



Winter 2017 • Volume 4

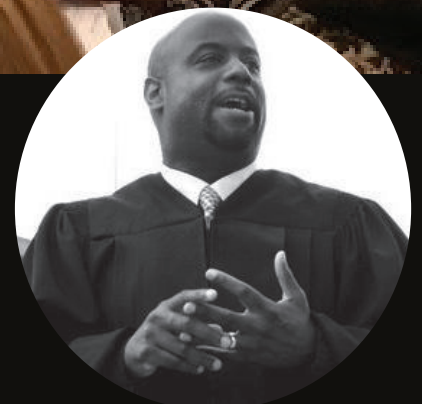
Messenger



Milwaukee Bar Association
2017
Law & Technology Conference

Calculating and Preventing Cyberattacks

ALSO IN THIS ISSUE:
Meet Judge Derek Mosely



Regular Features

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Make Your Voice Heard

Send your articles, editorials, or stories to mflores@milwbar.org. We also have seats available on the *Messenger* Committee. We look forward to hearing from you!



The *MBA Messenger* is published quarterly by the Milwaukee Bar Association, Inc., 424 East Wells Street, Milwaukee, WI 53202. Telephone: 414-274-6760
E-mail: mflores@milwbar.org

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Contact Information

Milwaukee Bar Association, Inc.

424 East Wells Street

Milwaukee, WI 53202

Phone: 414-274-6760

Fax: 414-274-6765

info@milwbar.org

www.milwbar.org

Dear MBA Members,

We write this article in gratitude for the 14+ years attorney Charles Barr has dedicated to shaping the Milwaukee Bar Association *Messenger*. This issue marks Charlie's last in a long line of excellent publications. Charlie has graced our pages with cultivated content that is timely, newsworthy and humorous at just the right moments.

The time that it takes to put together this quarterly publication cannot be underestimated and our appreciation of Charlie's devotion to this publication cannot be overstated. And the *Messenger* is just one of Charlie's many contributions to the MBA over the years. He is an MBA past president, and for many years was a member of the MBA Foundation Board of Directors.

Charlie, we thank you for your dedication to the MBA and hope that you now have more free time to pursue your passion for America's pastime. Swing for the fences! You will certainly be in our hall of fame.

Sincerely,

The Milwaukee Bar Association Executive Committee

Member News



Asma Kadri

ACLU Hires Asma Kadri as Staff Attorney

The American Civil Liberties Union of Wisconsin has hired Kenosha native Asma Kadri as its newest attorney. Kadri, a graduate of Loyola University in Chicago and the American University College of Law in Washington, D.C., worked for judges in Fairfax, Virginia, and Washington. She joins a team of three

ACLU Wisconsin staff attorneys working on issues such as racial justice, voting rights, gender equality, free speech, and freedom of religion and belief.



Nicholas G. Chmurski

Attorneys Nicholas G. Chmurski and Kelly M. Condon Join O'Neil, Cannon, Hollman, DeJong & Laing

Chmurski is a graduate of Marquette University Law School, and practices in the Business Law and Real Estate & Construction Groups.

Condon is a Marquette University Law School graduate with previous experience in advanced planning at Northwestern Mutual. She practices in the Business Law and Tax & Succession Planning Groups, and assists clients with estate planning, probate, trust administration, and inheritance litigation.



Kelly M. Condon

Welcome New MBA Members!

Matthew W. Adrian, *Law Office of Matthew W. Adrian*
Lindsey M. Anderson, *DeWitt Ross & Stevens*
Brian Anhalt, *Godfrey & Kahn*
Daniel Balk, *Reinhart Boerner Van Deuren*
Lauren A. Blumenthal, *The Blumenthal Group*
Tyler Bush, *Washington University School of Law*
Jesse Byam-Katzman, *Foley & Lardner*
Derek K. Campbell, *Reinhart Boerner Van Deuren*
Michael J. Dearden, *University of Notre Dame Law School*
Brandi M. DuPree
Karyn Durkin, *Reinhart Boerner Van Deuren*
Natalie Fluker, *Marquette University Law School*
Stevin George, *Godfrey & Kahn*
John A. Gibson, *Marquette University Law School*
Dana Hall, *Godfrey & Kahn*
Faith B. Heckel
Asma Kadri, *ACLU of Wisconsin*
Christopher Keeler
Adrian Kelly, *Marquette University Law School*
Rebecca M. Lindstrom, *Reinhart Boerner Van Deuren*
Kelsey McCarthy, *Marquette University Law School*
Megan B. McCormick, *Weiss Law Office*
Sara McNamara, *Reinhart Boerner Van Deuren*
Alexandria Neal, *Reinhart Boerner Van Deuren*
Ryan Ogren, *Southport Legal*
Chinonso Osuji, *Marquette University Law School*
Christopher C. Rundell, *Reinhart Boerner Van Deuren*
Madeline Schlederer, *Godfrey & Kahn*
Rexford Shield
Daniel S. Snyder, *Davis & Kuelthau*
Jo Swamp, *Forest County Potawatomi Legal Department*
Hon. David Swanson, *Milwaukee County Circuit Court*
Brett Tobin, *University of Wisconsin Law School*
Brian Vogt, *Godfrey & Kahn*
Ed Wallace, *Godfrey & Kahn*
Natalie L. Wisco, *Law Offices of Natalie L. Wisco*
Melissa Zabkowicz, *Reinhart Boerner Van Deuren*

Volunteer Spotlight



Jessica Franken

Jessica Franken

Jessica Franken is a graduate of the University of Arizona's James E. Rogers College of Law. She moved to Milwaukee five years ago when she transferred from Quarles & Brady's Phoenix office. She recently joined Marquette University as Associate General Counsel. Jessica is a transactional attorney who enjoys solving problems and helping organizations meet their objectives. She specializes in protection and licensing of intellectual property, commercial agreements, and data privacy.

Jessica has been a regular at the Milwaukee Justice Center for several years. Her first MJC experience was with the Parenting Conferences Program, which assists parents with custody and support issues.

Reading *Evicted: Poverty and Profit in the American City*, by Matthew Desmond, inspired Jessica to broaden her *pro bono* experience. When the MJC and Quarles & Brady launched the Eviction Defense Project, Jessica volunteered to help people facing eviction and who otherwise would have no representation.

When asked why she feels *pro bono* service is so important, Jessica answered, "*Pro bono* work is the opportunity to give back to the community in which you live. For many people, the legal system is unapproachable. They don't know how to address the problems with which they are faced and often don't have the financial resources to get the legal representation they need. Without help, they can lose important rights and, if evicted, can begin a downward spiral. They suffer, and the community suffers, when they don't receive legal help."

In addition to volunteering at the MJC, Jessica serves on numerous nonprofit boards, and has worked on UPAF campaigns and with food banks. In her down time, she takes advantage of Milwaukee's rich arts scene, hikes (especially in the snow), and reads a variety of books. Her long-term goals include continuing to provide quality legal services to Marquette University and the Milwaukee community, improving her French, getting back into pottery, and taking up ballroom dancing again.

Mission Statement

Established in 1858, the mission of the Milwaukee Bar Association is to serve the interests of the lawyers, judges and the people of Milwaukee County by working to: promote the professional interests of the local bench and bar; encourage collegiality, public service and professionalism on the part of the lawyers of Southeastern Wisconsin; improve access to justice for those living and working in Milwaukee County; support the courts of Milwaukee County in the administration of justice; and increase public awareness of the crucial role that the law plays in the lives of the people of Milwaukee County.

Message From the President



Attorney Shannon A. Allen, DeWitt Ross & Stevens



October is *pro bono* month. That month, I had the honor of attending three *pro bono* events as president of the MBA. I also recently had several discussions with MBA members, in various kinds of practice and of various experience, about *pro bono* service. I'd like to share my personal reflections on what *pro bono* service means to me and some of my peers.

