

December 2022

BARBEAT

Genesee County Bar Association



Hon. Duncan Beagle

Ring in the New Year

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Videoconferencing Court Rules

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Ring in the New Year

By Nancy K. Chinonis, President

Happy Holidays! As we ring in the new year, and look back at the good, the bad, and the ugly of 2022, I am filled with hope for a successful 2023. While the first draft of this article addressed what I believe were the most significant events of 2022, I have decided it is better to not dwell in the past, but instead look toward the future. Despite everything that has occurred, our future is bright!

Each year, many of us prepare for the new year by declaring various resolutions for our personal lives. But what about New Year's resolutions for our professional practices? In order to keep our sanity, as attorneys, we must balance both personal and professional goals. As I enter my 16th year of professional practice, I have come to realize that this is much easier said than done. Setting realistic and achievable resolutions may help achieve these goals.

In no particular order, here are a few things I believe are worth considering:

Get Organized

When I started my practice, someone told me, "Organization is the key to success." I remember thinking to myself, how cliché but, it turns out they were right.

- Manage your time.
- Do you have matters that should be closed? If so, close them!
- Are your cases stalled? Address the issue(s)!
- Do you have outstanding balances? Collect payment!
- Do you have boxes of old files taking up valuable office space? Create a document retention policy and shred documents you no longer need. Keep an eye out in the Notes N' News for "Shred Day!"

- Become data driven. Define key metrics and track them!

Start Accepting Online Payments

In today's digital age, people use their cellphones, tablets, and laptops for everything, including paying bills. If you are still sending a paper invoice and waiting for the check in the mail, adding a digital payment platform will help both you and your client. Moreover, did you know that LawPay is recommended by the GCBA and offered as a membership benefit? Visit www.LawPay.com/gcba.

Networking

Networking is important for attorneys, regardless of years in practice. The GCBA provides many networking opportunities including monthly membership meetings, committee meetings, a golf outing, and many other events each year.

Moreover, multiple studies have found when looking for an attorney, an overwhelming majority of legal consumers seek positive referrals from friends, family, and colleagues. Thus, to connect with potential clients (and referral sources) in addition to participating in GCBA events, consider attending other community centered events and fundraisers.

Refresh or Build a Digital Presence

Do you have a webpage? When was the last time you updated your webpage? Is it mobile friendly? Today, your online reputation is important. Whether they admit it or not, many clients will look you up online before they meet with you or sign a legal services agreement.

Do you have a digital marketing plan? Did you know that the GCBA is in the middle of a marketing campaign to promote its members? Check out GeneseeLegal.com and consider participation in this great program!

Take Care of Yourself!

Last, but certainly not least, take care of yourself! The practice of law is inherently stressful. Working long hours often comes at the high cost of neglected self-care. Resolve to eat well, sleep and take care of yourself. The stresses of the practice of law are unavoidable, but we can all take steps to manage work-related stress more effectively.



Nancy K. Chinonis

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From The Editors

By Sean M. Siebigteroth and Shelley R. Spivack

We're writing this introductory squib long before its nominal December date. So we're wishing you a peaceful and restful holiday season even as some leaves remain on the trees and the precipitation yet falls in drops.

In the same way that it's difficult to think of the holidays from here in mid-fall, it's difficult to think of the Genesee County Circuit Court without Judge Duncan Beagle. Judge Beagle is completing his final term on the bench and we wish him well as he embarks on this new road in life.

Since you are thinking about the holidays, you might as well be thinking of the GCBA's Holiday Giving Project. GCBA holiday majordomo Brian Barkey describes how COVID transformed the GCBA's holiday philanthropy, and what's underway for this season.

In other features, Shelley Spivack profiles Katie Stanley, a recent recipient of the ABA's "On the Rise" award; Coryelle Christie summarizes new changes in the Michigan Court Rules regarding the use of videoconferencing in court proceedings; Jill Nylander tells readers about the activities and benefits of membership in our local Inns of Court chapter;



Sean M. Siebigteroth



Shelley R. Spivack

and Linda Pylypiw updates some of what she shared in her recent article on Ukraine.

Jerry Winegarden, Tim Knecht, and Hon. Jessica Hammon briefly discuss favored ways of giving back. Francine Cullari favors us with some legal curiosities. And, of course, President Nancy Chinonis leads with a column encouraging us to use the new year to resolve to better our professional lives.

