitation. "Advertising is generally permitted, within limits, under MRPC 7.1. Materials which are false, fraudulent, misleading or deceptive are out-of-bounds under that rule."² As it relates to office sharing, a solo practitioner cannot use a firm name that indicates they are in a multi-person firm such as "Lawyer & Associates."³ If Lawyer A and Lawyer B share office space but otherwise conduct their practices independently, it would be misleading to use both their names in any communications, as it might mislead people to think that they operate a firm together. As the Comment to MRPC 7.5 explains, "Lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, 'Smith and Jones,' for that title suggests partnership in the practice of law." This logic applies to all communications about the lawyers' firms, including letterhead, business cards, advertisements,

"Ethical Perspective" is a regular column providing the drafter's opinion regarding the application of the Michigan Rules of Professional Conduct. It is not legal advice. To contribute an article, please contact SBM Ethics at ethics@michbar.org.

and door signs. It should never be implied that the office-sharing lawyers are in practice together. Communications including advertisements, signs, and business cards must not lead a potential client to believe that the lawyer is associated or affiliated with the other lawyers sharing their office space.

Further, phone lines must not be answered "Lawyer A and Lawyer B's office," as doing so would run afoul of the advertising rules by creating a misconception regarding the independence of the practices. Instead, each firm should have a separate phone number. Office sharers may share a common receptionist but, under MRPC 5.1 and 5.3, must ensure that they have taken reasonable steps to guarantee that the receptionist, a nonlawyer employee, understands and carries out the lawyers' ethical obligation to maintain the independence of the practice.⁴

CONFIDENTIALITY

Lawyers have an affirmative duty under MRPC 1.6 to protect their clients' confidences and secrets. Thus, files of one lawyer must be protected from access by the other lawyers who use the office space. This may involve, for example, locking any physical files away when the lawyer is out of the office or prohibiting access to any electronic files through sufficient cybersecurity measures. Even in situations involving insurance staff counsel where attorneys are employed by an insurance company to represent the company's policy holders in litigation matters, the staff counsel may share a common entrance with the insurance company only if appropriate safeguards are in place to maintain client confidences.⁵

Office sharers may not share a common phone line or fax line.⁶ Doing so may lead clients or prospective clients to reveal confidential information when trying to reach one of the office sharers, not realizing that all office sharers have access to the phone or fax line.

SOLICITATION AND FEES

Under MRPC 7.2(c) and 7.3, the office sharers must ensure that no improper solici-

tion of clients or referrals to and from the office sharers take place.

INDEPENDENT PROFESSIONAL JUDGMENT

MRPC 5.4(c) instructs that office sharers must ensure that they exercise independent professional judgment in their practices and do not allow undue influence from the other lawyers sharing the office.

CONFLICTS OF INTEREST

Each lawyer has an individual duty to ensure that any work undertaken does not conflict with duties and obligations to other clients.⁷ "When one office-sharer has a conflict of interest prohibiting representation of a private client, the conflict is not per se imputed to other office-sharers."⁸ MRPC 1.10 makes it clear "that a conflict of one office sharer is not imputed to the others unless they are deemed to be 'associated in a firm.'"⁹ If a lawyer has been disqualified from acting as trial counsel for a client, the other lawyers who share office space are not imputedly disqualified from acting as trial counsel if they are not independently disqualified from acting as trial counsel under MRPC 1.7 or 1.9.¹⁰ However, if the office sharers regularly appear as co-counsel, "of counsel," or otherwise assist on each other's cases, conflict of interest issues may be more prevalent, and disqualification may become necessary.

THOSE IN NON-LAW BUSINESSES

Sharing office space with non-lawyers is allowed under the MRPCs. Lawyers should handle such situations with extreme care, as issues of confidentiality are even more prevalent when sharing office space with non-lawyers. The businesses must maintain their independence, protect client confidences, and ensure that "public communications about each business entity are clear."¹¹ The protection of files from access by any non-lawyers is, of course, paramount. File retention policies should be in place to protect the lawyer's files from access by those associated with the non-law business.¹² Further, extra care should be taken to ensure that cli-

ents and members of the public are aware that the law firm and non-law business are not in any way affiliated with each other. Ethics Opinions discussing office sharing with non-law businesses emphasize that the law firm and non-law business must maintain "physical separation of the offices so that the businesses remain distinct."¹³ For example, "While use of a common conference room is allowed, it cannot be used by the lawyer as a law library or in any way suggest a connection between the legal and non-legal businesses."¹⁴ In Ethics Opinion RI-313, a lawyer inquired about sharing office space with an accounting firm with which it had no professional relationship. RI-313 concludes that lawyers may share office space with non-lawyer businesses so long as "the businesses are segregated, client confidences are protected, and public communications about each business entity are clear and do not create unjustified expectations about the results which can be achieved."¹⁵ Common areas must be arranged so that the law business and non-law business remain separate to avoid misunderstandings by the public. That separation of businesses is also of utmost importance when considering a home office sharing arrangement by a lawyer and their non-lawyer spouse.¹⁶

Further, a lawyer's law office may share space with the lawyer's own non-law business, provided that the "businesses are segregated, client confidences are protected, and public communications about each business entity are clear and do not create unjustified expectations about the results which can be achieved."¹⁷

