

BARBEAT

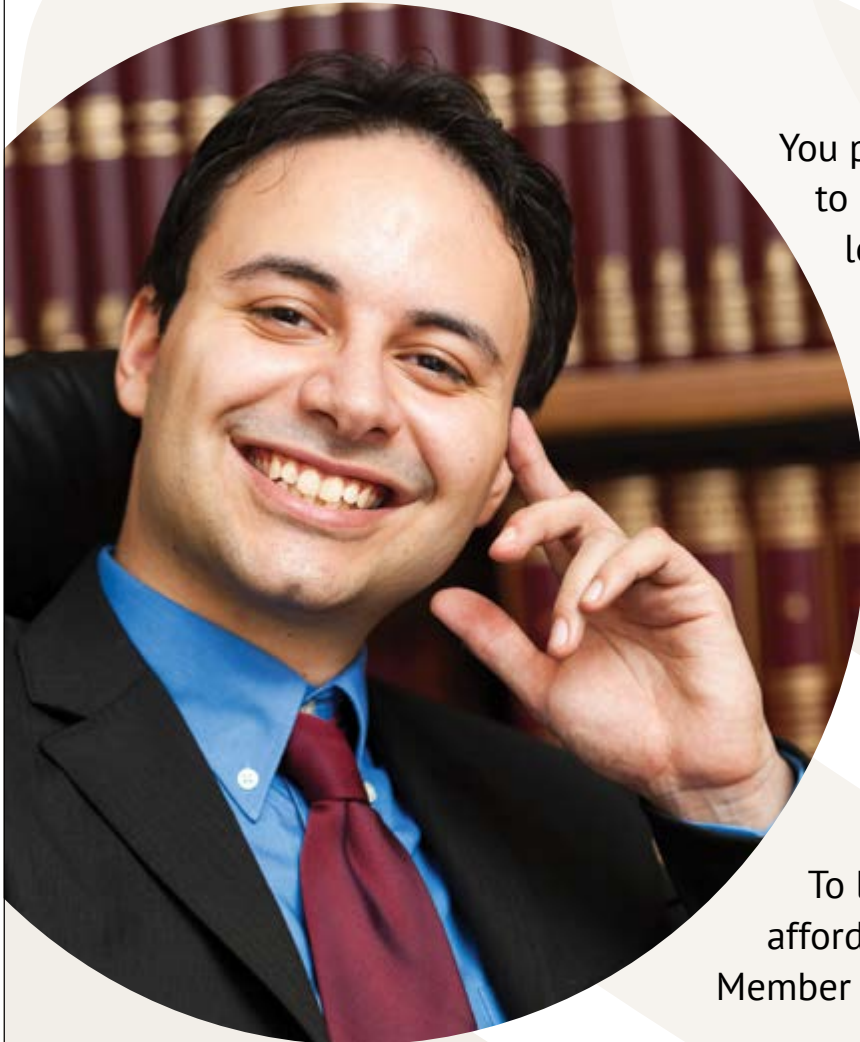
Genesee County Bar Association



Anticipating a Great Year for the GCBA
2016 Business Court Summary
“Inns of Court, Refreshed and Renewed”
Today’s Centennial American Inn of Court
Genesee County Michigan Chapter
Consistency in Child Support Calculations: The
MiChildSupport Public Calculator
Cuba: An Introduction to a Familiar Stranger

More Protection for Michigan Whistleblowers
What Ever Happened to . . . ? Paul Janczewski
Common Law Marriage-Michigan Policy-
and FMLA Rights and Claims
State Bar Annual Meeting (And Master
Lawyers Section) September 21-23
Fish Stories

Protecting your health. Today.



You plan every detail of your practice to ensure its success. Nothing is left to chance.

Don't take chances with your health insurance. You and your staff deserve a quality Blue Cross® Blue Shield® of Michigan health plan.

- Group plans
- Individual plans
- Recognized worldwide
- Solutions tailored to your needs

To learn more about the affordable BCBSM plans, contact Member Insurance Solutions.

Call **800.878.6765** or visit memberinsurancesolutions.com today.

Protecting tomorrows. Today.



**Blue Cross
Blue Shield**
of Michigan

A nonprofit corporation and independent licensee
of the Blue Cross and Blue Shield Association



Member Insurance Solutions is a marketing name of MDA Insurance & Financial Group.

Blue Cross Blue Shield of Michigan is a nonprofit corporation and independent licensee of the Blue Cross Blue Shield Association.

