



MSBA

# BARBULLETIN

Volume XXXVI, Number 4 • April 15, 2019

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## MSBA Hosts Inaugural Diversity & Inclusion Conference

PATRICK TANDY

In 1954, the United States Supreme Court issued its landmark *Brown v. Board of Education of Topeka* decision, which ruled the segregation of American public schools unconstitutional. That same year, in Harford County, Maryland, Harry S. Johnson was born. Fifty years later, Johnson, a Litigation Partner in the Baltimore office of Whiteford | Taylor | Preston, LLP, would go on to become the first African-American President of the Maryland State Bar Association (MSBA).

Johnson, who joined the Maryland Bar in November 1979, recalled the many watershed moments for minorities in the legal profession during his lifetime - the appointment of Judge Harry A. Cole, the first African-American to serve on the Court of Appeals of Maryland, in 1977; the appointment of the high court's first African-American Chief Judge, the Honorable Robert M. Bell, nearly two decades later; and the election of the first woman of color to lead the MSBA, Past President Judge Pamela J. Brown, in 2015, to name but a few - during his keynote address at MSBA's inaugural Diversity & Inclusion Conference

on Thursday, March 21, 2019, at the University of Baltimore Merrick School of Business. Johnson also cited the creation of specialty bars that have given greater voice to historically underrepresented lawyer groups like women, Hispanics, Asians, Native Americans, and the LGBTQ communities.

However, "diversity alone does not move the needle - inclusion is what is important," Johnson told the conference's more than 60 attendees, who represented a broad swath of professional and cultural backgrounds. "Inclusion means having a voice in the dis-

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## MSBA Diversity & Inclusion Statement

Under inaugural Chair Judge Toni E. Clarke, the Diversity & Inclusion Committee counted among its foremost priorities the development of MSBA's Diversity & Inclusion Statement:

*The Maryland State Bar Association affirms its commitment to promote and encourage diversity and inclusion within the legal profession, which is reflective of the people it serves regardless of race, color, age, gender, gender identity, disability, sexual orientation, marital status or any other legally protected characteristic. In furtherance of this commitment, the MSBA continuously strives to create an environment in which all individuals are encouraged to join, thrive and lead the legal profession.*

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# BARBULLETIN

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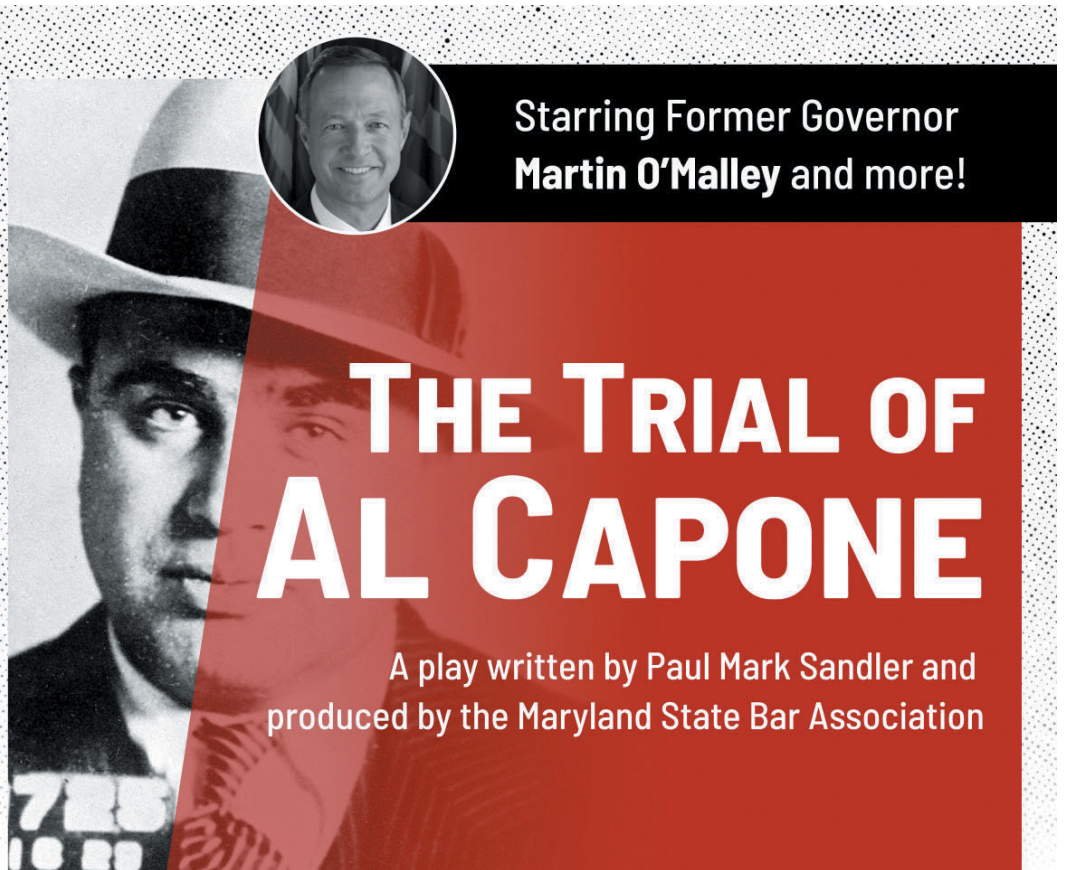
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## PRESIDENT'S MESSAGE



APRIL 2019

MSBA President Judge Keith R. Truffer shares his updates in his monthly video message.



To watch his most recent message, select the "President's Messages" playlist from our YouTube channel at [www.youtube.com/user/MDStateBar/playlists](http://www.youtube.com/user/MDStateBar/playlists).

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The Honorable Patrick Woodward recently retired as Chief Judge of the Court of Special Appeals of Maryland after thirteen years of distinguished service as an Associate Judge and Chief Judge on that court. He previously served as an Associate Judge on the Circuit Court for Montgomery County and as an Associate Judge on the District Court of Maryland for Montgomery County. Before his judicial service, Judge Woodward enjoyed a successful law practice in Maryland and DC. He is a two-time Recipient of the Outstanding Jurist Award from the Montgomery County Bar Association and the 2018 Recipient of the Beverly Groner Family Law Award from the Family and Juvenile Law Section of the Maryland State Bar Association. Judge Woodward now brings this exemplary record of dedication and leadership to The McCammon Group to serve the mediation and arbitration needs of lawyers and litigants in Maryland, DC, and beyond.



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# Dateline

## APRIL

**18** Join the **MSBA Business Law Section** for the newest presentation of *Advanced Business Law Institute* on Thursday, April 18, 2019 at the Sheraton Columbia Town Center, in Columbia, MD. Hear from experienced practitioners on topics of Choice of Entity under the New Tax Act, Formation and Operation of Marijuana-Related Businesses, Dealing with Use of Social Media by Company Personnel and more! For more information and/or to register, please visit: [www.msba.org/ABLI](http://www.msba.org/ABLI).

**18** Join the **MSBA Litigation Section** for the presentation of The Honorable Glenn T. Harrell, Jr. Award of Judicial Excellence to the Honorable Robert N. McDonald, Court of Appeals of Maryland at the *Annual Judges' Dinner*. The program begins at 6pm at Doubletree Hotel in Annapolis. For more information and/or to register, please visit: [www.msba.org/JudgesDinner](http://www.msba.org/JudgesDinner).

**24** Join the **MSBA** for the newest presentation of *Civil Pre-Trial Practice*, beginning at 8:30am on Wednesday, April 24, 2019 at the University of Baltimore's Learning Commons in Baltimore, MD. Experienced litigator Neil Dilloff will lead the class through the pre-trial process from deciding to take a client to the day of trial. The course book will be his publication "Civil Pre-Trial Practice, 2019 Revised Edition". For more information and/or to register, please visit: [www.msba.org/civil-pre-trial](http://www.msba.org/civil-pre-trial).

**25** Join **The Maryland State Bar Association-Litigation Section (MSBA), Federal Bar Association of Maryland (FBA-MD), American College of Trial Lawyers-Maryland (ACTL-MD), and The non-profit The Constitutional Sources Project (ConSource)** beginning at 6pm at Westminster Hall for *Maryland Bicentennial Symposium and Celebration of McCulloch v. Maryland Including a Re-enactment*. For more information or to register, please visit: [www.msba.org/McCulloch](http://www.msba.org/McCulloch).

