

CBA  Cincinnati Bar
ASSOCIATION

Report

September/October 2020



RACIAL JUSTICE

What's Next

JUDICIAL POLL
2020
pg. 13

REGULATIONS ON
REOPENING
pg. 16

BAR EXAM
RESCHEDULED
pg. 18



OFFICEKEY

Providing the space, tools and services to establish Cincinnati offices since 1984

OfficeKey provides law firms with a flexible and efficient solution to their office needs.

SERVICE SUBSCRIPTION

PRESTIGIOUS BUSINESS ADDRESS
ACCESS TO FIVE CINCINNATI LOCATIONS

CONFERENCE ROOM USE
DAY OFFICE USE
COWORKING SPACE

LIVE CALLER ASSISTANCE
LOCAL BUSINESS NUMBER

STAFFED RECEPTION AREA
MAIL HANDLING

Offices and workstations can be added depending on your firm's needs.

For more information, contact
Justin Myers at 513.721.0990

OfficeKey.com | staff@officekey.com



BLUE ASH



HYDE PARK



DOWNTOWN CINCINNATI



WEST CHESTER



NORTHERN KY

The Cincinnati Bar Association, founded in 1872, is an Ohio not-for-profit corporation, the members of which are attorneys principally practicing in Hamilton County, Ohio. Its mission is to promote professional excellence, foster justice, serve its members and educate the public.

Cincinnati Bar Association 2020-2021 Board of Trustees

President
Christopher A. Wagner

President Elect
Sara M. Cooperrider

Vice President
Stephen L. Richey

Secretary
Hon. Janaya Trotter Bratton

Treasurer
Patrick D. Hayes

Immediate Past President
Joseph D. Heyd

Alan H. Abes
Michael S. Bailes
Hon. Pierre H. Bergeron
David S. Blessing

Kristin Booth
David R. Boyles
Terence R. Coates

Eric C. Cook
Kellie Ann Kulka
Lindsay A. Lawrence
Shannon D. Lawson

Jacob D. Mahle
Bridget Gannon McGraw
Pavan Vijay Parikh

J. Phenise Poole
Wednesday G. Shipp
Faith C. Whittaker
John J. Williams

Correspondence regarding this publication should be sent to:
Leyla Shokoohi, Editor, CBA Report
225 East Sixth Street, 2nd Floor
Cincinnati, OH 45202-3209
(513) 381-8213 • FAX (513) 381-0528
email: communications@cincybar.org

Requests for advertising information should be sent to:
Jamie Shiverdecker at jshiverdecker@cincybar.org

The CBA Report (USPS Permit No. 5415) is published bimonthly by the Cincinnati Bar Association, 225 East Sixth Street, 2nd Floor, Cincinnati, Ohio 45202-3209, (513) 381-8213. CBA membership includes a subscription. Non-member subscriptions are \$30 per year. Third-class postage paid at Cincinnati, Ohio. **POSTMASTER:** Send address changes to CBA Report, c/o The Cincinnati Bar Association, 225 East Sixth Street, 2nd Floor, Cincinnati, Ohio 45202-3209.

©Copyright 2020 by The Cincinnati Bar Association. All rights reserved. Reproduction in whole or in part without permission is prohibited.

The CBA Report is published as part of the CBA's commitment to provide membership with information relating to issues and concerns of the local legal community.

Opinions and positions expressed in the signed material are those of the author and may not necessarily reflect those of the CBA.

CBAA Cincinnati Bar Association Report

What's inside...

- 4 President's Brief
Leading as Lawyers: Helping Our Community Do Their Civic Duty
By Christopher A. Wagner
- 5 **Racial Justice: What Can We Do?**
By Ambur C. Smith and David A. Singleton;
and five Cincinnatians offer perspective for legal community
- 13 **Judicial Poll 2020**
By CBA Staff
- 14 **Ohio's Non-Economic Damages Cap: A Closer Look at the Permanent and Substantial Physical Deformity Exception**
By Brian Pokrywka
- 16 **Regulations on Reopening: Avoiding Government Scrutiny and Mitigating Potential Prosecution Risk**
By Ben Sandlin and John Mitchell
- 18 **You May Now — Finally — Take the Exam**
By Leyla Shokoohi

Also inside

- 26 Cincinnati Bar Foundation
- 24 Member Services
- 31 Classified Ads
- 29 Member/Community News
- 20 Continuing Legal Education
- 30 Memorials
- 11 Ethics Hotline

Leading as Lawyers: Helping Our Community Do Their Civic Duty



By Christopher A. Wagner

Colleagues. Our nation is fighting a global pandemic, an economic crisis, and a renewed call for social justice centuries in the making. We have adapted, we have sacrificed, and we have worried about the future.

Add another worry — there are federal and local elections on November 3. At this time, in person voting is still scheduled for that date but election officials across our state know that there are not enough volunteers to work the polls. With this in mind, Ohio Secretary of Ohio Frank LaRose asked the Ohio Supreme Court for assistance. On July 22, the Ohio Supreme Court approved up to four hours of CLE credit for the training that poll workers receive, so long as the attorney serves all day as a poll worker on November 3.¹

This call to arms for the attorneys of our state came about because the Ohio Supreme Court recognized that these perilous times requires such an unusual move. States that conducted in-person voting for their primary elections suffered long lines as the lack of poll workers caused many polling locations to be shuttered. This past April in Wisconsin, there were so few poll workers that the governor called in the National Guard to help staff the few remaining polling locations. In Milwaukee, the normal 180 polling locations were reduced to 5. In the Atlanta metro area more than 80 polling places were closed and consolidated due to Covid-19, resulting in long lines.

There are less than two months until the election. Please consider volunteering and working a poll on Election Day. Both political parties (who are jointly responsible for the local boards of elections) recognize the importance of quality poll workers.

Alex Triantafilou, Hamilton County Republican Party Chair and member of the Hamilton County Board of Elections remarked: "Being a poll worker is the single best way to serve our election process. By ensuring the integrity of an election and studiously following the law on a bipartisan basis, our fine profession can set an example for the community and demonstrate our commitment to justice."

Gwen McFarland, Hamilton County Democratic Party Chair and chair of the Hamilton County Board of Elections implored: "This is great opportunity for our lawyers to give back to the community and continue their commitment to the Ohio Constitution. Lawyers, with their training and experience, can play a key role in protecting what John Lewis taught us in his last statement: that the vote is the most powerful non-violent change agent we have in a democratic society."

Not everyone will feel comfortable volunteering as an Election Day poll worker. Other options exist for helping inform and educate members of the voting public about the importance of participating in their civic duty. Applications to receive an absentee ballot can be requested from the Ohio Secretary of State website at ohiosos.gov. We can all help our local boards of elections by submitting applications early so staff can better process the anticipated influx of requests. Additionally, the sooner the ballots are in, the easier Election Day becomes for staff and volunteers. (Also, all the campaigns stop calling you if they know your ballot has been received by the board of election!)

If you're interested in volunteering in Election Day efforts, there are several local organizations committed to facilitating varied opportunities for involvement:

- **League of Women Voters:** <http://www.lwvcincinnati.org/>
- **Ohio Voter Rights Coalition:** <https://ohiovoterrights.org/>
- **NAACP:** Contact Jesse Jenkins, Political Action Chair at info@cincinnati-naacp.com
- **ACLU of Ohio:** <https://www.acluohio.org/action>

My law school dean, Joseph Tomain of the University of Cincinnati College of Law, always said that lawyers are leaders. In this time of pandemic, strife, and worry, we need to step up united as a profession to do our part to ensure a fair and safe election.

Wagner is the chief of compliance with the Hamilton County Clerk of Courts and the 2020-2021 CBA president.

¹ See whole order at 07/22/2020 Administrative Actions, 2020-Ohio-3799.

RACIAL JUSTICE: WHAT CAN WE DO?

A closer look at racial disparity and action items for the legal community

More than 100 attorneys and members of the community tuned into the BLAC-CBA Round Table's *Racial Justice: What Can I Do?* CLE, held virtually on July 16, 2020. Speakers included the Honorable Timothy Black and Honorable Jeffery Hopkins, and presentations by Ambur C. Smith of the Ohio Democratic Party and David A. Singleton of the Ohio Justice & Policy Center.

This opportunity for the legal community to learn about and discuss ways to combat racism and social injustice as individuals and attorneys is the first of several to be held in the coming months. Be on the lookout for upcoming webinars focused on Racial Justice. **In September, the BLAC-CBA Round Table will host a webinar on Anti-Racism and Addressing Systemic Racism in the Legal Profession.** For the information referenced in this article, please visit cincybar.org/racial-justice.

Presented here are condensed versions of Smith and Singleton's presentations. >>



7 WAYS TO FIGHT FOR RACIAL JUSTICE - AS INDIVIDUALS



By Ambur C. Smith

Today's Black Lives Matter and anti-discrimination movement is defined by multiculturalism and elevated by technology. Amidst a global pandemic, activists have leveraged social media to spread awareness and own their narrative, organizing and inspiring protests across the world. In an election year, politicians are challenged to meet constituent demands or relinquish their power to those who will. As such, 2020 is slated to be the most transformative year in modern America, and ultimately world history. However, the extent and nature of this transformation is up to us.

The following are seven ways we, as individuals who happen to be attorneys, can fight for racial justice, and seize the unique opportunity this moment in our

local and national history presents. By doing so, we will ensure the movement for Black lives and racial justice continues long into the future.

I. Educate Yourself

Many conversations about anti-racism begin with the need for advocates to understand the many ways that race defines the lived experiences of all people, but particularly people of color (POC); ensuring that those who seek to champion this pervasive issue are well equipped to do so. It is especially incumbent upon non-Black or POC advocates to take full responsibility for educating themselves.

The list of resources provided in the CBA's *Racial Justice: What Can I Do?* webinar is a great place to start when seeking this essential knowledge. Once this initiative has been taken, it is then your responsibility to share what we have learned with others.

To ensure you are not overwhelmed with this responsibility, focus on educating yourself about two things: 1) where we are as a local community and nation, and 2) how we arrived at this historical moment.

Where Are We?

Racial disparity permeates every aspect of American society. African Americans are more likely to experience negative outcomes in America's health, education, criminal legal, child welfare and financial systems than their white counterparts. Such disparity also infects the legal profession. While Black Americans make up 12.5% of the total U.S. labor force, they are just 5% of licensed attorneys and 10.6% of the entire legal profession, including non-attorney personnel.

Horrific videotaped instances of police and civilian violence have further exposed society's lack of compassion and contempt toward Black and brown communities. The recent killings of Ahmaud Arbery, Breonna Taylor and George Floyd in the midst of a global health crisis have prompted members of a diverse, global community to demand immediate reform. Yet all of this begs the question, how did we get here?

How Did We Get Here?

The socioeconomic conditions that define the state of race relations in 2020 America can be attributed to several factors. European expansion, particularly

in America, depended upon the kidnapping and enslavement of Africans and the genocide of Native Americans. To justify their crimes against humanity, European settlers promoted negative stereotypes depicting slaves and indigenous people as inherently criminal and inferior. Such propaganda has stigmatized and criminalized Blackness and other communities of color for generations, justifying violent resistance to their progress, long after the abolition of slavery.

Today's Black Lives Matter Movement has been met with calls for law and order and the desire to make America great "again", as if to ignore the many ways the mistakes of the past are repeated by those in positions of power and continue to haunt the most vulnerable and marginalized members of our nation. Those of us fighting for racial justice must use the channels provided by media and technology today to our advantage, especially while Americans are heavily reliant upon the 24/7 news cycle and social media to feel connected to the world around them.

2. Listen

As attorneys, we are naturally critical thinkers and argumentative. However, in the fight for racial justice, particularly for non-Black or POC champions, it is essential to find ways to amplify the voices and perspectives of the victims and survivors of discrimination and resist the urge to compare, rebut or debate their claims. Moreover, when opportunities to step aside and share your platform with those silenced on account of their identity present themselves, seize them. The viral #ShareTheMicNow campaign illustrated how white women allies could actively listen to black women in their industries.