Genesee County Bar Association

2015-2016 Board of Directors

PRESIDENT – Michael A. Kowalko
 VICE PRESIDENT – Hon. Mark W. Latchana
 TREASURER – Jessica J. Hammon
 SECRETARY – Sherri L. Belknap
 IMMEDIATE PAST PRESIDENT – Shayla D. Blankenship

Specialty Bar Board Members

Young Lawyers Delegate – Paul J. White
 Women Lawyers Delegate – Vacant
 Mallory Van Dyne Scott Bar – Whitney Frazier
 Flint Trial Lawyers Representative – Cristine Wasserman

Board Members

Morgan R. Cherry '17	Michael J. Gildner '17
TBD '17	Jonathan Poulos '17
Tedd E. Bean '18	William J. Brickley '18
Nancy Chinois '18	Michael A. Tesner '18
Craig R. Fiederlein '19	Chadd O'Brien '19
Patrick J. O'Callaghan '19	Angela Wheeler '19

Staff

Tatilia Y. Burroughs, Executive Director
 Eileen M. Harris, Office Manager
 Starlynn J. Estep, LRIS Specialist

Bar Beat Editor

LindaLee Massoud
 BarBeat@gcbalaw.org

Genesee County Bar Association

315 E. Court St., Flint, Michigan 48502-1611
 (810) 232-6012

For editorial information, call (810) 232-6000.

Published bimonthly by the State Bar of Michigan,
 306 Townsend St., Lansing, MI 48933, for the
 Genesee County Bar Association. For advertising,
 call (517) 346-6315.

No material in *Bar Beat* reflects the opinion or endorsement of the
 Genesee County Bar Association, unless otherwise stated.

Table of Contents

4 Anticipating a Great Year for the GCBA	by Michael A. Kowalko
4 2016 Business Court Summary	by Hon. Judith A. Fullerton
5 "Inns of Court, Refreshed and Renewed" Today's Centennial American Inn of Court	by Timothy H. Knecht
5 Consistency in Child Support Calculations: The MiChildSupport Public Calculator	by Tony McDowell
6 Cuba: An Introduction to a Familiar Stranger	by Christopher Burtley
7 More Protection for Michigan Whistleblowers	by Tom R. Pabst
8 What Ever Happened to ...? Paul Janczewski	by Roberta J.F.Wray
9 Common Law Marriage-Michigan Policy-and FMLA Rights and Claims	by Gregory M. Meihn
10 State Bar Annual Meeting: (And Master Lawyers Section) September 21-23	by Richard Ruhala
11 Fish Stories	
12 Welcome New Members	

Cover Photo

Race Day: The Crim 2016 photo by Freeman Overton

Advertisers

Blue Cross Blue Shield of Michigan
 inside cover

Robert M. Ransom, Private Judging 6

Larry Day
 Mediation, Arbitration & Umpire Services 3

Jakeway Injury Law 7



Larry Day

ATTORNEY & MEDIATOR

(810) 853-1159

www.mediationday.com

e-mail: larry@mediationday.com

MEDIATION, ARBITRATION & UMPIRE SERVICES

- **Mediation Training** – Harvard, Nova, State Bar and ICLE
- **Experience** – Practicing lawyer more than 30 years; practicing mediator 18 years. Chair Genesee County ADR Committee 2004 and 2012. Selected Mediator/ Arbitrator/Umpire on hundreds of disputes involving:

Employment	No-Fault First Party	Medical Malpractice	Business Break-ups
Elliott Larsen	No-Fault Third Party	Intellectual Property	Internet
Whistle Blower	Wrongful Death	Real Property	Inheritance
Consumer Law	Personal Injuries	Insurance	Will Contests
Lemon Law	Premises Liability	Water Damage	Many Others
Patents	Airplane Crash	Fire Losses	
Nuisance	Defamation/Slander	Hail Damage	

- **All Inclusive Flat Rate Mediation Fee** - includes hearings up to 5 hours; reading and preparation time; phone calls; driving up to 65 miles each way and filing Status Report with Court.



Anticipating a Great Year for the GCBA

By Michael A. Kowalko, President



Michael A. Kowalko

Around this time of year millions of parents of school age children have been busily preparing for the new school year. My wife, like a marathon runner sprinting exhausted towards the finish line, seems almost euphoric despite the additional task of shopping for new school clothes and supplies for our 16 and 12-year-old daughters.

The words, “shopping for new school clothes and supplies,” is loosely translated Latin for, “words causing income to vanish,” but in fairness, this hardly describes this magical time of year. All kidding aside, isn’t it worth all the hard work and sacrifice to see children dressed up and excited but also a little bit nervous about starting a new school year? The promise of a new beginning is, indeed, a magical time.