**27/28** Join the **MSBA and Local & Speciality Bars** throughout Maryland for the first annual *Day of Service*. Multiple events giving attorneys an opportunity to give back to their communities will be occurring throughout Maryland at various time on both Saturday and Sunday. Please visit [www.msba.org/DayofService](http://www.msba.org/DayofService) for more information on all available events and/or to register.

**30** Join the **MSBA ADR Section** for its *Spring Seminar and Chief Judge Bell Awards Dinner*. The seminar begins at 11:30am at Tabrizi's in Baltimore, Maryland. For more information and/or to register, please visit: [www.msba.org/ADR-Spring-Dinner](http://www.msba.org/ADR-Spring-Dinner).

## MAY

**4** The **Maryland State Bar Association's Young Lawyers Section**, as an affiliate of the Wills for Heroes Foundation, is proud to sponsor the *Wills for Heroes* program. YLS is looking for volunteer attorneys and notaries to participate in a Wills for Heroes event to benefit the Howard County first responders and their domestic spouses/partners on Saturday, May 4, 2019, at 2200 Scott Wheeler Drive, Marriottsville, MD 21104. Volunteers will receive training from 9:00 a.m. to 10:30 a.m., and then will see clients for one (1) hour appointments starting at 10:30 until 3:30 pm. For more information and/or to register to volunteer please visit: [www.msba.org/WillsforHeroes](http://www.msba.org/WillsforHeroes).

**10** Join the **MSBA Immigration Law Section** for their annual *Spring Conference on Immigration 911: Putting Out the Fires*, on Friday, May 10, 2019 in Columbia, MD! Get the latest from expe-

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BY REENA K. SHAH, ESQ.

The University of Baltimore School of Law has a long tradition of offering an Alternative Spring Break (ASB) to its students. This year, the Maryland Access to Justice Commission (A2JC) and the MSBA's Student Ambassador Program partnered with the University of Baltimore's Law Career Development Office and their Student Bar Association to offer a jam-packed Alternative Spring Break program that boasted pro-bono legal service and community service opportunities for UB Law students. As an added show of support, UB Law alumni, faculty and staff also participated in the events.

The organizers offered an Orientation for ASB students that gave background on the access to justice crisis in Maryland and the importance of pro-bono to the legal profession and a primer on cultural competency and interviewing skills. Many of the students who took part were first or second year students who were eager to get experience with client interaction and representation, but had yet to take clinic.

Students took time off from their Spring Break to volunteer in the following pro-bono legal services opportunities:

- Maryland Legal Aid's Lawyer in the Library Program;
- Homeless Persons Representation Project's Veteran's Benefit Clinic;
- Pro Bono Resource Center's Tenant Volunteer of the Day and Immigrant Legal Assistance Projects;
- Maryland Volunteer Lawyers Service's Home Owner Clinic;
- UB's Court Navigator Program; and
- Maryland Volunteer Lawyers for the Arts' Art Law Clinic.

ASB kicked off on March 17 and volunteer opportunities were spread out through the week from March 18 to March 23. Once registration was opened, the pro bono opportunities filled up fast and most were at capacity for volunteers, demonstrating students' excitement for such opportunities. Students interacted and advised clients in a range of settings, including clinics, state and federal courts and public libraries. They also advised clients

on a spectrum of civil legal needs, including landlord-tenant; immigration; veteran's benefits; estate planning; expungement; and intellectual property.

As the Executive Director of the A2JC, we found this to be an excellent partnership opportunity, especially since we now have a Student Engagement Committee at UB Law. When we started the Committee, the first thing the students wanted to figure out was how they could volunteer more with legal services organizations so they could enhance class learning with experiential

learning, while also actively taking part in legal solutions for issues they were bombarded with on the news. It was invigorating to see this enthusiasm coming from students. We thought restarting the ASB, which went on a brief hiatus last year, would be the perfect vehicle to offer such opportunities. What we learned through ASB is that students are hungry for more! Deans of both law schools are Commissioners on A2JC and its invaluable to expose students to access to justice issues during law school, so stay tuned for more!

And don't take my word for the positive experience for students, here are reflections from some of the students from A2JC's Student Engagement Committee:

### 1. What did you learn? What did this experience teach you about Marylanders in need and the problems they face and the work of civil legal aid organizations?

*Sumbul Alam, 2L:* While working on client intake, the difficulties in extracting facts from the client became very apparent. What may seem important to the client may have little effect on the actual case while other facts that seemed innocuous may be dispositive. It is quite a skill to accomplish this in such a short timeline.

*Candice Miller, 1L:* I learned how to search for someone's deed. I assisted with medical power of attorney and financial power of attorney. I learned that there are a large number of people in Maryland who need help creating a will. Many people do not know what financial or medical power of attorney are or why they are important. I enjoyed helping people in this way because ownership and family are valuable. I had the opportunity to listen to people's stories about their life and family members. After people are helped they leave feeling protected because they know that if something were to happen to them, they have everything in place to take care of their family.

*Kala Freeman, 1L:* I learned how difficult it is for some Marylanders to have access to the immigration court. It is in Baltimore, and some people have to travel there from the Eastern Shore or other distant locations for a 10 minute master calendar hearing. One woman was unable to drive, and had to pay a car service \$250 each way to get to her hearing.

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## LinkedIn News Stories

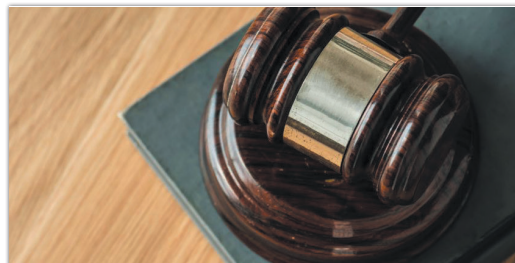
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### Profits Rise, But Big Law's Middle Class Still Feels the Squeeze

Partner profit growth was more evenly distributed among the Am Law 100 last year. But it's still tough to compete with firms boasting average partner profits above \$3, \$4 and even \$5 million.



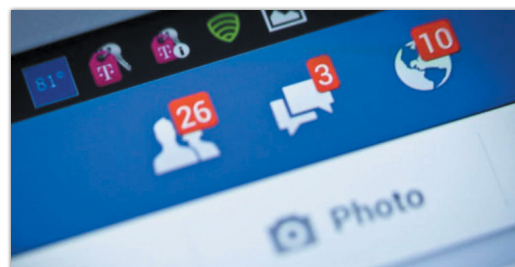
### How Americans navigate a civil justice system made 'by lawyers, for lawyers'

The National Center for State Courts found that at least one party didn't have a lawyer in 76 percent of civil cases in state courts.



### How to master new skills with 'deliberate practice'

When it comes to learning new things, 'how' outweighs 'how much'. Here's why.



### Message Encryption Raises Legal, Safety Complications for Tech Platforms

As Facebook moves toward privacy-focused messaging, encryption's legal and ethical complications could come into play.

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**With which PBRC project do you volunteer?**

It's called the Home Preservation Project. I started volunteering with their foreclosure prevention clinics, and then I branched out into tax sale clinics.

**Why did you choose that project for volunteering?**

I can't think of a more important way to help somebody than with the very fundamental need of having housing and shelter.

We meet with the homeowners, and help them understand the legal and practical options they have to deal with their situation. Many clients in the tax sale clinic are seniors, and many are not aware of the ways they can significantly reduce their tax bill or their water bill. When we bring the options to their attention, it's like their eyes are opened, and they're very excited that there's hope for them.

**How does the project make it easy to volunteer?**

Initially, PBRC provides either a live training or a webinar to give us the necessary background. Then, at the beginning of each clinic, before we meet with the clients, we get a refresher on the key issues, and they walk us through the roadmap. There's a roadmap for foreclosure and one for tax sale. It's a kind of checklist of options for the client. The client receives a copy, with the appropriate options checked, and with our notes and additional information for other resources they can use after we meet with them.

**What do you like about volunteering with PBRC?**

After each clinic, I feel that I've helped folks. Virtually all of the clients that I've met with come away feeling relieved. Their problem may not have been solved, but they have a roadmap to guide them toward coming up with a solution.

Even though my work for the Department of Justice is a form of public service, the client is kind of amorphous. In the PBRC projects there's an actual live human being who I can help, and it's very gratifying. I probably get as much from being a volunteer as I give. There's a feeling of satisfaction, and you learn something new in each client situation. The PBRC staff attorneys who come to the clinics are very helpful.

Also, I often work with other attorneys who are a bit younger, and may have less experience. It's good to talk with them about where they are in their career, and where they want to go. I've been asked for advice by other attorneys, and I enjoy that mentoring aspect as well.