3. Engage

Once you have taken the initiative to educate yourself and listen, you will be better prepared to engage with your extended networks in thoughtful and meaningful ways. As we continue to navigate pandemic related restrictions, virtual platforms and social media are critical tools at our disposal. For a perfect example of leveraging such resources for good, look no further than the website and social media accounts of Ben and Jerry's ice cream.

4. Align with Existing Organizations

While engaging in your individual capacity is essential, it is also important that we maximize our potential by aligning with existing organizations whose mission is to achieve racial justice. Collaborate to amplify your message and demonstrate the coalition building essential to achieving justice for all. During an election year, civic engagement is at an all-time high; find ways to channel this political energy beyond the November election.

5. Leverage Your Power

As attorneys, we are often granted access to information, people, places, and opportunities that the public is not. We must capitalize on this relative privilege, challenging those within our firms and civic organizations to champion individuals who identify with historically underrepresented groups and the causes and programming they support.

6. Celebrate Black People, Communities and Culture

When fighting for racial justice, it is easy to lose sight of exactly what is at stake if our efforts are unsuccessful. Beyond the hashtags and slogans are Black and brown men, women, and children whose lives matter, not only because they are endangered, but because of their immense individual and collective contributions to society. Celebrating Black people, communities and culture through holidays and accolades serves as a necessary reminder and ensures those who continue to promote limiting stereotypes about Black people and communities are discredited once and for all.

7. Be Bold

Lastly, I would be remiss not to acknowledge the sacrifice and risk associated with fighting for racial justice. While anti-racism has seemingly become a trend in recent months, it is still and will continue to be largely unpopular and at times dangerous. Nevertheless, I challenge us all to be bold in this moment; to not only pen open letters but allocate time and resources toward eradicating racism

within and beyond our respective organizations. After all, there will come a time when we must account for our actions in this moment, not just as attorneys, but as individuals. By embracing these strategies, I am confident we will be proud of our response.

Ambur Smith was born and raised in Milwaukee, WI and is a graduate of Hampton University and Georgetown Law. She began her legal career as an Associate in the Cincinnati office of Dinsmore & Shohl LLP before transitioning into her current role as Deputy Director of Voter Protection for the Ohio Democratic Party. She is a proud member of the CBA, BLAC and a trustee of the Cincinnati Bar Foundation.

ACHIEVING RACIAL JUSTICE IN THE CRIMINAL LEGAL SYSTEM IS ABOUT MORE THAN POLICE REFORM



By David A. Singleton

The May 25th killing of George Floyd by four Minneapolis police officers, one of whom knelt on his neck

for 8 minutes and 46 seconds, has sparked a national movement to eliminate racism in our criminal legal system. Many people in our local community, including attorneys, have asked how they can help. Before offering specific suggestions, it is important to understand that racism in the criminal legal system existed long before George Floyd's death and involves much more than police misconduct.

We live in an era of mass incarceration, a problem that disproportionately impacts Black people. Currently, there are 2.3 million people incarcerated in the U.S., a 500% increase over the past 40 years. Although the U.S. has 5% of the world's population, it has 25% of the world's incarcerated population. Black people disproportionately experience incarceration in relation to their percentage of the total population: they comprise one-third of the incarcerated population nationwide.

The overrepresentation of Black people in Ohio's prison system is even starker:

We ran out of red tape in 1982.

IT TURNS OUT WE DIDN'T NEED IT ANYWAY.



Why are so many banks dedicated to running you through red tape? Making you jump through hoops. Not us. We hate red tape. That's why we work to deliver simple, sophisticated solutions. We remove complications, so you can live with no boundaries.

Break free from red tape. Let us go to work for you.

[LCNB.COM/WEALTH](https://www.lcnb.com/wealth)

LCNB | Wealth

while Black people represent 43% of the state's prison population, they make up only 12% of Ohio's total population. Perhaps most jarring is the reality that 1 in 3 Black men will spend time in prison at some point in their lives, compared to 1 in 17 white men. Although Black and white people use drugs at roughly the same rates, Black people are 2.5 times as likely as their white counterparts to be arrested for drug possession.

Racial disparities do not end with conviction and sentence. People convicted of crimes may face a lifetime of barriers obtaining employment, housing, and other benefits because of their criminal histories. In Ohio, there are nearly 1,000 state laws that restrict the opportunity of people with criminal records to acquire employment, professional licenses, and government contracts. And because Black people are disproportionately hauled into the criminal legal system, the burden of these so-called "collateral consequences" disproportionately impacts them as well.

So, knowing all of this, what can you do to make a meaningful differencing combating racism in our criminal legal system? Here are some ways to help:

Reduce mass incarceration:

- Volunteer with OJPC on a Beyond Guilt case by contacting Mark Vander Laan at mvanderlaan@ohiojpc.org.
 - Join the National Lawyers Guild mass defense team by contacting Jacqueline Greene at jgreen@f-glaw.com.
 - Work on policy reform, like decarceration and bail reform, by contacting David Singleton at dsingleton@ohiojpc.org.
- Donate to the Cincinnati Bail Fund:

Affect the impact of collateral consequences:

- Volunteer at one of OJPC's Second Chance Clinics by contacting Alicia Miller at amiller@ohiojpc.org.

- Help people seal their criminal records.
- Assist people in applying for Certificate of Qualification for Employment (CQE) — you don't have to be a litigator to help with CQEs.
- Encourage private employers to hire people with criminal records.

Achieve police accountability:

- Work with OJPC and community stakeholders on policy change by contacting Sasha Naiman at snaiman@ohiojpc.org.
- Litigate a police brutality case.
- Hold police wrongdoers accountable if you are a prosecutor or a judge.

David A. Singleton is the Executive Director of the Ohio Justice and Policy Center, and is also a Professor of Law at NKU Chase College of Law. He earned his law degree cum laude from Harvard Law School.

Racial Justice: What Can We Do?

Local community members respond to legal community



Raymond Faller



Aaron Tillman



Heather Willins



Ericka King-Betts



Richard Wallace

The *Racial Justice: What Can I Do?* CLE, presented by the BLAC-CBA Round Table on July 16, was an earnest step for the legal community in the direction of fostering equity, justice and potential reform within our industry. To that end, CBA president Chris Wagner reached out to members of the Greater Cincinnati community, both legal and non, to get their perspective on the issues facing the field. The same questions were posed to everyone, and responses have been edited and condensed for clarity and length.

What should the legal community do better?

Raymond T. Faller, Hamilton County Public Defender:

In our criminal courts, bail reform jumps to the front of the line. Money talks. People accused of crime often stay confined pre-trial because they do not have the funds to secure their release. Being poor does not make a person a flight risk. We pride ourselves on a system in which people are "presumed" innocent of charges until proven guilty beyond a reasonable doubt. Yet, if a person is locked up prior to trial, unable to post bond, the loss that person sustains is, in many ways, immeasurable.

I'd ask our readers to think what they might lose if confined in jail for 30 days, 60 days, 120 days or longer, unable to secure their release, while "presumed" innocent. They might lose a job, a car, an apartment, a home, their children, their spouse or significant other, their clothes, their possessions. They might lose everything. Reality is that poor people deal with these issues daily and this reality hits hardest on poor people of color. Our bail system must be reformed.

Chief Aaron Tillman III, CLEE, Woodlawn:

[The] justice system must be applied proportionately equally in cases where African Americans and Latino Americans may not have the resources to defend themselves. Cultural awareness training on implicit biases for members of the judicial system with oversight for accountability. Once the legal community

has demonstrated this to the community, the legal community will regain the desired credibility of the people who serve them. Simply put, show the community that everyone will be treated with dignity and respect regardless of race.

Heather Willins, CPS teacher and racial justice activist:

To create financial equitability inside of our legal system, we should be eliminating cash bail. ...[R]ich people who can afford bail get out, get to go home be with their families and wait. And that is not fair. We want racial justice inside of our legal system. The legal community could be fighting those battles with us and realize that while it is very important to have lawyers in our society and that we're not trying to get rid of them, we just want their jobs to be easier by making our society better.

We don't need to send everybody to jail, to a labor camp, essentially. There are more rehabilitation and restorative justice practices that are available to be used as examples in other countries.

Dr. Ericka King-Betts, President of the MLK Coalition of Cincinnati:

The legal community must: seek a deeper understanding of racial justice, equity and what it means to be inclusive, engage marginalized groups and those often without a voice or "seat at the table" but overrepresented in our jails and prisons on how to bring about substantive and long-term change, collect, analyze disaggregated data, and make informed decisions to bring about change, and collaborate with traditional and nontraditional partners to analyze root causes of inequity, identify resources, formalize a plan to address the inequities, act and then review whether a positive impact was made.

Chief Richard Wallace, CLEE, Amberley Village:

Legal maneuvering by defense attorneys to have cases dropped because of a minor flaw is disingenuous to the victim and only increases the risk of putting a dangerous criminal back on the streets. The way the system currently works makes it very difficult to get witnesses and victims to testify.

NOW FLYING!
DIRECT FLIGHTS FROM LUNKEN TO NASHVILLE (BNA)
 Booking now at ultimateairshuttle.com
ULTIMATE AIR SHUTTLE™

Ultimate Air Shuttle Flights are public charters sold and operated by Ultimate JetCharters, LLC as direct air carrier.

How can our legal system be improved?

Faller: We, as attorneys, need to look at clients as individuals who are in crisis. We need to remember that we've been privileged to obtain an education which includes a professional degree and also a license to practice law. While we certainly worked hard to get there, we were fortunate to have had many opportunities that others did not have. We have to treat our clients the way we would want to be treated if roles were reversed.

Tillman: Where warranted, educational programs over incarceration. We should be reaching our at-risk kids at first signs of behavior that leads them to the legal system. There needs to be a study conducted [about] why crimes are being committed in our communities is it the lack of opportunities or education we need to ask ourselves what is the root cause for the choice to choose unproductive behavior over productive behavior. I believe that it is already known to us; however, we have not done enough to resolve this crisis.

The leaders in Hamilton County have declared racism a public health crisis, and it shows that someone is listening to the people. Until racism is acknowledged and fully understood in the law enforcement community and the legal system, African Americans and Latino Americans will further their mistrust for the legal system and the law enforcement community.

Justice reform is not a dirty word. We must be open and listen to those individuals who may have been victimized by society and the justice system by failing to have accountability when the community needs it. The reform has already started for the law enforcement community. We are going to adapt to the call for change, and we cannot continue to operate in a manner that causes further mistrust in the law enforcement community. Society is outraged at the injustice demonstrated in the law enforcement community and the legal system; therefore, we must evaluate how we can do better and do it.

Willins: I think if we start to consider the human condition more often when we are approaching criminal activity, we are more likely to see that acts of violence

are symptoms of a larger problem. If we start there and really do consider more sociological, anthropological, psychological theory behind criminal activity, I think we will see a very big improvement in how we perceive criminal activity.

Betts: For the legal system to be improved, leadership must create a roadmap for change. By seeking qualitative and quantitative data and then identifying goals and action items, this process could bring about incremental change and success can be achieved and monitored.

Speaking out against injustice. Racial justice and equity can be achieved when people speak with a unified voice and call for it. A person's skin color or socioeconomic status should not be a determinant in the severity of their sentence or a reason they are engaged with the legal system. Supporting groups that are actively working to exonerate individuals who may have been wrongly convicted. Holding its members accountable for misconduct. Working with the legislative branch to overturn laws or reduce overly harsh sentences that are having a

disproportionate impact on individuals based on their race, socioeconomic status or other demographic factors that are not relevant to the case. Providing additional financial support to Public Defenders Offices. Financially supporting Diversion Programs to end the vicious cycle of incarceration that often time disproportionately impacts marginalized groups. Continuing to advocate for and support community-oriented policing.

Wallace: Funding needs to be approved to enhance drug rehabilitation in lieu of jail time. Along with this, funding needs to be approved to identify and treat mental illness including reopening institutions formerly closed by the state that treated the mentally ill. People who commit crimes are either bad or sick. The bad criminals should go to jail and the sick should go for treatment. There have been improvements with the use of drug court, but I believe we can do better as a whole.