CO-WORKING SPACES

A co-working space is a shared, fully serviced work environment where entrepreneurs, freelancers, remote workers, those traveling on business, and others in need of a temporary workspace can lease an office space with shared amenities such as Wi-Fi, conference rooms, and office equipment like printers and fax machines. Co-working spaces often offer daily, weekly,

monthly, or yearly rentals to serve a diverse clientele. Some coworking spaces offer private, locked offices, and some offer a shared workspace to emphasize networking and community-building opportunities. Coworking spaces started opening across the country in the early 2000s and gained popularity only through the remote work boom following the coronavirus pandemic. While they offer flexibility and affordable rental opportunities, coworking arrangements raise several ethical concerns, especially when the space is shared between lawyers and nonlawyers. Because of these heightened risks, lawyers must exercise caution, especially if the space is shared with non-lawyers. All the previously mentioned ethical concerns remain present in coworking environments, perhaps to an even greater extent. If a lawyer is renting office space as needed, the assignment of an office space may be random and the office space accessible by others not associated with the law business. "Such an arrangement necessarily heightens the duty of the inquiring lawyer to ensure that file retention comports with Rules 1.6 and 1.15 (b) and also raises Rules 5.4(b) and 5.5 concerns."¹⁸ Lastly, lawyers may meet with clients at coworking spaces but must not identify the location as a law office in communications governed by 7.1 without having a dedicated office space with the necessary separation from other businesses.¹⁹

CONCLUSION

Sharing office space can be a convenient and affordable way for lawyers to maintain a physical office. As the legal field embraces remote proceedings, electronic file storage becomes the norm, and commercial rent continues to rise, finding more affordable options for officing becomes increasingly important. Sharing office space is allowed under our professional ethics rules, but there is risk involved. Michigan lawyers should be careful to avoid the ethical pitfalls discussed above so that they do not violate the MRPCs. Maintaining the independence of the practices is of para-

mount importance. By following the advice laid out above, lawyers can ensure that they and their office sharers protect their clients' interests and avoid discipline.



Delaney Blakey is ethics counsel at the State Bar of Michigan.

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1. Ethics Opinion RI-102, State Bar of Michigan (Oct 1, 1991) <<https://perma.cc/8ZMJ-NZKU>> (all websites accessed May 15, 2026).
2. Ethics Opinion RI-244, State Bar of Michigan (Nov 6, 1995) <<https://perma.cc/LZU7-HDUT>>.
3. Ethics Opinion RI-45, State Bar of Michigan (Feb 28, 1990) <<https://perma.cc/8WFP-75E7>>.
4. See also Ethics Opinion RI-338, State Bar of Michigan (Nov 17, 2006) <<https://perma.cc/KSR2-A6XP>> in relation to insurance staff counsel ("An association of insurance staff counsel and an insurance company may share a receptionist if there are separate phone lines for the insurance staff counsel and the insurance company and they are answered separately by the receptionist and other safeguards are implemented to protect client confidences.").
5. *Id. supra* n 4.
6. Ethics Opinion RI-249, State Bar of Michigan (Mar 1, 1996) <<https://perma.cc/5BHD-W222>>.
7. See generally, MRPC 1.7-1.11.
8. Ethics Opinion RI-249, *supra* n 6.
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10. Ethics Opinion RI-299, State Bar of Michigan (Dec 18, 1997) <<https://perma.cc/96BA-Y6AE>>.
11. Ethics Opinion RI-206, State Bar of Michigan (April 11, 1994) <<https://perma.cc/53ZW-ACA9>>.
12. For more, see *File Retention*, State Bar of Michigan (Mar 2022) <<https://perma.cc/GA4Q-FZXW>>.
13. Ethics Opinion RI-118, State Bar of Michigan (Feb 28, 1992) <<https://perma.cc/6UWS-R7RR>>.
14. *Id. supra* n 13.
15. Ethics Opinion RI-313, State Bar of Michigan (June 18, 1999) <<https://perma.cc/A6DG-VLEF>>.
16. RI-118, *supra* n 13.
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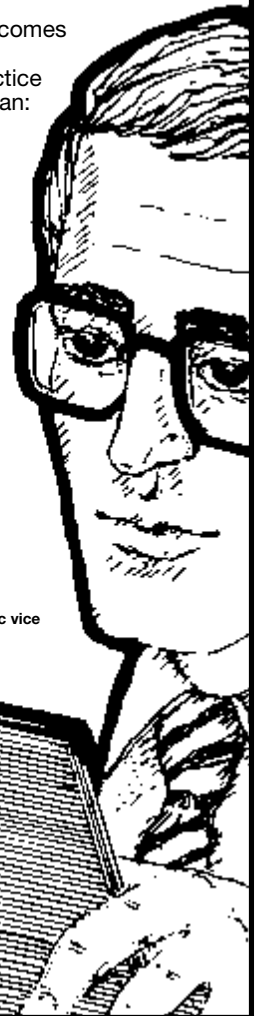
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PRACTICING WELLNESS

Tapping into calm — EFT as a stress-relief tool for legal professionals

BY JUDITH ZORN, JD

Many lawyers understand their stress patterns remarkably well. They know they are overworked. They recognize the signs of burnout. They have read the articles, attended the seminars, and perhaps tried meditation, therapy, or exercise. And still, they find themselves caught in the same loops — waking at 3 a.m., unable to shut off a relentless mental replay of the day's demands, running on empty in a profession that does not reward slowing down.

The problem is not a lack of insight. The problem is that insight, by itself, does not change how the body feels. Most stress-management strategies work from the top down — asking lawyers to think differently, reframe their perspective, or push through. What many lawyers need is something that works from the inside out: directly with the nervous system, at the level where stress is actually held.

That is precisely what Emotional Freedom Techniques (EFT), commonly called tapping, does.

WHAT IS EFT TAPPING?

EFT is a brief, structured intervention that combines gentle tapping on specific acupressure points on the face and upper body with fo-

cused attention on a specific stressor — a difficult client, a looming deadline, an overwhelming caseload, or the accumulated weight of years in a demanding profession. The technique draws on both ancient Chinese acupressure and modern neuroscience, and it is increasingly understood through the lens of nervous system regulation rather than traditional meridian theory.