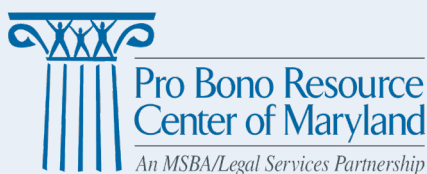
**What message would you give to attorneys who are considering volunteering?**

There are many benefits to volunteering. First of all, it's the right thing to do. But beyond that, it will benefit you in your growth as an attorney, and your growth as a person. It contributes to your well-being to know that you've helped somebody. You can also get to know a new practice area and meet other volunteer attorneys who work in different areas. But fundamentally, and to begin with, it's the right thing to do.

## PBRC's featured service opportunity

Volunteering with the Tax Sale Prevention clinic  
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For more information about volunteering in Maryland, contact:  
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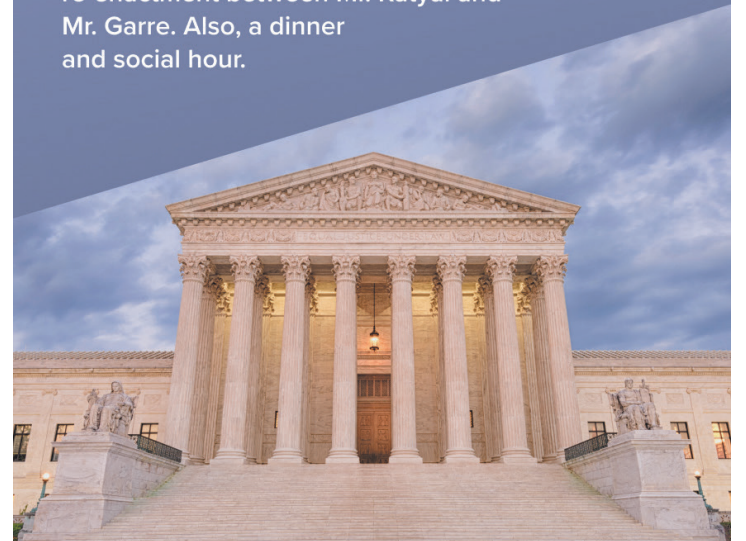
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# Maryland Bicentennial Symposium and celebration of *McCulloch v. Maryland*

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This event includes presentations and discussions on *McCulloch*, including a re-enactment between Mr. Katyal and Mr. Garre. Also, a dinner and social hour.



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### KEYNOTE SPEAKER

**Rod Rosenstein**

United States Deputy  
Attorney General, MSBA Member

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# The 2019 Tax Conundrum

## From Low-Income to Recently Furloughed Government Employees

BY JANICE SHIH, ESQ., MANAGING ATTORNEY, LOW INCOME TAXPAYER CLINIC (LITC), MARYLAND VOLUNTEER LAWYERS SERVICE (MVLS)

*It's not uncommon for famous names to be ensnared in tax problems; every year there seems to be at least one new celebrity with an outstanding tax problem. Here in Baltimore, we even have the quasi-famous, our own former Police Commissioner, Darryl De Sousa. These names conjure up images of high-priced tax attorneys, scurrying to keep their clients out of jail.*

**W**e tend to think that people have tax issues because they were scofflaws, or didn't pay their taxes like they should have. That is certainly often the case with the famous. But what about the less famous or the average person? These individuals can also become ensnared in tax issues, especially if their financial lives have been disrupted beyond their control. For instance, trigger moments like the loss of a loved one, a recently diagnosed medical condition, or let's say a government shutdown can significantly impact a person's income and tax standing.

### U.S. Government Shutdown

Recently, the U.S. government shutdown affected an estimated 172,000 federal employees and government contractors in Maryland. Many of these employees, already living paycheck-to-paycheck, had to juggle their finances, trying to decide which bills to pay first. In addition, the shutdown complicated

audits, appeals, or collections for those who were already dealing with the Internal Revenue Service (IRS), creating questions about what to do next.

### The Low-Income Taxpayers

The poor can also get caught up in tax issues, even while doing nothing wrong. Funding for the IRS has been reduced, and many

processes are now automated. This is especially true for the filing of tax returns, including the tax refund process. With the automation comes faster refunds, which means the taxpayer can spend the refund faster too. The IRS has three years to audit a return, long after a refund has already been spent. What's more, since everything is automated,

returns of low-income taxpayers are targeted more often for auditing since there aren't discerning human eyes reviewing the return.

Did you know that the risk of a low-income taxpayer being audited is similar to an individual who earns over \$250,000? This is not because low-income taxpayers are filing erroneous returns, but because there are certain triggers, such as the Earned Income Tax Credit (EITC) which can flag a return. Some low-income taxpayers do file erroneous tax returns, but that is because they trusted a fraudulent tax return preparer, who may have promised them a

bigger refund by including fraudulent information unbeknownst to the taxpayer. However, when the IRS comes knocking on the taxpayer's door, those fraudulent tax return preparers have closed up shop, and the deceived taxpayer is left with dealing with the tax challenges. These low-income taxpayers are often unable to afford representation and try to handle these issues themselves, never fully able to navigate the complex IRS systems. They give up, frustrated, which compounds their problem and stress level.

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# Not All “Laudable” and “Good” Ideas Are Eligible for Patenting

BY DAVID TAYLOR

The hot-button topic in U.S. patent law continues to be subject matter eligibility under 35 U.S.C. § 101. The patent statute broadly authorizes the patenting of “any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof.” 35 U.S.C. § 101. Over the years, however, federal courts, including the U.S. Supreme Court, have identified certain “judicial exceptions” to patentability. Those exceptions provide that laws of nature, natural phenomena, and abstract ideas are not eligible for patenting. See *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014); *Mayo Collaborative Servs. v. Prometheus Labs, Inc.*, 566 U.S. 66 (2012).

My article in last month’s *Bar Bulletin* discussed the most recent effort of the United States Patent & Trademark Office (“USPTO”) to tackle the confusion created by “the *Alice/Mayo* test” for determining patent subject matter eligibility. The

article explored the USPTO’s 2019 Revised Patent Subject Matter Eligibility Guidance (“2019 Guidance”) intended for use by its more than 8500 patent examiners for the purpose of assessing patent eligibility under the *Alice/Mayo* test.

The 2019 Guidance “clarify[ies]” that “[a] claim is not ‘directed to’ a judicial exception, and thus is patent eligible, if the claim as a whole integrates the recited judicial exception into a practical application of that exception.” (Emphasis added). One of the considerations indicative that an additional element (or combination of elements) may have integrated the exception into a practical application is where the “additional element reflects an improvement in the functioning of a computer, or an improvement to other technology or technical field.” Example 40 accompanying the 2019 Guidance finds that a claimed method for adaptive monitoring of network traffic data integrates

a judicial exception into a practical application and is thus patent eligible. The networking “claim as a whole is directed to a particular improvement in collecting traffic data” because it provides the improvement of avoiding excess traffic volume on a network and hindrance of network performance.

Most patent practitioners and commentators view the 2019 Guidance as a boon to patent applicants, particularly in the software and business-method arts. Based on a couple of recent U.S. Court of Appeals for the Federal Circuit decisions, it appears that the Federal Circuit may not have gotten the memo (or in this case, the Guidance).

The first decision, *Chargepoint, Inc. v. Semaconnect, Inc.*, 2018-1739 (Fed. Cir. Mar. 28, 2019), affirmed the holding of Senior Judge Marvin J. Garbis of the U.S. District Court for the District of Maryland that four patents directed to charging stations for electric vehicles were

ineligible for patenting under 35 U.S.C. § 101. The patents involved the creation of networked electric vehicle charging stations, and according to the patentee (i) solved a problem in the art by allowing drivers, businesses, and utility companies to interact efficiently with charging stations, and (ii) improved upon existing technology by enabling the amount of electricity delivered to cars based on demand-response communications with utilities. The Federal Circuit seemed to agree that “the inventors here had the good idea to add networking capability to existing charging stations to facilitate various business interactions.” Nonetheless, despite the similarities between the networked electric vehicle charging stations of *Chargepoint* and the patent-eligible network traffic data of Example 40 of the 2019 Guidance (which the Federal Circuit did not mention), the Federal Circuit found the patent claims in *Chargepoint* to be ineligible for patent protection and

invalidated the claims.