What change would you like to see in the Cincinnati legal community in the next year?

Faller: Education is the key to escaping poverty. I'd like to see the Cincinnati legal community take a stand to help ensure that elementary and high school students stay in school and receive a quality education. They shouldn't just be pushed along. That education should lead to a decent job or a college education and a real chance to avoid a life in and out of jail, stigmatized with a criminal record.

Tillman: As law enforcement, we are a branch of the legal community. Their needs to be open communication to have a better awareness of the mistrust that African Americans and Latino Americans have for authority. Having a better understanding of how we got here will help us in the law enforcement community and the legal system to work together with the community.

Willins: What specifically I think lawyers can do and the legal community in Cincinnati could do is more community outreach to schools, specifically. What I think needs to be done is more positive intervention prior to people getting involved in the legal system. That meaning like, why don't we have lawyers reach out to schools? Do more one-on-one in the classroom work with kids, teaching them about the law, teaching them about their rights.

Betts: In these difficult and painful times, we ALL must continue to fight in solidarity against the systemic and inter-related triple evils of poverty, racism, and militarism. We can work against these evils by gathering information, educating one another, and having a personal commitment to justice. Through non-violent direct action, we can bring about change by demanding accountability from our institutions and governments. One way to do this is by supporting continued efforts to improve community-police relations and demanding an end to police brutality. Another is by calling for an end to a militarized police force.

Wallace: Stop treating everyone charged with a crime the same. Our community witnessed a huge increase in crimes ranging from drug usage to petty thefts to murder shortly after the state of Ohio closed down most of the institutions who treated and housed the mentally ill at all levels. There is still a need for state funding regarding mental health. As a community, we need to push for increased funding in this area for the court system to have additional avenues for treatment and supervision.

Raymond T. Faller is the head of the Hamilton County Public Defender's Office, a position he has held since 2012. A 1976 graduate of the University of Cincinnati College of Law, Faller is a former prosecutor and defense attorney, and has tried more than 250 criminal jury trials in Ohio.

Dr. Ericka King-Betts is the President of the MLK Coalition of Cincinnati. A Cincinnati native, Ericka is the wife of Darrell Betts Jr. and proud mother of two boys. She genuinely believes in giving back to a community which has given her so much.

Chief Aaron Tillman III, CLEE, joined the Woodlawn Police Division in 1995, was named acting chief of police in 2013 and appointed chief in 2016. He serves on multiple boards, including the Hamilton County Association of Chiefs of Police, where he has served as secretary, treasurer, vice-president and president.

Chief Richard Wallace, CLEE, joined the Amberley Village Police and Fire Department in 1996, and was named chief in 2011. Wallace serves on several boards, is the current first vice-president of the Hamilton County Police Association and past president of the Hamilton County Association of Chiefs of Police, and cares deeply about the communities he serves.

Heather Willins is a high school educator within Cincinnati Public Schools teaching government, and recently piloted a course on human rights and social justice. She is active in multiple political movements, and committed to racial justice activism.

Ethical Quandary?

The CBA is proud to offer ethical guidance to Greater Cincinnati attorneys through our Ethics Committee's hotline.



September

George D. Jonson 768-5220
Lynne Longtin 381-5050

October

William B. Strubbe 621-4775
George J. Zamary 448-4150

The members of the CBA Ethics & Professional Responsibility Committee listed above are available to help you interpret your obligations under the Ohio Rules of Professional Conduct. Questions posed should be framed hypothetically and should relate to your own prospective conduct. The committee also accepts requests for written opinions.

CINCINNATI'S CREDIT CARD PROCESSING PROVIDER

Supporting The Cincinnati Legal Community



SECURE ONLINE
PAYMENT
PROCESSING



LOWERED FEES
FOR
CBA MEMBERS



NEXT DAY FUNDING
ON ALL
TRANSACTIONS

MIDWEST
PAYMENT PROCESSING

MIDWESTPAY.COM 513.274.2600

SEND A MONTHLY PROCESSING STATEMENT TO SALES@MIDWESTPAY.COM FOR AN ANALYSIS

JUDICIAL POLL 2020

By CBA Staff

Election Day 2020 in Cincinnati features several judicial races: in Hamilton County alone, 13 seats are up for election. Before anyone fills out their ballot, though, Cincinnati's attorneys, as representatives of the legal community, have a responsibility to the broader community to take the CBA judicial poll.

Intended as a public service, the judicial poll acts as a utility by which members of the voting public can become more thoroughly informed about prospective candidates for these powerful positions in local government.

"It is important for lawyers to weigh in on these candidates to help the public understand who they're voting for."

"This upcoming race has a decent number of diverse candidates, whether it be race, gender, party," said John J. Williams, chair of the CBA Committee on the Judiciary and past president of

the CBA. "It is important for lawyers to weigh in on these candidates to help the public understand who they're voting for."

The Judicial Poll will be sent as a digital survey in September to all CBA members. Members who have had experience with the candidates will be able to evaluate them in six different categories.

"Categories are designed to give the voting public a broad perspective of the candidates which is important because judges need to be well rounded," said Williams.

These categories include administrative diligence, communication skills, community engagement, integrity/impartiality/objectivity, legal experience and professionalism/temperament.

"The survey is very objective," said Williams. "It does not attempt to qualify or disqualify any candidate. It only attempts to have lawyers who are familiar with the candidate to weigh in on the candidate, to assess the candidate."

The Committee on the Judiciary was formed during Williams' tenure as president.

"Part of being a lawyer, you're a steward of the system," he said. "I think good stewardship demands that we help the public understand who the candidates are."

The difference
between
covering a claim
and caring for you.

Who are you to judge?

JUDICIAL FORUM

Hosted by the Cincinnati Bar Association

Sept. 29, 6 p.m.
Common Pleas

Oct. 1, 6 p.m.
Appeals and Specialty Courts

The purpose of the forum is to provide voters with an overview of the Hamilton County Court system, and to give voters an opportunity to get to know judicial candidates. This nonpartisan event is not intended to be a debate, but rather a forum for candidates to share their experience and thoughts with the community.

**MARK
YOUR
CALENDARS!**



When it's your responsibility to protect the interests of others, your own interests can quickly get left behind. We're here to ensure they don't – we focus on you, so you can stay focused on your clients. We're OBLIC – the only professional liability insurance provider exclusively devoted to leading the effort of protecting Ohio's lawyers and law firms.



For more information, contact Fifth Third Insurance at 513.534.2865 to get the benefits of OBLIC insurance protection – widely preferred by Ohio attorneys. [Learn more: www.oblic.com](http://www.oblic.com) | www.53.com/insurance

530 Walnut St., 5th Floor | Cincinnati, OH 45202



Sponsored by:





Ohio's Non-Economic Damages Cap: A Closer Look at the Permanent and Substantial Physical Deformity Exception



By Brian Pokrywka

Ohio tort reform capped non-economic damages at the greater of \$250,000, or three times economic loss (maximum of \$350,000 per plaintiff).¹ Unlike quantifiable economic damages such as medical bills or lost wages, non-economic damages include nebulous categories: pain and suffering, mental anguish, and emotional distress.²

Non-economic damages are “inherently subjective and susceptible to improper inflation,” which potentially create an “improper resolution of civil justice claims,” according to the Legislature, who advised Courts to “rigorously review pain and suffering awards to ensure that they properly serve compensatory purposes and are not excessive.”³

Certain serious catastrophic injuries were excluded from tort reform caps such as loss of a limb, bodily organ system, or not being able to perform life sustaining functions.⁴ The final and most litigated exception is a “permanent and substantial physical deformity,” which is undefined with varied interpretations depending on the facts, which will be the focus of this article.

Future anticipated surgery, advanced degeneration, and limitations with household chores are unlikely to trigger the exception.

A future neck surgery that would cause a permanent scar and accelerated spinal degeneration failed to meet the deformity exception in *Weldon v. Presley*, No. 1:10 CV 1077, 2011 U.S. Dist. LEXIS 95248 (N.D. Ohio 2011). Plaintiff alleged she was unable to run a vacuum, re-arrange furniture, or perform yardwork. The court explained that a physical deformity “must be severe and objective” and a surgical scar is an “incidental scar” similar to scars that many people have “from childhood roughhousing or surgery” and that a small scar was not severe disfigurement. See also *Sheffer v. Novartis Pharmaceuticals Corp.*, No. 3:12-cv-238, 2014 U.S. Dist. LEXIS 184614, at *5 (S.D. Ohio July 14, 2014) (deformity exception did not apply for a broken jaw bone that

“would never be perfect” with ongoing pain that required plaintiff to avoid hard, crunchy, or chewy foods).

In *Hetrick v. Edward*, No. 12CVC07-9190, 2014 Ohio Misc. LEXIS 8921 (C.P. May 9, 2014), the court noted that “deformity” was undefined and cited the dictionary, which suggested “injuries constituting or resulting in objective, visible alterations of the body, especially those affecting a person’s outward appearance.” Plaintiff’s doctor opined she had a 27% partial impairment rating, including “permanent findings” on her spine imaging related to fractures and continued symptoms that would result in “permanent and disabling pain, discomfort, and physical limitations.” The court applied the damages cap and held that “[i]f the legislature meant to exempt injuries resulting in partial impairments or permanent pain and disability from the limitations on non-economic damages, it would have done so.”

Complete loss of vision may meet the deformity exception, if permanent, while diminished vision, eye dryness, or irritation is less likely to meet the exception.

Courts have differed on whether loss of vision constitutes a permanent and substantial deformity. One court deferred to the jury on whether complete blindness in one eye, a “lazy eye,” and a possible future surgery would meet the exception in *Lopez v. Brinkman*, No. 14CV-11782, 2015 Ohio Misc. LEXIS 14016, at *13-15 (C.P. Sep. 15, 2015) (“complete loss of vision in an eye is most certainly a severe and traumatic injury.”); *But see Williams v. Bausch & Lomb Co.*, No. 2:08-cv-910, 2010 U.S. Dist. LEXIS 62018, 2010 WL 2521753 (S.D. Ohio 2010) (issue of whether loss of eyesight caused permanent functional injury not submitted to jury because evidentiary threshold not met); see also *Thompson v. Knobloch*, No. 14CV-4879, 2016 Ohio Misc. LEXIS 6364, at *5-6 (C.P. Aug. 30, 2016) (permanent eye dryness did not constitute a substantial physical deformity).

Several cases have deferred to the jury on whether alleged injuries constituted a permanent and substantial deformity.

The Eighth District recently noted the “inconsistencies amongst the federal cases” in applying the deformity exception in *Torres v. Concrete Designs, Inc.*, 2019-Ohio-1342, 134 N.E.3d 903, ¶ 79 (8th Dist.). The court deferred to the jury on whether the exception applied where plaintiff had an open skull fracture and sinus fracture with several operations. Plaintiff was blind in her eye, had diminished senses, and a brain injury. See also *Matzke v. I-Transport*, No. CV-2016-02-1008, 2018 Ohio Misc. LEXIS 2834, at *14 (Sep. 6, 2018) (whether an incident “caused [plaintiff] to suffer permanent consequences, such as cognitive and memory deficits, or resulted in a traumatic brain injury, is not for this Court to decide as a matter of law.”).

Severe scarring may create an issue of fact for the jury on whether the deformity exception applies. See *Bransteter v. Moore*, No. 3:09-CV-2, 2009 U.S. Dist. LEXIS 6692 (N.D. Ohio 2009) (perforated bowel and surgical scar); *Cawley v. Eastman Outdoors, Inc.*, No. 1:14-CV-00310, 2014 U.S. Dist. LEXIS 148194, at *20 (N.D. Ohio Oct. 17, 2014) (scar on the plaintiff’s left hand and thumb, with other surgical scars); *White v. Bannerman*, 5th Dist. No. 2009CA00221, 2010-Ohio-4846 (surgery to remove glass imbedded in hands and face with anticipated future plastic surgery to eliminate scarring, although tendons in hands were severed with loss of use).