Following are summaries of the three *pro bono* events I attended in October:

On October 3, I attended the MBA's 14th Annual State of Court Luncheon. The luncheon drew record attendance of 301 MBA members and guests. It was my privilege to present the four *Pro Bono Publico* Awards. The winners were selected by the MBA's newly formed awards committee. They are:

- Legal Action of Wisconsin's Eviction Defense Project
- David R. Cross, *Quarles & Brady*
- Brenda Lewison, *Law Office of Arthur Heitzer*
- Jason "J.J." Moore, student at *Marquette University Law School*

The highlight of the award process for me happened weeks in advance of the luncheon. I had the opportunity to personally contact the winners to inform them they were being honored. What I found with each call was that the honorees were surprised and humbled when I told them they would be receiving MBA *Pro Bono Publico* Awards. They all told me they were simply doing necessary *pro bono* work to help their clients navigate the legal system, and were not looking for any recognition.

On October 17, I attended the On the Table Luncheon at the MBA as part of a city-wide initiative by the Greater Milwaukee Foundation. Sarah Martis facilitated the luncheon's topic, which was "*Pro Bono: How to Help Lawyers Become More Engaged.*" Ten people attended, including MBA board members, state court judges, retired judges, and community advocates. I was struck by the compassion and thought each participant brought to the conversation, and how people with diverse personal and legal backgrounds came together to generate ideas about how to expand *pro bono* services. I look forward to continuing the discussions started at the round table luncheon.

On October 26, I attended the MBA's *Pro Bono* Cocktail Reception at the MBA and sponsored by the State Bar of Wisconsin to recognize 182 new inductees into the State Bar's *Pro Bono* Honor Society. Milwaukee County Chief Judge Maxine White, Judge Laura Gramling Perez, and Liz Marquardt spoke about the need for *pro bono* services and the variety of services provided. In addition to participating in the formal program, I had the opportunity at the reception to speak with judges, attorneys, law students, and Milwaukee Justice Center staff about the undeniable need for additional *pro bono* services from the members of the bar, as well as the satisfaction attorneys and law students find in performing those services.

In the weeks following these three *pro bono* events, I have spoken to numerous MBA members and other attorneys about what *pro bono* service means to them, and the types of *pro bono* or another volunteer work in which they participate. The conversations were enlightening, and the responses were quite diverse. Here is a summary of select conversations:

- A recently licensed attorney employed by a large law firm told me he volunteered at the MJC as a Marquette University law student and has continued his commitment as a volunteer attorney at the brief legal advice clinic monthly.
- A senior partner at a medium-sized firm told me she tries to take one Legal Action eviction case every year. She has also strongly suggested that the associates in her firm do the same.
- A third attorney is from a small firm and focuses on tax and estate planning. He said while he does not sign up for formal *pro bono* legal appointments, he is on several nonprofit boards and does extensive volunteer work at his church. He told me that he feels the skills he has learned as a tax attorney add great value to his volunteer work.
- A fourth attorney is in-house counsel. She serves on two nonprofit boards and volunteers at the MJC forms clinic monthly. She said she did not have time for *pro bono* work earlier in her career due to work and family commitments, but she now enjoys her work at the MJC since she is no longer in private practice and does not have regular client contact.

I have also reflected on my own *pro bono* commitments through the years. During law school at UW-Madison, I volunteered at a community legal clinic. I always enjoyed the client interaction and knowing I was making a difference. During my years in private practice, my *pro bono* commitments have varied greatly depending on my caseload and personal commitments. I have handled several Legal Action appointments and have been an MJC volunteer for five years.

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2017 WINTER CLE CALENDAR

DECEMBER

December 15th Corporate Counsel Section: Wire Fraud & Cybersecurity--What It Means for Your Settlement Transactions

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Jan M. Haapala and Danielle M. Farina, First American Title Insurance Company
1.0 CLE credit

December 15th Annual Probate Seminar

2:00 - 5:00 p.m., Milwaukee Bar Association \$99
Hon. David L. Borowski, Presiding Judge, Probate Division
Hon. Patrice A. Baker, Probate Commissioner
Jeaneen J. Mardak, Deputy Register in Probate
Willem J. Noorlander, Gierke Frank Noorlander
Nicole L. Robbins, Deputy Register in Probate
Elizabeth Ruthmansdorfer, Moertl, Wilkins & Campbell
Peter J. Wyant, Wyant Law Offices
3.0 CLE credits

December 19th Family Law Section: Ethical Considerations

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Jeremy P. Levinson, Halling & Cayo
Stacie H. Rosenzweig, Halling & Cayo
1.0 CLE ethics credit



JANUARY

January 9th Lawyers' Duties With Respect to Client Files

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Timothy J. Pierce, Ethics Counsel, State Bar of Wisconsin
1.0 CLE ethics credit

January 12th Grow Your Practice Institute: Don't Panic! An Attorney's Guide to Grievances

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Stacie H. Rosenzweig, Halling & Cayo
1.0 CLE ethics credit

January 17th DNR Alignment Updates

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Jason Knutson, Wisconsin Department of Natural Resources
1.0 CLE credit

January 18th Year in Review on Real Property Issues

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Anne E. Wahl, von Briesen & Roper
1.0 CLE credit

January 22nd Advertising and Social Media: Legal Ethics in the Internet Age

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Jeremy P. Levinson, Halling & Cayo
Stacie H. Rosenzweig, Halling & Cayo
1.0 CLE ethics credit

January 25th Labor & Employment Section: EEOC Update

Noon - 1:30 p.m., Milwaukee Bar Association \$40/\$52 w/lunch
Cesar del Peral, Trial Attorney, Equal Employment Opportunity Commission
1.0 CLE credit

CLE free for newly licensed members (past five years) and law students
Register online: milwbar.org/calendar.php

Thank You to Our October, November, and December CLE Presenters!

Wisconsin Trust Code Trailer Bill

Victor J. Schultz, Prairie Financial Group

The News in Ethics: New Rules, New Opinions and a New Mindset

Aviva M. Kaiser, State Bar of Wisconsin

Patents: They're Not Just for Litigation Anymore

Joseph J. Berghammer, Banner & Witcoff
Binal J. Patel, Banner & Witcoff

A Primer/Update on Federal and Wisconsin Environmental Law for Real Property Attorneys

Christopher J. Jaekels, Davis & Kuelthau
David P. Ruetz, GZA GeoEnvironmental

Medicaid Basics

Megann Hendrix, Walny Legal Group

Ethics Nightmares: Tales from the Dark Side of the Law

Andrew L. Franklin, Franklin Law Office

Family Law 101 (Part I): The Basic Divorce Case from Inception to Conclusion

Susan A. Hansen, Hansen & Hildebrand
David B. Karp, Karp & Iancu
Robert Steiner, Halling & Cayo
Patricia L. Grove, Halling & Cayo

Westlaw: Legal Ethics and Professional Responsibility

Steven Silverstein, Thomson Reuters

Keep Your IRA Healthy with an Annual Checkup

John T. Bannen, Quarles & Brady
Kathryn A. Muldoon, Quarles & Brady

Diversity Jurisdiction

Thomas L. Shriner Jr., Foley & Lardner

Cybersecurity: How Can Employers Protect Themselves?

John E. Murray, The Marcus Corporation

Nuances in Video Games

Ross A. Hersemann, Loading Law

Family Law 101 (Part II): Post-Judgement 101 for Family Law Attorneys

Christy A. Brooks, von Briesen & Roper
Amy L. Shapiro, Hawks Quindel
Carlton D. Stansbury, Burbach & Stansbury

Capacity and Your Client

Heather B. Poster, Becker, Hickey & Poster

GAL Seminar: Adolescents Who Resist and/or Refuse Placement

Lisa A. Bangert, Advocate, Attorney at Law
Rebecca Cleary, Children's Hospital of Wisconsin Community Services
Dr. Heidi Gahr, Lakeside Psychological Evaluations and Family Consulting
Dr. Christine Harness, Harness & Associates
Eric R. Hart, Hart Law Office
Richard H. Hart, Hart Law Office
Dr. Casey A. Holtz, PhD
Mary E. Leonard, Leonard Law
Hon. Richard A. Sankovitz, Milwaukee County Circuit Court

38th Annual Criminal Law Conference

Daniel D. Blinka, Marquette University Law School
Robert D. Donohoo, Milwaukee County District Attorney's Office
Peyton B. Engel, Hurley, Burish & Stanton
Craig R. Johnson, Sweet & Associates
Craig A. Mastantuono, Mastantuono & Coffee
Dennis M. Melowski, Melowski & Associates
Timothy J. Pierce, State Bar of Wisconsin

