Message from the Chair

Greetings to Our Readers

It is with great pleasure that I assume the chair of the Master Lawyers Section Council for 2016-2017. We elected new officers and new council members at our September annual meeting held in Grand Rapids during the State Bar of Michigan Annual Meeting. We also featured a presentation on forced arbitration by section member Tom R. Pabst, which was both informative and enlightening.

During the annual SBM 50-Year Golden Celebration Luncheon, 59 members were honored for 50 years of State Bar membership. During the luncheon, State Bar President Lawrence P. Nolan called upon the honorees to give back to younger Bar members by reaching out to them and mentoring them. As Master Lawyers Section members, we should consider President Nolan’s call to get involved with the younger lawyers.

There are 18,287 active members of the Master Lawyers Section. All but 54 reside in the United States; nearly 15,000 live in Michigan. Of the Michigan residents:

- More than 11,000 (75.6 percent) are baby boomers born between 1944-1960.
- More than 3,600 were born prior to 1944,
- Twenty-two are part of Generation X born between 1961-1980.

The council encourages its members to participate in the section’s program planning process to help develop and support programs and events. We need your input to be successful.

The section bylaws are posted on the Master Lawyers Section website. Please visit the website and familiarize yourself with the purpose of the section’s four standing committees: Service to Master Lawyers; Protection of the Public; Community Contributions; and Membership. You are invited to join a committee and participate in this year’s planning process. If you decide to participate, please
The warmth of summer is fading, lemonade is replaced by cider, pumpkins can be seen on porches, the trees are bursting with color, bands are playing fight songs at football games, and ghosts and goblins are getting ready for their big night. Fall is here and the Master Lawyers Section is celebrating its arrival with this issue.

Our members have again provided thoughtful and entertaining articles. Our new chair, Cynthia Johnson, encourages members to become involved in our section. Charles Toy writes on succession planning and points out the resources available on the topic. Dick Fellrath reports on a successful Constitution Day presentation at Sacred Heart School in Dearborn.

Liisa Speaker and Jennifer Alberts of the Speaker Law Firm write of ethical violations of email scams. Tom Darnton, who was diagnosed with cancer, describes his successful transition from illness and an active law practice to health and real estate. Finally, Ed Pugh describes the wonderful time he and fellow travelers had on the first Master Lawyers train trip.

—Robert

Notes from the Editor

The warmth of summer is fading, lemonade is replaced by cider, pumpkins can be seen on porches, the trees are bursting with color, bands are playing fight songs at football games, and ghosts and goblins are getting ready for their big night. Fall is here and the Master Lawyers Section is celebrating its arrival with this issue.

Our members have again provided thoughtful and entertaining articles. Our new chair, Cynthia Johnson, encourages members to become involved in our section. Charles Toy writes on succession planning and points out the resources available on the topic. Dick Fellrath reports on a successful Constitution Day presentation at Sacred Heart School in Dearborn.

Liisa Speaker and Jennifer Alberts of the Speaker Law Firm write of ethical violations of email scams. Tom Darnton, who was diagnosed with cancer, describes his successful transition from illness and an active law practice to health and real estate. Finally, Ed Pugh describes the wonderful time he and fellow travelers had on the first Master Lawyers train trip.

—Robert
The Master Lawyers Section held its annual meeting September 23 at DeVos Place in Grand Rapids in conjunction with the State Bar of Michigan Annual Meeting. The new officers were sworn in: Chair Cynthia Johnson; Chair Elect Ron Keefe; Secretary Kathleen Williams Newell; and Treasurer James Loree.

Following the business meeting, Tom R. Pabst spoke on forced arbitration, which he said is stripping Americans of their rights under the cover of fine print. A trial attorney for many years, Pabst was concerned about the elimination of trials to resolve disputes, especially in commercial transactions where purchasers are forced into arbitration without any other choice.

The meeting and program were followed by the 50-Year Golden Celebration Luncheon recognizing attorneys who have been State Bar members for 50 years.
Now Is the Best Time for Succession Planning

By Charles Toy, Associate Dean of Career and Professional Development, Western Michigan University-Cooley Law School and 75th President of the State Bar of Michigan

According to the SBM publication “2016-2017 Statewide and County Demographics,” 45 percent of active Michigan resident attorneys are at least 56 years old. In 53 of the 83 Michigan counties, more than half of the active attorneys over 56 years old. Forty-eight percent of attorneys in the SBM Master Lawyers Section who are at least 56 years old are in private practice; of those, half are solo practitioners – 20.6% part-time and 29% full-time.

