Picture Imperfect

To the Editor:

Francine Cullari's "What's Wrong With This Picture?" (Crossing the Bar, March 2012 *Michigan Bar Journal*) was an excellent article. Sadly, the legal profession seems more intent on keeping out of the fraternity those who are different while having no problem with those who are irredeemably stupid (a different form of blindness, deafness, etc.) or suffering from cranial-keester insertion. To its ongoing discredit, the State Bar has not filed an amicus brief in support of the *Binno v ABA* lawsuit.

Meanwhile, I can't imagine what the sample LSAT questions have to do with practicing law—they do involve a form of logic, but these days legal logic is to logic as military music is to music (just as political discourse is to democracy as lunacy is to Lincoln).

Nulli illegitimi carborundum.

Allan Falk
Okemos

Pipeline or Pipe Dream?

To the Editor:

As if we didn't have enough to worry about from the Illuminati, the New World Order, and the Vast Right-Wing Conspiracy, State Bar President Fershtman has identified yet another threat: the Pipeline to Power within the legal profession (President's Page, March 2012 *Michigan Bar Journal*). It seems my once-humble service occupation has become plagued by a male power elite and power-hungry female wannabes.

Whoa, there. The column quotes from a Michigan State University website hyping its "Gender and the Legal Profession's Pipeline to Power" seminar and lists the alumni of the pipeline: partners in law firms, general counsel for Fortune 500 companies, law school deans, and law review editors-in-chief. The president also adds a power position of her own: bar leaders (of course). Law firm partners and corporate general counsel have power? Only in their own bailiwicks. Those of us litigating against them deal with the assigned counsel as with a solo practitioner. The other honchos are just names on a letterhead. You would think if they had "positions of power within the legal profession," their power would extend beyond their own walls. Law school deans have power? Name one. Law review editors-in-chief have power? Though President Obama is a *former* law review editor, the current ones are not even lawyers yet. Bar leaders have power? Say what?

And what is power but the ability to intimidate? In more than 30 years as a solo practitioner, I have never had a pipeline thug come to my office to try to intimidate me. If you need a lawyer, consider consulting a solo practitioner. Soloists "make partner" the day they hang out their shingles. After that, the name of their game is law, not office politics. They bow down to no pipeline alumni (and to no one else, either). To them, there is about as much power at the end of that pipeline as there is gold at the end of the rainbow. This whole thing reminds me of the emperor who went on parade clothed in nothing but his bare-naked pretensions to power.

The President's Page presents an image of lawyers almost as grotesque as that presented in the Yellow Pages. The column ends by saying, "Please help make this a profession of which we can be proud." Madam President, if the shoe fits….

Douglas Spicer
Mesquite, Texas

Mere Viewpoint

To the Editor:

The author of "Filing a Motion for Summary Disposition Under Michigan Court Rule 2.116(C)(10)?" (March 2012 *Michigan Bar Journal*) opines that logic precludes a (C)(10) summary disposition motion before the close of discovery. Had he researched the issue, he would have found myriad cases holding the contrary. The caselaw actually holds that "summary disposition may be proper before discovery is complete where further discovery does not stand a fair chance of uncovering factual support for the position of the party opposing the motion." [*Prysak v R L Polk Co,* 193 Mich App 1, 11; 483 NW2d 629 (1992)]. "[A] party opposing a motion for summary disposition because discovery is not complete must provide some independent evidence that a factual dispute exists." [*Mich Nat'l Bank v Metro Institutional Food Serv, Inc,* 198 Mich App 236, 241; 497 NW2d 225 (1993)]. "Mere speculation that additional discovery might produce evidentiary support is not sufficient." [*Ensink v Mecosta Co Gen Hosp,* 262 Mich App 518, 540–541; 687 NW2d 143 (2004)].

An examination of the entire court rule, which is the central subject of his article, shows that MCR 2.116(H) addresses one specific situation where summary disposition may be sought before the close of discovery

If you need a lawyer, consider consulting a solo practitioner. Soloists "make partner" the day they hang out their shingles. After that, the name of their game is law, not office politics.

The Wexford County Republican lawyers were aggrieved because *their* governor gave *their* judgeship to a carpetbagger, that Democrat from Manistee. They never quite got over it.

and may only be forestalled in a particularized manner.

Federal jurisprudence is quite similar, among which is *Waterloo Furniture Components, Ltd v Haworth, Inc,* 467 F3d 641, 648 (CA 7, 2006).

I would not expect an assistant prosecutor to have expertise in summary disposition, which is exclusively a civil practitioner's bailiwick. If a submission is deemed publishable, however, because the editor feels it addresses an issue from a perspective that deserves airing, put it in a section where expression of mere viewpoint is appropriate, not in the section where experts proffer experiential and thoroughly researched insights. The Michigan Supreme Court compels me to subscribe to and pay for the MBJ; the editor owes me my money's worth.

Allan Falk
Okemos

A Reach Across the Aisle

To the Editor:

I enjoyed the feature on former Gov. Kim Sigler ("Michigan Lawyers in History: Kim Sigler," May 2012 *Michigan Bar Journal*). Gov. Sigler created a local kerfuffle when he appointed my grandfather to the 28th Circuit Court (Wexford, Benzie, Missaukee, and Kalkaska counties) in 1948. As the story goes, Sigler, a Republican, appointed Campbell, a Democrat, because the two had been courtroom adversaries up and down the western side of the state, and the governor liked my grandfather's behavior as a lawyer. The Wexford County Republican lawyers were aggrieved because *their* governor gave *their* judgeship to a carpetbagger, that Democrat from Manistee. They never quite got over it. Notably, however, my grandfather went on to win two elections before his health forced him to retire.

Chris Campbell
Traverse City

Airing Inaccuracies

To the Editor:

In his letter to the editor in the May 2012 issue of the *Michigan Bar Journal,* Tim Cordes made the following inaccurate statements regarding my letter in March, which responded to Jay Kaplan's article ("The Invisible LGBT Family") in the January issue:

(1) He claimed that I "deride[d] Mr. Kaplan's article as too controversial to warrant publication in the *Journal*." A reading of my letter will show that I did nothing of the sort.

(2) He stated that it was my assessment that the Kaplan article "was not a discussion of an actual legal issue." This was also incorrect as he left out the key word "thoughtful." I did not think that Kaplan provided a *thoughtful* discussion of an actual legal issue, because he failed to address Section 25 of Article I of the Michigan Constitution, which was fundamental to the topics covered by his article. This was the main point of my letter (which Cordes did not even touch on in his full-page letter).

If any reader cares to sort this all out, I invite him or her to read the Kaplan article, Cordes's letter, and my March 2012 letter side by side.

Marko Belej
Southfield

Note: the author's views are solely his own and do not reflect those of his employer.