A note on terminology: while many variations of tapping exist — and a quick internet search will surface dozens of them — Clinical EFT refers specifically to the standardized protocol used in peer-reviewed clinical research. It is this version, with its consistent methodology and replicable outcomes, that has generated the evidence base described in this article. Not all tapping is created equal, and the distinction matters.

During an EFT session, a person identifies a specific stressor and rates its intensity on a scale of zero to ten. They then tap through a sequence of eight to nine points — including the side of the hand, the eyebrow, the side of the eye, under the eye, under the nose, the chin, the collarbone, and under the arm — while speaking aloud about the issue. This dual-attention process, focusing on the stress-

or while simultaneously receiving calming sensory input through tapping, sends signals to the brain's threat-detection center, the amygdala, that reduce physiological arousal. The result is a measurable downregulation of the body's fight-flight-freeze response — often within minutes.¹

THE SCIENCE BEHIND THE TAPPING

Skepticism is a reasonable starting point, particularly for lawyers trained to demand evidence. The research base for EFT is substantial and growing.

Dr. Peta Stapleton, a clinical psychologist and Professor of Psychology at Bond University in Australia, is among the world's leading researchers in EFT. Researcher and psychologist Dr. Dawson Church, founder of EFT Universe — the organization that trains and certifies Clinical EFT practitioners worldwide — has also contributed decades of foundational research to the field, including landmark studies on cortisol reduction and trauma recovery. His colleague Dr. David Feinstein has further advanced the evidence base through work on energy psychology and neurological mechanisms. Together, their work, along with that of researchers worldwide, has established EFT as an evidence-informed practice with a significant body of peer-reviewed support. EFT has been researched in more than ten countries by over 60 investigators, with results published in more than 20 peer-reviewed journals, validated by 56 randomized controlled trials and eight meta-analyses.²

The findings most relevant to legal professionals include the following. A single sixty-minute EFT session produced a 43% reduction in cortisol, the body's primary stress hormone, measured through saliva samples before and after the session.³ Among nurses — a population facing high-stakes, emotionally demanding work comparable to legal practice — a randomized controlled trial found that a single brief EFT session produced statistically significant reductions in stress, anxiety, and burnout, while the control group showed no change.⁴ In a large-scale study of acupoint tapping techniques conducted across eleven clinical sites, 90% of participants showed significant improvement, with 76% becoming symptom-free — compared to 51% with cognitive behavioral therapy alone.⁵ In a clinical trial of veterans, 86% no longer met the clinical criteria for PTSD after just six EFT sessions.⁶

These are not soft outcomes. They are measurable, replicable, and durable.

WHY LAWYERS ARE PARTICULARLY WELL-SUITED FOR EFT

The legal profession carries a distinctive stress burden. Lawyers absorb their clients' most difficult moments — divorce, death, financial ruin, criminal charges — while maintaining composure and

competence. The culture of the profession discourages emotional expression and rewards endurance. The result is a population at significantly elevated risk for anxiety, depression, substance use, and burnout.⁷

Conventional stress interventions often fall short in this environment because they require time, privacy, and a break from the very setting that generates the stress. EFT offers something different: an intervention that can be used anywhere, anytime — including in the middle of the stressful moment itself.

A lawyer can tap the side of their hand discreetly under the counsel table during a tense hearing. They can tap the collarbone point during a difficult conference call without anyone noticing. They can use fingertip tapping during a client meeting when absorbing devastating news. Tapping in the moment of distress — rather than after the fact — is not just convenient. It is neurologically advantageous, because the nervous system is actively engaged with the stressor and at its most responsive to calming input.⁸

WHAT THE EXPERIENCE IS LIKE

EFT does not require belief in order to work. It does not require a quiet room, a therapist, or special equipment. It requires only a willingness to try.

A basic tapping sequence begins with identifying a specific issue — not “stress” in the abstract, but something concrete: the argument with opposing counsel, the client who called six times yesterday, the feeling of dread before walking into a courtroom. The practitioner rates the intensity of that feeling, then begins tapping through the sequence while speaking about the issue honestly — acknowledging it rather than suppressing it.

What most people notice, often within a single round of tapping, is a shift. The intensity of the feeling decreases. The body softens. Breathing deepens. This is not willpower or distraction. It is the nervous system receiving a clear message: the threat has passed. It is safe to settle.

With regular practice, EFT creates lasting change — not just temporary relief. The nervous system learns new responses to previously triggering situations. Emotional reactivity decreases. Sleep often improves. The mental loops that keep lawyers awake at 3 a.m. begin to quiet.

GETTING STARTED

EFT is a practical, evidence-based technique that can be learned and used independently. For lawyers interested in applying EFT to deeper or more complex issues — including vicarious trauma, burnout recovery, or significant life challenges — working with a certified EFT practitioner offers a more structured and supported process.

The State Bar of Michigan's Lawyers and Judges Assistance Program will host a free virtual webinar on EFT tapping this fall, open to all Michigan attorneys. The session will include a live, guided tapping experience — because the easiest way to understand EFT is not to read about it, but to feel what happens when you try it.

More information is available at michbar.org/UJAP.



Judith Zorn is a Michigan-based attorney and Certified Clinical EFT Practitioner with 30 years of experience in Probate law in the greater Detroit area. She is certified through EFT Universe, the organization founded by researcher Dr. Dawson Church, and has completed multiple advanced trainings with Dr. Church — meaning the protocol she teaches is the same standardized version used in peer-reviewed clinical research. She works with individuals navigating high-stress life challenges, helping them regulate their nervous systems and release emotional patterns that keep them stuck. She can be reached at eftwithjudy@gmail.com or at www.judyzorn.com.