Hardware and metal fixation for orthopedic injuries may create an issue of fact for the jury. See *Ross v. Home Depot USA Inc.*, No. 2:12-cv-743, 2014 U.S. Dist. LEXIS 133507 (S.D. Ohio Sep. 23, 2014) (injuries to knee and shoulder that required hardware to be implanted into plaintiff’s body); *Ohle v. DJO, Inc.*, No. 1:09-cv-02794, 2012 U.S. Dist. LEXIS 140020 (N.D. Ohio Sept. 28, 2012) (Plaintiff lost nearly all her shoulder cartilage, bone had been replaced with a prosthesis, and she had large scars); *Sparks v. Meijer, Inc.*, No. 15CVC-1413, 2016 Ohio Misc. LEXIS 18018, at *6 (C.P. Aug. 9, 2016) (leg

injury with three metal rods affixed to plaintiff’s hip with ongoing pain requiring a walker or scooter).

Conclusion

Whether the permanent and substantial deformity exception to the non-economic damages cap applies will depend on the facts of the case. A permanent injury is the starting point but classifying whether injuries are a “substantial deformity” is less clear from current case law. Absent clarity from the legislature, it seems most courts are deferring to the jury.

From the defense perspective, Plaintiffs inherently make subjective complaints to their doctors, which are incorporated into the medical records and amplified at depositions. Determining residual pain versus a permanent injury is no easy task. Moreover, with increased concussion litigation, subjective complaints of memory loss, cloudy thinking, blurred vision, ringing in the ears, and cognitive issues should be critically viewed when alleged by incentivized personal injury plaintiff-patients,

absent some objective diagnoses using reliable methodology.

On the other hand, the counter-argument is if “catastrophic injuries” are limited to scaring or subjective complaints, then the jury’s damages award may reflect a reduced damages award consistent with the injuries if they do not believe plaintiff suffered a permanent and substantial deformity.

In the end, courts are left with the challenge of essentially performing a gate-keeping role consistent with tort reform while balancing what may seem like a permanent and substantial injury from the plaintiff’s personal connection to his or her injuries.

Brian Pokrywka is a partner with Lewis, Brisbois, Bisgaard & Smith, where his litigation practice is focused on the defense of personal injury and wrongful death claims related to transportation, product liability, and premises liability.

- 1 R.C. 2315.18.
- 2 R.C. 2315.18(A)(4).
- 3 R.C. 2315.18, advisory committee notes.
- 4 R.C. 2315.18(B)(3).



Refer with Confidence Our Focus is Client Satisfaction

- Motor Vehicle Accidents
- Product Liability
- Workers’ Compensation
- Tractor Trailer Accidents
- Social Security
- Bankruptcy
- Premises Liability

Video Conferencing Available!



LAWRENCE & ASSOCIATES
lawrencelaws.com
(513) 351-LWYR (5997)
Licensed in Kentucky & Ohio

Regulations on Reopening

Avoiding Government Scrutiny and Mitigating Potential Prosecution Risk



By Ben Sandlin and John Mitchell

Ohio is slowly reopening. Downtown, businesses showcase signs that proudly announce “OPEN” in bright neon letters. But not all businesses look the same as they did pre-COVID-19. OTR restaurants expanded outdoor seating and emphasize safe eating.¹

Reopening can be a struggle for businesses. Businesses should be aware of the inherent risks involved with opening and take the utmost care to ensure employee and customer safety. Businesses should also be aware of new regulations governing Ohio’s reopening to avoid or minimize government intrusion, investigation, and prosecution for running afoul of the post-COVID-19 legal landscape.

A New Normal: Responsible RestartOhio Regulations

On April 27, 2020, Governor Mike DeWine announced Ohio’s “Responsible RestartOhio” campaign.² The campaign focuses on guiding businesses—from restaurants to daycares—on safely reopening their doors to customers based on each business’ specific business sector.³

The Ohio Department of Health (“ODH”) promulgated the RestartOhio Regulations.⁴ Therefore, the RestartOhio Regulations carry the force of an order by the ODH.⁵ These regulations provide advisory best practices, but also include mandatory practices that certain businesses must adopt.⁶

All-Access Investigation

RestartOhio focuses on compliance, using an “all-access” investigation approach to further that goal.

First, law enforcement enforces the RestartOhio Regulations. Under Ohio law, “police officers [and] sheriffs...shall enforce quarantine and isolation orders, and the rules” adopted by the ODH and may be the primary method of ensuring compliance with the RestartOhio Regulations.⁷

Second, with respect to certain businesses,⁸ Governor DeWine created an enforcement team under Ohio’s Department of Public Safety’s Ohio Investigative Unit (“OIU”) to enforce the regula-

tions.⁹ “OIU agents are fully-sworn plainclothes peace officers responsible for enforcing Ohio’s alcohol, tobacco and food stamp fraud laws.”¹⁰ Because of the OIU’s undercover approach, a business within its oversight may never even know that it was investigated; an OIU officer could enter a restaurant, observe compliant operations, and leave without a trace.

Third, citizens are encouraged to report non-compliance to the ODH. While the ODH oversees its orders and regulations, it employs no investigators. Instead, it relies on citizens’ and law enforcement agencies’ complaints. Thus, a business not complying with the RestartOhio Regulations could be reported to the ODH at any time by anyone.¹¹

Amicable Resolutions and Mitigating Government Intrusion

First-time offenders are unlikely to suffer harsh sanctions, but criminal prosecutions are possible.

The ODH prefers to call or visit a business to investigate alleged non-compliance and advise it of best practices instead of penalizing it. Therefore, a business’ first sign of governmental scrutiny could be interacting with the ODH.¹²

Businesses within the OIU’s oversight could face steeper penalties.¹³ The OIU regularly hands out citations for violations of Ohio liquor laws¹⁴ and for “improper conduct” occurring at a bar or restaurant.¹⁵ Such “improper conduct” may include violations of the RestartOhio Regulations.¹⁶ Cited businesses may be prosecuted¹⁷ or become embroiled in “show cause” hearings to explain why their liquor license should not be revoked by the Ohio Liquor Control Commission.¹⁸

Governor DeWine tasked the ODH, the OIU, and local law enforcement with referring habitual offenders for criminal prosecution. Defiance of a lawful order by the ODH is a Second-Degree Misdemeanor which carries a maximum fine of \$750 per violation.¹⁹ An OIU agent walking into a crowded, habitually-offending bar could document ten violations of employees not wearing face coverings and refer the matter to a prosecutor. That bar could suffer a \$7,500 penalty from a single OIU visit.

Ohio businesses operating in a post-COVID-19 world must be aware of the RestartOhio Regulations. Law enforcement and citizens will be watching for violations. Businesses must implement at least the minimum RestartOhio Regulations and should consider implementing optional best practices as well. Adopting these best practices will further an argument that any violation was a one-time mistake rather than an example of habitual non-compliance and will help each business do its part to protect its community.

Ben Sandlin is an associate at Thompson Hine, LLP’s Cincinnati office in the Business Litigation Department and a member of the White Collar Criminal Defense, Internal Investigations & Government Enforcement group. Ben advocates for clients involved in prosecution and government investigations, and litigates civil matters concerning consumer protection and commercial disputes. Ben is an alumnus of Miami University and the University of Cincinnati College of Law. Ben may be reached at Ben.Sandlin@ThompsonHine.com or on Twitter @BenG_Sandlin.

John Mitchell is a partner in Thompson Hine, LLP’s White Collar Criminal Defense, Internal Investigations & Government Enforcement group. John focuses his practice on all areas of a white-collar criminal defense from grand jury subpoenas to trial. John has represented clients throughout the United States. John is an alumnus of the Ohio State University and Capital University Law School. John may be reached at John.Mitchell@ThompsonHine.com.

1 See 12 Additional Downtown, OTR Restaurants Adding Additional Outdoor Dining Space, <https://www.wlwt.com/article/12-additional-downtown-otr-restaurants-adding-additional-outdoor-dining-space/32643832>

2 See Governor DeWine Announces Details of Ohio’s Responsible RestartOhio Plan, <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/covid19-update-april-27>

3 The campaign may be found at <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/responsible-restart-ohio/>

4 See, i.e., Director’s Dine Safe Ohio Order, June 5, 2020 (<https://coronavirus.ohio.gov/static/publicorders/dao-Reopens-Restaurants-Bars.pdf>). This is an example of the RestartOhio Regulations governing bars and restaurants. Other sectors of business have their own RestartOhio Regulations which are located online at the ODH’s website and the Governor’s website.

5 See Director’s Stay Safe Ohio Order, April 30, 2020 (<https://coronavirus.ohio.gov/static/publicorders/Directors-Stay-Safe-Ohio-Order.pdf>); see also R.C. § 3701.13; see also R.C. § 3701.56.

6 See, i.e., Restaurants, Bars, and Banquet & Catering Facilities/Services, <https://coronavirus.ohio.gov/static/responsible/Restaurants-and-Bars.pdf>

7 See R.C. 3701.56

8 These businesses include all businesses that either possess an Ohio liquor license, accept food stamps, or sell tobacco products.

9 See <https://www.fox19.com/2020/05/18/watch-live-gov-dewine-gives-update-states-coronavirus-response/>

10 <https://www.oiu.ohio.gov/oIU-about.aspx#gsc.tab=0>

11 See <https://www.cincinnati-oh.gov/health/covid-19/business-compliance/> (Cincinnati’s local Department of Health’s citizen’s complaint resource)

12 See Scant Follow-Through on COVID Complaints; Authorities Rely Mostly on Voluntary Compliance, Cinn. Enq. June 2, 2020, p.A1

13 Twelve bars and restaurants in Cleveland recently saw the OIU in action when the OIU cited bars and restaurants, including Put-in-Bay, for violations of the RestartOhio Regulations. See <https://www.wky.com/mobile/article/news/health/coronavirus/12-businesses-cited-for-not-enforcing-coronavirus-safety-guidelines/95-c7d2e311-c355-4fa9-a961-7307d87f9bd8>

14 See R.C. §§4301 et seq. and 4303 et seq.

15 See O.A.C. § 4301:1-1-52 (prohibiting, inter alia, actions which “harass, threaten or physically harm another person.”)

16 OIU agents have cited at least two bars with “improper conduct” for violations of the RestartOhio Regulations. See <https://www.13abc.com/content/news/Investigators-issue-citations-for-restaurant-bar-COVID-violations-570778821.html>.

17 See R.C. § 4301.10(A)(4) (the Ohio Division of Liquor Control shall “[e]nforce the administrative provisions of [R.C. §§ 4301 et seq. and 4303 et seq.], and the rules and orders of the [L]iquor [C]ontrol [C]ommission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer or intoxicating liquor. The attorney general, [and] any prosecuting attorney . . . shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with a violation of any provision in those chapters . . .”).

18 See R.C. § 4301.252 (options to pay forfeitures in lieu of suspending operations of liquor sales in certain circumstances); see also O.A.C. § 4301:1-1-65 (proceedings before the Liquor Commission).

19 See R.C. 3701.571.

CBADR — Always in Session

Arbitration

Filing Fees are \$500 regardless the amount of the dispute

New Comprehensive Traditional Arbitration Rules

Qualified roster of arbitrators

New Expedited Arbitration Options

Employment Specific Procedures and Discovery Protocols

Mediation

No up front fee to the parties

Qualified roster of mediators

For more information, visit cincybar.org/adr

You May Now — Finally — Take the Exam

Ohio's second bar exam of 2020 will be administered remotely October 5 and 6



By Leyla Shokoche

The coronavirus pandemic of 2020 will forever be remembered for significant changes it left American society: the casualty of the handshake; the pummeling of the restaurant industry; and for law school graduates and the broader legal community, the changes made to the annual bar exam. The year's second bar exam in Ohio, postponed twice, will now be administered online October 5 and 6, 2020.