Leaving the practice of law, whether planned or not, is inevitable for every attorney, but it is certainly closer in time for the many attorneys who are at least 56 years old. Succession planning is an ethical, professional, and practical necessity. Planning is the best strategy for succession; if you do not have a succession plan, now is the best time to start.

There are many resources to help practitioners plan for succession. For Michigan attorneys, the most comprehensive resource is the State Bar of Michigan. The Practice Management Resource Center has a 90-page Planning Ahead Handbook at http://www.michbar.org/pmrc/planningahead.

The Handbook is intended to help fulfill an attorney’s ethical obligations to protect clients’ interests in the event of death, disability, impairment, or incapacity, but it also simplifies the planned closure of a law office. The Handbook contains checklists and necessary forms which can be opened as Word documents with a simple click, allowing you to tailor the form to your specific needs.

The American Bar Association website contains many articles about succession planning that can be found under searches for “retirement planning” or “succession planning.” Useful articles are found under Publications > GP Solo and Publications > Law Practice Home.

Additional resources can be found on legal malpractice insurance carriers’ websites (i.e. http://www.alpsnet.com/risk-management/) and the websites of other state bars or regulatory agencies (i.e. https://www.iardc.org/Closing_a_Law_Practice.pdf).

Some attorneys — especially those in smaller towns who have strong emotional ties to their community or work in areas with few other attorneys — may want to sell their practices. Generally, the attorney has time to find a successor attorney, assimilate the new attorney into the practice and community, and have the established attorney add a goodwill component to the sale by remaining in practice in some capacity and introducing clients to the new attorney.

Western Michigan University Cooley Law School’s Career and Professional Development Office matches practicing attorneys wishing to sell their practice with students or recent graduates who plan to go solo by design. Often, the practice is rural, the attorney has spent his or her life in the community and bristles at the idea of his or her clients having to travel to a neighboring city, and the most valuable asset is the building in which the office is located. The recent graduate seeks mentorship from an experienced attorney, understands legal fees will be less than large city attorneys, will have a general practice, desires smaller communities, and knows the local court will be located in a larger city. For more information about matching recent graduates who want to go solo by design, contact the author at toyc@cooley.edu.

Succession planning can be one of the most procrastinative topics. Break the task into little parts and tackle one part at a time. As for the answer to the question of when to start: the best time is now.

https://www.linkedin.com/in/charles-r-toy-2421b711?trk=hp-identity-name
I celebrated Constitution Day on September 19 at with 7th and 8th graders at Sacred Heart School in Dearborn, his school. We examined and dissected the Japanese internment case of *Korematsu v. United States* (1944). The students were attentive and the discussions were lively.

I am pretty sure the kids understood the legal premises; they defended their positions well. This was my first year at Sacred Heart and I thought the topic was particularly relevant in a community which is largely Arabic, though I admit much of the discussion concerned the Second Amendment and gun control. I look forward to future presentations such as this.

**About the Author**

*Richard F. Fellrath* specializes in bankruptcy and reorganization. He also does work in the government contracts and environmental areas of law. Fellrath is a graduate of University of Notre Dame (BA, 1963) and studied law at the University of Detroit (JD, 1966).
Just about everyone who has an email account has received spam mail from people purporting to be attorneys, offering them a grand business opportunity that will net them millions of dollars with zero effort. The senders of these messages may not actually be attorneys as they claim. But what if they are? Shouldn’t these “attorneys” be subject to discipline for professional misconduct?

Recently, I received an email from a “Mario Sanchez,” asking me to pretend to be the next of kin to someone who had passed away in order to collect 12,700,000 euros from a bank:

“My name is Barr. Mario Sanchez, a personal Attorney to Late Mr. Michael who died along-side his entire family on the 11th March 2004 train bombing in Madrid. . . .