As I begin my year as GCBA President, I have those same feelings of excitement and nervousness. My main task in getting

things started has been to appoint the chairs for our 20+ committees.

The enthusiasm and willingness of our members to serve as chairs has made this task much easier than expected. Because of this, I am filled with even more optimism that those chairs will lead the way for some great seminars and that we will also increase the number of young lawyers who will join the GCBA!

I could go on. I’d like to, but I hear my daughters in the next room asking my wife if they can show me their new school clothes. Additional Bar Association information will have to wait until the next issue of *BarBeat*.

2016 Business Court Summary

By Hon. Judith A. Fullerton, Presiding Business Court Judge

The business court was created by PA 2012, No 333 effective January 1, 2013 (MCL 600.8031). Business courts are defined by MCL 600.8031. Business courts exist in counties with at least three sitting circuit court judges. Thus, there are business courts in 17 circuits in Michigan (MCL 600.8033).

Business courts have a specialized docket within the circuit court and are intended to provide a case-management structure that facilitates timely, effective, and predictable resolution of complex business cases (See Administrative Order No. 2013-6).

MCL 600.8035(3) provides in part that:

An action shall be assigned to a business court if all or part of the action includes a business or commercial dispute.

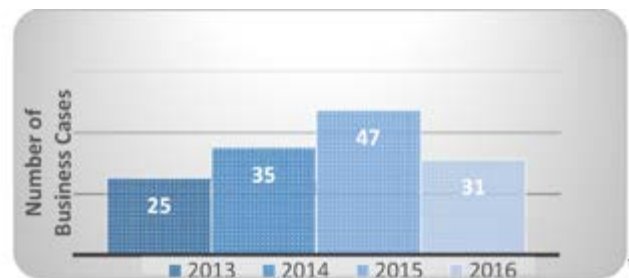
While the Seventh Circuit business court is, as pointed out above, only part of the circuit court’s docket, some of the cases are quite demanding and involve a substantial motion practice. Each county that has a business court has a Local Administrative Order (LOA) for operation of its business court docket. In Genesee County see LOA 2013-03.

In circuits such as ours where a business court docket is maintained, a party shall verify on the face of the party’s initial pleading that the case meets the statutory requirements to be assigned to the business court (MCR 2.112(O) (1)). Likewise, if a cross-claim, counter-claim, third-party complaint, amendment or any other modification of the action

includes a business or commercial dispute, a party shall verify, on the face of that party’s pleading, that the case meets the statutory requirements to be assigned to the business court. In addition, State Court Administrative Office form SCAO MC 01, revised, now contains a box that should be checked to designate that the case should go to the business court.

The primary goals of the business court are to improve the efficiency of the circuits and to reduce the costs of litigation.

The total number of cases going to the business court has increased each year since its inception, as shown in the graph below:



*Total 7th Circuit Business Court case filings tallied through August 25, 2016.

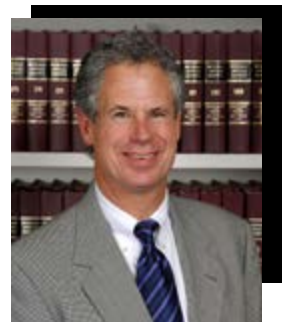
Business courts are experiments in progress throughout the State of Michigan. The volume of cases in business court is much higher in counties such as Wayne, Oakland, and Macomb where multiple judges are assigned to business court dockets.

“Inns of Court, Refreshed and Renewed”

Today’s Centennial American Inn of Court

Genesee County Michigan Chapter

By Timothy H. Knecht, Esq.



Timothy H. Knecht

The Genesee County Inn of Court Chapter was established by local bar leaders in 1997 and is a chapter of a national organization, the Centennial American Inns of Court. The purpose of the organization is “fostering excellence in professionalism, ethics, civility and legal skills.”

Members of the Chapter meet on the third Tuesday of each month from September through May. Each of the meetings includes dinner and a program put on by a small team of Inn members. The goal of each program is to present a legal topic of interest, a topic that causes those attending to think, or gives pause on a variety of issues. Experienced lawyers are given the opportunity to get to know younger lawyers and vice versa. There is a social hour before dinner and members are placed at tables with different lawyers at each meeting.

Meetings are held at the Redwood Lodge’s Sequoia Room at 5:30 pm and conclude by 8:00 pm. The October 18th meeting features Speed Mentoring, a key focus of the Inns. Pairing younger attorneys with experienced attorneys gives younger members the opportunity to feel comfortable in asking questions. In turn, it gives experienced attorneys the ability to meet younger attorneys and learn what’s new and changing. The May

meeting is reserved for the presentation of awards, and this year the awards banquet was held jointly with the Genesee County Bar Association.

