



MSBA

BARBULLETIN

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First Annual Bench/Bar Wellness Week to Kick Off in September

The Maryland State Bar Association ("MSBA") has teamed up with the Women's Bar Association of Maryland, Inc. ("WBA"), the Bar Association of Baltimore City ("BABC"), and the Bar Association of Montgomery County ("BAMC") to help members of the Bar and the Bench learn how they can do more to improve their health and wellness.

It has long been recognized that legal professionals have stressful and sedentary jobs, and often work long hours. In addition, legal professionals tend to deprioritize health and wellness and are constantly chasing the elusive "work-life balance." It is difficult to change these facts overnight, however the MSBA and local and specialty bar associations are taking the first step to address these widespread issues with the first ever Bench/Bar Wellness week.

The Bench/Bar Wellness week will focus on ways legal professionals can improve their health and wellness. The event will feature a variety of activities and weeklong challenges. The Step Challenge will run from midnight on Monday, September 16, 2019 through 6:00pm on Thursday, September 19, 2019. Prizes will be awarded to the winners of the step challenge in three categories: 1) individuals, 2) teams of four from law firms, non-profits, and government agencies, and 3) judges/magistrates-law clerk teams.

In addition to the weeklong step challenge, each day will feature different activities. The week kicks off with "Mental Health Monday" where participants will find a seminar on "Coping with Difficult People" in Rockville, MD. The seminar will provide tools to help participants cope with difficult people, create boundaries, and reduce stress.

On "Take Care Tuesday", participants will enjoy an introduction to Mediation by Alexa Zaledonis, and learn about the



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MONDAY, SEPTEMBER 16 - THURSDAY, SEPTEMBER 19

Bench/Bar Wellness week is a partnership between MD Bars to feature four days of seminars, exercise and wellness activities and discussions around the state culminating with a health Expo for members of the bench and bar. Hear from professionals with experience in both the legal and health arenas, and participate in workshops for fitness, nutrition, mindfulness, stress management and more.

For more information go to [MSBA.ORG/WELLNESSWEEK](https://www.msba.org/wellnessweek)

positive effects of meditation on productivity, thinking, and overall feelings of happiness as well as simple and easy meditation skills. This event will take place in Columbia, MD

"Wake-up Wednesday" will feature a run/walk with members of the Bench. Lace up your

sneakers, and join Judges from around Maryland in run/walk. Also available on Wednesday will be 15-minute only yoga and meditation videos that you can do in your chambers, office or home.

The week concludes with the Bench/Bar Wellness Expo on Thursday. The event, which will

take place at City Garage in Baltimore City, will feature workshops on nutrition, exercise and overall health. Mobile health screenings, flu shots, and variety of vendors will also be available.

For more information on this complimentary event, please visit www.msba.org/wellnessweek.

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A member of the Maryland Bar is sought to serve in the 1st Appellate Circuit (Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, Worcester) and 2nd Appellate Circuit (Baltimore, Harford) positions on the Court of Appeals' Standing Committee on Pro Bono Legal Service. This is a statewide committee. Meetings are held in Annapolis approximately five to six times per year. The term of each member is three years. A member may be reappointed to serve one or more additional terms. Please refer to Maryland Rule 19-501 (b) – State Pro Bono Committee and Plan – for additional details on the functions of the Standing Committee.

If you are interested in serving on this Committee, please email a letter of interest and resume by **September 1, 2019**, to the Standing Committee at standingcom@probonomd.org.