The second decision, *Univ. of Fla. Research Found., Inc. v. General Elec. Co.*, 2018-1284 (Fed. Cir. Feb. 26, 2019), affirmed a lower court holding that patent claims directed to a method of integrating physiologic data from multiple bedside machines into one bedside graphical user interface was ineligible for patent protection. The patent specification stated, and the Federal Circuit found “laudable,” that the method could “result in life altering consequences.” On its face, the stated goal of altering our lives is consistent with the idea of promoting the progress of science and useful arts,” per Article 1, Section 8, Clause 8 of the U.S. Constitution. Yet, the Federal Circuit determined that the patent failed to identify any “specific improvement to the way computers operate,” and therefore was ineligible for patenting under Section 101.

Perhaps the most notable takeaway from the two Federal Circuit decisions is the fact that neither makes express reference to claims “integrating” a judicial exception into a practical application of that exception, per the 2019 Guidance of the USPTO. It appears that a disconnect exists between subject-matter eligibility standards applied by the USPTO in granting patents and the federal courts in determining issues relating to the validity of those patents. ●

David Taylor is a partner with the law firm of Berenato & White, LLC in its Bethesda office. The firm concentrates its practice in the area of intellectual property.

“The stated goal of altering our lives is consistent with the idea of promoting the progress of science and useful arts.”



# What is a “Wetland” Under New WOTUS Proposal?

BY GARY H. BAISE

*Farmers in the Midwest and upper Midwest farming prairie potholes will obtain relief from this proposal if adopted.*

**W**hat is a “wetland” --at least, by the government’s definition - now?

That question has generated litigation and anger among farmers, property owners and ranchers.

EPA’s December 23, 2018 proposal should be published soon because the government shutdown has ended. EPA and the Corps of Engineers (Corps) declare certain waters of the United States are wetlands. These waters “...include all adjacent to: traditional navigable waters, including the territorial seas; tributaries to those waters; jurisdictional ditches; jurisdictional lakes and ponds; and impoundments of otherwise jurisdictional waters.”

The two agencies also define wetlands to be “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

This definition does not tell you much.

To determine what is a wetland, one must examine the 1987 Corps of Engineers manual, a Corps of Engineers Regional Manual and an agency document such as the Food Security Act procedures for identifying a wetland at the USDA.

In addition, there is a list of over 4,000 wetland plants and a determination on plants requires the execution of the 50/20 rule. In addition to that manual, there is a hydric soils manual of approximately 100 pages.

Property owners beware

Most property owners accused of disturbing a wetland have no concept of the detailed manuals behind the longstanding regulatory definition of a wetland. Agency personnel will likely not tell you that to be inun-



dated or saturated by surface or ground water requires standing water on your property for seven consecutive days or ground saturation for 14 consecutive days.

EPA and the Corps do some helpful work in defining “adjacent wetlands.” A wetland must abut or have a direct “hydrologic surface” connection to WOTUS in a typical year. A direct hydrologic surface connection occurs as a result of inundation from a jurisdictional water to a wetland, or via “perennial or intermittent” flow between a wetland and a jurisdictional water.

## In plain English, please

That means wetlands must have a direct hydrologic surface connection to a WOTUS during a typical year.

The Trump administration’s proposal reviews major U.S. Supreme Court decisions which attempt to provide an understandable delineation between wetlands and non-wetlands. One piece of good news in the proposal is “...the agencies pro-

pose to eliminate the case-specific “significant nexus” analysis through categorical treatment of all adjacent wetlands...”

The terms “adjacent” and “abutting” are also defined. More good news in the proposal.

“A mere hydrologic connection between non-navigable isolated intrastate wetland and a jurisdictional water... may be insufficient to establish adjacency” under the proposed rule. The agencies explain, “...the fact that a wetland may be connected to the navigable water by flooding, on average, once every 100 years does not satisfy the proposed adjacent wetlands definition.”

EPA and the Corps make it clear that a WOTUS would “...need to have a direct hydrologic surface connection to a jurisdictional water during a ‘typical year; ecological connections between physically separated wetlands and otherwise jurisdictional waters cannot be used to determine adjacency...”

This is a major change from the Obama agencies’ attempted

property grab in 2015.

Farmers in the Midwest and upper Midwest farming prairie potholes will obtain a great deal of relief from this proposal if it is adopted.

The bottom line is for a “wetland” to be adjacent said wetland would have to abut or have a direct hydrologic surface connection to another WOTUS regardless of the size and extent of the wetland.

The Trump administration’s proposal also attempts to define upland vs. wetland. As explained earlier, upland would be any land that does not meet the wetland three-part test.

Remember: to have a wetland, there must be hydrology, hydrophytic vegetation, and hydric soils. Do not ever let a government official tell you that he or she can tell a wetland by merely making one visit. Property owners should review the Trump administration’s proposal and comment upon it. Environmental groups will most certainly attack it. ●

*Gary H. Baise is an Illinois farmer and trial attorney with Olsson Frank Weeda Terman Matz PC, Washington, D.C. Mr. Baise is a member of the Council of the MSBA Agriculture Law Section and also serves as outside General Counsel for the U.S. Grains Council, Agricultural Retailer’s Assn., Nat’l Sorghum Producers, and Counsel to the American Soybean Assn.*

*This article was originally published in the January 29, 2019 edition of Farm Futures, a Farm Progress publication (“Farm Futures”) and has been reprinted in the MSBA Bar Bulletin with the express approval of Farm Futures. The MSBA Agriculture Law Section sincerely appreciates the granting of this authorization.*

*The opinions of the author are not necessarily those of Farm Futures or Farm Progress.*





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# Civil Forfeiture

## How Much Is Too Much?

BY STEPHANIE PANKIEWICZ

**M**any people in the U.S. learned about Civil Forfeiture for the first time while watching Last Week Tonight with John Oliver. Most were shocked to realize the extent of what local police departments are permitted to seize without even charging someone with a crime. The police could find marijuana in a vehicle and seize the entire car. A business property seized, because a co-owner facilitated the distribution of narcotics once while inside the building. A home taken because an 18 year old gave alcohol to their friends while at the house. These three examples sound extreme, but they are representative of how civil forfeiture law is applied every day.

In the *Timbs v. Indiana* case, Mr. Timbs was convicted of selling drugs, less than \$1,000 worth. The Indiana Court agreed Mr. Timbs was not a high level dealer or a "kingpin." Mr. Timbs had recently inherited money from his father's death and used it to purchase a new vehicle, valued at \$42,000. The Indiana Supreme Court agreed the vehicle was legally purchased, and had not been bought with any type of drug money. However, the Indiana Court allowed the vehicle to be taken by the police department, and kept as proceeds of the investigation. The forfeiture of the vehicle was in addition to over \$1,000 in Court fines levied against Mr. Timbs.

As a public defender, I see these types of abuses happen all the time. The police search a vehicle, sometimes in violation of the U.S. Constitution, find loose pills and cash. Using forfeiture laws, the police take the cash and sometimes the car as well. In another case, the police may obtain a warrant to search a home, where they find small amounts of marijuana and plastic sandwich bags in the kitchen, as well as \$4,000 under a mattress. The police conclude that because there are both sandwich bags and small amounts of marijuana, the rest of the marijuana must have been distributed. They keep the \$4,000 for themselves. Often the whole criminal case is dismissed because the prosecutor cannot

prove any crime occurred; however, the money is never returned.

The Eighth Amendment to the Constitution, which guarantees protections against cruel and unusual punishments, also protects us from excessive fines. In this case, Mr. Timbs, represented by the Institute for Justice, appealed the decision to have his vehicle seized. The U.S. Supreme Court heard the case and unanimously agreed that the seizure

type of clear limitation, there is no legal mechanism stopping States from passing laws imposing exorbitant fines for politically unfavorable crimes.

Maryland permits a fine of up to \$25,000 for the same crime that Mr. Timbs was convicted. Additionally, in Maryland if there is a prior conviction for the same charge, the fine doubles to \$50,000.00. In other words, if this same case had occurred in Maryland, and Mr. Timbs had

“

**Without some type of clear limitation, there is no legal mechanism stopping States from passing laws imposing exorbitant fines for politically unfavorable crimes.**

of the vehicle was an excessive fine. The Supreme Court finally made it clear in *Timbs* that the Amendment applies to States and States cannot issue excessive fines, i.e. simply taking money and property. The Supreme Court in *Timbs* stated that this ruling applies to the States through the Due Process Clause of the Fourteenth Amendment. *Timbs* also held that civilly forfeited property counts as a "fine" when that property is taken as punishment.

While this decision is a decisive first step in halting law enforcement and prosecutorial abuses related to forfeiture, how far does *Timbs* go? Most importantly, *Timbs* did not clarify the definition of an "excessive fine".