Persuasive Writing

Susan Bay, Marquette University Law School
Alison Julian, Marquette University Law School

Wire Fraud and Cybersecurity: What It Means for Your Settlement Transactions

Jan M. Haapala, First American Title Insurance Company
Danielle M. Farina, First American Title Insurance Company

Annual Probate Seminar

Hon. Patrice A. Baker, Milwaukee County Circuit Court, Probate Division
Hon. David L. Borowski, Milwaukee County Circuit Court
Jeaneen J. Mardak, Milwaukee County Circuit Court, Probate Division
Nicole L. Robbins, Milwaukee County Circuit Court, Probate Division
Elizabeth Ruthmansdorfer, Moertl, Wilkins & Campbell
Peter J. Wyant, Wyant Law Offices

Ethical Considerations in Family Law

Jeremy P. Levinson, Halling & Cayo
Stacie H. Rosenzweig, Halling & Cayo

Meet Your MBA Board Member: Elizabeth A. N. Haas

Sarah J. Martis, CAE, Executive Director, Milwaukee Bar Association



Elizabeth Haas joined the Milwaukee Bar Association Board of Directors in May 2017. She was sworn in atop the visitor's dugout at Miller Park during the MBA's Annual Meeting. Elizabeth, a Mequon native, returned to our fair city after receiving her law degree at the University of Michigan Law School, where she was an associate editor for the *Michigan Journal of Gender & Law* and the *Michigan Telecommunications and Technology Law Review*. She thought long and hard about

where she wanted to establish a practice. The pull to Milwaukee was strong given her family ties to the area, and there was something very appealing about coming home and contributing to her own community. "I've always been a champion of Milwaukee as a great city to live and work in, so it really was the best option for me. The good news is that I've never second-guessed the decision!" she said.

Elizabeth had the good fortune of observing many great lawyers in action during her formative years and had a sense, in high school at the latest, that she would pursue a career in the law. Job shadowing and college internships confirmed that thinking. "I could see myself working as an attorney, as a problem solver and strategic advisor. It was just a natural fit for my skill set and personality."

Elizabeth has put her plan and passion into action, and is a partner with Foley & Lardner. She provides strategic counsel on complex commercial and antitrust litigation, including class action defense. Her antitrust clients include manufacturers, distributors, service providers, and trade associations. In addition, she represents corporate clients in other types of business litigation and arbitration, from routine commercial matters to bet-the-company litigation, in federal and state courts and agencies. Her experience extends to diverse industries,

including manufacturing, automotive, food and beverage, sports, and technology companies. Elizabeth seeks to understand her clients' business and strategic objectives to best address their needs.

Elizabeth identifies the MBA as evolving, collegial, and communal. "Service as an MBA board member provides a great way for me to contribute to the Milwaukee legal community. The MBA is making great strides to invigorate its membership and connect Milwaukee lawyers; I hope to play an integral role in that process and extend the reach of the MBA. I'm also hopeful that I will get to know more Milwaukee area lawyers along the way."

In addition to her leadership in the MBA, Elizabeth serves as co-chair of the ABA Section of Antitrust Law Civil Practice and Procedure Committee; the project chair for *The Indirect Purchaser Litigation Handbook* (2015); an active member of the Seventh Circuit Bar Association; a member of the Association for Women Lawyers; and on the Local Rules Committee for the United States District Court for the Eastern District of Wisconsin.

Through all her achievements and activities, family stays close to Elizabeth's heart. When asked the infamous "what would your last meal be" question, she answered, "A meal with my family. I don't care what would be served, as long as we were all together (though I'd vote for my mom's homemade chicken pot pies and her brownies because both are divine.)"



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#membermashup Is No One-Hit Wonder

Our second networking event is in the books! Over 50 MBA and Milwaukee Young Lawyers Association members attended this casual event at Bugsy's Back Alley Speakeasy on November 2. New professional relationships were forged and many a bourbon flight consumed. Be sure to check your inbox for details of the next #MemberMashup, a free quarterly networking series dedicated to connecting newly licensed attorneys to the Milwaukee legal community.



Shannon A. Allen and Laurna Kinnel



Osman Mirza



Michael Gentry and Christopher Schuele



Maggie Seifert and Claudia Harke

Thank you to our gracious sponsors:



Biomedical Privacy Act Spawns Litigation

Attorney James P. Fieweger, Michael Best

In the good old days, biometric security was the stuff of movie fantasy. Sean Connery used a fake fingerprint to foil a scanner in *Diamonds Are Forever*. Tom Cruise got an eye transplant and gruesomely carried his old eyeballs in a plastic bag to trick a retinal scanner in *Minority Report*. Ewan McGregor was a clone who used facial recognition to pass for the person he doubled in *The Island*.

But today, biometric security is not so fantastic. In fact, it has made its way into the workplace in ordinary applications. More employers are using biometric technology to clock workers in and out and improve payroll accuracy, or to restrict access to sensitive work spaces. Biometrics aren't just for Hollywood any more.

The Illinois Biometric Information Privacy Act

With increased use of biometric security comes increases in privacy concerns and state regulation. Many states have adopted laws requiring notification when personal identifying information, defined to include biometric data, is disclosed to third parties. Illinois has gone a step further with the Biometric Information Privacy Act.

BIPA, passed in 2008, has been described as the most stringent regulation of the collection, use, and storage of biometric identifiers and information. Prompted by the increased use of biometrics in financial and retail transactions, the Illinois legislature expressed concern about permanent consequences when biometric data is breached: "social security numbers, when compromised, can be changed. Biometrics, however, are ... unique to the individual; therefore, once compromised, the individual has no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-facilitated transactions." 740 ILCS 14/5(c). Although concerns over market transactions using biometric data prompted BIPA, its reach has extended into the labor market as more employers use this technology in their daily business.

The Act governs the "collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information." 740 ILCS 14/5(g). "Biometric identifiers" are defined to include "a retina or iris scan, fingerprint, voiceprint, or scan of hand or face geometry," but to exclude "writing samples, written signatures, photographs, human biological samples used for valid scientific testing or screening, demographic data, tattoo descriptions, or physical descriptions" 740 ILCS 14/10. "Biometric information"

includes "any information, regardless of how it is captured, converted, stored, or shared, based on an individual's biometric identifier used to identify an individual." *Id.*

BIPA requires any private party that collects or obtains biometric identifiers or information to:

1. inform the subject in writing that the identifier or information is being collected or stored;
2. inform the subject in writing specifically why and for how long it is being collected, stored, or used; and
3. obtain the subject's written consent.

740 ILCS 14/15(b).

The Act also prohibits any private entity from:

1. selling, leasing, trading "or otherwise profit[ing] from a person's or a customer's¹ biometric identifiers or information"; or
2. disclosing or disseminating biometrics without the subject's consent, unless required by law or pursuant to a valid warrant or subpoena.

740 ILCS 14/15(c)-(d).

BIPA establishes a standard for handling biometric identifiers or information. It requires any private entity in possession of biometric identifiers or information to use reasonable care to "store, transmit, and protect [them] from disclosure." The standard for safeguarding this data is that used "within the private entity's industry," and the security methods must be "the same or more protective than the manner in which the private entity stores, transmits, and protects other confidential and sensitive information."² 740 ILCS 14/15(e). Private entities that possess biometric identifiers or information must adopt a written policy that creates a retention schedule and guidelines for permanently destroying the data once the original purpose for collecting them has been satisfied, or within three years of the subject's last interaction with the entity, whichever comes first. 740 ILCS 14/15(a). The entity must comply with this retention schedule unless a valid subpoena or warrant requires the data's preservation. *Id.*

BIPA's Private Action

Significantly for financial institutions, retail merchants, employers, and others who use biometric information, BIPA provides for a private right of action that allows "any person aggrieved by a violation of this Act" to recover

\$1,000 for each negligent violation and \$5,000 for each reckless violation, or their actual damages, whichever is greater. 740 ILCS 14/20. The Act also allows the prevailing party to recover attorney's fees and costs, including expert fees and other litigation expenses. *Id.*

This provision has accounted for a recent uptick in litigation, as plaintiffs' counsel have filed class actions against various tech companies and employers. Recent defendants have included Google, L.A. Tan, Shutterfly, and Facebook. In the third quarter of 2017 alone, employers Speedway, Superior Air-Ground Ambulance Service, ABRA Auto Body & Glass, and more than twenty others were sued in class actions in Illinois state courts for BIPA violations.