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Baltimore City
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Jeffrey Delgado

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Members should address their
written ethics inquiries to Patricia
Weaver, Ethics Committee, 4800
Hampden Lane, Suite 700, Bethesda,
MD 20814, or call (301) 951-9360, or
e-mail tweaver@paleyrothman.com.
Opinions of the Ethics Committee
are available online at
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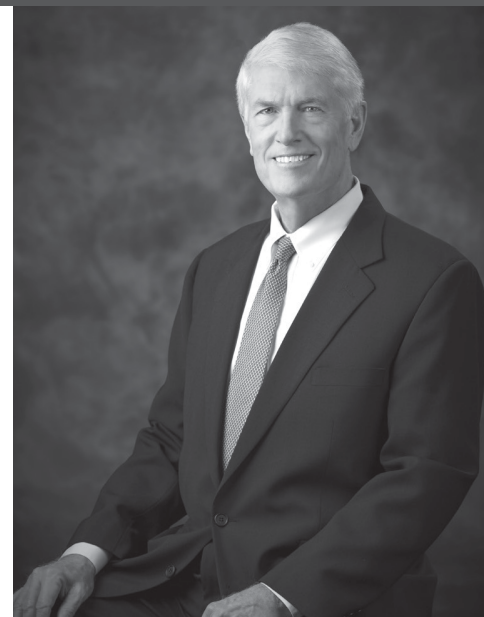
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is pleased to announce our newest Neutral

Hon. Nelson W. Rupp, Jr. (Ret.)

Retired Judge, Circuit Court for Montgomery County

The Honorable Nelson W. Rupp, Jr. recently retired after twenty-five years of dedicated judicial service, most recently as an Associate Judge of the Circuit Court for Montgomery County. Before his service on the bench, Judge Rupp enjoyed a successful law practice and was the leader of a civil litigation team representing individuals and businesses in a wide array of practice areas including professional liability, products liability, commercial litigation and personal injury. He has also served as an Assistant State's Attorney for Prince George's County, a Deputy State's Attorney for St. Mary's County, and a Senior Assistant State's Attorney for Montgomery County. Judge Rupp is a two-time recipient of the Outstanding Jurist Award from the Montgomery County Bar Association. He now brings this exceptional record of leadership and accomplishment to The McCammon Group to serve the mediation, arbitration, and special master needs of lawyers and litigants in Maryland, DC, and beyond.



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Dateline

AUGUST

20 Join your local **MSBA Estate & Trust** section member colleagues for an evening of networking and socializing over hor's d'oeuvres and drinks at Charles Village Pub in Towson, Maryland. For more information and/or to register please visit: www.msba.org/Membership-Mingle-8-20

20 The Maryland State Bar Association **Learning and Publications Department** presents: *"Affordable, Easy Tech that Helps Busy Lawyers Build Better Practice-Management Habits"* Presented by Maddy Martin. This Live Webinar begins at 12:00pm. For more information and/or to register please visit: www.msba.org/Practice-Management-Tech

22 The **MSBA CLE Department** Presents *"2019 Family Practice Update"* from 8:30am to 1:15pm at the University of Baltimore School of Law. In one comprehensive program you'll learn about all of the major developments in Maryland family law during the past twelve months. We'll also clue you in on some small developments that have changed family law practice in subtle, but important, ways. You'll get an invaluable update on case law, legislation and court rules. Your guides on this interesting and informative tour through family practice territory are Bryan Renahan, Paul Reinstein, Heather Sweren and Maureen Glackin, veteran faculty members and experienced, highly effective lawyers, who have concentrated their practices in family law for many years. In addition to the great learning opportunity, you'll have time to network with colleagues and make new contacts among attendees who consider this highly regarded annual update to be a required component of their professional development plan as family law practitioners. For more information and/or to register, please visit: www.msba.org/FPU

28 The **MSBA CLE Department** presents *"Handling Drinking and Driving Cases in Maryland"* from 8:30am to 5:00pm at Loyola Graduate Center in Columbia, Maryland. Experienced attorneys Pat Maher and Lenny Stamm will cover critical topics for defending DUI cases, including the initial client interview, whether and when to request an MVA hearing and how to conduct the hearing, challenges to the initial stop, cross examination of the arresting officer, breath test challenges, presenting a defense, plea negotiations, sentencing and more. There will also be a recent statutory and case law update. If you handle drinking and driving cases, or want to, this program is a must. For more information and/or to register please visit: www.msba.org/Drinking-Driving