ENDNOTES

1. Stapleton, Crighton, Sabot & O'Neill, *Reexamining the Effect of Emotional Freedom Techniques on Stress Biochemistry: A Randomized Controlled Trial*, 12 *Psychological Trauma: Theory, Research, Practice, & Policy* 869, 869 (2020) <<https://doi.org/10.1037/tra0000563>> (all websites accessed June 12, 2026). See also Church, Yount & Brooks, *The Effect of Emotional Freedom Techniques on Stress Biochemistry: A Randomized Controlled Trial*, 200 *J Nervous & Mental Disease* 891, 891 (2012).
2. Church, Stapleton, Vasudevan & O'Keefe, *Clinical EFT as an Evidence-Based Practice for the Treatment of Psychological and Physiological Conditions: A Systematic Review*, 13 *Frontiers in Psychology* 951451 (2022) <<https://doi.org/10.3389/fpsyg.2022.951451>>. See also *Scientific Research on EFT Tapping*, EFT Universe <<https://perma.cc/R9R6-LCZS>>.
3. Stapleton, *Reexamining*, *supra* n 1.
4. Dincer & Inangil, *The Effect of Emotional Freedom Techniques on Nurses' Stress, Anxiety, and Burnout Levels During the COVID-19 Pandemic: A Randomized Controlled Trial*, 17 *Explore: J Science & Healing* 109, 109 (2021) <<https://doi.org/10.1016/j.explore.2020.11.012>>.
5. Andrade & Feinstein, *Energy Psychology: Theory, Indications, Evidence*, in Feinstein, ed, *Energy Psychology Interactive* (Innersource, 2003).
6. Church, et al., *Psychological Trauma Symptom Improvement in Veterans Using Emotional Freedom Techniques: A Randomized Controlled Trial*, 201 *J Nervous & Mental Disease* 153, 153 (2013) <<https://doi.org/10.1097/NMD.0b013e31827f6351>>.
7. Krill, Johnson & Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 *J Addict Med* 46, 46 (2016) <<https://pubmed.ncbi.nlm.nih.gov/26825268/>>.
8. Stapleton, *Neural Correlates of EFT: Insights from Neuroimaging*, paper presented at the Association for Comprehensive Energy Psychology Annual Conference (2019). See also Church, *Clinical EFT*, *supra* n 2.

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ADM File No. 2022-34
Amendment of Rule 3.992 of
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Amendments of Rules 9.108 and 9.110 of the
Michigan Court RulesTo read this file, visit perma.cc/N6D2-VZP5**ADM File No. 2025-37**
Amendment of Rule 7.312 of
the Michigan Court RulesTo read this file, visit perma.cc/8YJR-HKA6**ADM File No. 2026-01**
Appointment of Chief Judge of the 55th District
Court (Ingham County)

On order of the Court, Honorable Richard L. Hillman is appointed to serve as chief judge of the 55th District Court, for a term commencing immediately and expiring on December 31, 2027.

ADM File No. 2024-08
Amendment of Canon 3 of the Michigan Code of
Judicial Conduct

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Canon 3 of the Michigan Code of Judicial Conduct is adopted, effective September 1, 2026.

[Additions to the text are indicated in underlining and deleted text is shown by strikeover.]

Canon 3. A Judge Should Perform the Duties of Office
Impartially and Diligently.

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice. In the performance of these duties, the following standards apply:

(A) Adjudicative Responsibilities:

(1)-(11) [Unchanged.]

(12) A judge must not knowingly allow ~~should prohibit~~ broadcasting, televising, recording, or taking of photographs in or out of the courtroom during sessions of court or recesses between sessions except as provided herein or as authorized by the Supreme Court. See, e.g., AO 1989-1. A presiding judge may specifically allow broadcasting, televising, recording, or photography via portable electronic device in their courtroom. MCR 8.115(C). When there are no objections, a judge may, for example, allow photography or recording to commemorate celebratory events such as adoption day proceedings, treatment court graduations, and swearing-in ceremonies.

(13)-(16) [Unchanged.]

(B)-(D) [Unchanged.]

Staff Comment (ADM File No. 2024-08): The amendment of MCJC Canon 3 clarifies a judge's responsibility to not knowingly allow unauthorized broadcasting, televising, recording, or taking of photographs in or out of the courtroom during sessions of court or recesses between sessions and lists other authorities addressing this issue.

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.

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ORDERS OF DISCIPLINE & DISABILITY

AMENDED¹ SUSPENSION (BY CONSENT)

John E. Berry, P 34268, Lake Linden. Suspension - 30 Days, Effective July 1, 2026.²

Respondent and the Grievance Administrator filed a Stipulation for Consent Order of Discipline, which was approved by the Attorney Grievance Commission and accepted by Grand Traverse Hearing Panel #1. The stipulation contained respondent's admissions to the factual allegations in the formal complaint, and respondent's admissions to allegations of professional misconduct set forth in subparagraphs 41(c), (d), (e), (f), (h), and (i) of the formal complaint. Specifically, it was alleged that over the course of a six-year representation of a client in an adoption matter, respondent failed to provide competent representation, neglected the matter, failed to act with reasonable diligence, failed to adequately communicate with his client, and made false statements of material fact to his client when he represented that adoption paperwork had been filed with the Court when he knew such statements to be false. The stipulation further contained the parties' agreement that subparagraphs 41(a), (b), (g), (i), (k), and (l) of the formal complaint were to be dismissed.