And as you read these articles, think about seeing your own name in print. We are always looking for new authors and articles. Even if you are not a 'seasoned' writer, pick up the pen (or sit down at your keyboard) and try your hand at writing. It's easier than you may think!

Once again, best wishes for a safe and happy holiday season.

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GCBA/GCBF Holiday Giving Project

By Brian M. Barkey



Brian M. Barkey

Can you believe it? This is the 30th anniversary of the GCBA/GCBF Holiday Dinner! Who could have predicted in 1992 that this event would become a part of the hearts of our members and their families in the way that it has?

In the two years since COVID hit, all of us have experienced changes to our personal and professional lives in ways that may be permanent. Courts have changed, we have changed the way we perform our professions, and relationships have changed in the light of the epidemic. But one thing has not changed: this wonderful event has been fully funded and supported with volunteer efforts by not only our association members, but their families and friends as well as members of our community. I cannot tell you how many people who have worked on this project tell me that this is something they look forward to every year.

Some post-COVID changes will be long term if not permanent. The Masonic Temple has changed ownership and, for the most part, has remained closed. The wonderful Larry Batiste has closed the Temple Dining Room permanently. So, finding another venue to do our traditional Dinner when it is healthy to do so again will be difficult.

But, even thirty years later, the need has not changed. There are homeless, hungry, and poor families all over Flint. We have addressed this need with the Dinner since 1992 and for the last two years with the Holiday Giving Program.

Shelters all over Flint are full and their need for support increases during the holiday season. Two years ago, we learned that we could help them in their work with a Holiday Dinner served in their venues and Christmas presents delivered by the US Postal service to the children living there.

Last year we contacted area shelters and arranged for catered holiday dinners to be delivered to their venues. This was extremely well received. Children selected gifts from a gift list and we had them delivered to the shelters. The gifts were then distributed at their dinner events. The response was fantastic. The shelter directors wrote or called to describe the impact of this project on their residents and those they served. At one of them, a child pulled out a pencil and wrote out a thank you letter to the Association. Once she did this, other kids joined her. One child, who had received painting supplies as her gift, painted us a picture that states, "you made a child's life brighter." *Seriously, the shelter director gave these to me and I can show them to you!*

We are still working on getting another venue to serve a Holiday Dinner when the times allow us to resume them. But for this year, with your continued support, we will continue the Holiday Dinner Project. Six area shelters and hundreds of children thank you.



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Michigan Supreme Court Finalizes Videoconferencing Court Rules

By Coryelle Christie



Coryelle Christie

Since the COVID-19 pandemic began in spring 2020, the topic of whether and how to use videoconferencing in courtrooms has been a controversial topic among the Michigan Bar. In August 2022, the Michigan Supreme Court (MSC) released a final version of court rules governing videoconferencing. This article will summarize the history of these contested court rules, and the final decision that was released on August 10. Administrative Order re ADM File No. 2020-08 (August 10, 2022).¹

In March 2020, Governor Whitmer declared a state of emergency in Michigan due to the COVID-19 pandemic. The MSC issued an administrative order requiring judges to make a good faith effort to conduct remote proceedings through two-way interactive videoconferencing technology. Administrative Order No. 2020-6 (April 7, 2020).² On July 26, 2021, the MSC rescinded most administrative orders relating to the pandemic and issued interim court rules governing remote proceedings that were given immediate

effect. Administrative Order re ADM File No. 2020-08 (July 26, 2021).³ The MSC invited public comment regarding the interim court rules. The public hearing was held on March 16, 2022; 49 people spoke at the public hearing,⁴ and there were 42 submitted written comments.⁵

On August 10, 2022, the MSC issued Administrative Order re ADM File No. 2020-08, which detailed final court rules relating to video conferencing and went into effect September 9, 2022.

The new court rules provide that any litigant may request to appear in person for any proceeding. MCR 4.07(B) (4). The rules state that the use of videoconferencing shall be presumed for certain hearings in the circuit court, district court, and criminal court. MCR 2.408; MCR 6.006(B). Among hearings required to be held via videoconferencing are pretrials, motions, arraignments, and pleas. The court has discretion to require an in-person hearing, even if the hearing is presumed to be held via videoconferencing technology. MCR 2.407(B)(5). The court rules detail several factors that courts shall consider in determining whether a hearing should be held in person. MCR 2.407(B)(5)(a). These factors include the capabilities of the parties, whether any prejudice will result, the convenience for the parties, the court's ability to control the proceedings, and whether court decorum can be maintained, among others. MCR 2.407(C). The decision to require an in-person proceeding contrary to the presumption must be made in writing or on the record, which allows for an appeal. MCR 2.407(B)(5)(b).