Membership in the Inn is comprised of four categories: Master, Barrister, Associates, and Pupils. The dues for each category are: Masters (those in practice 15 years or more, admitted 1999 or before) \$350; Barristers (8-14 years in practice, admitted after 1999 and before 2007) \$250; Associates (less than 8 years in practice and admitted 2007 or after) \$160; Pupils (3rd year law students) \$50. Dues include social hour, dinner, program and camaraderie, which can’t be found elsewhere within the legal community.

The legal world is ever-changing, and professionalism, ethics, civility, and legal skills are important core values. The Centennial American Inn of Court Chapter thrives on each of these values and seeks to promote all of them, not only among its members, but in the legal community as a whole.

Please join us as a guest for the October meeting and consider becoming a member. I’m sure you will enjoy it and will find the experience interesting and informative.

Consistency in Child Support Calculations: The MiChildSupport Public Calculator

By Tony McDowell, Genesee County Friend of the Court Staff Attorney

“Why are your calculations different from mine?” This is one of the most common questions I receive from attorneys and the public regarding Friend of the Court child support calculations. For years, the child support calculator used by the Friend of the Court was not the same as the calculator used by the public, which caused discrepancies between calculations. With the release of the MiChildSupport Public Calculator these questions regarding different calculations should be resolved, at least in part.

At the end of August, the Michigan Office of Child Support released a public child support calculator that uses the same logic as the calculator used by the Friend of the Court and Prosecuting Attorneys’ Offices statewide. If the same inputs are used with the calculator on MiChildSupport, the resulting child support calculation should be the same as the calculations made by the Friend of the Court.

While this is an exciting step forward to having consistency among child support calculations, be aware that the version that was released in August is a “soft-release.” The current version is a test run and does not include all of the features that the final version will include in early 2017. The version available on MiChildSupport today does not allow a user to save the results, but does allow the user to print the results. The next release in early 2017 will include added functionality, but will also include the changes to the 2017 Michigan Child Support Formula Manual. If you use the current version and it does not meet your needs, please do not hesitate to contact me at tmcdowell@co.genesee.mi.us and/or wait until the “hard-release” in early 2017.

The MiChildSupport Calculator can be found at <https://micase.state.mi.us/ssoapp/login>.



Tony McDowell

Cuba: An Introduction to a Familiar Stranger

By Christopher Burtley



Christopher Burtley

As the sun sets on a balmy summer day, a sparkling red, classic 1950's Buick Roadmaster cruises down a cobblestone street. Yet, the iconic car garners no stares or commentary. As the vehicle comes to a stop, its flawless exterior deceives one into thinking it rolled out of Buick City just yesterday. But this is no drive down memory lane, nor a scene from Back to the Bricks. A thousand miles from General Motors' birthplace, this Buick masterpiece thrives in bustling Havana, Cuba, where Flint's finest creations age gracefully.

Even after over fifty years of isolation, it would be a mistake to think America's cultural impact on the island has disappeared. On Havana's Malecon, a signature ocean front street in Latin American cities, strikingly diverse architecture serves as a tribute to four centuries of social and political milestones. Each structure is a vestige of a society's ideological influence on this peculiar island. Here, a colonial Spanish-style home neighbors a Soviet influenced office building that is within walking distance of a dazzling American Art Deco-style hotel, all of which are surrounded by murals dedicated to the Cuban Revolution and its polarizing leader, Fidel Castro.

The streets of Havana well document Cuba's past. But the roadmap to its future remains uncharted. Cuba is changing. A new generation is warming up to renewed relations, thawing the last relic of a bitter Cold War. How this will unfold is yet to be seen. But American lawyers and Cuban abogados¹ will be a driving force in the policies that shape our common future.

Following President Obama's historic visit to Cuba in March of this year, significant changes in U.S. policies toward Cuba were introduced. Although many Americans believe travel to Cuba is illegal, the Cuban embargo is actually enforced through the Department of the Treasury's Office of Foreign Assets Control (OFAC). Therefore, travel to Cuba

for American citizens is technically not banned. But, spending money in Cuba without a license, and going to Cuba for tourist activities, is.

The myriad restrictions previously created a de facto ban, with American authorities able to presume illegal travel-related transactions during unauthorized trips to the island.² However, recent amendments have greatly changed OFAC's Cuba licensing procedures, easing the authorization process for Americans to travel to Cuba for a variety of purposes.³ Americans who travel for permitted reasons now may qualify for "general licenses," no longer requiring a specific license (i.e., an application and a case-by-case determination).⁴

Politics have pulled our two countries apart, but culture will ultimately bring us back together. In Havana, Cubans proudly drive their Buicks, too. This familiar stranger may not be so foreign after all.