Based on respondent's admissions and no contest pleas, the panel found that respondent: neglected a legal matter entrusted to the lawyer, in violation of MRPC 1.1(c); failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3; failed to keep a client reasonably informed about the status of a matter and comply promptly with reasonable requests for information, in violation of MRPC 1.4(a); failed to make reasonable efforts to expedite litigation consistent with the needs of the client, in violation of MRPC 3.2; engaged in conduct that violates the standards or rules of professional conduct, in violation of MRPC 8.4(a) and MCR 9.104(4); and engaged in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1).

In accordance with the stipulation of the parties, the panel ordered that respondent's license to practice law be suspended for 30 days, effective July 1, 2026. Costs were assessed in the amount of \$772.31.

¹ Amended to correct inaccurate pronouns in the first paragraph.

² The panel found that the parties' had set forth good cause for modification of the effective date to July 1, 2026.

SUSPENSION (BY CONSENT)

Victor L. Bland, P 38278, Kalamazoo. Suspension - 45 Days, Effective May 26, 2026.

Respondent and the Grievance Administrator filed an Amended Stipulation for Consent Order of Discipline pursuant to MCR 9.115(F)(5), which was approved by the Attorney Grievance Commission and accepted by Kalamazoo County Hearing Panel #3. The amended stipulation contained respondent's admissions to paragraphs 5 through 22 of the formal complaint, and respondent's no-contest plea to the allegations of professional misconduct in subparagraphs 23 (a)-(e). Specifically, that respondent engaged in a conflict of interest by entering into a romantic and sexual relationship with his client during the course of representing her in a divorce matter.

Based upon respondent's admissions as set forth in the parties' amended stipulation, the panel finds that respondent: represented a client where the representation of that client was materially limited by the lawyer's own interests, in violation of MRPC 1.7(b); engaged in conduct prejudicial to the administration of justice, in violation of MRPC 8.4(c) and MCR 9.104(1); engaged in conduct that exposes the legal profession or the court 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, in violation of MRPC 8.4(a) and MCR 9.104(4).

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In accordance with the amended stipulation of the parties, the hearing panel ordered that respondent's license to practice law in Michigan be suspended for 45 days, effective May 26, 2026. Total costs were assessed in the amount of \$931.87.

DISBARMENT AND RESTITUTION

Michelle L. Elowski, P 74608, Alpena. Disbarment, Effective January 30, 2026.¹

The Grievance Administrator filed a formal complaint against respondent. Based on respondent's default, witness testimony, 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 found, by virtue of respondent's default and the evidence presented by the Grievance Administrator, 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, and that she pay restitution totaling \$266,091.90. Costs were assessed in the amount of \$3,933.69.

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On January 29, 2026, respondent timely filed a petition for review pursuant to MCR 9.118. After proceedings held in accordance with MCR 9.118, the Board affirmed the panel's order of disbarment, but reduced the restitution ordered by the panel to \$201,591.90. No further costs were assessed.

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.

DISBARMENT

Fredric R. Gumbinner, P 40279, Washington, District of Columbia. Disbarment, Effective May 20, 2026.¹

The Grievance Administrator filed a Notice of Filing of Reciprocal Discipline that attached a certified copy of an order from the District of Columbia Court of Appeals in a matter titled *In Re Fredric Gumbinner*, Case No. 25-BG-0469, disbaring respondent

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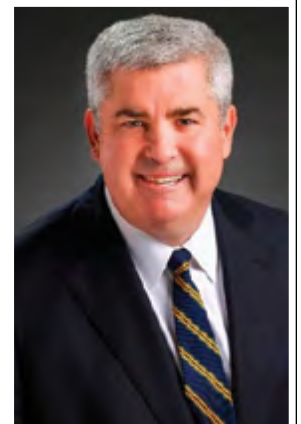
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from the practice of law in the District of Columbia, effective June 12, 2024. Respondent's disbarment in the District of Columbia was a result of his conviction, by guilty plea, of the criminal offense of Bribery Concerning Programs Receiving Federal Funds, in violation of 18 U.S.C. § 666(a)(2), a felony.

An order regarding imposition of reciprocal discipline was issued by the Board on February 9, 2026, ordering the parties to, within 21 days from service of the order, inform the Board in writing

(i) of any objection to the imposition of comparable discipline in Michigan based on the grounds set forth in MCR 9.120(C)(1) and (ii) whether a hearing was requested. The 21-day time period expired without objection or a request for a hearing by either party. As a result, respondent was deemed to be in default with the same effect as a default in a civil action, pursuant to MCR 9.120(C)(6).

On April 21, 2026, the Attorney Discipline Board ordered that respondent be disbarred from the practice of law in Michigan, effective May 20, 2026. Costs were assessed in the amount of \$1,538.60.

DISBARMENT AND RESTITUTION WITH CONDITION (BY CONSENT)

Suzanna Kostovski, P 39535, Washington. Disbarment, Effective May 12, 2026.¹

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 Tri-County Hearing Panel #102. The stipulation contained respondent's admissions to the factual allegations and allegations of professional misconduct as set forth in the

formal complaint in its entirety. Based on respondent's admissions and the stipulation of the parties, the hearing panel found that respondent committed professional misconduct in two client matters and failed to cooperate with the disciplinary investigation.

Specifically, the panel found that respondent: failed to act with reasonable diligence and promptness in representing a client, in violation of MRPC 1.3 (Count One); failed to keep a client reasonably informed about the status of a matter, in violation of MRPC 1.4(a) (Count One); 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) (Count Two); upon termination of representation, failed to protect a client's interests, such as surrendering papers and property to which a client is entitled, and refunding any advance payment of fee that has not been earned, in violation of MRPC 1.16(d) (Count One); knowingly failed to respond to a lawful demand for information from a disciplinary authority, in violation of MRPC 8.1(a)(2) (Count Three); violated or attempted to violate the Rules of Professional Conduct, in violation in MRPC 8.4(a) (Counts One and

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ROBERT E. EDICK

Senior Attorney -
Sullivan, Ward, Patton, Gleeson & Felty, P.C.

