



GENESEE COUNTY BAR ASSOCIATION

Professionalism Since 1897

Special Edition Notes N' News

LETTER FROM THE PRESIDENT

I hope this newsletter finds you safe, happy, and healthy. With all of the events in the past few months, GCBA wanted to keep you updated on the status of our activities as well as the law. In this Special Edition of Notes N' News, you will find all the normal information as well as updates on the areas of law and notices that affect your practice.

Changes in GCBA Office. Our office is closed. Even though it is closed, Tina, Eileen, and Star are working hard at keeping our office and Lawyer Referral Service working during this time period. Tina and Eileen are working remotely; while Star is working in the office to answer the telephones, obtain the mail, and address Lawyer Referral calls. If you have any questions or concerns, please call or email them.

Website: Our website has been updated to include all notices from the area Courts. You can visit the homepage which will link you to the webpage for the Notices.

Events: Our events are cancelled or postponed through April 30, 2020 in part due to Governor's Executive Order 2020-21 which announced the "stay home, stay safe" order. More detailed information is enclosed in this newsletter on page 2.

Office Damage: In the event you did not hear, our office was flooded which caused damage to the copy room, Tina's office, the bathroom, and around Eileen's desk. The office has been dried out and we will obtain estimates for repairs once the stay at home Executive Order is removed. Unfortunately, our office may be closed longer than the Executive Order provides.

Please be safe. I hope to see you soon.

Sincerely,
Sherri L. Belknap
President



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JOHN S. BEAGLE SCHOLARSHIP

Applications are being accepted for the John S. Beagle Scholarship established to assist students from Genesee County, Michigan with financial support while in their second or third level of law school. A minimum scholarship of \$5,000 will be awarded. The application deadline is May 1, 2020.

Scholarship applications can be found at www.gcbalaw.org.



In Memoriam

To **Tabitha Marsh** and her family on the loss of her Father-in-law, Kevelin B. Jones, who passed away on March 26, 2020;

To **Richard Ruhala** and his wife, Arlene, on the loss of their son-in-law, Scott Amrhein, who passed away on March 30, 2020

To **Elias Fanous** on the loss of his wife, Kimberly Bayyouk Fanous, who passed away on April 1, 2020; and

To **Tatilia "Tina" Burroughs** and her family on the loss of her grandmother, Lillian Dunlap, who passed away on April 2, 2020

Calendar of Events

Event	Date	Status
Senior Luncheon	April 9, 2020 12:00 p.m.	Cancelled
Past President's Lunch	April 17, 2020 12:00 p.m.	Postponed
April Monthly Meeting	April 20, 2020 12:00 p.m.	Cancelled
Family Law Committee	April 21, 2020 12:00 p.m.	Cancelled
Law Day	April 24, 2020 11:15 a.m.	Cancelled
Courthouse Composite Pictures	April 27 & 28	Postponed
Probate Seminar	April 30, 2020 9:00 a.m.	Postponed
Courthouse Composite Pictures	May 6 & 7	Postponed
Executive Committee	May 14, 2020 7:30 a.m.	Via Zoom
Senior Luncheon	May 14, 2020 12:00 p.m.	Postponed
Amy K. Harris Criminal Law Seminar	May 14 & 15, 2020	Postponed
Annual Meeting	May 18, 2020 12:00 p.m.	TBD
Family Law Committee	May, 19, 2020 12:00 p.m.	Postponed
Board of Directors	May 21, 2020 7:30 a.m.	TBD
North End Soup Kitchen	May 30, 2020 9:00 a.m.—1:00 p.m.	No change in status
42nd Annual Golf Outing	June 15, 2020 1:00 p.m.	No change in status

FAMILIES FIRST CORONAVIRUS PROTECTION ACT- FREQUENTLY ASKED QUESTIONS

By: Nancy Chinois,
Cline, Cline & Griffin

- **What is the Family First Coronavirus Response Act?**

THE FFCRA is a new federal law that requires employers with *fewer than 500* employees and public agencies to provide 80 hours of paid sick leave if full-time employees are unable to work because they're subject to quarantine or isolation, are caring for someone who is in quarantine or isolation, have children in schools that have closed and/or are experiencing symptoms themselves. Part-time employees who are impacted are guaranteed as many hours of paid time off as they typically work over a two-week period.

- **What is the effective date?**

It becomes effective on April 1, 2020 and applies to leave taken between April 1, 2020 and December 31, 2020.

- **Which employees are eligible?**

Employees who have been on payroll at least 30 days. Independent contractors are not eligible for paid leave under this Act.

- **How much leave is required?**

Covered employers must provide full-time workers up to 80 hours of paid sick time if the employee is unable to work or telework due to Covid-19. Part-time employees are entitled to paid sick leave passed on the number of hours they work on average over a two-week period.