In 2018, the Supreme Court of Ohio, responsible for administering the exam, announced the intent to adopt the Uniform Bar Examination (UBE), becoming the 33rd jurisdiction in the country to do so, beginning with the July 2020 bar exam. The February 2020 bar exam proceeded as usual, both in person and with the former structure of the Ohio bar exam.

Then came the presidential declaration on March 13 of a national emergency due to the rapid, widespread COVID-19 pandemic. The Ohio Supreme Court announced on May 14 the delay of the July bar exam to September. On July 22, the court further delayed the exam, now to be administered remotely, on October 5 and 6.

"We had been hoping when we originally delayed the exam to September that the status of the virus would be much improved," said Gina White Palmer, Esq., director of the office of bar admissions for the Supreme Court of Ohio. "But as everyone knows, that's not what happened."

The National Conference of Bar Examiners (NCBE), which prepares the UBE exam materials, has offered three separate versions of the exam for jurisdictions to administer an in-person exam (the components of the exam are single-use): the original July date, the delayed September date, and another date in late September/early October. The NCBE offered an abridged version to jurisdictions who determined it was unsafe to hold an in-person exam, to administer remotely on October 5 and 6. Because Ohio

decided to transition to the UBE for the July bar exam, there was no preparation of exam items by the Board of Bar Examiners to fall back on.

The abridged exam includes 100 multiple choice questions, down from 200; three essay questions instead of six; and just one of two performance tests, which entails a 90-minute simulated exercise. In the abridged format, the UBE loses its portability, or the transference of scores to other UBE jurisdictions in the country. As of August 4, Ohio has entered into a Memoranda of Understanding to retain portability with eight other jurisdictions: Kentucky, Tennessee, Massachusetts, Maryland, New Hampshire, Vermont, Washington, D.C., and New Jersey.

Palmer dispelled myths about the process of taking the online bar exam.

"The remote proctoring will not kick applicants out during the exam," she said. "You do not have to have an internet connection the entire time you are taking the exam. It uses artificial intelligence to proctor the exam, and it saves the video recording and the mic on the device of the applicant."

The online bar exam uses software called ExamSoft. The exam is password-protected; registrants must be connected to the internet to enter the password, retrieve testing material and later to upload their exam. The exam is administered from noon to 1:30 p.m. on October 5 and 6 in EDT, with a half-hour break, and then from 2:00 p.m. to 3:30 p.m. Exams are monitored through what is essentially three-factor authentication: first by artificial intelligence in the software, then by a human ExamSoft proctor, and finally by Palmer's team.

Preparing for the bar exam, abridged or not, is an involved process for graduates. Most spend the months between graduation and the July exam studying exclusively. The delay has thrown timelines off for students who took time off from work to prepare.

The option of recent graduates practicing law using diploma privilege (which has been approved in other states) was brought to the Ohio Supreme Court and the requests were denied. Practice Pending Admission (PPA), an opportunity previously available to out-of-state attorneys wishing to practice in Ohio, has been expanded to allow recent law graduates who meet certain eligibility requirements to apply to the court for temporary supervised practice.

Brittany Ellis, a May graduate of the Chase College of Law at Northern Kentucky (and the CBA's law clerk) has taken to including references to PPA on resumes she has sent to local potential employers.

"I wanted to just focus on studying, but with the postponements, I don't want to sit around for two months or longer and not have a job," she said.

Ellis is one of an estimated 950 registrants for the July Ohio bar exam who will now be taking the remote exam in October. Local law schools are working to keep in contact with students in the meantime. Joel Chanvisanuruk, assistant dean of academic success and bar programs at the University of Cincinnati College of Law, holds around 30 weekly meetings with students, for four to five weeks during the summer. The College of Law's graduating class this year is around 90 people. Chanvisanuruk also added a week of tutorials in both August and September.

"Studying for the bar exam is one of the most insane things that ever happens in any attorney's life," said Chanvisanuruk. "The bar study is being prolonged, and I think it's just sort of a maddening experience, because I think a lot of folks would rather have it done."

Ellis agreed.

"To have it pushed back twice, it's definitely been an adjustment. We're all trying to stay positive about it," she said. "We just want to become lawyers, that's the end goal, so we're doing our best."

Results are expected sometime in December. To read the order amending the testing date, view the Remote Testing FAQs and for more information, visit supremecourt.ohio.gov.

Shokoche is the director of communications at the CBA.

Benefits of an annual subscription:

- Research services
- Legal information
- Offsite access to databases
- Document delivery
- CLEs and training
- Videoconferencing
- Meeting rooms
- Circulation of materials
- News tracking and alerts

lawlibrary.hamiltoncountyohio.gov

1000 Main Street, 6th Floor, Cincinnati, OH 45202



ANNOUNCING THE ASSOCIATION OF Austin LiPuma

TO OUR PERSONAL INJURY PRACTICE



Attorney Austin LiPuma is an associate in the litigation department where he concentrates on Personal Injury cases including wrongful death; auto, truck, pedestrian, and motorcycle accidents; and premises liability. Austin's career has been exclusively focused on representing plaintiffs, with licenses in both Ohio and Indiana. Austin is a proud double graduate of University of Cincinnati where he earned both his undergraduate and law degrees. He is a member of the Ohio Association for Justice and the Cincinnati Bar Association. He was named as a Super Lawyers Rising Star of 2020.

alipuma@fmr.law
(513) 721-1975

600 Vine Street, 9th floor
Cincinnati, Ohio 45202

www.fmr.law

The 30th
All Ohio
Annual Institute
On Intellectual Property
AOAIOIP



WEDNESDAY, OCT. 7, 2020

(I) General Session ; (II) Professionalism Session

THURSDAY, OCT. 8, 2020

(III) Patent Breakout Session; (IV) Trademark/Copyright Breakout Session

Ohio:

9.75 Hours, including 1.25 hours Professional Conduct pending

Kentucky:

9.75 Hours, including 1.25 hours Ethics pending

TOPICS INCLUDE

- US Patent Law Year in Review
- Copyright Law Developments
- Trademark Law Developments
- What's Up in Advertising at the FTC
- Candid Advice: When the Truth Hurts
- Conflicts of Interest
- The State of Trade Secret Law in 2020
- Avoiding 101 Problems
- Patent Drafting: Meanwhile Back at the TTAB
- Settling Trademark Disputes with TMEP Tools
- The Copyright Lawyer and the Terrible, Horrible, No Good, Very Bad Day

REGISTER ONLINE AT CINCYBAR.ORG

Day 1: \$150 Members; \$220 Non-Members

Day 2 Patent Breakout: \$65 Members; \$95 Non-Members

Day 2 Trademark/Copyright Breakout:
\$65 Members; \$95 Non-Members

Both Days: \$250 Members; \$365 Non-Members

Government Employee/Full-time Law Faculty:
\$125 for access to all sessions

Law Student: \$35 for access to all sessions



**Biometric
Privacy and
the Illinois
Biometric
Information
Privacy Act**



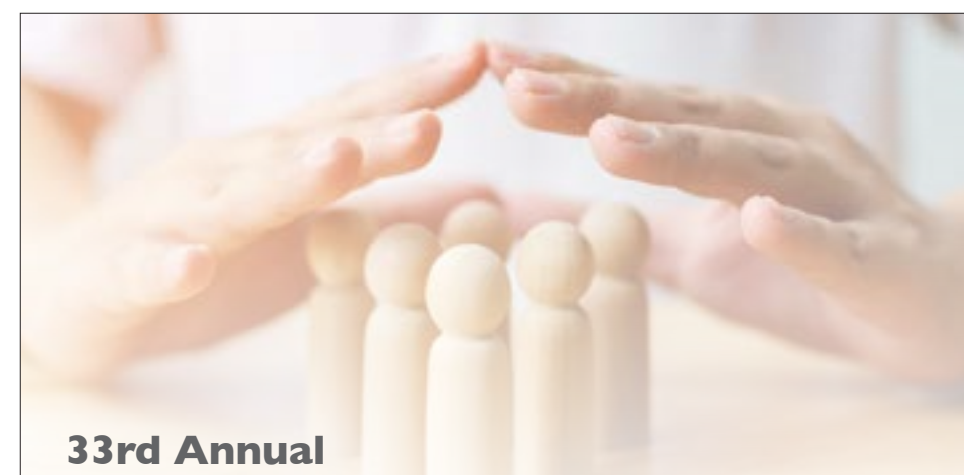
September 16, 2020
12 – 1 p.m.

1.0 General Credit Hour (pending)

Presented by David J. Oberly,
Blank Rome LLP

Oberly will discuss biometric privacy and the Illinois Biometric Information Privacy Act.

Registration Fee:
\$35 CBA Member
\$50 Non-Member
\$15 Young Lawyer



33rd Annual

**Employee Benefits
Conference**



SESSION 3:

September 11, 8 – 10 a.m.

Panel Discussion: COVID-19: Continuing Challenges in Employee Benefits and Employment Law

Lyndsey R. Barnett, *Graydon Head & Ritchey LLP*
Megan S. Glowacki, *Thompson Hine LLP*

SESSION 4:

September 18, 8 – 9 a.m.

Plan Audit Session I: Employee Benefits Security Administration Investigations

M. Scott Campbell, *Employee Benefits Security Administration*

September 18, 9 – 10 a.m.

Plan Audit Session II

SESSION 5:

September 25, 8 – 9 a.m.

Multiple Employer Plans and Pooled Employer Plans

David Whaley, *Thompson Hine LLP*

September 25, 9 – 10 a.m.

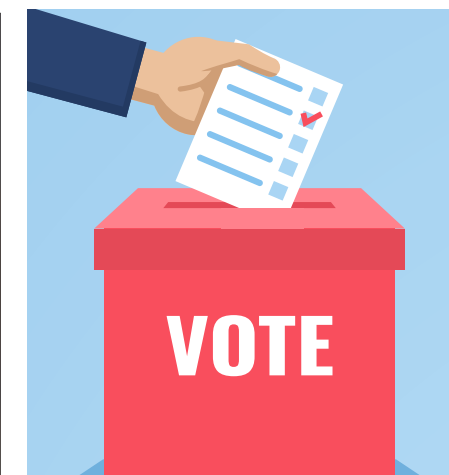
Plan Investments and Fiduciary Responsibility

John Kirk, *Graydon Head & Ritchey LLP*
Lawrence Vignola, *Sheridan Road Financial*

Registration Fees

CBA and Greater Cincinnati WEB Members
\$70 per program

Non-Member
\$100 per program



VOTE

**WORK
THE
POLLS!**

**EARN CREDIT
AND GET PAID!**

Tuesday, November 3
4.0 General Credit Hours

The Supreme Court of Ohio issued an order allowing Ohio attorneys to receive CLE credit for serving as precinct election officials on Election Day, November 3.

Through the Hamilton County Board of Elections, receive 4 CLE credits for completing poll worker (PEO) training, assisting in setting up the poll location the evening before the election, and serving on election day. All poll workers are also paid. Your community needs you now, more than ever!

Visit votehamiltoncountyohio.gov for the PEO application and training details.

Board of Elections
HAMILTON COUNTY OHIO

Practical and Ethical Aspects of Managing Your Legal Practice

Presented by the Senior Lawyers Section



Session 1: Sept. 15 11:30 a.m. to 1 p.m.

Managing Your Time

1.5 Hours Attorney Professional Conduct Credit
Efficient and ethical time management is essential to building and maintaining a successful legal practice. Learn best practices for organizing your work and charging for your time.
Thomas F. Glassman, Esq., Bonezzi Switzer Polito & Hupp Co. LPA

Session 2: Oct. 20 11:30 a.m. to 1 p.m.

Communicating Ethically and Effectively

1.5 Hours Attorney Professional Conduct Credit
Clear, accurate and concise verbal and written communication is vital in the practice of law. Join us for a discussion on how to best communicate with clients, opposing counsel, other attorneys, staff and third parties.
Faith C. Whittaker, Esq., Dinsmore & Shohl LLP

Session 3: Nov. 17 11:30 a.m. to 1 p.m.