While these class actions are a relatively new phenomenon and it is difficult to predict how the law will develop, BIPAs liquidated damages provisions apply per violation, and therefore can quickly aggregate into significant liability when multiplied across an employer's workforce or a company's customer base. As a result, employers and market participants who employ this technology in their businesses have every incentive to ensure compliance with BIPAs directives. That compliance should start with adoption of an adequate and written data retention policy. Employers should develop human resources forms and procedures that ensure they are providing the required written notifications before or at the time the biometric information is collected or used. They also must take steps to ensure that, at a minimum, they are using the technology and procedures others in their respective industries use to protect the confidentiality of this data. Indeed, employers would be well served by attempting to be industry leaders in this area. If the technology is worth using in business, it is worth the extra time to ensure it is being employed safely and in compliance with the law. With a bit of planning, companies using biometric technology in Illinois can look to the silver screen, not the court system, for suspense and intrigue.

The author can be reached at jpfieweger@michaelbest.com or 312.596.5849.

¹Because it is not apparent that a customer with biometric identifiers or information can be anything other than a person, the statutory term "customer" may be unnecessary.

²"'Confidential and sensitive information' means personal information that can be used to uniquely identify an individual or an individual's account or property. Examples of confidential and sensitive information include, but are not limited to, a genetic marker, genetic testing information, a unique identifier number to locate an account or property, an account number, a PIN number, a pass code, a driver's license number, or a social security number." 740 ILCS 14/10.

Can the State Legislature Lower the Legal Drinking Age in Wisconsin?

Attorney Steven McGaver, Gimbel Reilly Guerin & Brown, and Kenneth Baker, Law Clerk, Gimbel Reilly Guerin & Brown

Wisconsin lawmakers recently announced a proposal to lower the legal drinking age to 19. This proposal has one significant condition: that the change not cause federal highway funding to be withheld from the state.

In 1984, Congress passed the National Minimum Drinking Age Act (NMDAA). The act created a uniform age (21) for the legal consumption of alcohol. If a state refused to raise its legal drinking age, the Department of Transportation would withhold federal highway funding. Eventually, all 50 states passed legislation to raise the drinking age to 21, including Wisconsin on September 1, 1986.

Soon after the NMDAA became law, it faced a challenge to its constitutionality. In *South Dakota v. Dole*, 483 U.S. 203 (1987), the U.S. Supreme Court addressed the extent of Congressional power to withhold federal funding from the states. The Court upheld the NMDAA and found that Congress can withhold federal funds from the states if it meets five requirements. The first is that the funding must promote “the general welfare.” Second, the condition imposed on the states must be unambiguous. Third, the condition should relate “to the federal interest in particular national projects or programs.” Fourth, the condition must not, in itself, be unconstitutional. And finally, the condition must not be coercive. If Congress passes this five-part test, it can withhold federal funding from the states.

Under that holding, the legal drinking age in the United States has remained at 21 for more than three decades. The recently proposed legislation in the Wisconsin Assembly seeking to lower Wisconsin’s legal drinking age back to 19 raises interesting questions of federalism and revisits the extent to which Congress can withhold federal funds from the states.

One of the bill’s supporters, Representative Adam Jarchow, stated his rationale for attempting to lower the drinking age: if you can serve your country, you should be able to be served a beer. From an economic perspective, Jarchow believes that state and local enforcement are

spending far too much taxpayer money enforcing the restrictions on underage drinking. Madison Mayor Paul Soglin believes that this money could be better used to prevent alcoholism and fund rehab centers.

The University of Wisconsin-Madison has the dubious reputation of being one of the top party schools in the country. Additionally, Wisconsin has earned recognition for having some of the heaviest drinkers in the country. Jarchow argues that by lowering the drinking age to 19, teenagers will be less likely to binge drink. College campuses across the United States have faced a series of alcohol-related deaths that is unmatched on a global scale. Many argue that this phenomenon is attributed to the current prohibition on teenage drinking in the United States. European countries that have less rigid age restrictions on drinking also have fewer deaths due to binge drinking.

It remains to be seen whether Jarchow can get a bill across the finish line and lower the drinking age, while still managing to keep federal highway funding. If this attempt is successful, it would surely cause other states to take notice.

One group in staunch opposition to the bill is Mothers Against Drunk Driving (MADD). The legislation would increase by the thousands the number of individuals who can legally drink, and probably cause more people to frequent and drive home from bars. MADD warns that any reduction in the drinking age will drastically increase the number of drunk driving accidents and alcohol-related deaths. Moreover, MADD is concerned because teenagers are the demographic group most likely to have motor vehicle accidents, and throwing alcohol into the mix will only increase accident frequency.

How will Jarchow “negotiate” with the U.S. Department of Transportation, as he claims he will do? Allowing a state to lower the drinking age while retaining federal highway dollars seems in direct contradiction to the NMDAA. Jarchow’s bill is still being circulated, and his uphill battle is unlikely to gain much traction due to opposition by community groups (including MADD) and federal law.

Top Five Suggestions for Marketing as a New Attorney

Attorney Matt Ackmann, Hawks Quindel

Whether you are a sole practitioner, government attorney, in-house counsel, or an associate at a large firm, marketing yourself as a new attorney is essential, both to attract new clients and for professional development. Here are my top five suggestions for marketing yourself as a new attorney:

1 Blog. If your employer has a blog, contribute to it as often as you can. Alternatively, create a blog on your practice area(s). Having a library of written material will improve your sense of credibility, which is vital for new attorneys. Of course, quality, not just quantity, is essential when creating blog posts.

2 Videos. The modern trend is to consume information in quick sound bites. Incorporating short videos into your website or blog may grab the attention of a causal scroller. In addition, videos can be a useful way of quickly explaining a complex matter.

3 Scrub your social media. You may have cleaned up your accounts during law school for the hiring process, but you should ensure those accounts still present well. Even if your account is private, it still may be uncovered. (Just ask a teacher how quickly a student can find an account.)

4 Join and participate in a young professional group. Referrals can come from anywhere, but the trend is that professionals of the same experience level or age refer to each other.

5 Don’t overlook traditional marketing strategies. They can work. If you put in the time to identify your target audience, taking out an ad in a paper or church bulletin may make sense.

However you market yourself, be sure you are complying with ethics rules.

Judge Mosely Is a Study in Positive Energy

Attorney Susan A. Hansen, Hansen & Hildebrand and Family Mediation Center

Judge Derek Mosley, presiding judge of the Milwaukee Municipal Court, has a personality that lights up the room. He possesses a unique combination of joyful warmth, deep concerns about the community, and an unwavering belief that each individual can make a difference. His legal career has focused on community service. A graduate of Marquette University Law School, he was an assistant district attorney before becoming the youngest African-American judge in Wisconsin at 31.

Judge Mosley has been a leader both on the bench and in the community. He sits on numerous boards, works with schools and youth agencies, provides education and inspiration to many community groups, performs personalized wedding ceremonies, and handles a crowded and high-pressure daily court calendar. He reminds himself that while a judge has many cases in a day, each case is the most important of the day to the individual who appears in court. He sees municipal court as a perfect opportunity to immerse himself in the day-to-day happenings of the city and to be part of improving the community.

Judge Mosley has almost limitless energy that stokes his passion to make a difference. Marquette University Law School honored him with the Eisenberg Award in 2015, as an alumnus who exemplifies excellence, leadership, faith, and service to the legal profession and the broader community. He has been part of numerous court initiatives, including programs to assist veterans, the homeless, schools, and students. Judge Mosley is a strong proponent of taking the court to the people it serves and coordinating the services that defendants and their families need. The State Bar recognized him and the two other municipal court judges with a 2017 Wisconsin Legal Innovator Award for their development and outreach to help those with warrants get a fresh start. With this new program, which includes taking the court out of the courthouse and into the community, Judge Mosley has seen people coming to court with warrants and leaving with jobs and a future—a unique way for courts to be a force for positive change in the city.