It would be impossible to impose a bright line rule or specific number defining an "excessive fine", as each fine should be molded to fit the crime; small crimes, such as littering, should have lesser fines than more significant crimes like theft or tax fraud. Part of why the Supreme Court said the fine in *Timbs* was an excessive fine was because the truck was more *four times* the value of the highest fine the State could impose under the law. However, without some

one prior conviction, his vehicle would have been under the maximum fine. The vehicle could have been seized, even though it had nothing to do with the prior conviction, and was purchased legally by money having nothing to do with drugs.

One of the things the defense bar must watch out for is a State race to drastically increase all fines for crimes, so that the forfeiture of property and money can be considered reasonable and not "excessive." Fines in the thousands, or hundreds of thousands of dollars, for crimes that everyone hates. Drug crimes are the unpopular crimes of today; no one wants to defend "drug dealers" therefore large fines levied against them are politically tolerable. However, there appears to be an increase in charges of "dealing" narcotics, even for those individuals who are clearly addicts. According to current statutory definitions, if both individuals in a couple are addicted to heroin and each routinely purchases heroin for the other, they are both labeled a "dealer." A college student who brings a joint to a party that is

CONTINUED ON PAGE 19



## FIRST MARYLAND Disability Trust

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## Continuing Legal Education Opportunities

## Continuing Legal Education Department: Raising the Bar for Education

BY ANDREA TERRY, ESQ.

Spring brings the annual Business Law Section's signature event Advanced Business Law Institute, covering cutting edge issues to keep the experienced practitioner current and prepared to advise clients. All new topics this year include a power panel for in-house counsel discussing what firms consider when bringing in in-house

counsel and pros and cons for lawyers thinking of taking an in-house counsel position. There will also be sessions on alternative financing for clients of all sizes from entrepreneurs to large companies, an update on employment law including use of social media by personnel, choice of entity under the new tax law, and managing

outside counsel guidelines and client demands for indemnification, data security and more. Join us on April 18th, at the Columbia Sheraton from noon until 6 and enjoy a networking reception generously sponsored by SCH Group after the learning sessions. For more information please go to [www.msba.org/ABLI](http://www.msba.org/ABLI)



Additional information and online registration available at [msba.inreachce.com](http://msba.inreachce.com)

## UPCOMING LIVE CLE PROGRAMS

Registration is open for:

- **Advanced Business Law Institute** - April 18, 2019 | Sheraton Columbia Town Center, Columbia, MD
- **Civil Pre-Trial Practice** - April 24, 2019 | Learning Commons, University of Baltimore
- **Hot Tips in Workers' Compensation** - May 9, 2019 | Columbia, MD
- **Immigration Section Spring Conference - Immigration 911: Putting Out the Fires** - May 10, 2019 | Columbia, MD
- **Advanced Estate Planning Institute** - May 21, 2019 | Columbia, MD

Registration Opening Soon!

- **Child Counsel Training/Best Interest Attorney Training** - May 31, 2019 | Hanover, MD
- **Hot Topics in Elder Law** - June 5, 2019 | Columbia, MD
- **2019 Using and Drafting Trusts** - June 19, 2019 | Columbia, MD
- **Family Practice Update** - August 22, 2019 | Columbia, MD
- **40 Hour Basic Mediation Training** - September 23-27, 2019 | Baltimore, MD

## VIDEO REPLAYS

- **Recent Developments in Estate Administration** - April 16, 2019, Baltimore and April 18, 2019, Rockville, MD
- **Appellate Practice in Maryland** - April 23, 2019, Baltimore and April 25, 2019, Rockville, MD
- **Land Use Institute** - April 30, 2019, Baltimore and May 2, 2019, Rockville, MD
- **New VA Wartime Pension Benefit Laws: It Finally Happened!** - May 7, 2019, Baltimore and May 9, 2019, Rockville, MD
- **Successful Management & Collection of Fees** - May 14, 2019, Baltimore and May 16, 2019, Rockville, MD
- **Civil Pre-Trial Practice** - May 28, 2019, Baltimore and May 30, 2019, Rockville, MD
- **Advanced Business Law Institute** - June 4, 2019, Baltimore and June 6, 2019, Rockville, MD

## NEW ONLINE, ON-DEMAND

- **Advanced Real Property Institute** - presented live October 9, 2018
- **2018 MSBA Immigration Law Section Fall Conference: Federal Court Litigation and SIJS Nuts and Bolts** - presented live October 9, 2018
- **Financial Elder Abuse – 2018 Update** - presented live October 25, 2018
- **2018 Evidence and Family Law: Common Pitfalls and Practice Pointers** - presented live December 19, 2018
- **Mindfulness as a Foundation for Ethical Lawyering** - presented live January 16, 2019
- **Mental Health and the Law** - presented live January 24, 2019
- **Family Law University** - presented live February 7, 2019

## UPCOMING LIVE WEBCASTS

- **Successful Management & Collection of Fees** - April 9, 2019 | 8:30 a.m. - 12:00 p.m.
- **Civil Pre-Trial Practice** - April 24, 2019 | 9:00 a.m. - 4:30 p.m.
- **Hot Tips in Workers' Compensation** - May 9, 2019 | 9:00 a.m. - 4:30 p.m.
- **Immigration Section Spring Conference** - May 10, 2019 | 8:30 a.m. - 5:00 p.m.
- **Child Counsel Training/Best Interest Attorney Training** - May 31, 2019 | 8:30 a.m. - 4:00 p.m.
- **Hot Topics in Elder Law** - June 5, 2019 | 8:30 a.m. - 1:00 p.m.
- **2019 Using and Drafting Trusts** - June 19, 2019 | 8:30 a.m. - 4:30 p.m.
- **Family Practice Update** - August 22, 2019 | 8:30 a.m. - 1:00 p.m.

## NEW &amp; RECENT PUBLICATION UPDATES

(All titles available in print and electronically)

**NEW—Intellectual Property for Maryland Business and Litigation Lawyers: What You Need to Know but Didn't Know to Ask, Second Edition**

The Handbook is an essential, up to date and highly practical resource that explains everything about intellectual property law to business lawyers, litigators and business persons who need to understand patents, trademarks, copyrights and other forms of intellectual property.

**NEW—Civil Pre-Trial Practice, 2019 Revised Edition (with downloadable forms)**

This is an essential reference to civil practice beginning with the initial contact with a potential client up to trial. The author provides the "nuts and bolts" for handling a lawsuit, including legal research, service of process, discovery, settlement negotiations, pre-trial motions and trial preparation

**NEW—Model Jury Selection Questions for Maryland Criminal & Civil Trials**

Select your jury using the easy, practicable sets of questions (separate sets of questions for civil and criminal trials), generously endorsed by the Maryland Court of Appeals. See *Collins v. State*, 452 Md. 614 (2017).

**NEW—The Maryland Rules of Evidence Pocket Edition, 2018**

This easy-to-carry pocket guide allows you to have the rules of evidence at your fingertips.

**Appellate Practice for the Maryland Lawyer: State and Federal, 5th Edition**

Tailored for both expert practitioners and attorneys who rarely handle appeals in Maryland and federal courts, this book guides one through the entire appellate process both in state and federal courts, providing sample appellate submissions and tips on the standards of review, criminal appeals, appeals from administrative agencies, petitions for certiorari, the appellate brief, record extract (or joint appendix), and oral argument.

**Pleading Causes of Action in Maryland, 6th Edition**

The Sixth Edition is the authoritative reference for filing causes of action on civil actions on a broad range of subjects. It examines and analyzes cases, statutes, treatises and other reference sources on Maryland law and pleading, and has been revised to address evolving requirements in various areas of practice.

CONTINUED ON PAGE 19



# Everything you Wanted to Know About Sex Addiction but Were Afraid to Ask

BY LISA CAPLAN



## What is Sexual Addiction?

According to Dr. Carnes, "Sexual Addiction" is defined as any sexually related compulsive behavior which interferes with normal living and causes severe stress on family, friends, loved ones, and one's work environment. Sexual addiction has been called sexual dependency and sexual compulsivity. By any name it is a compulsive behavior that completely dominates the addict's life. Sexual addicts make sex a priority more important than family, friends and work. Sex becomes the organizing principle of addicts' lives. They are willing to sacrifice what they cherish most in order to preserve and continue their unhealthy behavior.