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¹ Respondent has been continuously suspended from the practice of law in Michigan since November 20, 2023, the date of his felony conviction. Please see Notice of Automatic Interim Suspension issued July 25, 2024.

Two); 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); engaged in conduct prejudicial to the administration of justice, in violation of MCR 9.104(1) and MRPC 8.4(c) (Counts One, Two, and Three); engaged in conduct that exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2) (Counts One, Two, and Three); engaged in conduct contrary to justice, ethics, honesty, or good morals, in violation of MCR 9.104(3) (Counts One, Two, and Three); failed to provide an answer to a request for investigation that fully and fairly disclosed all the facts and circumstances pertaining to the alleged misconduct, in violation of MCR 9.113(A) and MCR 9.104(7) (Count Three); and violated an order of discipline, in violation of MCR 9.104(9) (Counts One and Two); failed to provide the required notification to active clients of her order of suspension, in violation of MCR 9.119(A) (Counts One and Two); practiced law while her license was suspended, in violation of MCR 9.119(E)(1) (Counts One and Two); communicated with clients while her license was suspended, in violation of MCR 9.119(E)(2) (Counts One and Two);

and held herself out as an attorney while her license was suspended, in violation of MCR 9.119(E)(4) (Counts One and Two).

In accordance with the stipulation of the parties, the hearing panel ordered that respondent be disbarred from the practice of law in Michigan, effective May 12, 2026, that he pay restitution in the total amount of \$7,000.00, and that he be subject to a condition relevant to the established misconduct. Costs were assessed in the amount of \$774.02.

¹ Respondent's license to practice law has been continuously suspended since December 14, 2023. See Notice of Suspension With Conditions (By Consent), *Grievance Administrator v Suzanna Kostovski*, 22-10-GA.

REPRIMAND

Thomas M. Lenney, P 53720, Chatham, New Jersey. Reprimand, Effective May 20, 2026.

The Grievance Administrator filed a Notice of Filing of Reciprocal Discipline pursuant to MCR 9.120(C), that attached an order reprimanding respondent issued by the Supreme Court of New Jersey on January 2, 2024. Respondent was reprimanded for engaging in negligent misappropriation of client funds and commingling, failing to comply with record-keeping requirements, and practicing law while administratively

ineligible, in violation of New Jersey Rules of Professional Conduct 1.15(a) and (d), 5.5(a), and R 1:21-6.

An order regarding imposition of reciprocal discipline was issued by the Board on February 18, 2026, ordering the parties to inform the Board in writing, within 21 days from service of the order, (i) of any objection to the imposition of comparable discipline in Michigan based on the grounds set forth in MCR 9.120(C)(1), and (ii) whether a hearing was requested. The 21-day period set forth in the Board's order expired without objection or request for hearing by either party.

On April 21, 2026, the Attorney Discipline Board ordered that respondent be reprimanded, effective May 20, 2026. Costs were assessed in the amount of \$1,524.84.

REPRIMAND

Samuel P. Nedeau, P72604, Muskegon. Reprimand, Effective May 20, 2026.

The Grievance Administrator filed a Notice of Filing of Reciprocal Discipline pursuant to MCR 9.120(C), that attached a certified copy of an order from United States Bankruptcy Court, Western District of Michigan, issued on December 3, 2025, reprimanding respondent, effective December 3,

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kmogill@miethicslaw.com

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ERICA N. LEMANSKI

elemanski@miethicslaw.com

- Member, SBM Committee on Professional Ethics
- Experienced in representing lawyers in ethics consultations, attorney discipline investigations, trials and appeals and Bar applicants in character and fitness investigations and proceedings

JAMES R. GEROMETTA

jgerometta@miethicslaw.com

- Former assistant federal defender and training director, Federal Community Defender Office, Eastern District of Michigan
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ORDERS OF DISCIPLINE & DISABILITY (CONTINUED)

2025, in the matter titled *In Re Annette Mary Bohach*, Case No. 25-03097-swd. An order regarding imposition of reciprocal discipline was issued by the Board on March 5, 2026, ordering the parties to, within 21 days from service of the order, inform the Board in writing

(i) of any objection to the imposition of comparable discipline in Michigan based on the grounds set forth in MCR 9.120(C)(1) and (ii) whether a hearing was requested. The 21-day time period expired without objection or a request for a hearing by either party. As a result, respondent was deemed to be in

default with the same effect as a default in a civil action, pursuant to MCR 9.120(C)(6).

On April 21, 2026, the Attorney Discipline Board ordered that respondent be reprimanded, effective May 20, 2026. Costs were assessed in the amount of \$1583.22.