Judge Mosley is from Chicago and came to Milwaukee to attend law school at Marquette. Apart from his favorite football team, the name of which will remain unspoken here, he is a dedicated Milwaukeean. His work in municipal court, community activism, and commitment to raising his family here has woven him into the fabric of Milwaukee. He has even adopted a love of “Up North,” which he frequents for fishing, camping, and snowmobiling.

Judge Mosley is also a dedicated foodie who loves trying new eateries, including those of local chefs and hidden gems on road trips. He is often accompanied on his adventures by his wife, Kelly Cochrane, an administrative law judge, and their two daughters. His Facebook posts chronicle many of his experiences, as well as his community insights



Judge Derek Mosley — Photo Credit OnMilwaukee

and education. He sees social media as a way to link his diverse and growing list of contacts, and to build understanding and connection in the Milwaukee community.

Judge Mosley’s nonstop energy was tested when he was diagnosed with end-stage renal disease in 2014 and spent two years on 10-hour daily dialysis waiting for a kidney transplant. In a cinematic turn of events, his friend and fellow municipal court judge in Brookfield, JoAnn Eiring, was tested and turned out to be a match. She did not hesitate to become a donor. In a time of racial and gender challenges, it is a touching reflection on shared humanity that the genetic compatibility of a white woman from Brookfield and a black man from the south side of Chicago saved Judge Mosley’s life.

Since the transplant surgery, both judges have become spokespersons for organ, eye, and tissue donation. Both have dedicated their efforts to recruiting more donors. Judge Mosley urges everyone to consider registering to be a donor at www.donatelifewisconsin.org. He is living proof it can save a life.

In reflecting on the practice of law, Judge Mosley urges lawyers to become better listeners. The most effective lawyers are those who communicate often with their clients and come to court fully prepared. He also encourages lawyers to become active and integrated in positive activities outside the courtroom. As he sees it, the way for lawyers to improve the public’s perception of the legal profession is to engage in the community.

Judge Mosley’s advice: be seen, be involved, get connected, and make a difference. Fortunately for Milwaukee, Judge Mosley follows his own advice.



2017 Law & Technology Conference Tackles Cyberattacks

From e-discovery to marketing, the MBA Law & Technology Conference, held November 16 at the Italian Conference Center, touched on many pain points for small and large law firms alike. Keynote speaker Dawn Cappelli, VP and chief information security officer at Rockwell Automation, delivered a polished speech on how to stay a step ahead of cyber criminals. In the wake of WannaCry and Petya, she reminded us just how

determined cyberattackers are, and how vulnerable systems and people can be. The conference concluded with a rapid-fire presentation by our panel of tech experts of the top 50 tips and tricks for everyday use.

Keep your finger on the pulse by attending next year's conference. (Date to be released soon!)



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▲ Keynote Speaker Dawn Cappelli

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Firm Profile: Andrus Intellectual Property Law



Established: 1939

Number of attorneys: 16

Offices:

Milwaukee, WI

Madison, WI

Newburyport, MA

Phone number: (414) 271-7590

Website: andruslaw.com

Firm Basics

Who We Are:

Andrus is a full-service intellectual property law firm. We assist our clients in all phases of intellectual property management—IP strategy, managing the prosecution and maintenance of global IP portfolios, enforcement actions regarding IP assets, and IP transactional matters.

Our attorneys have a diverse range of technical backgrounds in the fields of biology, biochemistry, biomedical engineering, biotechnology, chemistry, civil engineering, computer software and hardware, electrical engineering, electronics, fluid dynamics, mechanical engineering, medical devices, metallurgical engineering, molecular biology and genetics, pharmaceuticals, and physics. This well-rounded technical expertise allows us to serve clients in a variety of industries.

Our mission is to continue providing clients with experienced intellectual property counsel regarding procurement, management, and protection of intellectual property rights.

Services Offered:

We serve clients in procurement, enforcement, and portfolio management related to all types of IP assets, including patents, trademarks, copyrights, and trade secrets. Our attorneys are knowledgeable in developing and executing global IP strategies, including extensive experience in litigation. Being a medium-sized firm devoted exclusively to IP allows us to provide our clients with a high level of personal service on a cost-effective basis.

Our History:

Established in 1939, Andrus is the longest-operating Wisconsin law firm devoted exclusively to the practice of intellectual property law. This longevity enhances our ability to adapt to complex and rapidly changing business and technical environments.

Awards and Accolades:

- Best Law Firms and Best Lawyers® (U.S. News & World Report)
- Chambers USA Ranking
- Inclusion in IAM Patent 1000—The World's Leading Patent Practitioners
- Listed as recommended firm in Managing IP's World IP Survey (IP STARS)
- Super Lawyers®



Q&A with Aaron Olejniczak

Aaron T. Olejniczak, Partner, *Andrus Intellectual Property Law*
Vice President, *Milwaukee Bar Association*

Aaron talks about Andrus' partnership with the Milwaukee Bar Association

How long have you been a member of the Milwaukee Bar Association?

I have been a member since graduating law school and joining Andrus in 2002, and I have had an active leadership role

in the MBA since 2014, serving on the Board of Directors. I have also co-chaired the MBA golf outing since 2010. Andrus has supported the MBA for well over a decade through sponsorship and participation in premier events such as Judge's Night, the Law & Technology Conference, the MBA Foundation Golf Outing, and the Run for Justice benefitting the Milwaukee Justice Center.

What impact have you seen the MBA make in the legal community?

One of the things I am most proud of as a member of the Milwaukee legal community is its level of professionalism, civility, and collegiality. I think the MBA is a vital component in fostering those values in the community. The MBA provides so many opportunities to meet other attorneys face to face in educational, professional, and social settings. Making these in-person connections is so important to developing a strong network of legal advocates in this community. The MBA is also a crucial supporter of the MJC and other *pro bono* legal services, striving to ensure that everyone has fair access to our legal system.

How has Andrus benefited from its partnership with the MBA?

In addition to the personal fulfillment I get from being part of a community of legal professionals, our firm has certainly benefited on the "bottom line" from connections we have made through the MBA. I have received numerous client referrals from other Milwaukee area attorneys, and I believe our firm's cachet in the community has improved due to its visibility as a sponsor of MBA events and causes.

What do you like most about working with the MBA?

It is hard to choose, but I enjoy speaking with law school students and new attorneys. I take pride in introducing them to the great legal community we have in Milwaukee, and I get excited by their enthusiasm about stepping up as leaders in our profession and advocates in the greater Milwaukee community.

What's next for 2018?

The MBA will continue to provide robust educational programs and engaging networking opportunities, and we are working on plans to further improve each attorney's experience with the organization. Younger attorneys, please support our Grow Your Practice Institute. It offers quality programs that focus on the practical side of law practice, and they are complimentary to members who have graduated in the past five years. Also, keep an eye out for our announcement regarding the 2018 Annual Meeting—we have another great venue for one of our biggest events! The Andrus firm will continue to support the MBA in these exciting endeavors.

For MBA sponsorship opportunities contact Executive Director, Sarah Martis, smartis@milwbar.org.

My Most Memorable Case

City of Milwaukee v. Wroten: A Big Deal for the Little Courts

by Honorable James A. Gramling, Jr.

It was a case with possible origins in the Fugitive Slave Law, a dissenting Supreme Court justice who might have had more than a little regret, and a claim that the judge was really nothing more than a clerk. *City of Milwaukee v. Wroten* is far and away my Most Memorable Case.

It all began when, in September, 1987, Eloise Wroten found several Milwaukee police officers in the lobby of her apartment building and asked why they were there. As is often true in these matters, one thing led to another. The officers told her to leave, she refused and kept asking what was going on, and after she “continued to verbally badger officers and interfere with investigation for 3-5 minutes” Ms. Wroten was arrested and charged with “Resisting or Hindering an Officer.” The ordinance under which she was charged was passed by the Milwaukee Common Council in 1855 and had not been changed since then, except to increase the penalties. The relevant language penalized anyone who shall in “any way interfere with any police officer ... in the discharge of his duty.” The case was assigned to my branch of the Milwaukee Municipal Court.