## Background Information

- 3%-6% of the US population suffer from sexual addiction, that's about 17 to 37 million people.
- What used to be mostly thought of as a middle age male dominant addiction now includes females which represent more than 20% of those dealing with sexual addiction.
- Sex addiction does not discriminate it crosses all educational, socioeconomic, racial and sexual-orientation lines, but one commonality among addicts is a sense of shame.
- There has been progress

in the medical field which includes sexual addiction being diagnosed as a disorder and having treatment options available.

- In the past ten years treatment options have gone from fewer than 100 therapists to over 1,500, with treatment centers specializing in sexual addiction.

## What Causes Sexual Addiction?

Sexual addiction, just like any addiction is very complex. It is thought that a combination of factors including biochemical abnormality, or other brain changes, family history, and abuse increase risk. Dr. Carnes reports that sexual addicts typically come from severely dysfunctional families. Usually at least one other member of these families has another addiction (87%). Another study showed that 82% of sex addicts report being abused. Dr. Carnes found that 42% of sex addicts also were dependent on alcohol or drugs and 38% had eating disorders.

Like any addiction, such as food, drugs, or alcohol, sex addiction changes brain chemistry that provides a "high" that the addict is dependent on to manage their life. The sexual addict becomes dependant on the "high" to feel normal. They use sexual activity to seek pleasure, temporarily manage their feelings, as well as to manage

outside stressors such as work or interpersonal difficulties. They use unhealthy relationship and sexual behavior as a quick and temporary way to feel better. As the illness progresses, like the alcoholic needs more alcohol, the sexual addict acts out more sexual, with more intense and riskier behaviors to seek the same "high".

The progression of sexual addiction is the same as any addiction. The sexual addict is unable to control their behaviors. They feel ashamed, isolated and despair which causes them to seek out sexual behaviors even more to escape these feelings. This destructive cycle leads to being powerless over their addiction and their lives.

## How is a Sexual Addiction Diagnosed?

A diagnosis for sexual addiction should always be made by a mental health professional. The following is a combined list of behavior patterns provided by Dr. Carnes and criteria adapted based on chemical dependency information that may indicate a sexual addiction. If you or anyone you care about can identify with these patterns you should seek professional help.

- Acting out: a pattern of out-of-control sexual behavior.
- Experiencing severe consequences due to sexual behavior, and an inability to stop despite these adverse consequences such as broken relationships, problems at work or potential health risks.
- Being preoccupied with or persistently craving sex; wanting to cut down and unsuccessfully attempting to limit sexual activity.
- Persistent pursuit of self-destructive behavior: Spending considerable time in activities related to sex, such as cruising for partners or spending hours online visiting pornographic Websites.
- Ongoing desire or effort to limit sexual behavior.

- Sexual obsession and fantasy as a primary coping strategy.
- Regularly increasing the amount of sexual experience because the current level of activity is no longer sufficiently satisfying, such as more frequent visits to prostitutes, excessive masturbation or more sex partners.
- Severe mood changes related to sexual activity.
- Feeling irritable when unable to engage in the desired behavior.
- Inordinate amounts of time spent obtaining sex, being sexual, and recovering from sexual experiences.
- Neglect of important social, occupational, or recreational activities because of sexual behaviors.
- Thinking of sex to the detriment of other activities or continually engaging in excessive sexual practices despite a desire to stop.

## Sex Addiction and the Internet

Searching the web for porn does not make someone a sex addict, although the ability to access the internet so easily and from many devices has sexualized people in a different way and allows individuals easy and fast access to sexual sites. Many of these sites are not only easy to access they are free. According to the watchdog Internet Filter Software Review more than 40 million people in the United States access more than 4 million porn sites. Individuals who may not have accessed porn in the past, because it was more difficult to obtain, are now easily able to access it and some are finding themselves having a sexual addiction.

## Treatment for Sexual Addiction

There are many options for treatment for sexual addiction including inpatient, outpatient, aftercare support and self help groups. Treatment is also available for family members including education, counseling, and support groups. Addiction is a family disease, and it is important

for the family and the addict to understand how the addiction affects everyone to get well. Unlike the alcoholic or addict where recovery involves abstinence the goal for the sexual addict's recovery is to be led back to a healthy sex life. The sex addict's recovery is similar to someone suffering with an eating disorder learning to eat healthy.

For assistance, please contact the Lawyer Assistance Program for free, confidential counseling. We have a network of counselors throughout Maryland. **Jim Quinn**, Director, (443) 703-3041, [jim@msba.org](mailto:jim@msba.org); **Lisa Caplan**, LCSW-C, Associate Director, (443) 703-3042, [lisa@msba.org](mailto:lisa@msba.org). 24/7 Toll Free 1(888)388-5459. ●

*Lisa Caplan, LCSW-C has over 20 years experience in her field, and extensive experience working with lawyers and judges in the areas of mental health, substance abuse and trauma.*

## SELF HELP GROUPS AVAILABLE

Sex Addicts Anonymous:  
1-800-477-8191  
[saa-recovery.org](http://saa-recovery.org)

Sex Compulsives Anonymous:  
[www.sca-recovery.org](http://www.sca-recovery.org)

Sexaholics Anonymous  
[www.sa.org](http://www.sa.org)

S-Anon Family Groups:  
818-990-6910 S  
[www.sanon.org](http://www.sanon.org)

Codependents of Sex Addicts:  
[www.cosa-recovery.org](http://www.cosa-recovery.org)

## BOOKS

Dr. Carnes, *Out of the Shadows: Understanding Sexual Addiction*

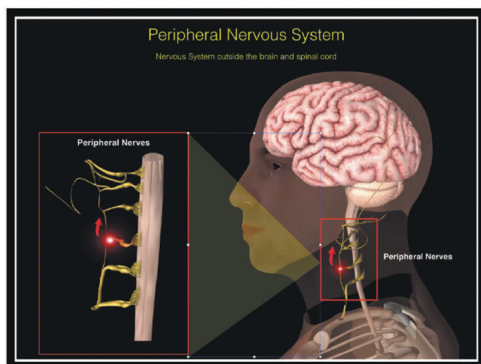
Robert Weiss, LCSW, CAS and Jennifer Schneider, MD, PhD, *Untangling the Web - Sex, Porn, and Fantasy Obsession in the Internet Age*



# Take the Lead...

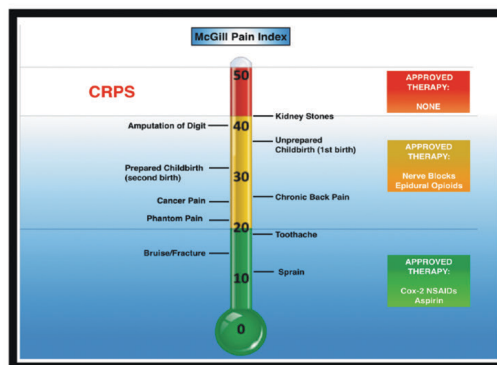


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# LAWYER ASSISTANCE, LOCALLY

For nearly 40 years, the Baltimore-based MSBA Lawyer Assistance Program (LAP) has worked tirelessly to preserve and promote the professional, physical, and emotional health and well-being of all Maryland attorneys, judges, and law students by providing **free, confidential counseling** on issues affecting those in the profession. Our services include help for a broad range of problems and personal concerns such as:

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Associate Director**  
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Eva Juncker

**Paley Rothman** announces the addition of three new principals, three associates, and the opening of a Northern Virginia office. **Eva Juncker** and **Lynette Kleiza** join the Family Law Practice, and **Scott Mirsky** joins the Employment Law Practice. With their experience, the firm gains deeper capabilities in legal representation for LGBTQ individuals and families, as well as in advising and litigating employment, business and construction disputes. The firm recently welcomed former Prince George's County Assistant State's Attorney **Geonard Butler II** and former Maryland Public Defender **Robert Goodis** to the Family Law and Litigation practice groups as associates. **Hayes Edwards** is joining the Employment and Litigation practices as an associate.



Scott Mirsky

The law firm of **Gordon Feinblatt LLC** is pleased to announce five new Chairs across the Firm. These appointments are: **Michele Bresnick Walsh**, Business Law Chair, **Margaret M. Witherup**, Energy & Environmental Chair, **Danielle Stager Zoller**, Real Estate Chair, **Charles R. Bacharach**, Employment Chair, and **George F. Ritchie**, Litigation Chair



Robert Goodis

**Cordell & Cordell**, the nation's largest domestic litigation firm focusing on representing men in family law cases, recently promoted divorce attorney **Jessica E. Zadajura** to Lead Litigator.