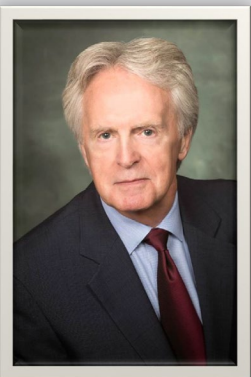
Justices McCormack, Clement, Cavanagh, and Welch ruled in favor of the court rules, stating that "[t]hese amendments reflect a balance between providing consistent practices throughout Michigan's judiciary and retaining judicial discretion to determine what is best for each case or proceeding." Justice McCormack authored a concurrence, and Justices Zahra, Viviano, and Bernstein dissented. In her concurrence, Justice McCormack wrote that videoconferencing has improved access to courts and access to justice and responded to concerns raised by the dissenting Justices.

Justice Zahra dissented, expressing concern that there is no longer an emergency necessitating use of videoconferencing technology. He stated that the majority "strip[ped] our trial courts of the discretion to decide when and how best to conduct remote proceedings." Justice Zahra concluded

Continued on next page

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stating that the trial courts should have the authority to implement videoconferencing.

Justice Viviano dissented, stating that the order was a “reckless and irresponsible decision to make remote court hearings the default in Michigan.” He expressed concern that pivotal proceedings, such as oral arguments on a summary disposition motion, are presumed to be remote. He disagreed that a trial court’s decision to hold an in-person proceeding should be subject to appeal, which he stated could increase additional litigation unrelated to the merits of a case. Justice Viviano further noted the importance of conducting business in the physical courthouse which is essential to the “decorum, gravity, and civility” of court proceedings, citing the inappropriate behavior that has been exhibited by litigants on Zoom.

Finally, Justice Bernstein issued a dissent expressing concern for those who lack access to videoconferencing technology and expressing concerns about security. Justice Bernstein acknowledged “that the amendments this court

has adopted allow for the possibility of in-person hearings, but the language of these amendments makes clear that a thumb has been put on the scale, and the default preference going forward is for videoconference hearings.”

In conclusion, the new court rules set a presumption that certain hearings be conducted remotely. However, the trial court may decide that a hearing should be held in person, but that decision is subject to appeal. This author recommends that readers review the full administrative order.

Endnotes

- 1 Available online at <https://bit.ly/3TpsaU7>.
- 2 Available online at <https://bit.ly/3EJHze3>.
- 3 Available online at <https://bit.ly/3yKA5DO>.
- 4 Transcript of Michigan Supreme Court Public Hearing, March 16, 2022, available online at <https://bit.ly/3yKKBea>.
- 5 See “Comments,” Available online at <https://bit.ly/3rYJOIZ>.

Centennial Inn of Court

By Jill L. Nylander, Centennial Inn of Court President

American Inns of Court were implemented under Chief Justice Warren Burger in the late 1970s. They were based upon the traditional English Inns of Court to promote the goals of legal excellence, civility, professionalism, and ethics on a national level. Our local chapter of the American Inns of Court, The Centennial Inn of Court, was established in June of 1997 and is one of 350 chapters nationally. Most Inns focus on issues involving civil and criminal litigation practice, and include attorneys from a number of specialty areas.

Centennial Inn members convene on the third Tuesday evening of the month from September through May. Most meetings have a legal education component, although the Fall Kickoff and December Holiday Meeting are simply social. The May Meeting is traditionally held in conjunction with the Genesee County Bar Association Annual Awards Dinner. Meetings are a great opportunity to network with colleagues over a meal. This year, meetings will be held at Da Edoardo

North in Grand Blanc. Activities begin at 5:30 pm with networking which is then followed by dinner and a presentation.

Membership is by application, and anyone interested in potential participation is welcome to attend a meeting as a guest. The Inn affords young lawyers and attorneys new to the area an excellent opportunity to learn from and connect with more established associates of the local Bench and Bar. Membership also includes national resources and opportunities. There is always a meaningful takeaway from Inn participation – legal updates, best practices, comradery, and the sense of belonging to a group with an extended history of commitment to professional excellence. Please consider joining! An application link follows.