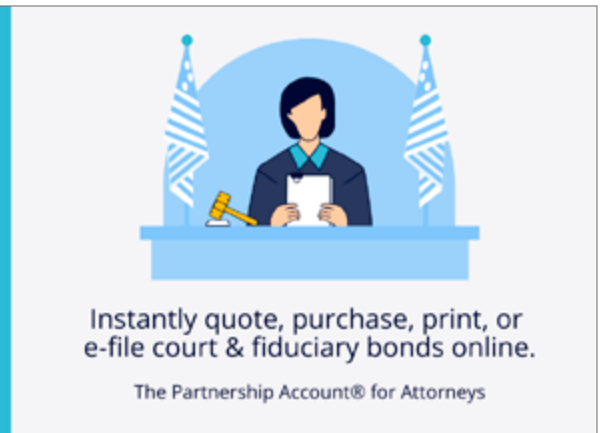
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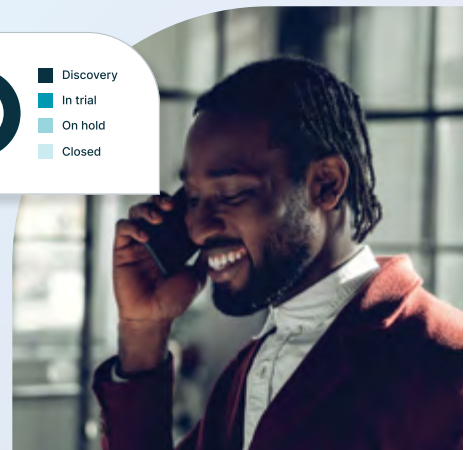
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The following list reflects the latest information about lawyers and judges AA and NA meetings. Meetings marked with "*" have been designated for lawyers, judges, and law students only. All other meetings are attended primarily by lawyers, judges, and law students, but also are attended by others seeking recovery. In addition, we have listed "Other Meetings," which others in recovery have recommended as being good meetings for those in the legal profession.

For questions about any of the meetings listed, please contact the Lawyers and Judges Assistance Program at 800.996.5522 or jclark@michbar.org.

PLEASE DO NOT HESITATE TO CONTACT LJAP DIRECTLY WITH QUESTIONS PERTAINING TO VIRTUAL 12-STEP MEETINGS. FOR MEETING LOGIN INFORMATION, CONTACT LJAP VOLUNTEERS ARVIN P. AT 248.310.6360 OR MIKE M. AT 517.281.9507.

ALCOHOLICS ANONYMOUS & OTHER SUPPORT GROUPS

Bloomfield Hills

WEDNESDAY 6 PM*

Virtual meeting
Kirk in the Hills Presbyterian Church
1340 W. Long Lake Rd.
1/2 mile west of Telegraph
(This is both an AA and NA meeting.)

Detroit

MONDAY 7 PM*

Lawyers and Judges AA
St. Paul of the Cross
23333 Schoolcraft Rd.
Just east of I-96 and Telegraph
(This is both an AA and NA meeting.)

TUESDAY 6 PM*

St. Aloysius Church Office1
232 Washington Blvd.

FRIDAY 12 PM*

Detroit Metropolitan Bar Association
645 Griswold
3550 Penobscot Bldg., 13th Floor
Smart Detroit Global Board Room 2

East Lansing

WEDNESDAY 8 PM

Sense of Humor AA Meeting
Michigan State University Union
49 Abbott Rd.
Lake Michigan Room

Houghton Lake

SECOND SATURDAY OF THE MONTH 1 PM

Lawyers and Judges AA Meeting
Houghton Lake Alano Club
2410 N. Markey Rd.
Contact Scott at 989.246.1200 with questions.

Rochester

FRIDAY 8 PM

Rochester Presbyterian Church
1385 S. Adams South of Avon Rd.
Closed meeting; men's group

Stevensville

THURSDAY 4 PM*

Al-Anon of Berrien County
4162 Red Arrow Highway

Troy

FRIDAY 6 PM

The Business & Professional (STAG)
Closed Meeting of Narcotics Anonymous
Pilgrim Congregational Church
3061N. Adams
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GAMBLERS ANONYMOUS

For a list of meetings, visit
gamblersanonymous.org/mtgdirMI.html.

Please note that these meetings are not specifically for lawyers and judges.

Virtual

MONDAY 7 PM

AA/NA meeting (St. Paul of the Cross)
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MONDAY 8 PM

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TUESDAY 7 PM

AA/NA meeting (Royal Oak)
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TUESDAY 8 PM

WOMEN ONLY
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WEDNESDAY 6 PM

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THURSDAY 7 PM*

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THURSDAY 7:30 PM

New Freedom
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SUNDAY 7 PM*

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SUNDAY 7 PM*

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An Associate Attorney at Willis Law, Jennifer assists with multiple types of adoptions, including: direct placement, interstate, adult, stepparent, and guardianship adoptions. She is a Fellow in the Academy of Adoption and Assisted Reproduction Attorneys (AAAA). Her other main areas of practice include: adult and minor guardianships/conservatorships and estate administration.

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(248) 660-0022 | elitedefenseattorney@gmail.com

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760 W Eisenhower Parkway, Suite #305, Ann Arbor, MI 48103

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(248) 660-0022 | elitedefenseattorney@gmail.com

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(248) 660-0022 | elitedefenseattorney@gmail.com

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GEHERIN LAW GROUP, PLLC

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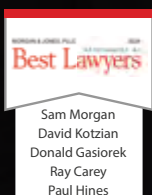
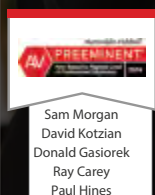
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MELNIK LEGAL PLLC

8502 Ladue Lane, Tampa, FL 33614

(734) 358-4201 | tatiana@melniklegal.com | melniklegal.com

Tatiana Melnik, licensed in Michigan and Florida, represents business entities of all sizes on business transactions and compliance matters involving artificial intelligence, data breaches and reporting, data privacy and security, data use and licensing, health law (including HIPAA, Stark, and Anti-Kickback), and information technology. Tatiana's background in information technology and business gives her an 'insider' understanding of technology and the business pressures of operating in today's technology laden world.

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7481 Reid Road, Swartz Creek, MI 48473

(248) 425-5487 | daniel@danielbeitzlawfirm.com | danielbeitzlawfirm.com

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CROSSING FRONTIERS IMMIGRATION LAW

110 Sheppard Avenue East, Suite 615, Toronto, ON, CANADA

(437) 783-5179 | alyssa@crossingfrontiers.ca | crossingfrontiers.ca

Alyssa Hussein is a U.S. and Canadian immigration lawyer for startups, investors, individuals, and growing companies — from work visa strategy to permanent residence and employer compliance. She also supports firms in an Of Counsel capacity providing cross-border immigration support.