SEPTEMBER

9 Join the **ADR Section** for member meet & greet and business meeting beginning at 5:30pm at BECO Conference Room in Columbia, Maryland. For more information and/or to register please visit: www.msba.org/ADR-Meet-Greet

10 Join **MSBA Leadership & Staff** for a *Section & Committee Chair Information Session* from 3pm - 5pm at Live! Casino & Hotel in Arundel Mills, MD. All Section Chairs, Chair-Elects, Treasurers and Committee Chairs are invited to attend to receive information on the available MSBA services and resources to help you have a successful 2019-20. For more information and/or to register, please visit: www.msba.org/section-committee-info

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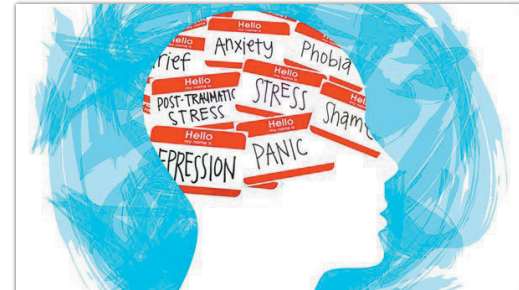
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How E-Discovery Trends Are Reshaping E-Discovery Teams

E-discovery, as an industry, is once again at an inflection point. What are the big trends that are exerting pressure on e-discovery teams today — and more importantly, what will an effective e-discovery team look like in the coming years?



Would Mandatory Psychologist Appointments Reduce Burnout in Big Law?

Big Law partners-turned-psychologists argue counseling sessions for all lawyers at key points in their careers could make all the difference in improving mental health and burnout in the profession.



Equifax Reaches \$1.4B Data Breach Settlement in Consumer Class Action

Equifax has agreed to pay at least \$1.4 billion to settle multidistrict litigation brought on behalf of 147 million U.S. consumers and pay millions more to resolve civil complaints brought by the federal government and multiple state attorneys general over its massive 2017 data breach.



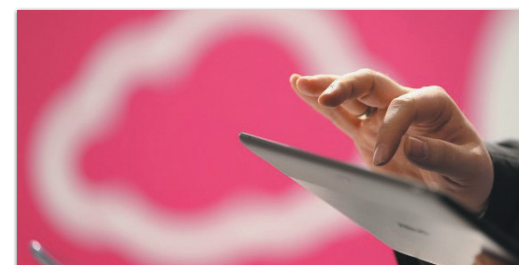
Is Practicing Law In-House Better? The Two Sides of the Coin

There are two sides to every coin, and for all the benefits that come with an in-house position, there is an equally long list of benefits for lawyers in private practice.



Is Your Legal Department Ready for the Next Big Crash?

In-house leaders should be assessing their legal departments regularly to find and fix inefficient spending and work habits while also implementing new tech solutions now—before it's too late.



INSIGHT: Three Capabilities Law Firms Should Demand from Their Cloud Service Providers

Law firms need to ask some key questions of their cloud-based service providers before signing on the bottom line. Dan Dosen, with iManage, outlines questions about geographic storage locations, encryption keys to help prevent blind subpoenas, and speed and performance guarantees.

TESTING TASK FORCE



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think!

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The Testing Task Force of the National Conference of Bar Examiners (NCBE) is interested in your insights regarding the job activities of newly licensed lawyers. Complete the Task Force's nationwide 2019 practice analysis survey, which is gathering current data on the knowledge, skills, abilities, other characteristics, and technology newly licensed lawyers use to accomplish the job tasks they perform. The results of this survey will be used by NCBE to develop the next generation of the bar exam and will benefit the profession as a whole. Let's make sure the survey includes the voices of attorneys from our State!