Ethics and Best Practices in Marketing and Advertising

1.5 Hours Attorney Professional Conduct Credit
Successful attorneys must market their skills. Learn how to ethically and effectively market your legal services to current and potential clients, other attorneys and law firms. Also learn best practices and ethical issues surrounding advertising using both traditional and digital methods.
John C. Greiner, Esq., Graydon Head & Ritchey LLP
J. Stephen Smith, Esq., Graydon Head & Ritchey LLP

Session 4: Dec. 15 11:30 a.m. to 1 p.m.

Maintaining Work-Life Balance: Managing the Stress of Practicing Law and Getting Involved in the Nonprofit Legal Community

1.5 Hours Attorney Professional Conduct Credit
Attorneys deal with stressful situations daily. Learn to identify the signs and manage the stress of practicing law that can impact both your professional and personal relationships. Also, learn how to manage your professional obligations to the community, such as providing pro bono legal service.
Tabitha M. Hochscheid, Esq., Hochscheid & Associates, LLC
Erin C. Childs, Esq., Pro Bono Partnership of Ohio
Patrick D. Hayes, Esq., Calfee, Halter & Griswold LLP
Wednesday G. Shipp, Esq., The Procter & Gamble Co.

REGISTER ONLINE AT CINCYBAR.ORG

Member
\$52.50 per program
\$200 for series (must register by September 15)

Non-Member
\$75 per program
\$290 for series (must register by September 15)

11th Annual Baseball and the Law Seminar Baseball and the Fruits of the Poisonous Tree



September 22
5 – 6 p.m.
1.0 Hour CLE Credit

Presented by:
James C. Crowley, IV, Esq., Crowley Ahlers & Roth Co. LPA
John C. Greiner, Esq., Graydon Head & Ritchey LLP
Catherine M. Gorman, Esq., Graydon Head & Ritchey LLP
Jeffrey M. Hendricks, Esq., Graydon Head & Ritchey LLP

The Houston Astros wound up in the news last year when they were discovered using technology to steal signs. But in 2015, the Astros were the victims of a rogue Cardinals' employee who hacked into the Astros' scouting data base. Join us for a discussion of how the hack came about, its discovery, and the criminal and civil fall out.

Registration Fees
\$35 Member
\$50 Non-Member

REGISTER ONLINE AT CINCYBAR.ORG

Working with a Professional Forensic Genealogist

September 17
12 – 12:45 p.m.
.75 Hour CLE Credit
Featuring *Laurie Hermance-Moore, MLS, AG®*



Forensic genealogists assist attorneys with professional research to help resolve probate, real estate, and mineral rights cases when heirs are unknown or missing. Learn about the qualifications and experience of a credentialed genealogist and how they can help attorneys resolve a case. Topics include:

- What is a Forensic Genealogist?
- Standards of Professional Genealogy
- How Genealogists Work: Overview of a Typical Project
- Genealogist Qualifications and How to Locate One

Registration Fees
\$25 Member
\$37.50 Non-Member

Member Benefit of the Month

January/February March/April May/June July/August **September/October** November/December

When it's your responsibility to protect the interests of others, your own interests can quickly get left behind. We're here to ensure they don't — we focus on you, so you can stay focused on your clients. We're OBLIC — the only professional liability insurance provider exclusively devoted to leading the effort of protecting Ohio's lawyers and law firms.



For more information, contact Fifth Third Insurance at 513.534.2865 to get the benefits of OBLIC insurance protection — widely preferred by Ohio attorneys. Learn more: www.oblic.com | www.53.com/insurance

CBA & CBF Staff Directory

- Barry Bernard**..... 699-1409
Director of IT, bbernard@cincybar.org
- Carolyn Carpenter**
LRS Assistant, ccarpenter@cincybar.org
- Angela DeMoss**..... 699-4010
CLE Credit Coordinator, ademoss@cincybar.org
- Brittany Ellis**..... 699-4011
Law Clerk, bellis@cincybar.org
- Rachel Herzog**..... 699-1404
Membership/CLE Coordinator, rherzog@cincybar.org
- Chelsea Jordan**..... 699-1407
Paralegal, cjordan@cincybar.org
- Kate Lawrence** 699-1401
Director of CLE, klawrence@cincybar.org
- Lisa McPherson**..... 699-1398
Executive Director, lmcpherson@cincybar.org
- Maria Palermo**..... 699-1402
Senior Counsel, mpalermo@cincybar.org
- Edwin Patterson III**..... 699-1403
General Counsel, epatterson@cincybar.org
- Jamie Shiverdecker** 699-4013
Senior Director of Strategy and Project Mgt., jshiverdecker@cincybar.org
- Leyla Shokooh**..... 699-1391
Director of Communications, lshokooh@cincybar.org
- Lisa Thomas**..... 699-4023
Accounting Assistant, lthomas@cincybar.org
- LaDonna Wallace Smith**..... 699-1392
Director of Community Engagement, lsmith@cincybar.org
- Monica Weber**..... 699-1395
Marketing Designer, mweber@cincybar.org
- Amy Zerhusen**..... 699-4014
Director of Administration & Finance, azerhusen@cincybar.org



Give your Career a Voice is hosted by the Women Lawyers Section every other month, 8:30-9:30 a.m., virtually through the Cincinnati Bar Association. Discussions include topics that are relevant to women attorneys, legal professionals, and the practice of law. Join your peers and enjoy great conversations.

SAVE THE DATE! Upcoming Voice Programs:
November 4
January 6
March 3

STAY UPDATED AT CINCYBAR.ORG/GROUPS/WOM

Practice Group Upcoming Meeting

- BANKRUPTCY**
September 15 | October 20
- HEALTH & WELL BEING**
October 7
- LABOR & EMPLOYMENT**
September 24 | October 22
- SOLO/SMALL FIRM PRACTITIONERS**
October 1
- ADR**
Please visit cincybar.org/Membership/Groups for future dates.
- ESTATE PLANNING & PROBATE**
September 15 | October 20
- SOCIAL SECURITY**
September 24 | October 22
- WOMEN LAWYERS- VOICE**
Please visit cincybar.org/Membership/Groups for future dates.
- REAL PROPERTY**
October 6
- Appellate**
September 14

CBA SUSTAINING MEMBERS

as of August 17, 2020

Cornerstone Members

Lawrence J. Brokamp
Ralph P. Ginocchio
William R. Graf
Daniel N. Moore
John C. Norwine

Nicholas Ramler
Michael G. Schwartz
Wednesday G. Shipp
John E. Stillpass
Janaya Trotter Bratton
John J. Williams

Kenneth P. Coyne
Robert L. Davis
Brian G. Dershaw
Edward D. Diller
William M. Freedman
Richard A. Graeter II
Jeanne E. Gruenschlaeger

Bridget Gannon McGraw
Beth A. Myers
Felix O. Okpe
Dimity V. Orlet
Dan R. Orner
Anthony L. Osterlund
Gary E. Powell
Robert W. Rack Jr.
Steven H. Ray
Stephen L. Richey
Amanda Rose
John W. Rose
Amanda C. Rose
Vincent A. Salinas Sr.
Carrie A. Shufflebarger
Joshua Oliver Stevens
John P. Tafaro
Stephen G. Thompson
Christopher A. Wagner
William J. Wahoff
Kent Wellington
J. Eileen Zell
Philip L. Zorn Jr.

Supporting Members

Alan H. Abes
Daniel Albrecht
Corey Asay
David S. Blessing
Randal Sue Bloch
Kristin Booth
David R. Boyles
Kathleen M. Brinkman
Thomas S. Calder
Eric K. Combs
Eric C. Cook
Sara M. Cooperrider
L. Barry Cors

Patrick D. Hayes
Joseph D. Heyd
Ralph E. Heyman
Tabitha M. Hochscheid
John D. Holschuh Jr.
David C. Horn
Barbara J. Howard
Brian D. Joslyn
Scott E. Knox
Kellie A. Kulka
Bea V. Larsen
Lindsay A. Lawrence
Doloris F. Learmonth
Stephen T. MacConnell
Jacob D. Mahle
Jean Geoppinger McCoy

Benefactor Members

Pierre H. Bergeron
Timothy S. Black
Phyllis G. Bossin
Terence R. Coates
Benjamin D. Cramer
Brent Alan Kohlhepp
Karen L. Litkovitz
Kelly Mulloy Myers
Maria C. Palermo
Pavan Vijay Parikh
John B. Pinney
J. Phenise Poole

Welcome New Members

The CBA Board of Trustees has approved the following for membership:

- | | | | |
|--|--|--|--|
| Gabriel T. Applegate
<i>Baker & Hostetler LLP</i> | Maxwell J. Hopkins
<i>Cummins Law LLC</i> | Alyssa M. Miller
<i>Hamilton County Prosecutor's Office</i> | Elizabeth Carmona Stock
<i>Bricker & Eckler LLP</i> |
| Elise R. Elam
<i>Baker & Hostetler LLP</i> | Renee A. Infante
<i>Cummins Law LLC</i> | Katherine L. Montgomery
<i>Montgomery Law Office, LLC</i> | Jorge L. Tameron
<i>Wood Herron & Evans LLP</i> |
| Stephen Graves
<i>GE Aviation</i> | David E. Johnson
<i>Lerner Sampson & Rothfuss LPA</i> | Brian Overbeck
<i>GE Aviation</i> | Michael L. Tudor
<i>Bartlett & Weigle Co. LPA</i> |
| David P. Handler
<i>GE Aviation</i> | Austin H. LiPuma
<i>Freking Myers & Reul</i> | Margaret Wagner Piedel
<i>The Kroger Co.</i> | Sean M. Weinman
<i>GE Aviation</i> |
| Tracy L. Hawkins
<i>Cors & Bassett LLC</i> | Christopher D. Longwell
<i>Barron Peck Bennie & Schlemmer Co. LPA</i> | Carlos S. Ramirez
<i>GE Aviation</i> | Kristi Kress Wilhelmy
<i>GE Aviation</i> |
| Claire Gutmann Hodapp
<i>Ohio National Financial Services</i> | W. S. McDorman
<i>The McDorman Law Firm, LLC</i> | Danyal J. Solomon
<i>GE Aviation</i> | Ross A. Wright
<i>GE Aviation</i> |

State of the CINCINNATI BAR FOUNDATION

by Dale A. Stalf, CBF President



For the 58th year, your Cincinnati Bar Foundation provided much needed funding to support local educational and charitable programs that fulfill the Foundation's mission of "promoting justice and changing lives through the law". The trustees and officers of the Foundation, led by President Michael Bailes of U.S. Bank, and the grants

committee, led by Tony Osterlund of Vorys, worked very hard this past year to fundraise, enabling the Foundation to make grants designed to:

- Encourage knowledge and understanding of, and respect for, the law, particularly in young people
- Improve the quality and administration of justice for all
- Support the delivery of legal services at an affordable cost for the poor, elderly and otherwise disadvantaged
- Promote professionalism and civility in the practice of law

The Foundation's core guiding principle remains the same: our community is only strengthened when all people, especially those who are most vulnerable, understand the law and have equal access to justice.

This past year was particularly challenging for the Foundation. First, our long-time director, Rene McPhedran, left in April to pursue other opportunities. We wish her well and thank her for her many years of service. Second, have any of you heard about the COVID-19 pandemic?

Despite those issues, through the leadership of Mr. Bailes and all the members of our Executive Committee, and through the tireless efforts of the Executive Director of the Cincinnati Bar Association, Lisa McPherson, and her entire CBA staff, the Foundation had another solid year.

Highlights of the Past Year

I am pleased to report the financial health of the Foundation remains strong. Although we fell short of our budgeted goal of \$100,000, raising \$90,000 through our annual Investing For Justice (IFJ) Campaign, our investment strategy is sound, and well implemented by a dedicated team at Bahl & Gaynor. Through the Trustees' adherence to a tight budget, the growth in our investment portfolio, contributions to the IFJ Campaign and

money raised through other fundraising events, the Foundation awarded over \$105,000 in grants.

Our popular kick-off event for the IFJ Campaign, Rock the Foundation, was held for the first time at the Woodward Theater last November. Thanks to all the talented members of the CBA who performed (especially Greg Shumate of Frost Brown Todd and his band The Drysdales) and to all of you who supported this event. We nearly doubled our budgeted fundraising goal, raising over \$8,000.