CAMARON M. VOYLES

IMMIGRATION LAW OFFICES OF ANTONE, CASAGRANDE & ADWERS, PC

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IMMIGRATION LAW OFFICES OF ANTONE, CASAGRANDE & ADWERS, PC

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30150 Telegraph Road, Suite 140, Bingham Farms, MI 48025

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IMMIGRATION LAW OFFICES OF ANTONE, CASAGRANDE & ADWERS, PC
30150 Telegraph Road, Suite 140, Bingham Farms, MI 48025
(248) 406-4100 | jesse@antone.com | antone.com

Jesse Goldstein has 20 years of experience in providing comprehensive services in U.S. immigration law. He assists employers and individuals with all immigration matters, including work visa petitions, green card applications, and labor certifications. His experience also includes preparing responses to Requests for Evidence to the USCIS.

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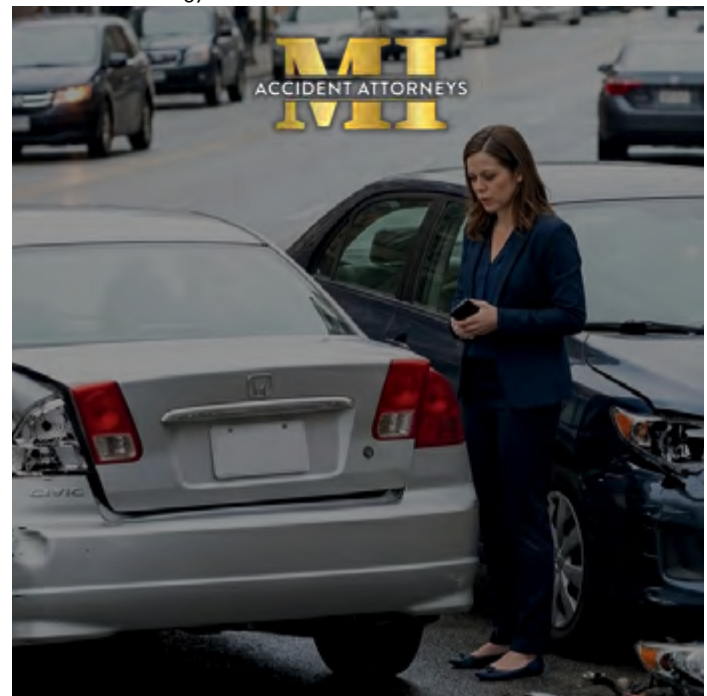
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Loren Dickstein handles all state and federal criminal matters, including trials, appeals, probation violations, and precharge investigations. He welcomes referrals for complex, high-stakes, or sensitive cases and honors referral fees promptly. He is known for tenacious advocacy, discretion, and results.

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146 Monroe Center NW, Suite 1108, Grand Rapids, MI 49503

(616) 459-7999 | jrrinck@jrrinck.com | rincklaw.com

I have represented plaintiffs in worker's compensation cases for over 40 years and also have done defense work as well as having served as a Special Assistant Attorney General. I have been named as one of the top comp attorneys by the Grand Rapids Magazine several times. I am happy to consult with you.

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201 E 17th Street, Suite A, Traverse City, MI 49684

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“

They were the most amazing people to work with when I got in my car accident. I was in the hospital for almost a month and they were handling business so I didn't have to worry about a thing while I healed and recovered. They are very knowledgeable and thought of so many things I never would have to help me win my case.

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If one of your clients is facing IRS trouble, call or email me anytime. I'll answer your questions, walk you through the process, and help you decide how to handle the case.

Tax problems are legal matters that require advocacy before the IRS. Your client doesn't need a CPA. They need an advocate who knows how the IRS actually works.

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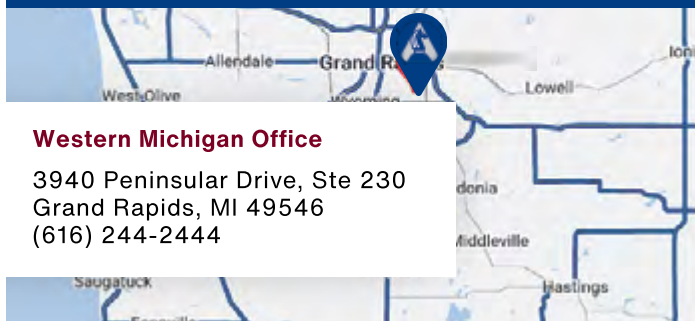
At your service,

Venar Ayar, JD, LLM (Tax)
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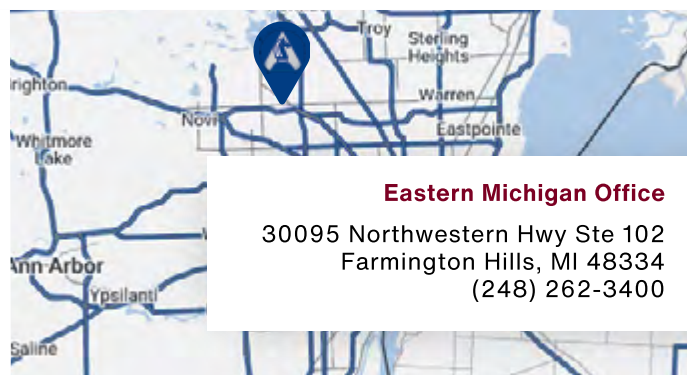


We're proud to announce our new Grand Rapids office!



Western Michigan Office

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(616) 244-2444



Eastern Michigan Office

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Farmington Hills, MI 48334
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