Endnotes

- 1 Abogado is the Spanish word for lawyer. Of note, in Cuba the private practice of law is outlawed. See Michalowski, Raymond J. "Between Citizens and the Socialist State: The Negotiation of Legal Practice in Socialist Cuba." *Law & Society Review* 29.1 (1995)
- 2 Recent OFAC Actions, U.S. Department of Treasury (June 16, 2004), <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20040616.aspx>
- 3 Frequently Asked Questions Related to Cuba, U.S. Department of Treasury (July 25, 2016), https://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf
- 4 *Id.*



Judge Robert M. Ransom

- Private Judging
- Facilitation
- Mediation
- Arbitration

P: 810-659-6221 • C: 810-813-8090

39 Years Judicial Experience

e-mail: Ransom05@comcast.net

Correction

The July/August 2016 cover list Michael J. Kowalko. It's Michael A. Kowalko.

Connect with the GCBA



Our Website: www.gcbalaw.org

On Facebook

<https://www.facebook.com/pages/Genesee-County-Bar-Association/142757561178>

More Protection for Michigan Whistleblowers

By Tom R. Pabst



Tom R. Pabst

In my article in the May, 2012 *Michigan Bar Journal*, I reported on how giving effect to the plain language of the Whistleblower law, MCLA 15.361, et seq., resulted in increased protection for whistleblowers in Michigan. It has happened again, this time, in the published case of *McNeal-Marks v MCCG, et al.*

In *McNeal-Marks*, the Plaintiff-Nurse Tammy McNeal-Marks, reported to her attorney that an in-law against whom she had a PPO had appeared at Plaintiff's place of employment in apparent violation of the PPO. Plaintiff's attorney filed a motion in circuit court requesting a "show-cause" hearing.

At the same time, Defendant-private Employer conducted an investigation into whether Plaintiff had violated HIPAA by reporting the encounter with the in-law to her attorney. Defendant-Employer's investigator did not believe Plaintiff did not tell her own attorney that the in-law was a "patient," and in fact called Plaintiff-Nurse "a liar" on this point. Furthermore, according to Plaintiff, Defendant's investigator said Plaintiff would be fired on the spot if Plaintiff testified at the motion hearing and included any detail of the in-law's medical care at Defendant's medical facility.

Defendant fired Plaintiff, in writing, for allegedly violating HIPAA by reporting, to Plaintiff's own attorney, the encounter at Defendants' medical facility as a violation of the PPO. When Plaintiff sued for (1) Whistleblower and (2) Public Policy violations, the trial court granted Defendant's MSD,


finding (1) no report to a "public body," (2) no possible "reasonable belief" on Plaintiff's part, and (3) no violation of law or refusal by Plaintiff to violate the law.

Judge Wilder, writing for the Court of Appeals, reversed the trial court's rulings, and made four important rulings of his own. First, Judge Wilder found that licensed attorneys in Michigan are "public bodies" within the plain and unambiguous language of MCLA 15.361(d-iv). He declined to rule at this time whether licensed attorneys in Michigan are also members of the judiciary within the meaning of MCLA 15.361(d-vi). He also found the firing letter, which claimed the report to Plaintiff's own attorney was a HIPAA violation, was itself "direct evidence" of a violation of the WPA, and established causal connection to the firing. Thus, the case had to be submitted to the jury for resolution.




Third, the COA ruled that the "reasonable belief" requirement under the WPA was a subjective standard, much like the standard used for malice in slander and libel cases, and much like the "bad faith" requirement for governmental immunity established by our Michigan Supreme Court in *Odom v Wayne County*, 482 Mich 459 (2008), and *Ross v Rhodes Furniture, Inc.*, 146 F3d 1287, 77 FEP 388 (11th Cir. 1998). Thus, the jury had to decide whether or not Plaintiff had a "reasonable belief."