Although the Spring 2020 grants cycle is not yet complete due to COVID-19, the Foundation made Fall 2019 grants to the following organizations:

- **Dan Beard Council of the Boy Scouts of America**, to support its Law Merit Badge Program
- **Cincinnati Bar Association**, to cover the cost of its annual Memorial Service
- **Hamilton County Juvenile Court's Custody and Companionship Clinic**, which had its grand opening last October
- **CBA's Michael H. Neumark CALL Scholarship Fund**
- **CBA's Women Lawyers' Section**, to support its essay contest celebrating the 100th anniversary of the 19th Amendment to the U.S. Constitution
- **CBA's Mock Trial Program**, to cover the cost of its annual competition for area high schools
- **Catholic Charities of Southwest Ohio**, to support immigration legal services
- **Children's Home of Cincinnati**, to support its Family Visitation Center
- **Cincinnati WORKS**, to support its ongoing initiatives to reduce violence
- **Immigrant and Refugee Law Center**, to support its volunteer attorney program
- **Impact Northern Kentucky**, to support its Regional Youth Leadership Law Day Session
- **University of Cincinnati College of Law**, to support its Legal Access Project

Finally, through the generosity of the Dinsmore firm, the Foundation established the **Shanda L. Spurlock/Dinsmore Scholarship Fund** in February. When fully endowed, this fund will provide an annual scholarship to an African American student attending the University of Cincinnati, the Northern Kentucky University or the University of Dayton law schools, selected by the Black Lawyers Association of Cincinnati (BLAC) based on demonstrated leadership potential and dedication to the community.

Looking Ahead to This Coming Year, and a Challenge

The most exciting new development of this past year was the Foundation's creation of a **Futures Commission**, chaired by Sarah Sparks Herron of Western & Southern Financial Group. This Commission will critically evaluate the current structure and operation of the Foundation and provide detailed recommendations to improve efficiency and effectiveness. An interim report is expected in August, with final recommendations to be made in December.

The Foundation is dedicated to fully endowing the **William A. McClain Scholarship Fund** and the **Judge Julia A. Stautberg Justice Fund** before the end of 2020. Once that is accomplished, every restricted fund will be fully endowed. Both funds were established to support worthy and much-needed grants, and I encourage everyone to consider making a donation to these funds today.

The Foundation continues to support the Juvenile Court Custody and Companionship Clinic. The increasing number of relatives in need of legal help due to the opioid crisis has created a significant burden on the Court and the clinic has already had much success. By providing low income clients with advice about school enrollment, health care access and obtaining other benefits, and with assistance in preparing powers of attorney, caretaker affidavits and other necessary court filings, it has made the system function more smoothly and has significantly reduced the number of hearings required.

The Foundation will also continue to explore new and exciting fundraisers so that it can have an even greater impact on the local community through its grant-making efforts. However, due to COVID-19, the Quid Pro Am golf outing usually held in May and the Rock the Foundation event scheduled for this coming November were cancelled. As a result, the Foundation is in greater need of your support now than ever before. I implore every member of the CBA to support your Foundation by donating to the IFJ Campaign, perhaps at the Silver Level (\$250) if you can afford it. And I

encourage every local law firm and corporate legal department to become a 100% Firm this year by convincing all of their attorneys to make a \$50 (or more) donation or, if necessary, by making up the difference.

I thank all of you for your past support of the Foundation and I look forward to serving as its President this year. With your continuing support, and with the help of my fellow Board members and of Lisa McPherson, Amy Zerhusen and all the other dedicated CBA staff, I am confident that 2020-21 will prove to be another successful year for the Foundation.



Introducing Ohio Notary Services, your one-stop for meeting all the new training and testing requirements to earn or renew your traditional notary commission and become an online notary public in Ohio.

Ohio Notary Services is the Ohio Secretary of State's sole authorized provider for training and testing to become an online notary.

Visit www.becomeanohionotary.com to get started.

ABOUT OHIO NOTARY SERVICES

Ohio Notary Services, LLC is a unique, joint venture by the Akron, Cincinnati, Cleveland, Dayton, Toledo and the Ohio State bar associations to help you meet all your notary training and testing requirements under the new law. We bring extensive notary expertise and experience, statewide reach and unmatched convenience.

WE HAVE ROOMS FOR YOU.

Office Space for Lease

If you are a Cincinnati Bar Association member and you've moved, been promoted, hired an associate, taken on a partner, received a promotion or award, or have other news to share, we'd like to hear from you. Notices are printed at no cost, must be submitted in writing (preferably by email) and are subject to editing. We also request a current, high resolution, directory-style photo. Items are printed as space is available. News of CLE presentations and political announcements are not accepted. Generally, the CBA Report will not print notices of honors determined by other publications (e.g., Super Lawyers, Best Lawyers, etc.). Submit items to communications@cincybar.org. Please submit address changes to info@cincybar.org.



Gribbell

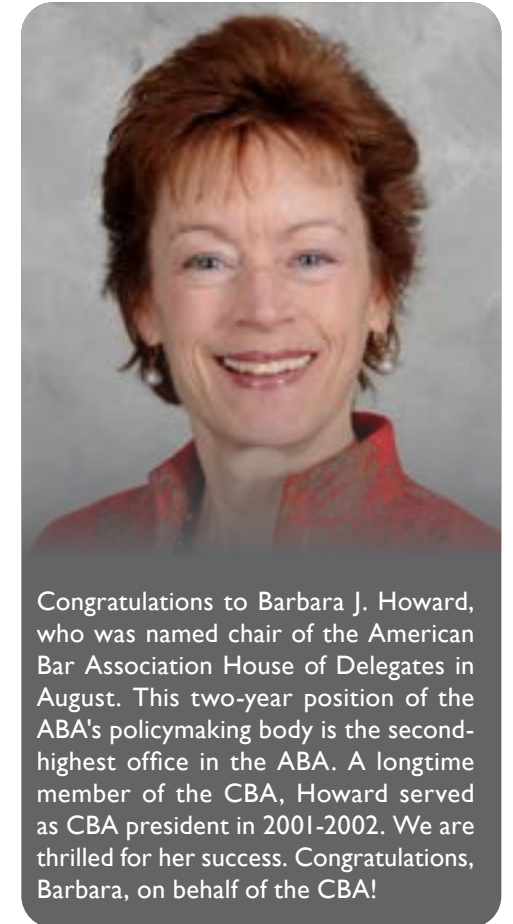
Frederick H. Gribbell LLC is pleased to announce that **Russell F. Gribbell** has been promoted to become a member of the firm. Gribbell is an intellectual property attorney who focuses his practice on patent and trademark prosecution. Registered to practice as a "patent attorney" before the U.S. Patent and Trademark Office (USPTO), Gribbell prepares and prosecutes patent applications in the mechanical, electrical, and computer science arts. Before becoming an attorney, Gribbell worked in the Information Technology field for several years where he helped many large and small companies achieve their technology goals. Gribbell received his undergraduate degree from the University of Cincinnati and his law degree, cum laude, from Salmon P. Chase College of Law at Northern Kentucky University. During law school, he was lead notes editor of the Northern Kentucky Law Review. Gribbell is admitted to practice in Ohio.



Lawrence

Shea

Lindsay Lawrence and Joseph W. Shea Rittgers & Rittgers is pleased to announce the merger of the former Shea Hartmann law firm, including senior partner **Joseph W. Shea** and some of his staff, and the addition of highly respected **Lindsay Lawrence**, daughter of attorney Richard Lawrence. Joseph Shea and Lindsay Lawrence will manage the firm's medical malpractice group. Both Shea and Lawrence are licensed in Ohio and Kentucky and have represented individuals and their families in complex medical malpractice matters involving traumatic brain injuries, birth injuries, spinal cord injuries, paralysis and death. **Shea** is one of the most successful and experienced trial attorneys in the Midwest. Over the past several decades, he recovered record breaking verdicts in several local counties for victims of medical malpractice and their families - including verdicts of \$8.3 million in Hamilton County, \$6.5 million in Butler County, and \$5.4 million in the Eastern District of Kentucky Federal Court in Kenton County. **Lawrence** is an AV rated attorney* who has committed her practice to helping individuals and their families who have been injured throughout the Commonwealth of Kentucky and the State of Ohio. Her area of practice focuses on medical malpractice, birth injury, traumatic brain injury, spinal cord injury and paralysis, and wrongful death. Lawrence serves on the Board of Trustees for the Ohio Association for Justice and the Cincinnati Bar Association. She also serves on the Executive Committee of the Salmon P. Chase Inn of Court as treasurer and currently American Association of Justice's Board of Governors. They will join an injury team at Rittgers & Rittgers that has already achieved record setting recoveries for clients over the past three years including settlements of \$7 million, \$5 million, and \$2.1 million and jury verdicts of \$3 million and \$600,000.

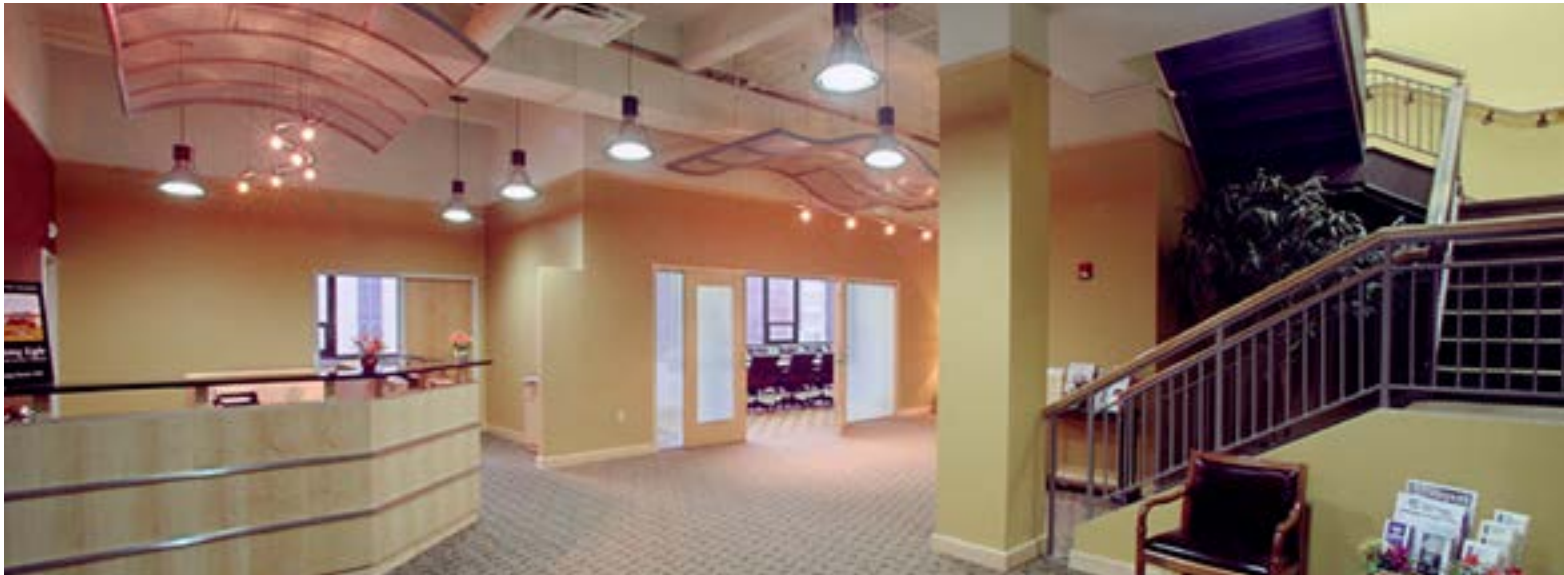


Congratulations to Barbara J. Howard, who was named chair of the American Bar Association House of Delegates in August. This two-year position of the ABA's policymaking body is the second-highest office in the ABA. A longtime member of the CBA, Howard served as CBA president in 2001-2002. We are thrilled for her success. Congratulations, Barbara, on behalf of the CBA!