Ms. Wroten obtained the services of Attorney Katie Walsh of the Legal Aid Society of Milwaukee, who promptly raised a First Amendment challenge, arguing that the hindering ordinance could punish mere speech and therefore was overly broad. The city fought back, arguing that the ordinance was entirely constitutional and, if not, that a judicial construction could save it. Then the city raised the argument that really caught my attention: as a municipal judge, I did not have the authority to decide constitutionality in the first place. The municipal court, in the city’s opinion, was not really a court at all but more like an administrative agency, and the judge the equivalent of a clerk. Ouch! Less than two years earlier, at my investiture, I’d been sworn in by Justice Don Steinmetz of the Wisconsin Supreme Court—a former Milwaukee County Circuit Judge whom I’d admired—and I took an oath to uphold the federal and state constitutions. I certainly *felt* like a judge.

Well, I set to work reading the briefs and drafting an opinion. Most cases in municipal court are decided on the spot with a brief oral decision. These are the courts at the bottom of the judicial pyramid, busy courts handling a lot of the justice system’s work but not usually the center of great deliberation. This case required more. I finished writing my decision on a Thursday afternoon, left it with my secretary to distribute to the parties, and headed off the next day to go camping with my family and friends along Lake Michigan. The next evening, a late-arriving friend showed up at the campsite with a copy of the *Milwaukee Journal* (not yet merged with the *Sentinel*), which had a front-page story announcing my decision that the hindering ordinance was unconstitutional. I was pretty shocked by this coverage. In the paper’s view, the ordinance had been used indiscriminately over the years by the police to suppress dissent at public gatherings. The police union, I learned later, did not share that opinion.

The city filed an appeal to the circuit court, and the case was assigned to Judge Leah Lampone. At the risk of sounding overly dramatic, I spent the intervening months prepared to quit my job if that court reversed. I could not see how I would be able to hold defendants guilty under ordinances that I believed were unconstitutional. When Judge Lampone finished with the case, I was still a judge and the city was without its hindering ordinance; my decision was affirmed on all counts. The parties then bypassed the court of appeals and took the city’s appeal directly to the Wisconsin Supreme Court.

In an opinion issued March 6, 1991 and written by Chief Justice Nathan Heffernan, the Court first addressed the authority issue. Happily, it determined that “under our organic law, once a municipal court is created ... its power is judicial as a part of the unified court system.” That put to rest the city’s “administrative clerk” argument. And then, reaching back to *Marbury v. Madison*, the court concluded that “a municipal court, as a part of the judicial branch, must have the inherent authority to rule on a constitutional issue affecting the municipal ordinance which is involved in the case before it.” This was a very good result. I could continue judging. But what about the constitutionality of the hindering ordinance?

The Court could not discern any legislative history since the ordinance was passed in 1855. In a footnote, the chief justice speculated that language in the ordinance prohibiting the “rescue ... [of] any person in custody” hinted that it may have resulted from Wisconsin’s resistance to the Fugitive Slave Law and the rescue of the escaped slave Joshua Glover in Milwaukee County. In any event, after a review of the overbreadth doctrine the chief justice concluded that the ordinance indeed was so broad that it had “a chilling effect on protected speech,” and was therefore unconstitutional.

The Court’s decision, however, was not unanimous. Two justices dissented. In their view, municipal courts were not courts of record, and given the fact that some municipal judges were not attorneys, they should not be trusted to make constitutional determinations. The dissent further stated that the majority failed to exercise its power of judicial construction to excise the words “in any way,” which would have left the ordinance intact as a constitutional prohibition.

And the author of the dissenting opinion, the one stating that municipal judges should not be allowed to determine the constitutionality of ordinances? The very same Justice Don Steinmetz, who just a few years earlier had administered the oath in which I stated “[I] solemnly swear that I will support the Constitution of the United States and the Constitution of the state of Wisconsin.” He might have modified that oath had he known that *City of Milwaukee v. Wroten* was in our future.

RENEW | YOUR FUTURE

MBA Membership expires DEC. 31, 2017!

VISIT Milwaukee

The advertisement features a city skyline at sunset. On the left is the Milwaukee Bar Association (MBA) logo, which includes the text 'MILWAUKEE BAR ASSOCIATION' and '1838'. The main text 'RENEW | YOUR FUTURE' is in a large, thin font. Below it, 'MBA Membership expires DEC. 31, 2017!' is written in a bold, white font. At the bottom right, there is a small logo that says 'VISIT Milwaukee'.

Vulnerability: The Key to Hiring and Getting Hired

Nate Bogdanovich, Executive Vice President, PS Companies

Too often, a law firm or corporation wonders why the perfect attorney decides not to accept its offer. So much time and money is invested in the hiring process that it's crucial to close on the candidate you want. As an attorney, there are many times an opportunity seems a perfect fit on paper and you had a great interview, but you didn't get the job offer. Both roads lead to the same question ... WHY? The current war on legal talent is too great not to get this right!

Law Firms and Corporations: How to Get It Right

Given current market conditions, lawyers truly have unlimited opportunities to consider. Most (if not all) law firms and companies are hiring. We need to get better at closing. How? The easy part is matching a prospective candidate to the job description. Many attorneys can perform the function for which you're recruiting. It's equally important, but a little more difficult, to find a cultural match. I found "the" candidate, they fit our culture, and they can perform the job at a high level: let's present an offer. That's where the process stops for most hiring parties.

We (law firms and companies) need to be vulnerable. Let a candidate you want know exactly why you want them. Pursue them. Be honest and show them they will make you better. Lay your cards out there! This isn't a game of Texas Hold'em! When you do this the right way, your close rate significantly increases. It is also important that any third-party recruiting firm you work with understand this process, because it can play an integral role in helping you succeed.

Attorneys: How YOU Can Land That Role

Law firms and corporations are hiring at a rate we haven't seen in a while. Many positions aren't even posted. (That's a blog for another time!) So, if you are in the market and you are looking for a new opportunity, why haven't you received an offer? Your background matches the job description, you were a culture fit, you got along well with everyone you met in the interview process, and the firm seemed

interested in you. What happened?

Those interviewers didn't know you wanted the job.

Lawyers tend to be guarded when interviewing for a potential role. It's important that you don't come off as desperate for a job, but it's more important for a firm to know that you want to work there. Be vulnerable! It's okay! The interviewers know you're great, they know you're successful, and you wouldn't be at this stage in the process if they didn't think highly of you. Too often, we see a law firm or company go with a candidate that really wanted the opportunity versus a candidate that had a better background, because the hiring firm didn't believe the candidate was truly interested.

So, the next time you're trying to close the deal on a new hire, or trying to get that offer, make sure the decision-maker knows how you feel!

Message From the President continued from p. 5

Then there is the informal *pro bono* work I, as so many of you, have done throughout my career. This consists of assisting family members, and friends, and acquaintances with brief legal questions and sometimes actual legal services in a *pro bono* mode, or sometimes at a reduced rate, depending on the financial situation and nature of legal services involved.

How an individual attorney defines his or her *pro bono* service commitment is extremely personal. That being said, I respectfully request that you take some time to evaluate how you personally define *pro bono* service and what type of *pro bono* activities (both short-term and long-term) you may be able to fit into your busy lifestyle in 2018.

All my best to you and your loved ones this holiday season.



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I Am One of Many Lawyers Who Struggle With Depression

Attorney Brian Cuban

I am one of many lawyers who struggle with clinical depression. I say “many” because according to a 2016 Hazelden Betty Ford/ABA study, 28 percent of attorneys report mild or higher levels of depression, which is much higher than the general population. Another recent study found that law students are also struggling at rates higher than normal. Think about those numbers the next time you are in a room of lawyers. Take a look around. Odds are good that someone you know in that room is struggling and may not have told anyone.

I often get asked whether my depression stemmed from my addiction issues. When my problem drinking and addiction to cocaine were front and center, it was difficult to separate the depression from the substance use. I vividly remember that horrendous day in July of 2005, when my two brothers, alerted that I was in a suicidal state of mind, came into my home. I had a .45 automatic on my nightstand. Drugs and alcohol were everywhere. As we left the house to take me to a local psychiatric facility, I heard my younger brother say that I needed treatment for addiction. My older brother said that it was the depression that was the issue. They were both right. While the issues were certainly intertwined before I went into recovery, there is no question that for me they also exist independently, with the clinical depression setting in long before alcohol and drugs became problems, dating back to my early teen years.