The DOL has provided this clarification:

*Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or*

*Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consul-*



NEITHERCUT LEGAL EDUCATION FUND

An experiment of the Genesee County Bar Foundation is offering grants that reimburse GCBA members for half the cost of tuition, up to \$300 per attorney per year, to any of the following:

- ◆ Institute of Continuing Legal Education Seminar of the State Bar of Michigan (ICLE),
- ◆ American Bankruptcy Institute (ABI),
- ◆ Federal Bar Association Bankruptcy Section, and
- ◆ Criminal Defense Attorneys of Michigan.

Details on the grant can be found at www.gcbalaw.org.

To take advantage of this opportunity, please contact GCBA/GCBF Executive Director Tatilia "Tina" Burroughs at 810-232-6000.

2020

Composite

Due to COVID-19 and the safety of our members our 2020 Composite is being postponed. You will be notified of new dates when they become available.



**GENESEE
COUNTY BAR
ASSOCIATION**

The Genesee County Bar Association exists to serve the professional needs of our members, improve the justice system, and educate the public about the law and the role of lawyers.

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT -
FAQ CON'T**

tation with the Secretaries of the Treasury and Labor; and

*Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay* where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable due to Covid-19.

- **Does that mean that all FMLA leave is now paid leave?**

No. This only applies to Expanded Family Medical Leave under the Emergency Family and Medical Leave Expansion Act, when leave exceeds 10 days. The first 20 days of leave may be unpaid; however, employees may elect to substitute available PTO, vacation, or sick time during this time.

- **Are there exceptions?**

Yes. Small businesses with less than 50 employees may be exempt if providing the benefits under this act would jeopardize the viability of their business. It is expected that the Department of Labor will further clarify exceptions in the near future. Additionally, the Act provides that the Department of Labor may exclude certain health care providers and emergency responders from the definition of eligible employee.



COVID-19 AND HOUSING

By: Kyle Lawrey and Nikola Lucic
Legal Services of Eastern Michigan

As many are aware, Governor Gretchen Whitmer and the Michigan Supreme Court have both issued numerous orders in response to the COVID-19 pandemic. This article explores those orders and the impact of COVID-19 on housing.

Governor Whitmer's Executive Order 2020-19, which will expire on April 17, 2020 at 11:59 pm, prevents the "removal or exclusion from leased residential premises or residential premises held under a forfeited executory contract a tenant." The only exception to this Executive Order is if that person poses a substantial risk to another person or an imminent and severe risk to the property. The order has been interpreted such that, unless they meet the exception, a landlord is precluded from evicting a tenant even though a judgment of possession had been entered by the court and the time to vacate in that judgment has passed.

Further, the Michigan Supreme Court issued six (6) Administrative Orders regarding court procedures during this time. Administrative Order (AO) 2020-1 and -2, gave discretion to local courts to adjourn certain matters until after April 3, 2020. These orders were followed by AO 2020-5, which extended the date until no earlier than April 14, 2020, or as provided by further order. At this time, landlord tenant and housing matters in Genesee County have been adjourned to April 14, 2020. Most recently, AO 2020-7 extended this date to April 30, 2020.

In addition to state level orders, the CARES Act, which was signed into law on March 27, 2020, includes eviction protection for "covered properties" by stopping landlords from filing new eviction cases for non-payment of rent from the time the act was signed through July 24, 2020. The covered properties include properties with federally backed mortgage loans, properties with federally backed multifamily mortgage loans, "covered housing programs" as defined by the Violence Against Women's Act, and properties that participate in the "rural housing voucher program under section 542 of the Housing Act of 1949." Some examples of these types of housing include Housing Choice Vouchers (Section 8), HUD-funded public housing, HUD housing for seniors and people with disabilities, and Low-Income Housing Tax Credit (LIHTC) housing.

With respect to fair housing, if a tenant has been diagnosed with COVID-19, while s/he may not be obligated to disclose his/her diagnosis to a landlord, it may be advisable to do so in order to protect others from exposure to the virus. While a landlord cannot identify a particular tenant as having tested positive, they may take preventative measures to inform other residents that someone has been tested positive for COVID-19. Further, a tenant's positive diagnosis for COVID-19 cannot be used as the basis for the termination of his/her tenancy by a landlord and an attempt to do so would violate the Fair Housing Act ("FHA"). It is arguable that a positive diagnosis for

Q&A for the Bench

The Bench & Bar Committee would like questions from GCBA attorneys for the Judicial Leadership. The questions should relate to the current status of the Courts and the State of Emergency declaration.

Please email your questions to jpiper@piperlegal.com

The summary of questions and answers provided will be distributed to the GCBA membership.