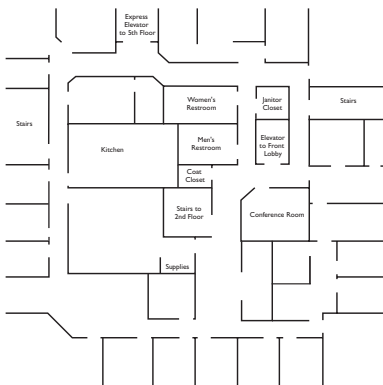
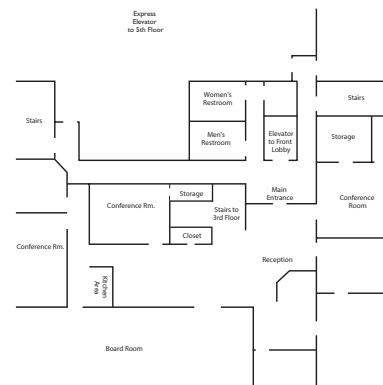


Snyder

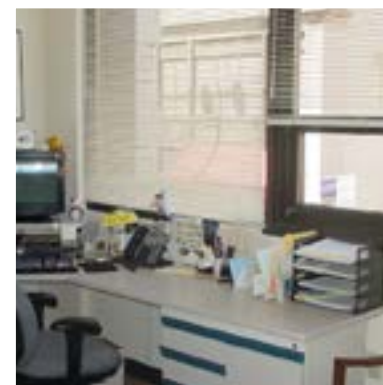
Ulmer & Berne LLP is pleased to announce the addition of **Jason A. Snyder** to the firm's Cincinnati office. He will join the firm's Construction Practice Group as an associate. Snyder will focus his practice on resolving construction disputes and assisting clients in all phases of construction projects. He has experience representing public and private owners, contractors, architects, and engineers in construction-related matters. Snyder will also assist with catastrophic loss cases, and has experience representing plaintiffs and defending companies in personal injury and wrongful death tort litigation. Snyder received his B.A. with honors from Franklin & Marshall College, his M.A. with honors from Bowling Green State University, and his J.D. with honors from the University of Cincinnati College of Law.




In the Cincinnati Bar Center at 225 East Sixth Street. — Includes private offices, semi-private work stations and meeting space.



Flexible floor plans may include entire floor, partial floor or two floors with internal stairway. — Ideal for a small law firm, business or non-profit.



Please contact Maria Palermo at 513-699-1402 or mpalermo@cincybar.org for more information.



22nd Annual Red Mass
To ask for God's blessings on the legal community.

Sunday, October 4 • 11 a.m.
Saint Peter in Chains Cathedral
325 W. 8th Street, Cincinnati, OH 45202

Complimentary parking is available in the lot adjacent to the Cathedral. A complimentary box lunch reception follows the Mass in the Church Undercroft. Prior to the service, please visit www.stpeterinchainscathedral.org and read the safety guidelines for attending Mass during the COVID-19 crisis.



John Murphy 1937 – 2020

I met John Murphy in 1983 when I interviewed for a position at the College of Law. Starting then, and from time to time, we would go out for a cocktail or meet at Lunken Airport to hit a bucket of balls or play golf, or go out for coffee or breakfast. On all of our adventures,

there was one inevitability: John would meet someone he knew. This was true regardless of whether we were in a tavern, a coffee shop, or just walking down the street. Another inevitability, of the same sort, occurred whenever I met a graduate who was at the school during Murphy's years there. They inevitably asked: "How is Professor Murphy?" The same thing would happen whenever I would tell someone that I worked at the College of Law: "Do you know John Murphy?"

Quite simply, John Murphy was a magnet. People gravitated to him, remembered him, loved him. And, he returned the affections. He was the faculty member that graduates wanted to attend their reunions and he was delighted to oblige such requests.

Naturally, the students that took Contracts or Labor Law from him remembered him as an outstanding teacher. Lawyers in town also knew him as an outstanding lawyer. John was actively involved in various bar projects. Additionally, John advised law firms, particularly when they had hit a rough patch. John helped Robert Manley prepare for a United States Supreme Court argument, that Manley won, and assisted lawyers as they prepared for hearings regarding their appointment to the bench.

At the College of Law, John was instrumental in transforming the school from an ordinary local school to a top 50 law school by undertaking two initiatives that greatly improved the school. When Gordon Christenson became dean, he tapped John to rewrite the school's appointment, promotion, and tenure standards. Prior to that time, a faculty member could receive tenure simply by teaching well. After that time, a teacher had to engage in scholarly publication. Changing an institution from one form to another is a delicate assignment. It takes diplomacy, commitment, and vision, and John pulled off the assignment with an A+.

The second, and complementary, crucial contribution that John made was to serve as Chair of the Appointments Committee for at least two decades. During that time, the College was able to recruit a first-class faculty. Many faculty members who began their academic careers at Cincinnati have now gone on to teach at the law schools of Duke, Virginia, Vanderbilt, Indiana, and other first tier institutions. John's legacy in having the highest of standards for appointment to the faculty and for receiving tenure remains with us.

The details of his biography reveal a full life and one well lived. John was born July 11, 1937, in Boston, Massachusetts, to Irish immigrants, the late John and Mary Murphy. His father was an active union member, a trait that rubbed off on John as a teacher of labor law and a nationally recognized labor arbitrator.

He received a full scholarship to attend Harvard University and graduated in 1959. As a hometown kid in the Ivy League, I often wondered what John taught those Harvard swells. In 1963, he graduated from Boston University Law School where he was Editor-in-Chief of the Law Review.

The love of his life, of course, was the Scottish lass Eileen, who he met while in BU law school. According to family legend, on their first date he unsuccessfully tried to sell her his car and radio. He was successful, however, when he asked for a second date, and months later they were engaged to be married. John, after being admitted to the Massachusetts Bar, joined Eileen in Scotland to be married, and they honeymooned in the Scottish Highlands.

Returning to the U.S., Eileen worked as a registered nurse, and John entered private practice briefly before pursuing advanced legal studies at the University of Illinois, receiving an L.L.M. In 1965, he joined the faculty of the University of Cincinnati College of Law. Throughout his more than 30 years on the faculty, he inspired and motivated his students in the classroom, serving as a mentor and friend to legions of future attorneys, who benefited from his wise counsel and exemplary teaching.

He also was a legal innovator outside the classroom. In 1966, he successfully led the Cincinnati Bar Association's experimental bail-bond reform, enabling charged individuals to be released on their own recognizance rather than languish in jail because they could not afford bail. In 1969, he launched a program to recruit students to the U.C. Law School from traditional black colleges. John applied for and received one of the first grants available from the Ford Foundation to law school to diversify its student body. Known as a CLEO grant (the Council on Legal Education Opportunity), the program was copied by other law schools around the country. Interviewed years later in Counselor, the U.C. Law School Alumni magazine, he said, "I personally went down to Fisk and Tennessee A&I, (now Tennessee State University), the large African-American universities, interviewed students, and raised the flag, and got them to apply."

In 1974, he was a Visiting Fellow at the U.S. Department of Justice where he authored a book, Arrest by Police Computer, the Controversy over Bail and Extradition, an early warning of the privacy implications of the electronic age. In 1976, he became a labor arbitrator, and in 1985 was elected to the National Academy of Arbitrators, handling major cases with the United Mine Workers, Kroger's and AFSCME, among others. In 1996, he received the University's most prestigious award, the Distinguished Teaching Professorship, which is awarded to persons who represent the ideals of the teaching profession.

He received the Crystal Owl award from the American Arbitration Association for advancing arbitration as a method of resolving disputes. In 1999, he retired from U.C. Law School but continued his legal work as an arbitrator until 2011, when he fully retired to care for Eileen.

For the lawyers and law students who knew Professor Murphy, he will be remembered for his many talents, his openness, his love for the profession, and his love for them. Those people unfortunate not to know John Murphy, please know that he was a man worth knowing, the likes of which are too rare in today's world.

— Dean Joseph P. Tomain

OFFICE SPACE AVAILABLE

- In the Cincinnati Bar Center at 225 East Sixth Street.
- Includes private offices, semi-private work stations and meeting space.
- Flexible floor plans may include entire floor, partial floor or two floors with internal stairway.
- Ideal for a small law firm, business or non-profit.
- Please contact Maria Palermo at 513-699-1402 or mpalermo@cincybar.org for more information.

See page 28 for more details.

OFFICE SPACE

MONTH-TO-MONTH OFFICE SPACE

AVAILABLE at 810 Sycamore Street. Receive 6 months free rent, with a 5 year lease. Internet, cable, state-of-the-art phone system, substantially reduced rates on video conferencing thru Zoom Room, two (2) conference rooms and large, fully equipped kitchen with balcony on each floor. Please contact Kelly Farrish at 513-403-9699.



Write for the CBA Report!

Share your knowledge and expertise and grow your personal brand by becoming a CBA Report author.

Contact CBA Director of Communications Leyla Shokoche for more details at lshokoche@cincybar.org.

POSITIONS AVAILABLE

KMK LAW IS SEEKING A TAX ASSOCIATE for our Business Group. The ideal candidate will have 3-7 years of experience in tax issues relating to general corporate and/or partnership tax including, mergers and acquisition, corporate restructurings and/or executive compensation and possess outstanding academic credentials, excellent analytical, drafting and communication skills, and a strong work ethic. Please forward resume, transcript and writing sample to Julie M Mulhern, Director of Legal Recruiting at jmulhern@kmkllaw.com. No phone calls or agency submissions.

BENJAMIN, HEATHER, IACIOFANO & BITTER, LLC a downtown Cincinnati, AV rated firm, seeks an associate with up to 5 years of experience. Indiana and Ohio license preferred. Excellent legal research and writing skills. Must have experience/interest in general civil litigation, insurance defense, and trust/estate planning and administration. Unique offices located in historic building at Lytle Park. Competitive salary, health insurance, profit sharing, and free parking. E-mail resume to: Lisa M. Bitter, Info@bhblaw.com, Benjamin, Heather, Iaciofano & Bitter, LLC, 300 Pike Street, Suite 500, Cincinnati, OH 45202

Grow your Business

with the CBA's Lawyer Referral Service!



The easiest way to get local leads is the CBA's Lawyer Referral Service — now with new and improved features.

In the last year:

1,400 Referrals DOMESTIC ATTORNEYS

1,066 Referrals EMPLOYMENT ATTORNEYS

1,476 Referrals REAL ESTATE ATTORNEYS

Your referrals are waiting. Sign up to be an LRS panelist today at cincybar.org or contact (513) 699-4013.

LRS Cincinnati Bar
Lawyer Referral Service

CHANGE SERVICE REQUESTED

Cincinnati's Finest New & Pre-Owned Cars & Trucks



CAMARGO CADILLAC
9880 Montgomery Road
891-9400



TOYOTA
JOSEPH
TOYOTA OF CINCINNATI
9101 Colerain Avenue
385-1800



ACURA
COLUMBIA ACURA
I-275 and Montgomery Road
530-0100



INFINITI
OF CINCINNATI
9857 Kings Auto Mall
583-1200



CHEVROLET
COLUMBIA CHEVROLET
9750 Montgomery Road
891-7200



JOSEPH CADILLAC
7600 Industrial Rd.,
Florence, KY 41042
859-525-2500



CHEVROLET
JOSEPH CHEVROLET
8733 Colerain Avenue
741-6700



HYUNDAI
COLUMBIA HYUNDAI
10981 Montgomery Road
489-2000



PORSCHE
JOSEPH PORSCHE
9847 Kings Auto Mall
851-5900



SUBARU
JOSEPH SUBARU
7600 Industrial Road
Florence, KY 41042
859-525-2500



AUDI CONNECTION
9678 Montgomery Road
891-2000



JOSEPH BUICK
JOSEPH GMC TRUCK
8700 Colerain Avenue
741-1000

EXCEPTIONAL SERVICE GUARANTEED