**Joel Yanovich** was elected as Member/Partner at **Murthy Law Firm** effective January 1, 2019. Joel joined the Murthy Law Firm in 2011, after having practiced for several years at a boutique business immigration law firm in Los Angeles.



Joel Yanovich

**McCollom D'Emilio Smith Uebler LLC** is pleased to announce that **Joseph Christensen** will join the firm as Counsel. He will be a key member in the firm's corporate litigation practice, and will also advise on mergers, acquisitions, and other transactional matters.

**Michael T. Wyatt** and **Timothy M. Gunning** have formed the Towson law firm **Wyatt & Gunning LLC**. With 60 years combined experience, Wyatt & Gunning will represent clients in diverse legal matters. Mr. Wyatt will continue his business, estates and trusts, real estate, and litigation practice. Mr. Gunning will continue his focus on criminal law, complex personal injury, complex civil litigation, and legal malpractice.



Laura Lynn Thomas

**Davis, Agnor, Rapaport and Skalny, LLC**, one of the region's leading law firms, today announced that **Laura Lynn Thomas** has joined the firm as an attorney, working primarily in its Estate Planning and Probate Practice Groups. Laura's practice will focus on developing comprehensive estate plans to help clients preserve their legacies.

**Baxter, Baker, Sidle, Conn & Jones** Partner, **Charles "Chad" Joseph** has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America. Mr. Joseph before an audience of 570 during the recent Induction Ceremony at the 2019 Spring Meeting of the College in La Quinta, California.

**Baker Donelson** Shareholder **Ty Kelly** has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America. Ms. Kelly became a Fellow before an audience of 570 during the recent Induction Ceremony at the 2019 Spring Meeting of the College in La Quinta, California.



Lynette Kleiza



Geonard Butler II



Hayes Edwards



Joseph Christensen



Chad Joseph



Ty Kelly

# ANNUAL IRVING SHULBANK

## MEMORIAL DINNER AND PROGRAM

WEDNESDAY, MAY 22, 2019

The Center Club, 100 Light St., 16th Floor,  
Baltimore, Maryland  
Cost: \$80 per person

Attorneys will have an opportunity to network with colleagues during our cocktail hour. Additionally, we will announce the recipient of the **The J. Ronald Shiff Memorial Pro Bono Award** and the **2019 Tax Excellence Award**.

We are very fortunate to have a tentative commitment from Charles Rettig, the 49th Commissioner of the IRS! This is our premiere tax event for the year, so don't miss out!

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### Diversity & Inclusion

CONTINUED FROM PAGE 1

cussion. We, as the organized bar, must ensure that we have diverse voices in the conversation.”

Such efforts to that end on the part of the MSBA have included the creation of the Diversity & Inclusion Committee, which hosted the conference, during Brown’s year as President.

“When we talk about diversity, it’s not just your hiring [practices],” said Committee Chair Yolanda Sonnier. “It’s also how you relate to your clients, how you are serving your clients, how you respond to people in the courtroom...diversity falls on so many levels.”

Brown stressed the importance of such a forum, especially in today’s sociopolitical climate.

“We are really in uncharted waters with respect to the vitriol going on around us - the increase in hate crimes, the lack of tolerance for diverse opinions,” said Brown. “Lawyers have always been at the forefront of change, and that is what the Committee is endeavoring to do. We’re all stronger when we work together.”

Contextualizing both past and present, the conference cast a wider eye toward the future with panel discussions such as “Change Comes to Washington”, “Diversity is Good for Business”, “We’ve Been There Before”, and “Views of Diversity and Inclusion from the Bench”, each drawing upon the experience and unflinching insight of key members of the bar and bench.

The importance of maintaining a strong support network of family and friends, as well as bar association colleagues, was a common thread for many of the panelists, virtually all of whom

related firsthand encounters with bigotry, implicit bias, racism, and sexism as well as matters involving gender identity, sexual orientation, disabilities, and other forms of discrimination throughout their legal careers.

“This conference is both substantive and symbolic, and represents MSBA’s deep commitment to the promotion of diversity and inclusion within the legal profession,” said MSBA President Judge Keith R. Truffer.

“Today is our inaugural conference, but the intent is to hold many conferences to come,” said Sonnier, who encouraged attendees to take what they learned back “to share with people in your office, and figure out what you can do better at your organization, law firm, or bar association.”

Later, the Diversity & Inclusion and Business Development Committees of the Young Lawyers Section co-sponsored a happy hour and scavenger hunt for conference attendees at Baltimore’s Waverly Brewing Company.

Sponsoring Sections included Young Lawyers, Legal Education & Admission to the Bar, Administrative Law, Business Law, Estate & Trust Law, Alternative Dispute Resolution, and Solo & Small Practice, as well as the MSBA Membership Committee. Law firm sponsors included Pasternak & Fidus, P.C.; Sonnier Legal & Consulting Group; Downs Collins, P.A.; Law Offices of Elsa W. Smith, LLC; and the Basu Law Firm, LLC. Individual donors included the Honorable Michael W. Reed, Ken Besser, Dana Broughton, Robert Fontaine, Glendora Hughes, and Michelle Lipkowitz. ●

The MSBA Diversity & Inclusion Committee will present the educational program “Counteracting the Invisible: Implicit Bias in the Courtroom” on Thursday, June 13, 2019, at the Legal Summit & Annual Meeting in Ocean City. To register, or for more information, visit [msba.org/AnnualMeeting](http://msba.org/AnnualMeeting).

### Dateline

CONTINUED FROM PAGE 4

rienced practitioners on topics such as A New Attorney’s Guide to Handling Matters Before the Immigration Court, Defending Cases Involving Marriage Fraud at USCIS, How to Conduct Yourself at USCIS Interviews, Updates on Business Immigration, Addressing Notices to Appear with Fake Hearing Dates and Pursuing Federal Court Litigation. For more information and/or to register please visit: [www.msba.org/Immigration911](http://www.msba.org/Immigration911).

**5** Join the **MSBA Senior Lawyers’ Section** for its *12th Annual Senior Lawyer of the year Dinner* at Liberatore’s beginning at 5pm. For more information and/or to register please visit: [www.msba.org/SeniorLawyer](http://www.msba.org/SeniorLawyer).

**7** Join the **MSBA State and Local Government Law Section** for a panel discussion and networking event beginning at 6pm at Cured 18th and 21st. The topic will be a *Legislative Wrap-Up from Both Sides of the Aisle and Those in the Know*. Panelists include: Del. Marc Korman (D-Dist. 16), Del. Trent Kittleman (R-Dist. 9A), Richard Montgomery, Director of MSBA Legislative Relations, Michael Sanderson, Executive Director of Maryland Assoc. of Counties, and Bill Jorch, Manager, Governmental Relations, Maryland Municipal League. For more information and/or to register, please visit: [www.msba.org/SLGWrapUp](http://www.msba.org/SLGWrapUp).

**9** Join the **MSBA Negligence Insurance and Workers’ Compensation Section** for the newest presentation of *2019 Hot Tips in Workers’ Compensation*, beginning at 8:00am at the Loyola Graduate Center in Columbia, MD. Get the latest from experienced faculty on topics such as: Catastrophic Claims- Housing Modifications & Special Equipment, A Primer on Legislation- How WCC Laws are Passed in Maryland, Sharing Medical Records- Who’s Responsible & How to get Them Without Going Broke! and more! For more information and/or to register, please visit: [www.msba.org/WorkersCompTips](http://www.msba.org/WorkersCompTips).

**11** Join the **MSBA Young Lawyers’ Section** for a *Family Friendly Spring Picnic* at Watkins Regional Park from 1pm - 3pm. For more information and/or to register, please visit: [www.msba.org/FamilySpringPicnic](http://www.msba.org/FamilySpringPicnic).

**15** Join the **MSBA Criminal Law Section** beginning at 6:00pm at the Office of Public Defender Training Center, in Linthicum Heights for the presentation of *The Heeney Award and Reception*. This year’s Heeney Award recipient is Paul DeWolfe, Esq. For more information and/or to register, please visit: [www.msba.org/HeeneyAwards](http://www.msba.org/HeeneyAwards).

**16** Join the **Estate & Trust Law Section** for its *Annual Dinner & Program* beginning at 5:00pm at the Westin Baltimore Washington International. This year’s topic is “Elder Abuse: What to watch out for, and how to protect your clients (and yourself).” For more information or to register, please visit: [www.msba.org/Estate-Trust-Dinner](http://www.msba.org/Estate-Trust-Dinner).