<https://inns.innsforcourt.org/for-members/inns/the-centennial-chapter-american-inn-of-court/>



Jill L. Nylander



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Katie Stanley: ABA Award Recipient

By Shelley R. Spivack



Shelley R. Spivack

This past July, the Young Lawyers Division (YLD) of the ABA announced the recipients of its 'On The Rise' Awards. This program, which annually honors 40 young lawyers who are either 36 years of age or younger, or have been licensed for 10 years or less, "provides national recognition for ABA young lawyer members who exemplify a broad range of high achievement, innovation, vision, leadership, and legal and community service."

Amongst this year's group of distinguished young recipients was GCBA member Katie Stanley. A graduate of Lake Fenton High School, UM-Flint and Western Michigan Thomas M. Cooley Law School, Stanley has served as a staff attorney at Legal Services of Eastern Michigan (LSEM) since her graduation from law school.

A glance at Stanley's resume and achievements tells us that the ABA made a wise choice in honoring her for this award. At LSEM Stanley serves as Fair Housing Education and Community Engagement Manager in addition to managing LSEM's Technology and Innovation and the Flint Resiliency in Communities After Stress and Trauma (ReCAST) projects. One of Stanley's recent accomplishments was the creation of a Fair Housing testing, education and enforcement app that can be used nationwide. For Flint ReCAST, Stanley initiated a trauma informed training for members of the legal community. This training helped to raise



awareness of implicit bias in the legal system with a goal of creating a more inclusive and diverse justice system in our county.

As an undergraduate at UM-Flint, Stanley majored in Political Science and Ethical Philosophy with minors in Sociology and Religious Studies. Six months after receiving her J.D. degree from Cooley, Stanley completed her Masters Degree in Public Administration (MPA) from UM's Rackham Graduate School.

Not content with two post graduate degrees, Stanley is currently a doctoral student in the Public Policy and Administration program at Walden University.

Stanley's work has not been limited to Genesee County. She serves as a member of the Michigan Supreme Court Task Force for Well Being in the Law and regularly contributes articles to the State Bar Journal's "Practicing Wellness" column.

Outside of her legal activities, Stanley is well-known as an accomplished musician/singer/songwriter and recently completed her first album. She has served on the Board of Flint Local 432, a local performing arts venue, and is a committee member and instructor for 'Girls Rock Flint.'

CONGRATULATIONS KATIE!!! The GCBA is proud of your accomplishments as well as your dedication to our profession and to our community.

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Ukraine Update

By Linda L. Pylypiw

Several months ago, I shared my reflections on the war in the Ukraine with the readers of *Bar Beat*. In my article I mentioned that I had cousins there and that at the time they did not choose to leave. Several months ago, my cousin decided that it was time for her and her 11-year old daughter to come to the US until the situation in the Ukraine improved. My sister and I then began the



Linda L. Pylypiw

process of bringing them to Michigan.

Nadiia and Olha Sobolevska arrived in Flint late September. They are living with me and everyone is adjusting to the new circumstances. They are very grateful that they are no longer in a war zone but still fear for their family left behind.

Legal Tidbits

By Francine Cullari-Sanchez

East Meets West

In the 1990s, there was a clear indication in China that the country was westernizing and developing a middle class. Forget the economic statistics at the time. One only needed to visit China's most infamous 20th century landmark.

At Tiananmen Square, where the supreme communist leader is buried, a billboard the size of a school bus glorifies Mao Zedong. But since 1987, far at the other end of the square, a billboard touts the wares of Kentucky Fried Chicken, with Colonel Sanders larger than life at several stories tall and larger than Mao. The image is on the side of the largest KFC in China, where there are now over 8,500 outlets. "*Our Brands | Yum China Holdings, Inc.*" ir.yumchina.com. Sanders's image is a far more common sight in many Chinese cities than that of Mao. In comparison, Starbucks has about 5,500 locations and McDonald's near 2,500.

Outdated Punishment?

Prison, jail, fines, restitution, community service, diversion programs - all familiar dispositions in the Michigan criminal

justice system. Pillories no more, but the public "stocks" were employed in the colonies until 1839 for federal crimes.