COVID-19 AND HOUSING Con't

COVID-19 constitutes a disability under the FHA and that any retaliation or harassment a landlord engages in to prevent a tenant from obtaining housing or remain in his/her current housing could be considered discriminatory.



HOW TO GET TESTED FOR COVID-19.



MICHIGAN RESIDENT

I think I may need to be tested, or have a question about COVID-19.



Contact your health care provider to discuss your symptoms.



Call the COVID-19 Hotline for questions:
1-888-535-6136
Daily 8 am - 5 pm.

HEALTHCARE PROVIDER

I think I have a patient that needs to be tested, or have a question about COVID-19.



Contact the local health department in the patient's county of residence before testing.



Healthcare providers also have the ability to request testing from a commercial laboratory.

Michigan.gov/Coronavirus

MINDFULNESS IN TIMES OF CRISIS

By: Katie M. Stanley
Legal Services of Eastern Michigan

Clients, opposing parties, deadlines, billable hours, changing laws, demanding schedules, student loans-throughout the normal life of an attorney working in an adversarial system, dealing with stress is par for the course and there is data to back it up. Nationwide American Bar Association and Hazelden Betty Ford Foundation surveys found that 61% of attorneys reported concerns with anxiety and 46% reported concerns with depression. Attorneys surveyed also scored significantly higher for rates of substance abuse, anxiety, and stress than both the general population and other highly educated work forces such as physicians and surgeons. What's worse, is that research has shown it begins in law school and only gets worse as attorneys venture further into their careers and many remain reluctant to seek help, fearing threats to academic or professional status, employment, character and fitness reviews, or even bar admission. While there are numerous studies to back up the personal and professional benefits of implementing mindfulness and emotional intelligence practices or training, now, in the midst of a crisis that has had sprawling effects on our communities, connections, families, and work, the ever-important process of striving for wellness and compassion has become more important than ever. So how can we do this? One way to support wellness is through a mindfulness practice. Mindfulness can be defined as simply paying attention to what's happening in the present moment without judgment and can either be a dedicated practice, like someone who carves out time and goes to the gym a certain number of times per week, or an integrated 'in the moment' practice, like pausing to take a few deep breaths before responding when you notice you're beginning to feel stressed or overwhelmed. Some practices we can try include:

- **Meditation**-this is what most people envision when they think of mindfulness and for good reason-there are countless benefits to the practice and evidence-based support is only growing. One easy way to get started is to find a free guided meditation service, such as the Head Space or Calm mobile apps;
- **Three Breaths Practice**-taking one breath to bring attention to and connect with the body, the second breath to relax the body, and the third to ask, 'what's important right now?' Questions like this engage our neocortex, rather than the feeling sides of our brains;



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- ♦ American Bankruptcy Institute (ABI),
- ♦ Federal Bar Association Bankruptcy Section, and
- ♦ Criminal Defense Attorneys of Michigan.

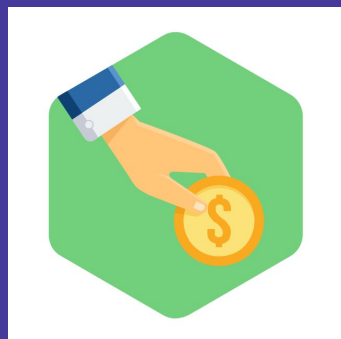
Details on the grant can be found at www.gcbalaw.org.

To take advantage of this opportunity, please contact GCBA/GCBF Executive Director Tatilia "Tina" Burroughs at 810-232-6000.

Case Evaluation Late Fee Donations

Thank you to the
following
individuals for donating
their Case Evaluation late
fees, which are placed in
a restricted building
account:

Kurt Brown
Tom Connolly
Amy DeNise
Michael Winterfield



MINDFULNESS IN TIMES OF CRISIS Con't

- **Mindful Movement**-such as through exercise or yoga. Mindful movement is simply finding ways to stop and turn your attention from the emotional to the physical-this can be extremely beneficial when we're feeling stressed. This is because physical activity such as taking a (safe, socially distanced) walk has been shown to reduce the amount of adrenaline and cortisol flowing through the body;

- **Grounding**-taking a moment to bring your focus to the sensation of your feet connecting with the ground, or your body connecting with the chair you may be sitting on as you try to work remotely by yourself or with children, pets, and/or a significant other;

- **A Gratitude Practice**-taking time to make a gratitude list, or discussing things you're grateful for with whomever you might be quarantining with;

- **A Kindness/Compassion Practice**-taking time to 'perspective take' or consider the perspective of others and what they may experience 'just like you'. This fosters compassion, empathy, and the ability to connect. This practice can also be taking time to do something kind for yourself or acknowledge something difficult you may be experiencing. Lastly, this practice could also be doing something kind for someone else-even something as simple as checking in on someone you care about while we are all socially distanced can make a big difference.