“My purpose of contacting you is for you to help secure a cash deposit left behind by my late client, to avoid it being confiscated or declared unserviceable by the Bank where this cash deposit valued 12,700,000 euros was deposited by my late client before his accidental death.

“Since this account is secret and there is no one left to claim the fund I am contacting you. I am actually asking for your consent to present you to the Bank as the Next of Kin/beneficiary of my late client’s fund, since you have the same last name, so that the fund will be released to you as his next of kin.”

He, of course, wanted half of the money for his part in the transaction, and ensured me that the transaction was absolutely risk free:

“Upon the completion of the transaction, I wish to point out that I want 10% of this money to be shared among the charity organizations, while the remaining will be shared equally between us. Please be assured that this transaction is entirely risk free as I guarantee the legality and success of this transaction.”

Continued on the next page
Unfortunately, Mr. Sanchez did not pay much attention in his professional responsibility class as he violated a number of rules in proposing this transaction. Model Rule of Professional Conduct 7.3, for example, is the rule regarding solicitation of clients. It requires that electronic communications soliciting clients contain the words “advertising material” at the beginning and end of each communication. As you could guess, Mr. Sanchez included no such phrase in his email.

Mr. Sanchez should also be warned of rule 1.8 against engaging in business transactions with clients. Assuming Mr. Sanchez was proposing to represent me in this business transaction, the transaction could not include his involvement unless he advised me of the desirability of seeking independent counsel—which, of course, he did not—and obtained my informed consent in writing, which he did not.

On a somewhat related note, Mr. Sanchez cannot request substantial gifts from clients unrelated to him. Half of 12.7 million euros is a pretty substantial gift, isn’t it? It doesn’t seem like a reasonable fee for his services.

And, of course, there’s rule 8.4 prohibiting attorneys from engaging in crimes and dishonesty, such as pretending a person is someone’s next of kin when, in truth, they are not. Mr. Sanchez also would have violated rule 4.1, which prohibits lying generally.

If I had taken him up on his offer, I would also be in violation of the rules.

Rule 4.1 prohibits attorneys from knowingly making false statements to others, and rule 8.4 prohibits attorneys from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation. I chose to follow Mr. Sanchez’s “business proposal” and falsely claim to be the kin of someone, I would violate both rules.

Mr. Sanchez may not be very ethical, but the recipients of his emails should be!

Liisa R. Speaker and Jennifer M. Alberts are appellate attorneys at the Speaker Law Firm.
Several times each summer on sunny, quiet mornings, I’ll walk out on our dock, take the cover off my little utility boat, load my science kit aboard, pull the starter rope on the 4-cylinder Mercury, and head out to a spot midway between Evergreen Pointe and Olds Point in the west basin of Lake Charlevoix to test the water. I’m continuing a practice that began more than 20 years ago by the Tip of the Mitt Watershed Council (TOMWC). The goal is to gather baseline data on the health of Lake Charlevoix.

TOMWC watches three sites on Lake Charlevoix and has monitors like myself on most of northern lower Michigan’s lakes.

Monitoring the water quality of Lake Charlevoix is a long way from practicing family law and ADR in Washtenaw County, which I did for 40 years from 1972 to 2012. In early 2012, I was diagnosed with a stage 4 cancer. What followed were two very challenging years of treatment and recovery. As my health and life expectancy improved, I faced another reality—namely, I had nowhere near the funds needed for 20 or so years of retirement. I am now pursuing a career in real estate from my family’s waterfront home on Lake Charlevoix, which is how I found myself in a position to volunteer for the water monitoring assignment.

My testing kit, which I store in a rectangular plastic bucket, consists of a Secchi disk used to gauge water transparency, a 100-foot measuring tape on a reel, an old coffee can with a handle fashioned from a coat hanger in which a one-quart plastic bottle with a hole in the screw-top cap is embedded in concrete, a one-pint plastic bottle with an screw-top cap intact, a thermometer on a string, and a clipboard with data sheet and carpenter’s pencil clasped to its face. I motor out to my designated spot, make notes about the weather, record the air temperature, tie the thermometer to one of my stern lines and put it over the side to take the water temperature. I hook the Secchi disk to the measuring tape, lower it into the lake until it disappears from view, and record the depth where it just goes out of sight.