My mental state as a teenager, in part, would probably be diagnosed today as clinical depression, although I was not diagnosed with it then. It was a different era, and my parents would never have thought to seek help for me. Depression and mental illness in general were not as widely discussed as they are today, and not concepts your average Baby Boomer teen in suburban Pennsylvania would have been comfortable raising with parents, friends, or teachers. Depression was something that was supposed to be handled in private. In silence. In loneliness, so you didn't spread your “sadness” to others. That is how I experienced depression for many decades. As something shameful and secretive.

Today, almost 11 years into my recovery from drugs and alcohol, I still must manage the depression with both therapy and medication. Would I rather it not be that way? Of course. May it always be that way? Possibly. That's okay, as well. Depression is NOT a choice.

Perhaps if the awareness of mental health that exists today had existed when I was a teen, someone might have reached out earlier. For instance, when I began to self-isolate for long stretches of time—my solace was my bedroom where I would spend many hours alone, playing my favorite board game, Strat-O-Matic Baseball, with the family dog at my side. Or when seemingly pleasurable things—a trip to the amusement park with my grandmother, a nice word from a friend—would often leave me unmoved. Or when I was unable to articulate what I was feeling. But perhaps awareness alone wouldn't have been enough. Even though there is seemingly greater awareness of depression today, it can still be difficult for friends and family to discern the signs of depression or other mental health struggles in our loved ones and legal colleagues. It can be just as difficult to acknowledge our own depression in a profession that discourages sharing of feelings as weakness and something to just “get over” or “pull ourselves out of.” Depression does not work that way.

As we go into the holiday season, please keep in mind that this this can be the most difficult time of year for many struggling with depression and other mental health issues. If you are struggling, please remember

that your local Lawyer Assistance Program is not just about addiction. It is also there to help with depression and other mental health issues. If you are a law student, in many states the LAP is also there for you. If not, reach out to your Dean of Students.

Finally, no degree, training, or education is required to use the one gift we all have: the ability to empathize and simply ask people if they are feeling okay and let them know you are there to support them. It's not a comfortable conversation and it's easier to say nothing, but it could be the moment the person is ready to share his or her struggle.

I am a lawyer dealing with clinical depression. Every day I take my medication. Every week I see a psychiatrist. I allow myself to be vulnerable in sharing my past and present in a safe setting. I am not ashamed of either. I hope you won't be, either. Talking helps.

Brian Cuban (@bcuban) is The Addicted Lawyer. Brian is the author of the Amazon best-selling book, The Addicted Lawyer: Tales Of The Bar, Booze, Blow & Redemption. A graduate of the University of Pittsburgh School of Law, he somehow made it through as an alcoholic, then added cocaine to his résumé as a practicing attorney. He went into recovery April 8, 2007. He left the practice of law and now writes and speaks on recovery topics, not only for the legal profession, but on recovery in general. He can be reached at brian@addictedlawyer.com. This article was reprinted by permission from his blog, www.briancuban.com/blog.



Need more clients?



Join the MBA LRIS panel!

Avis Nichols
LRIS Coordinator
414.276.5931
anichols@milwbar.org

Milwaukee Justice Center Update

Mobile Legal Clinic has a banner year!

For the first time in its history, the Mobile Legal Clinic reached over 200 clients. It accomplished this feat in 40 clinics from February through November 2017. The clinic also saw its busiest month in October, with seven clinics serving 48 clients throughout Milwaukee County. Thanks to all the attorney volunteers, student volunteers, and host sites collaborating to make the Mobile Legal Clinic a “driving” force for legal assistance in our community.

If you are interested in joining the attorney volunteers in the Mobile Legal Clinic, please contact Jack Ceschin, the Mobile Legal Clinic volunteer coordinator, at jack.ceschin@wicourts.gov.

Marquette Volunteer Legal Clinics adjust clinic times for 2018.

The Marquette Volunteer Legal Clinic at the Milwaukee Justice Center on Fridays will move from afternoon to morning hours beginning January 5, 2018. The clinic will begin client sign-in at 8:30 a.m., with volunteers offering legal advice from 9:00 to 11:00. The new time allows

for walk-in brief legal advice in the morning, a service not currently offered by the clinic. This accommodates those who work second or third shift or who are picking up children after school. Special thanks to all the firms and volunteers who willingly adjusted their schedules to meet the growing need for walk-in legal advice.

Additionally, the Marquette Volunteer Legal Clinic at the House of Peace will condense its hours to serve clients from 4:00 to 6:00 each Tuesday, and will increase the number of volunteers available during this time. The time change at this first-ever Marquette Volunteer Legal Clinic site will decrease the waiting times for clients.



SAVE THE DATE

8th Annual MJC Run for Justice
Wednesday, June 20, 2018
Veterans Park

Congress Overturns CFPB's Arbitration/Class Action Rule

Attorney Michael C. Barnhill, Michael Best

Congress has invoked the Congressional Review Act to override the Consumer Financial Protection Bureau's regulation prohibiting class action waivers in consumer finance contract arbitration clauses. When the CFPB promulgated the regulation, the financial services industry was quick to condemn it, especially because the CFPB's own findings contradicted the rule. Shortly after announcement of the new rule, the House of Representatives voted to eliminate it. After its recess, the Senate also voted to reject the rule, with Vice President Pence casting the tie-breaking vote. CFPB chief Richard Cordray attempted to save the rule via a letter to President Trump. Despite that last-ditch effort, the president signed Congress' joint resolution, officially overriding the CFPB's rule. This is only the 16th time the Congressional Review Act has been used to invalidate a regulation since enactment of that statute in 1996.

In a statement, the White House said that “the CFPB's rule would neither protect consumers nor serve the public interest. Rather, under the rule, consumers would have fewer options for quickly and

efficiently resolving financial disputes. Further, the rule would harm our community banks and credit unions by opening the door to frivolous lawsuits by special interest trial lawyers. By repealing this rule, Congress is standing up for everyday consumers and community banks and credit unions, instead of the trial lawyers, who would have benefited the most from the CFPB's uninformed and ineffective policy.”

This is a significant victory for the financial services industry because it will allow parties to continue to employ arbitration, free from class action lawsuits, to resolve issues. Under the Congressional Review Act, a rule that does not take effect due to a joint resolution of disapproval by Congress cannot be reissued “in substantially the same form.” Thus, the CFPB will not be able to try to reissue the same rule.

The author can be reached at mcbarnhill@michaelbest.com or 801-833-0444.

“PRO BONO SERVICE

“...public service marks the difference between a business and a profession. While a business can afford to focus solely on profits, a profession cannot. It must devote itself first to the community it is responsible to serve. I can imagine no greater duty than fulfilling this obligation. And I can imagine no greater pleasure.”

- Justice Sandra Day O'Connor

The Milwaukee Bar Association Foundation: Building Pathways to Justice

Sarah J. Martis, CAE, Executive Director, Milwaukee Bar Association

Many MBA members may not appreciate the distinction between the MBA and the MBA *Foundation*. The MBA created the foundation in 1994 as its charitable arm. The foundation is governed by its own board of directors, which meets quarterly or more often, as necessary. As a 501(c)3 organization, the MBA Foundation accepts tax-deductible donations to support its mission, which includes:

- promoting among the general public an understanding and appreciation of the law and the legal system and of their role in society;
- promoting legal scholarship, legal research, and research into the role of law in society;
- improving the law, the legal system, and the administration of justice;
- facilitating and encouraging the furnishing of essential legal services to those who cannot afford them;
- providing encouragement and opportunities for lawyers to furnish *pro bono* services and engage in charitable activities;
- educating lawyers and the general public regarding the professional and ethical standards of the legal profession;
- assisting lawyers in addressing problems related to stress and to substance abuse that interfere with their ability to serve their clients; and
- providing scholarships or fellowships for the legal education of worthy persons.

With the inception of the Milwaukee Justice Center as the MBA's signature public service project, the MBA Foundation became more active, and resolved to focus on that project as the primary means of fulfilling its mission. The foundation funds three staff positions at the MJC, as well as financial accounting support of the MJC by MBA employees.

In 2016, the foundation affiliated with the Greater Milwaukee Foundation. This strategic alliance enhances the MBA Foundation's long-term support of the Milwaukee Justice Center through the resources and reputation of that umbrella organization, while allowing the foundation to maintain its independent governance.