Delaware continued the use until 1905. They were used to punish people for crimes such as swearing or drunkenness. Criminals would sit or stand at a wooden frame and the local people would throw rotten food or even stones at them. On the other side of the pond, however, where pillories were used as far back as 820 AD, at least one town in England, Thame in Oxfordshire, continues to legalize stocks. A local councilman is proposing that their use be resurrected, albeit not for punishment, but as a display for charities. He refers to one pillory punishment of tickling the miscreant's feet as punishment, perhaps inspired by the Muscular Dystrophy Association's or American Cancer Society's Lock Ups.

<https://www.britannica.com/topic/pillory-penology>;
<https://www.atlasobscura.com/articles/in-the-uk-its-still-legal-to-place-people-in-the-stocks>.



Francine Cullari-Sanchez

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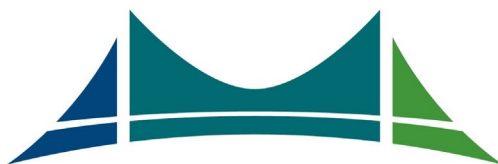


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Why We Serve

Edited by LindaLee Massoud

In this series of articles, Bar Beat is highlighting GCBA members who are quietly serving Flint and Genesee County through their service to charitable and community organizations.



LindaLee Massoud



Hon. Jessica Hammon

Judge Jessica Hammon

I have a long-standing commitment to **Youth Arts: Unlocked** (YAU), an organization that has provided arts and enrichment workshops to detained youth at the Genesee County Juvenile Justice Center (GCJJC) and to youth on probation since 2011. YAU currently offers

workshops in visual arts, dance, theatre, Spoken Word poetry and yoga.

My involvement began several years ago when I co-founded a trauma-informed yoga program at GCJJC. After being elected to the bench, I transitioned to membership on the board. Having worked as an attorney in the juvenile justice system as well as having taught at the GCJJC, I know the value of these programs. It is truly an honor to work with an organization that helps kids process their trauma through art and yoga.

Volunteering in our community not only helps others but also helps us be better and more understanding individuals. <https://www.youth-arts-unlocked.org/>



Timothy Knecht

Timothy Knecht
The Community Foundation of Greater Flint is part of my heart and soul. The mission of the Community Foundation is to lead by influencing and connecting generosity to Genesee County needs. "For Good, For Ever, For Everyone."

CFGF was established in 1988 through the merger of the Flint Public Trust, founded in 1950, and Flint Area Health Foundation, created in 1978. The vast majority of funds held by CFGF, initially \$10,000,000 and now \$260,000,000, are part of an endowment which provides a regular stream of income to many charitable organizations serving our community. Beneficiaries include all of the organizations in the Cultural Center, a large number of charitable organizations that help to provide food, shelter, clothing, and, perhaps most importantly, education to those in need in our community. In addition, CFGF holds funds for a variety of charitable purposes which have been set up by individuals to provide support for those organizations or purposes.

CFGF came to the national stage during the Flint water crisis and has disbursed millions of donated dollars to help alleviate the effects of the crisis.

Along with holding the community's endowment, CFGF has found a role as a convener and as a collaborator to bring various parts of our community together to foster the ideal of "For Good, For Ever, For Everyone."

I have been involved with CFGF since the beginning in a variety of roles. In 2002, I became a member of the board and served as president for several years. Being a part of the Community Foundation has and continues to be a great way to do my part to help our community always move forward. For more information visit: <http://cfgf.org>.



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Why We Serve

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Jerome Winegarden

Jerome Winegarden

I am the president of the **Flint Classroom Support Fund** and have been on the board for many years. Our goal is to enhance the education of the children in the Flint Community Schools. We give direct grants to the teachers for special projects, both classroom projects and special school projects. Over the years the Support fund has contributed over \$450,000 directly for these special educational projects!

Contributions are made to this 501(c)(3) organization by the public, corporations and teachers.

Enhancing children's education in the Flint inner-city schools gives me a great deal of satisfaction. Giving back to this community has been a family tradition since 1895. The duties and responsibilities of citizenship dictate community involvement for all citizens in our country.

For more information visit: <http://flintclassroomsupport-fund.org>



John S. Beagle Scholarship Awarded

The Genesee County Bar Foundation selected John Robinson as the recipient of the 2022 John S. Beagle Scholarship. CONGRATULATIONS JOHN!



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