After attaching the coffee-can apparatus to the tape, I slowly lower it to twice the depth I recorded for the disk and bring it back to the surface. The hole in the top of the collecting bottle emits a string of bubbles as water enters the bottle; the idea is to have it completely full as I bring it back to the surface. Once surfaced, I transfer a pint of the collected water to the smaller bottle, retrieve the thermometer, record the water temperature, crank up the engine, and head back to my dock.

In my basement, I set out my sampling equipment and run 240 ccs of my water sample through special filters which collect the particles suspended in the water column. These filters are sealed in a test tube labeled with the date and location and wrapped in aluminum foil and stored in my freezer. When the collection season is over at the end of August, I deliver them along with my data sheet to TOMWC headquarters in Petoskey. The whole process takes about an hour and produces a sense of satisfaction which lasts for days.

One of the questions I am frequently asked—is whether I miss practicing law. During the final months of my recovery as my vision of the future began to include the idea that I might have a life to live, I did find myself longing for the sense of engagement in meaningful work and belonging to a profession. A big piece of my sense of self had been defined by my engagement with the law and helping others solve problems. Now that I’ve gotten a start in real estate where my legal background has proved useful, I have a new sense of belonging. Even on days when I can’t find an excuse to get out on the lake, I am grateful for the blessing of waking up every morning with the opportunity to engage fully with the art of living.
Riding the train through 27 tunnels—one of which was more than miles long—and following the Colorado River after venturing through the Donner Pass and finally receiving a Colorado salute* was the route the first group of master lawyers took on their return to Chicago from America’s West during the debut Vacations by Rail trip sponsored by the Master Lawyers Section of the State Bar of Michigan.

The group included the retired circuit court judge Hon. Paul Clulo and his wife, Carolyn, of Frankfort; 71A District Court Magistrate Gregory Wise and his wife, Darlene, of Lapeer; and me and my wife, Sharon.

Paul, Greg, and I had no problem encouraging their wives to hit the rails and see the West. The high points of the tour consisted of the train ride, our motor coach, and the fantastic guides who led us to places most of us had only seen from the windows of an airplane.

The 14-day trip took us from Chicago to Arizona, old Route 66, Grand Canyon National Park, Las Vegas, Sacramento, Pier 39 in San Francisco, Yosemite National Park, Muir Woods, Salt Lake City, and so much more.

Heading west on Amtrak’s Southwest Chief and making our return on the California Zephyr gave us views of our country that can’t be seen anywhere except by train. We’re all looking forward to our rail excursion.

“The tour was a wonderful 14-day adventure,” Greg Wise said. “We saw so many parts of our great country from the beauty of national parks to the excitement of vibrant cities and enjoyed it all. Our traveling companions were friendly and interesting people. The tour guide, Robin, was fantastic and provided us with information and humor.”

“A very nice trip and a very tiring trip,” said Paul Clulo, who has driven west many times. “All in all, we enjoyed it very much.”

I felt the food, accommodations, people, places, and everything that we encountered were first rate, and I would absolutely take the trip again.

* As we learned from our tour guide, the Colorado salute is given to passengers on the California Zephyr from folks rafting on the Colorado River, who turn around, bend over, and drop their trousers as the train passes.

Edgar W. Pugh Jr. has 45 years of experience in estate planning, probate, and corporate matters. He serves as vice president of Pugh Moak PC. Pugh has been a member of the Probate, Estate, and Trust Committee of the Oakland County Bar Association for more than 40 years and served as chairman in 1983 and 1984. He is admitted to practice before all of the courts of the State of Michigan, the Federal District Court for the Eastern District of Michigan, and the United States Supreme Court. In 2010-2011, Pugh served as first Master Lawyers Section chair. He and his wife of 50 years, Sharon, live in Beverly Hills. They are very proud of their two attorney daughters and their families.
DISCOVER THE BEST OF AMERICA
WITH EXCITING VACATIONS BY RAIL

America’s Beautiful West

MAY 19 – JUNE 1, 2017
FROM $2,985

Includes roundtrip rail travel departing from Chicago on Amtrak (2 nights on train), hotel accommodations for 12 nights, 21 meals and sightseeing.