Continued on next page



G-8161 S. Saginaw Street, Grand Blanc, MI 48439
(810) 694-1211  www.JakewayInjuryLaw.com



-  Your Genesee County Personal Injury Referral Connection
-  Accepting Referrals in All Injury Matters
-  Millions Paid Out to Referring Attorneys

Auto-Negligence  Premises Liability  Medical Malpractice  General Negligence

Finally, the COA clarified that a “same activity” test should be applied to determine whether Plaintiff-Employee could have both a Public Policy claim and a WPA claim. In this case, the Court found that Plaintiff’s activity, which formed the basis of both claims, was actually the “same activity,” namely, Plaintiff’s reporting a suspected violation to her own attorney. Because the “same activity” was involved, Plaintiff could not assert a claim for Public Policy violation per *Kimmelman v Heather Down Mgt, Ltd.*, 278 Mich App 569 (2008). The broad application of this “same activity” test is similar to the “same transaction or occurrence” test used for determining amendments to pleadings, and the application of *res judicata* and collateral estoppel rules.

How does this decision change the landscape of Whistleblower protection and practice in Michigan? Many non-public employers hire outside attorneys to do investigations, then report to the employer, whereupon the employer uses the attorney’s investigative report as a basis to fire the employee. Often, the employee gives statements or makes reports to these attorney investigators. Now, the

employee’s reports or statements to the investigating attorneys will be considered “engaging in protected activity” protected by the WPA.

Moreover, non-public and/or private employers often have their own attorneys “just sit in,” or act as human resource functionaries, when an employee is questioned and gives statements or makes reports about what he considers to be a wrongdoing. From now on, this reporting to employer’s attorney will be considered “engaging in protected activity” and protected under the WPA.

Finally, if an employee tells the employer or the employer’s human resource manager, “I want to talk to the corporation’s attorneys to see what they think about this matter,” plaintiff should be given the “about to report” status which is considered engaging in protected activity, and protected under the WPA.

After *McNeal-Marks*, it is crystal clear that reports to an attorney, including reports to the private employer’s attorney or to plaintiff’s own attorney, constitute “engaging in protected activity” under the WPA.

What Ever Happened to . . . ? *Paul Janczewski*

By Roberta J.F.Wray

A fixture in the Genesee County legal community for many years has disappeared. Did you notice? From 1986 to 2008, he was a regular around the police department and the courthouse covering crime and courts for the *Flint Journal*. More recently, we used to see periodic feature articles in the *Legal News* written by him. You may not be able to pronounce his name, but you will recognize it: Paul Janczewski.

He wrote about lawyers and issues for the *Legal News*, so I went hunting for him to do turnabout. I found him in Indianapolis where he retired to be closer to his family. Here is his story.

Paul started with a small Ohio daily in 1981; he moved to the *Columbus Citizen Journal* and, when a joint operating agreement with the *Dispatch* expired, he moved on to the *Toledo Blade*. From there it was just 100 miles to the *Flint Journal* where he was able to fill a long-term yearning for connection with the world of law.

“Working as a news reporter wasn’t like going to work,” he said. “Every day was an adventure. I thought it was important to inform the public about what was going on in their lives.”



Paul Janczewski

For me, “The best thing about being a reporter was the variety, but my heart and soul was with cops and courts. It was exciting having my hand on the pulse of the community. It kept me jumping, but it never seemed like a chore.”

“I really appreciate the Genesee County Bar Association,” Paul said. “The leadership was always good, and the members were always helpful. (Now that I’m retired) I miss my discussions with Judges Yuille and Ransom, and others.”

In 2003, Paul took a shot at writing a “true crime” book. *Fatal Error* is a story about a pathological liar who convinced an ex-cop to kill an allegedly abusive husband. The story took place in Halifax, Nova Scotia. A film followed, but no more books.

Now he enjoys playing in a senior men’s baseball league, visiting with his new granddaughter and being nearer his son and three grandsons in Florida where he quipped, “I can lie in the sun and never have to shovel snow again.”

Common Law Marriage-Michigan Policy-and FMLA Rights and Claims

By Gregory M. Meihn



Gregory M. Meihn

In 2013, the U.S. Supreme Court, in *United States v Windsor*, 570 U.S. ____ (2013) Docket No. 12-307, struck down key parts of the Defense of Marriage Act (DOMA). In *Windsor*, Edith Windsor and Thea Spyer were married in 2007 in Toronto where same-sex marriages were legal. At the time of Spyer's death, the state of New York recognized the couple's marriage. However, the IRS denied *Windsor's* use of a spousal estate tax exception on the ground that, under the DOMA, the federal government did not recognize same-sex marriages for the purpose of federal benefits.

After oral arguments, the U.S. Supreme Court struck down part of the DOMA granting same sex marriage equal footing as it applies to federal benefits. On the heels of this decision, President Obama instructed the U.S. Department of Labor (DOL) to review all federal statutes to make sure that the *Windsor* decision would be implemented, allowing benefits to same sex marriages. The DOL, under this directive by President Obama, reviewed Family Medical Leave Act (FMLA) and found that the definition of "spouse" did not include same sex marriage unless the spouses resided in a state that recognized same sex marriages.