The MBA Foundation organizes several annual events to support the MJC and expand services to Milwaukee County residents:

- The MBA Foundation Golf Outing, held every August and next scheduled August 1, 2018 at Fire Ridge Golf Course in Grafton;
- The Milwaukee Justice Center 5K Run for Justice, held every June; and
- The Milwaukee Justice Center Campaign, held every spring

Donations can also be made to the foundation through United Way.

MBA Foundation directors



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Christy Brooks



Peter Bruce



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Josh Gimbel



Jason Kohout



Maria Kreiter



Hon. Michael J. Skwierawski

Pro Bono Corner



The Pro Bono Corner is a regular feature spotlighting organizations throughout the Milwaukee area that need pro bono attorneys. More organizations looking for attorney volunteers are listed in the MBA's Pro Bono Opportunities Guide, at www.milwbar.org.

Happy New Year, MBA Members!

As you formulate your New Year's resolutions, consider adding "Meet My Annual *Pro Bono* Commitment" to your list. Wisconsin SCR 20:6:1 declares that all lawyers "should aspire to render at least 50 hours of *pro bono publico* legal services per year," with the majority of those hours serving "persons of limited means or charitable, religious, civic, community, governmental, and educational organizations in matters that are designed primarily to address the needs of persons of limited means."¹

The MBA is proud of the hundreds of *pro bono* service hours that its members provide to our community yearly through the many programs and organizations serving those with limited means. For those currently participating in regular *pro bono* activities, as well as those who are about to begin, your service may offer an additional personal benefit. As of January 1, 2017, SCR 31.05(7) allows lawyers to claim one CLE credit for every five hours of *pro bono* legal services, up to six credits during a reporting period.²

Not all service hours, however, count toward CLE credit. The definition of *pro bono* legal services includes "direct legal services provided without fee or expectation of fee to persons of limited means through a qualified *pro bono* program or pursuant to an appointment by a state or federal court."³ Programs that meet the definition of being a qualified *pro bono* program are those operated by a nonprofit legal services organization receiving funding from the Wisconsin Trust Account Foundation, operated by a Wisconsin law school, operated by a Wisconsin bar association and in existence at the time the rule was adopted, or approved by the Board of Bar Examiners as a qualified *pro bono* program.⁴

In Milwaukee, lawyers have many options to participate in a qualified *pro bono* program, including the programs at our very own Milwaukee Justice Center. Here are the Milwaukee-area programs approved by the Board of Bar Examiners as qualified *pro bono* programs:

- AIDS Resource Center of Wisconsin
- Appellate *Pro Bono* Project
- Catholic Charities of the Archdiocese of Milwaukee
- Centro Legal por Derechos Humanos
- Disability Rights Wisconsin
- Eastern District of Wisconsin Bar Association *Pro Bono* Program
- Eastern District of Wisconsin's *Pro Se* Bankruptcy Help Desk
- Kids Matter, Inc.
- Legal Action of Wisconsin
- Legal Aid Society of Milwaukee
- Marquette Legal Initiative for Nonprofit Corporations
- Marquette Volunteer Legal Clinics
- Milwaukee Justice Center
- Online Appellate Help Desk
- Wisconsin Legal Advice Online (a/k/a Wisconsin Free Legal Answers)

A comprehensive list of qualified programs is available in the *Pro Bono* section of the State Bar of Wisconsin's website.⁵

Reporting your *pro bono* hours for CLE credit is as easy as recording conventional CLE program hours. In your online account with the

Board of Bar Examiners, you will find a specific section for *pro bono* hours.⁶ You need to know the dates of services and hours provided, just as you do for conventional CLE program credit. If you have questions about your dates or hours of service, contact the applicable *pro bono* program.

Those of you who have given over 50 hours of *pro bono* service in 2017 are eligible for the Wisconsin Access to Justice Commission's *Pro Bono* Honor Roll.⁷ You can certify your own eligibility, or that of another volunteer lawyer whom you know to have reached 50 hours of service in a calendar year. Each year, the Access to Justice Commission and the Milwaukee Bar Association recognize volunteer attorneys for their service at special ceremonies in Madison and Milwaukee, respectively.

Thank you for the time and expertise you share to further access to justice in our community. Here's to meeting your New Year's resolution of 50 hours of *pro bono* service in 2018!

¹SCR 20:6.1 **Voluntary *pro bono publico* service.** Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of *pro bono publico* legal services per year. In fulfilling this responsibility the lawyer should:

(a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to:

(1) persons of limited means or

(2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means; and

(b) provide any additional services through:

(1) delivery of legal services at no fee or substantially reduced fee to individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights, or charitable, religious, civic, community, governmental and educational organizations in matters in furtherance of their organizational purposes, where the payment of standard legal fees would significantly deplete the organization's economic resources or would be otherwise inappropriate;

(2) delivery of legal services at a substantially reduced fee to persons of limited means; or

(3) participation in activities for improving the law, the legal system or the legal profession. In addition, a lawyer should voluntarily contribute financial support to organizations that provide legal services to persons of limited means.

²SCR 31.05 **Approved hours.**
(7) One (1.0) hour of Wisconsin continuing legal education credit may be claimed for every five (5.0) hours of *pro bono* legal services as defined in this chapter to satisfy the requirements of SCR 31.02, up to a maximum of six (6.0) credits per reporting period. *Pro bono* legal services credit may not be used for reinstatement, readmission, or reactivation.

³SCR 31.01 **Definitions.** In this chapter:
(7) "*Pro Bono* legal services" means direct legal services provided without fee or expectation of fee to persons of limited means through a qualified *pro bono* program or pursuant to an appointment by a state or federal court.
(8) "Qualified *pro bono* program" means:

(a) A *pro bono* program operated by a nonprofit legal services organization that receives funding from the Wisconsin Trust Account Foundation;

(b) A *pro bono* program operated by a Wisconsin law school;

(c) A *pro bono* program existing on the date that this rule is adopted that is operated by a Wisconsin bar association; or

(d) A program approved by the board as a qualified *pro bono* program.

⁴Id.

⁵<http://www.wisbar.org/forMembers/ProBono/Pages/Pro-Bono.aspx> (viewed November 27, 2017).

⁶<https://clereporting.wicourts.gov/session/new>.

⁷<http://wisatj.org/projects/probonosociety> (viewed December 8, 2017).

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Upcoming Events 2018

Tuesday, February 6

Judges Night

6:30 - 8:00 p.m.

The Grain Exchange

Wednesday, August 1

**30th Annual MBA Foundation
Golf Outing**

12:30 - 6:30 p.m.

Fire Ridge Golf Club



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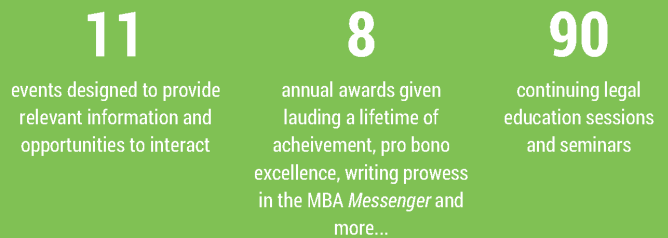
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With a membership of 2200+ attorneys, maximize your marketing dollars with ad placements on the website or in our weekly electronic Member Bulletin.

Website Ad Placements

Ad Option 1 (740 px wide x 100 px high)

3 Months

\$200

6 Months

\$375

Premium placement, top of page, one of following:

- Member login page
- LRIS Attorney Resources page
- Calendar page

Ad Option 2 (740 px wide x 100 px high)

\$150

\$275

Lower page placement, one of following:

- Member login page
- LRIS Attorney Resources page
- Calendar page

Ad Option 3 (180 px wide x 200 px high)

\$100

\$175

Lower page placement, one of following:

- Member login page
- LRIS Attorney Resources page
- Calendar page

Member Bulletin Ad Placement

3 Placements or less

4 Placements or more

Banner Ad (740 px wide x 100 px wide)

\$500 each

\$450 each

Premium placement - Top of page

- Sole advertiser
- Embedded link to preferred webpage
- Direct and immediate connection to 2200+ MBA members
- Brief, concise and easily consumed content
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