HIGHLIGHTS INCLUDE

Grand Canyon National Park • Las Vegas • Yosemite National Park • Sacramento • San Francisco • Salt Lake City

Calgary Stampede, Canadian Rockies & Glacier

JULY 8 – 17, 2017
FROM $2,995

Includes rail travel on Amtrak (1 night on train), hotel accommodations for 8 nights, 14 meals, Calgary Stampede tickets and sightseeing.

HIGHLIGHTS INCLUDE

Glacier National Park • Going-to-the-Sun Road • Banff National Park • Lake Louise • Columbia Icefields • Calgary Stampede

For more information and to register visit http://connect.michbar.org/masterlawyers
Master Lawyers—America’s Beautiful West Train Trip

RESERVATION & TRAVELER INFORMATION FORM

State Bar of Michigan – Master Lawyers Section
America’s Beautiful West
May 19 – June 1, 2017
Double Occupancy per person / Single Occupancy per person
$2,985/$3,895

Please print name exactly as it appears on your government
issued photo identification that you will use while traveling.
(Passport, Government ID or Driver’s License)

Traveler 1: 
Traveler 2: 
Street Address: 
City: ___________________ State: ___________ Zip: ____________
Country: 
Tel: ___________________ Cell: ___________________
Email: ___________________
Roommate’s Name: ____________________
Accommodation Occupancy: _________ Single _________ Double
Rail Accommodation Type: __________Coach (included)
________ Roomette _________ Bedroom

How would you like your name printed on your name tag?

Payment Information
Deposit Amount: $ 750.00 per person
Total Amount Enclosed: $ ________
________ Check here and provide phone number if you would like to be contacted to make deposit payment by credit card.

(Phone Number)

Once reservation is confirmed, Vacations By Rail will forward a form to verify authorization was given for credit card deposit payment.

Submit Completed form: Vacations By Rail – SBM2016-ABW
Via email: cathy@vacationsbyrail.com
Via mail: 309 West Washington St, Suite 309 Chicago, IL 60606

Phone: (877) 929-7245
*When securing your reservations, please inquire about rail transportation departing from Michigan to Chicago.

Security Information - RAIL
In order to make your vacation as enjoyable as possible, and to assist us in preparing official documentation, kindly complete information below.

Traveler 1: Date of Birth: Month __________ Day _______ Year __________
_______ Male _______ Female

Traveler 2: Date of Birth: Month __________ Day _______ Year __________
_______ Male _______ Female

Terms and Conditions
All payments for land and train arrangements (ticketed by Vacations By Rail) will be refunded, less the applicable cancellation fees as outlined below.

The following per person cancellation charges will be assessed:
Once confirmed: $250 per person plus supplier fees
90-61 days prior to departure: $700 per person plus supplier fees
60-46 days prior to departure: 50% of package price plus supplier fees
45 – day of departure: 100% non-refundable
100% cancellation fee for no shows or if cancellation is made after travel is scheduled to begin
No refund for unused portions of the trip

Deposit: $750 per person deposit due at sign-up.

Final Payment: Due by February 17, 2017

TRAVEL INSURANCE is strongly recommended
_______ Check here and include your email address below if you would like Vacations By Rail to request a travel insurance quotation for you. This will be sent to you by email upon receipt of your deposit payment.

You are responsible for purchasing your travel insurance. Travel insurance purchases should be made within 14 days of the date of deposit with Vacations By Rail.

Email Address

Emergency Contact (Optional)
Name: ____________________________
Relationship: _______________________
Tel: ___________________ Cell: _______
Email: ____________________________

The Mentor Fall 2016
RESERVATION & TRAVELER INFORMATION FORM

State Bar of Michigan – Master Lawyers Section
Calgary Stampede, Canadian Rockies and Glaciers
July 8-17, 2017
Double Occupancy per person / Single Occupancy per person
$2,995/$4,327

Please print name exactly as it appears on your government issued photo identification that you will use while traveling. (Passport, Government ID or Driver’s License)

Traveler 1: ________________________________
Traveler 2: ________________________________
Street Address: ____________________________
City: ___________________ State: ___________ Zip: __________
Country: _________________________________
Tel: ___________________ Cell: ________________
Email: _________________________________
Roommate’s Name: _______________________
Accommodation Occupancy: Single __________ Double _______
Rail Accommodation Type: Coach (included) __________ Roomette _______ Bedroom _______
How would you like your name printed on your name tag?
_________________________________________________

Payment Information
Deposit Amount: $ 750.00 per person
Total Amount Enclosed: $ __________________
_________________________________________________

Check here and provide phone number if you would like to be contacted to make deposit payment by credit card.