Consistent with the *Windsor* decision and the directive of President Obama, the DOL issued its Final Rule revising the definition of spouse under FMLA. The revised definition of "spouse" moved away from "state of residence rule" for the determination of eligibility to "place of celebration rule." In other words, if the "place of celebration" recognized same sex marriage and a couple was married there and then moved to a state that did not recognize same sex marriage, the couple would be entitled to FMLA benefits because their marriage was performed in a state that recognized same-sex marriage despite now living in a state that does not.

On the heels of the *Windsor* decision, the United States Supreme Court in *Obergefell v Hodges*, 576 U.S. ____ (2015) Docket No. 14-556, in a 5-4 decision, ruled that that the fundamental right to marry is guaranteed to same-sex couples

by both the Due Process Clause and the Equal Protection Clause of the Fourteenth Amendment, among other reasons. This decision removed all FMLA disputes regarding the "state of residence rule" and "place of celebration rule" as to same-sex marriages.

As an unintended consequence, the change of direction, from "state of residence rule" for the determination of eligibility to "place of celebration rule," requires employers to provide FMLA benefits to its employees and their common-law partners (same sex or otherwise) even if state law does not recognize common-law marriages as a matter of law and/or public policy. Because FMLA is a federal law, the public policy of states like Michigan that do not recognize common-law marriage no longer permits employers in those states to deny FMLA benefits to their common-law married employees. Of course there has to be a valid common-law marriage in a common-law state first.

In one recent Illinois case, the plaintiffs, who were common-law spouses in South Carolina, moved to Illinois which does not recognize common-law marriages. The employer denied their request for FMLA benefits because: a) Illinois does not recognize common-law marriages; and b) using the old definition of "spouse" "state of residence rule," the State of Illinois does not recognize common-law marriages. Under the new definition of "spouse," both reasons were wrong and gave rise to FMLA interference and retaliation claims. The case promptly settled after the suit was filed.

States recognizing common-law marriage are as follows:

- Alabama
- Colorado
- District of Columbia
- Georgia (if created before 1/1/97)

Continued on next page

Bar Beat Advertising Rates

Interior Position	1x	6x
Full page	\$425	\$395
1/2 page (Horizontal only)	\$240	\$220
1/3 page	\$195	\$165
1/4 page	\$165	\$135
Business Card	\$90	\$80

Premium Position	1x	6x
Back cover 4-color	\$395	\$365
Inside front cover 4-color	\$520	\$495
Inside back cover 4-color	\$520	\$495

Classified Advertising The flat rate is \$50 per insertion for a classified ad less than 100 words. If you elect to advertise in six issues you are entitled to a 20% discount.

Advertising Contact: Stacy Marciniak, (517) 346-6315, smarciniak@mail.michbar.org

Common Law Marriage ...

continued from page 9

- Idaho (if created before 1/1/96)
- Iowa
- Kansas
- Montana
- New Hampshire (for inheritance purposes only)
- Ohio (if created before 10/10/91)
- Oklahoma (possibly only if created before 11/1/98. Oklahoma's laws and court decisions may be in conflict about whether common law marriages formed in that state after 11/1/98 will be recognized.)
- Pennsylvania (if created before 1/1/05)
- Rhode Island
- South Carolina
- Texas

We are likely to see more and more cases involving employer denial of FMLA benefits to common-law marriage employees as a result of this change in the definition of spouse.



José Brown, Shelley Spivack, and Hon Geoffrey L. Neithercut about to embark on Day 5 of the annual Lansing to Mackinaw City (DALMAC) cycle tour.

State Bar Annual Meeting: (And Master Lawyers Section) September 21-23

By Richard "Dick" Ruhala

The Annual Meeting of the State Bar of Michigan was held Sept. 21-23, 2016 in Grand Rapids at the DeVos Convention Center. Of special note were the events scheduled for Friday morning, September 23rd.

The Master Lawyers Section elected its new Council members for the coming year (Sept. 2016-Sept. 2017). Richard "Dick" Ruhala from Flint passed the gavel to his successor, thus ending his one-year term as Chair of the Council. The Council meets monthly and plans the programs of the Master Lawyers Section. There are over 18,000 bar members in the section.

The Section hosted a special program for attending Bar Members. The speaker was Tom R. Pabst from Flint, who discussed the topic of "Forced Arbitration." Most disputes in commercial contracts in Michigan are resolved by means of arbitration rather than trials. Arbitrators and their rules will eventually replace trials and juries and their decisions will be final with no appeals.