We all have a platform, so especially now during these challenging times let's use those platforms to lift up compassion, kindness, decency, and grace for ourselves and others.



HELP FOR YOU DURING COVID-19 CRISIS

By: William J. Brickley

Your Genesee County Bar Association Alternative Dispute Resolution (ADR) Committee wishes to remind you that there are many methods that can be used during these times to assist you in working for your clients and trying to bring a resolution to the issues that need to be addressed while the courts are offering only limited services. ADR offers numerous methods to assist you in having your matters addressed. Some of these include:

Pre Suit Mediation – Some matters just don't need the cost, expense and delays associated with litigation. In these cases a trained mediator can be of great assistance in helping the potential litigants a way of resolving their disputes before having to dive into a lengthy and costly litigation.

Discovery Mediation – Disputes over discovery often become a larger battle than the litigation they arise within. A judge, even when available, with a busy docket and more pressing matters, may often not provide a satisfying ruling. Mediating these disputes can likely lead to a quicker, fairer and more focused result for your clients.

Pending Case Mediation – Study after study has continued to show that mediation is one of the most effective tools for resolving a case. With uncertain court timeframes and clients in need of resolving their disputes it is clearly worth an attempt.

Arbitration – Some cases are just not going to settle. Arbitration can provide some finality to a matter and at times can greatly streamline the fact presentation to cut out unnecessary delays and costs. Parties can choose a one person arbitrator; a panel of three or any other method they believe works in their specific case.

Fortunately the Genesee County Bar Association has many members who are greatly qualified to provide these services in all areas of law. Arrangements can be made to conduct these proceedings in a manner that is consistent with pending Executive Orders, and recommended social distancing. A list of the members of our committee who would be more than happy to assist you in exploring your ADR needs and working with you to perform them in a safe manner are located in the blue box to the right.

In addition the Community Resolution Center also offers low cost mediation services and in some cases free services to those who qualify looking to mediate their disputes.

ADR Committee Members:

Terry Bankert
Linda Berker
William Brickley
Jose Brown
George Brueck
Kathleen Buckley
Bob Chimovitz
Barbara Dawes
Peter Doerr
Charles Filipak
Hon. Judith A. Fullerton
(Ret.)
Michael Gildner
Walt Griffin
Dayna Harper
Alan Himelhoch
Jeffrey Himelhoch
Hon. Geoffrey
Neithercut (Ret.)
Samantha Orvis
Ed Powers
Hon. Robert Ransom
(Ret.)
Daniel Rittman
James Wascha
Jerome Winegarden
Timothy Winship
Pamela Wistrand
Dean Yeotis



COVID-19 AND BANKRUPTCY

By: Leo Foley
George Jacobs and Associates

On April 6th in his annual letter to shareholders JP Morgan Chase COE Jamie Dimon stated "At a minimum, we assume that it will include a bad recession combined with some kind of financial stress similar to the global financial crisis of 2008".

The financial crisis of 2008 led to a tidal wave of increased bankruptcy filings that saw total bankruptcy filings nationwide go from 775,344 in 2009 to a peak of 1,538,033 in 2010. Each year afterward numbers dropped until numbers returned to 2007 levels in 2016.

It is very likely that there will be an increased need for bankruptcy and other financial services over the next year as an estimated forty percent of Americans do not have sufficient savings to cope with two missed paychecks. This may not be the same kind of surge that we saw beginning in 2008 but I am certain we are going to see a sizable jump.

There is also going to be a large amount of stress on existing Chapter 13 bankruptcies. By the nature of the cases people in Chapter 13 bankruptcies have little or no emergency savings that could help them endure a period of unemployment. A layoff, even one that may be short term in nature, could jeopardize an otherwise successful Chapter 13 bankruptcy.

The CARES Act includes a fix to COVID related income losses. Any Chapter 13 case that was confirmed prior to March 27, 2020 may be modified to extend for an additional two years if the debtors were impacted by the COVID crisis. Given the unemployment numbers we have been seeing and given that Chapter 13 debtors are often among the most vulnerable people a very high percentage of Chapter 13 cases are going to fall in this category. There is a deadline on this as the provision sunsets after one year so any modification to extend the case must be made before March 27, 2021.

For people who may be considering bankruptcy the CARES act also includes provisions relating to the expected stimulus payments. Any stimulus funds received do not have to be included in the means test or listed on schedule I. If still held at filing they must be listed on the schedule A/B and exempted on schedule C if the exemptions are available.

As always bankruptcy remains a specialized subset of law with its own rules and procedures please consider consulting with an experienced bankruptcy attorney before jumping headfirst into bankruptcy.



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