(Telephone Number)

Once reservation is confirmed, Vacations By Rail will forward a form to verify authorization was given for credit card deposit payment.

Submit Completed form: Vacations By Rail – SBM2016-Stampede
Via email: cathy@vacationsbyrail.com
Via mail: 309 West Washington St, Suite 309 Chicago, IL 60606

*When securing your reservations, please inquire about rail transportation departing from Michigan to Chicago.

Security Information - RAIL
In order to make your vacation as enjoyable as possible, and to assist us in preparing official documentation, kindly complete information below.

Traveler 1: Date of Birth: Month __________ Day _______ Year _______
______ Male ______ Female
Passport information: ___________________________________________

Traveler 2: Date of Birth: Month __________ Day _______ Year _______
______ Male ______ Female
Passport information: ___________________________________________

Terms and Conditions
All payments for land and train arrangements (ticketed by Vacations By Rail) will be refunded, less the applicable cancellation fees as outlined below.

The following per person cancellation charges will be assessed:
Once confirmed: $250 per person plus supplier fees
90-61 days prior to departure: $700 per person plus supplier fees
60-48 days prior to departure: 50% of package price plus supplier fees
45 – day of departure: 100% non-refundable
100% cancellation fee for no shows or if cancellation is made after travel is scheduled to begin
No refund for unused portions of the trip

Deposit: $750 per person deposit due at sign-up.

Final Payment: Due by April 8, 2017

TRAVEL INSURANCE is strongly recommended

_________ Check here and include your email address below if you would like Vacations By Rail to request a travel insurance quotation for you. This will be sent to you by email upon receipt of your deposit payment.

You are responsible for purchasing your travel insurance. Travel insurance purchases should be made within 14 days of the date of deposit with Vacations By Rail.

Email Address
_________________________________________________

Emergency Contact (Optional)
Name: ________________________________
Relationship: ___________________________
Tel: ___________________ Cell: ________________
Email: _______________________________
This valuable program will explain Medicare, and will discuss the coverage gaps and what you can do about them, address Medigap plans, Medicare Advantage, and Part D prescription drug plans in general terms, as well as other important Medicare considerations to maximize your coverage while minimizing your out-of-pocket expenses.

Open enrollment for Medicare ends December 7—get your questions answered!

Speaker: Rick Seely, Account Executive & Medicare Specialist, MDA Insurance

Cost (includes lunch)  REGISTRATION DEADLINE: Nov. 28, 2016

☐ Section Member.......................................................... $25
☐ Guest ........................................................................... $25

Total: $ _______

Questions

For additional information regarding the seminar contact Amy Castner at 517-346-6322.

P #: ____________________

Name: _____________________________________________________________________________________________________

Guest Name: _______________________________________________________________________________________________

Firm: ______________________________________________________________________________________________________

Address: ___________________________________________________________________________________________________

City:____________________  ___________________________  State: ____ Zip: _________

Telephone: ( _____ ) ______________________    E-mail Address: __________________________________________________

Enclosed is check # ________________  for $ ____________

Cancellation Policy

Cancellations must be received at least 48 business hours before the start of the event and registration refunds are subject to a $20 cancellation fee. Cancellations must be received in writing by e-mail, or by U.S. mail. No refunds will be made for requests received after that time. That notice can be made by e-mail (tbellinger@mail.michbar.org), fax (517-372-5921 ATTN: Tina Bellinger), or by U.S. mail (306 Townsend St., Lansing, MI 48933 ATTN: Tina Bellinger.) Refunds will be issued in the same form payment was made. Please allow two weeks for processing.

Register One of Two Ways

Online: Pay by credit/debit card at http://e.michbar.org

Mail your check and completed registration form to:
State Bar of Michigan
Attn: MLS Seminar Registration
306 Townsend Street, Lansing, MI 48933

Make check payable to: State Bar of Michigan