Richard Ruhala

Following the Master Lawyers Section meeting, the 50th Year Honorees were recognized at a luncheon. The following Genesee County attorneys were honored for their 50-year membership: David D. Beaudry, Donald A. Kuebler, John J. Lawniczak, John D. Nickola and John N. Pavlis.

Also, it should be noted that Donald G. Rockwell, of Flint, has served as Vice-President of the State Bar Board of Commissioners during the past year. Don has been very active on the Board of Commissioners for many years, having worked his way up from Treasurer and Secretary. At the Inaugural Luncheon on Thursday, September 22, Donald Rockwell was installed as President-Elect. We are all very proud of Don and wish him the very best as he continues to perform a leadership role in our State Bar.

Senior Attorney Luncheon Meetings

By Richard "Dick" Ruhala, Coordinator

The Senior Attorney Luncheon Meetings have been part of the history of the Genesee County Bar Association for many years. Since the year 2002 this group has met monthly for lunch at 12:00 noon on the second Thursday of each month, except for the months of July and August (popular vacation time in Michigan). The luncheon meetings continue to be held at the Valley Family Restaurant located at the Miller Road/Linden Road intersection, across from the Genesee Valley Mall.

Although most lawyers attending are over age 65, the ages vary between ages 60 and 90. Some members are fully retired, but most are still active in the law profession or have reduced their work to part-time. It has been frequently said that "attorneys never retire, they just lose their appeal." Guests, family members and spouses are also welcome to attend.

The luncheons are informal with each attendee ordering what they choose from the menu and paying their own bills. The meetings are mainly social, with opportunities to share friendships and discuss unique experiences in the practice of law. Other topics include hints on good places to vacation or investments to make. It's a fun time with talk of politics and religion avoided. The luncheons are usually concluded by 1:30 pm.

These Senior Luncheons have been held over the past 14 years. An Executive Committee has been recently formed



Senior Attorney Luncheon - May 12, 2016, Valley Family Restaurant

Pictured: Standing - Judge Bob Ransom and Dick Ruhala
Seated - Sally Joseph, Judges Larry Stecco and Bruce Fox

Mike Kowalko, Bob Crites, John Mandelaris, Ron Douglas, and Tom Pabst

to help in the planning. Questions may be directed to the volunteer Coordinator, Dick Ruhala, aruhala@sbcglobal.net, (810) 733-5154.

October 13, 2016 (Program)

February 9, 2017

November 10, 2016

April 13, 2017 (Program)

December 8, 2016

May 11, 2017

January 12, 2017

June 8, 2017

Fish Stories



◀ The 20", 4.5 lb. Largemouth Bass I caught from Houghton Lake, MI, while on vacation with my family in July. As Capt. Quint from the movie JAWS said, "Taxidermy man gonna have a heart attack when he see what I brung 'im !!!!!"

~ Mike Kowalko

16 lb steelhead trout caught ▶ on a Spey rod. Sustut River British Columbia

~ Rob Bancroft



Genesee County Bar Association
315 East Court Street
Flint, Michigan 48502-1611

PRSR STD
U.S. Postage
PAID
Flint, MI
Permit No. 125

RETURN SERVICE REQUESTED



Welcome New Members

Attorney: Leo J. Foley Jr.

Employer: Carl Bekofske Chapter 13 Trustee
Undergrad School: Aquinas College
Law School: Thomas M. Cooley Law School

Attorney: Imtiaz Hasan

Employer: Hasan Law Offices
Undergrad School: University of Illinois
Law School: University of Illinois College of Law

Attorney: Rachel L. Hawrylo

Employer: Moran Law, PLLC
Undergrad School: Central Michigan University
Law School: Thomas Jefferson School of Law

Attorney: Jennifer Janetsky

Employer: Genesee County Prosecutor's Office
Undergrad School: University of Michigan
Law School: University of Michigan Law School

Attorney: Samantha J. Orvis

Employer: Garan Lucow Miller PC
Undergrad School: University of Michigan-Flint
Law School: Wayne State University Law School

Attorney: Omar Sawaf

Employer: The Sawaf Law Firm, PLLC
Undergrad School: Miami University
Law School: The George Washington University Law School

Attorney: Brandon K. Wagner

Employer: Cline, Cline & Griffin
Undergrad School: Michigan State University
Law School: Michigan State University College of Law

Affiliate: Yvonne Duncan

Employer: Legal Services of Eastern Michigan

Affiliate: Debra Thompson

Employer: Genesee County Prosecutors Office

Affiliate: Melissa Williams

Employer: Genesee County Prosecutors Office