**17** **MSBA Young Lawyers Section Wellness Committee & The MD/DC Chapter of the Mindfulness in Law Society** Invite You to a *Lawyer Wellness Retreat* from 12pm - 5pm at the Sheraton Columbia Town Center. In one rejuvenating afternoon, learn from our experts important mindfulness, yoga and meditation techniques for managing the day-to-day stressors inherent in the practice of law. For more information and/or to register, please visit: [www.msba.org/msba.org/Wellness-Retreat](http://www.msba.org/msba.org/Wellness-Retreat).

**18** MSBA presents “*The Trial of Al Capone*” on Saturday, May 18, 1 – 5 p.m. at the Stevenson University Greenspring Campus Theatre. Join us as we portray what could have happened if Al Capone had been put on trial for the Saint Valentine’s Day Massacre. Written by Paul Mark Sandler and produced by the MSBA, come together to take a glimpse of the courtroom with former Governor Martin O’Malley, Maryland Attorney General Brian Frosh, MSBA President Hon. Keith Truffer, and many others portraying some of the most well-known historical figures during the height of Al Capone’s infamy. All proceeds will be going to Access to Justice. For more information and/or to register please visit: [www.msba.org/AlCapone](http://www.msba.org/AlCapone).

**21** Join the **MSBA Estate and Trust Law Section** for the all new *2019 Advanced Estate Planning Institute*, beginning at 8:30am at The Sheraton Hotel in Columbia, MD. Get the latest from experienced faculty on Nonjudicial Settlement Agreements, Maryland Fiduciary Income Tax, Post-Mortem Estate Planning Issues and Strategies and more! For more information and/or to register, please visit: [www.msba.org/AEPI](http://www.msba.org/AEPI).

**22** Please join the **MSBA Tax Section** for its *Annual Irving Shulbank Memorial Dinner And Program* beginning at 6:00pm at the Center Club. For more information and/or to register, please visit: [www.msba.org/Shulbank](http://www.msba.org/Shulbank).

**23** The **Labor & Employment Law Section Presents: Brown Bag Luncheon EEOC Administrative Judges Open Forum** from 12:00pm - 2:00pm at the Equal Employment Opportunity Commission in Baltimore, MD. Join the Administrative Judges of the Equal Employment Opportunity Commission Baltimore Field Office for a brief presentation on Federal Employment Discrimination Law and administrative procedures followed by a question and answer session. This is your opportunity to ask the judges questions about office procedures, case processing and substantive law. For more information and/or to register, please visit: [www.msba.org/BrownBagLuncheon](http://www.msba.org/BrownBagLuncheon).

**30** Join the **MSBA Continuing Legal Education Department and The Legal Studies Institute at Anne Arundel Community College** for the newest presentation of *Best Interest Attorney Training* beginning at 8:30am on Friday, May 31, 2019 at the Arundel Mills Campus in Hanover, MD! Experienced practitioners will cover crucial topics such as child development and access schedules, parenting coordination, custody evaluations, interviewing children, representing your child client effectively, impact of family dysfunction, use of expert witnesses and more. For more information and/or to register please visit: [www.msba.org/BestAttorneyTraining](http://www.msba.org/BestAttorneyTraining).



— ESTATE AND TRUST LAW SECTION —

# Annual Dinner & Program

May 16, 2019, 5 pm

BWI Westin Hotel

1110 Old Elkridge Landing Road  
Linthicum Heights, MD 21090

Kick off the evening with a happy hour from 5-6 pm.

This year's topic is **Elder Abuse: What to watch out for, and how to protect your clients (and yourself).**

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### CLE Publications

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#### UPCOMING SPRING 2019 CLE PUBLICATION UPDATES (Details available soon)

- *Using & Drafting Trust in Estate Planning, 2019 Revised Edition*
- *Civil Practice & Procedure in the District Court of Maryland, 2019 Edition*
- *Criminal Practice & Procedure in the District Court of Maryland, 2019 Edition*
- *Maryland Divorce & Separation Law, Tenth Edition*
- *Maryland Automobile Accident Deskbook, Third Edition*
- *Practice Manual for the Maryland Lawyer, Fifth Edition*
- *Maryland Civil Pattern Jury Instructions, Fifth Edition—2019 Replacement Pages*

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### Spring Break

CONTINUED FROM PAGE 4

There should be another way for people to check in about their case without having to come the whole way to Baltimore for that.

#### 2. Why did you decide to volunteer your time during Spring Break?

*Sumbul, 2L:* Pro bono is an integral learning experience and benefits not only the community but the law student. It helps shape our perspectives, understand struggles beyond our experience, and sharpen our understanding of equity and equality.

*Candice, 1L:* I do not know what I want to do in the legal field and this

gave me a chance to learn about estates, network with attorneys, and help people.

*Kala, 1L:* Volunteering as an interpreter with the PBRC at the immigration court allowed me to spend time at immigration court with clients and other attorneys and it happened to satisfy a requirement for my Lawyering in Spanish class, which was an added bonus!

#### 3. Would you recommend ASB to incoming students or other classmates?

*Sumbul, 2L:* I think every student

should participate in pro bono on a consistent basis. It helps ground the legal education in reality.

*Candice, 1L:* It was a great experience and extremely fulfilling. I would not only recommend others to participate in the future, but I would also participate again.

*Kala, 1L:* Definitely. Two other people from my class also volunteered on the same day with me, and we all had an excellent experience. It was very interesting and rewarding to work directly with individuals and pro bono lawyers. ●

“Pro bono is an integral learning experience and benefits not only the community but the law student. It helps shape our perspectives, understand struggles beyond our experience, and sharpen our understanding of equity and equality.”

### Tax Conundrum

CONTINUED FROM PAGE 9

#### Maryland Tax Hotline

However a tax issue was created, it can be overwhelming for the taxpayer to deal with the IRS on their own. To assist with this, the Maryland Tax Hotline (443-451-4091) was created in collaboration between Maryland Volunteer Lawyers Service (MVLS), the Taxation Section of the MSBA, and the Comptroller of Maryland. The hotline offers an immediate option for the taxpayer to speak to a friendly, knowledgeable and, most importantly, a trustworthy person. Confused and frightened taxpayers are often easily taken advantage of by others masquerading as competent tax professionals. The new hotline is staffed by volunteer attorneys, Certified Public Accountants

(CPAs) and Enrolled Agents, who receive a reference manual and an orientation on common tax challenges. Hotline callers are given brief advice as well as resources to resolve their issues. Although IRS phone services are now available, there can be a significant wait time for a response. The new hotline offers an alternative, and is available Monday through Friday 10 a.m. to 5 p.m. and Saturday from 10 a.m. to 3 p.m.

#### A Call for Volunteers

Low-income Marylanders and recently furloughed government employees need tax guidance from trained professionals, including volunteer attorneys, CPAs and Enrolled Agents.

Hotline calls can be taken from any location – home, work or a coffee shop. If helping the less fortunate isn't enough, there is an added incentive for volunteers who staff the tax hotline. For each shift taken, volunteers will be entered to win two free tickets to the MSBA Tax Section's premier event of the year – the Annual Irving Shulbank Memorial Dinner and Program on May 22 at The Center Club. This year's speaker is Charles Rettig, IRS Commissioner. The more shifts taken, the more entries!

For attorneys interested in volunteering, please contact Janice Shih at [jshih@mvslaw.org](mailto:jshih@mvslaw.org) or call 443.451.4061. ●

### Civil Forfeiture

CONTINUED FROM PAGE 10

passed around, all students who passed it to another are “dealers.” These definitions allow the State to seize the money and property of anyone who carries even small amounts of drugs.

The repercussions of forfeiture on the lives of individuals can be vast and long-lasting. Even worse, the laws are most commonly applied to those low-income, vulnerable members of our society who are least able to fight the forfeiture. The other terrible consequence, is the property and

money being seized is often from addicts and their immediate family and friends – often all members of our society who are in poverty. If the heroin addicted couple we discussed above are living in their car and it is seized (as a vehicle used in the transportation of narcotics), then the couple loses their home and only significant asset. The college student's laptop or student loan check, could be seized because he passed around the joint at the party. These injustices occur all the time. The Supreme

Court's decision in *Timbs* recognizes that excessive fines are not tolerable under the U.S. Constitution. Now it is up to us to make sure the local government does not simply expand the definition of “excessive” at the expense of our most vulnerable citizens. ●

*Ms. Pankiewicz is an Assistant Public Defender in Frederick County. Any views expressed in this article are her own, and not reflective of the Maryland Public Defender's Office.*

ADDRESS SERVICE REQUESTED

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