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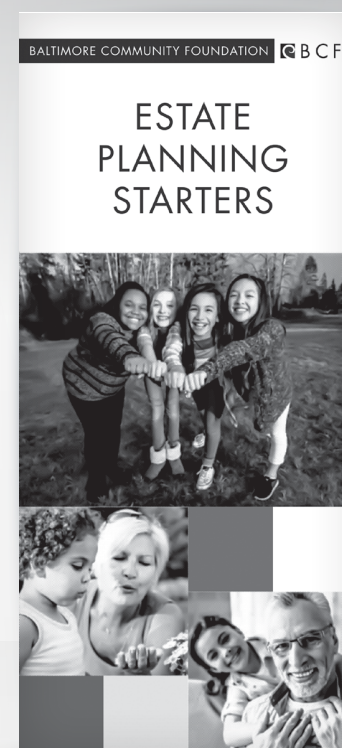
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PRO BONO PROFILE

PBRC PARTNER PROFILE:



Vei-Chung Liang, Esq., MSBA Member Supervisory Patent Review QA Specialist, US Patent and Trademark Office PBRC Volunteer

Even though Mr. Liang's chosen form of pro bono service is outside the subject matter of his employment, he makes it a part of his work life because it is rewarding and allows him to use his license in a meaningful way.

With which of PBRC's projects do you volunteer, and what do you do?

I volunteer with the estate planning clinic in Baltimore and in Prince George's County. I prepare documents -- a will, a power of attorney, and an advanced directive -- for [low-income] clients.

What led you to get involved with the project?

After I was barred, I was still working at the Patent Office. I felt like I needed to make use of my bar membership. So I started to think about doing some pro bono work. I went to the Solo Summit in 2018, and I talked to someone from PBRC there. I looked at the website, and felt like, "This is something I may be able to do to help people with my license."

What did the project do to make it easier to volunteer?

The training material PBRC provided is very clear. And the other thing is the single focus -- we're just doing one job.

What do you like most about volunteering?

For me, it's interesting to see different people coming in. They have their needs, and I can offer to help them, to prepare something that they want. Then they have peace of mind, and they can move on to do other important things in their life, without worrying about wills.

Can you tell me about a memorable client you've helped at the clinic?

The one I remember is the first one. It's a couple. They come in, and the husband is terminally ill -- he has leukemia. It's almost at the end, but they come in. The husband still looks good. We asked them what they want. They have grown kids, and they want a will, because they were young when their parents passed away. They had to go through the probate, and they feel like they need a will so that they can make their children's lives easier.

So we did that. That was my first, so pretty much, I'm learning. I'm just helping out the other attorney, making sure that whatever she typed in was correct.

Even though the husband looks fine, when he starts signing the document, you see his hands shaking. He cannot really control his motion, even though he wants to sign his name. Even though the conversation is pretty normal, I realized that actually he has put in a lot of effort in order to come in to the clinic and then complete this one thing he wants to do.

When we completed the document and gave it to them, I think that's the most rewarding moment for me. When they responded with a "Thank you," that's the most rewarding part. And that actually motivated me to keep doing it.

When you last volunteered, how did it make you feel?

I feel more confident. I try to come every month, at least one day -- it's not a lot. I can pick up the details fairly quickly and understand what the client really wants, and try to put it down on paper. If there's anything where I need further assistance from the staff, I am able to formulate a question to ask them. So I feel more confident.

What do you think other people should know about Pro Bono Resource Center?

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Helping Immigrants in Inhospitable Times

BY BECCA NIBURG, KIDS IN NEED OF DEFENSE (KIND), AND NICK STEIN, ACLU OF MARYLAND

Despite the protections provided by both United States and international law, the Trump Administration has repeatedly sought to limit access to asylum and other benefits to immigrants, including children, seeking safety in the United States. The implemented changes impact wide categories of cases, such as asylum claims based on interfamily and gang violence, as well as the procedure of how the executive branch processes immigration claims. As a result, the need for attorneys has never been greater. This article focuses on some of the changes that are most likely to affect an attorney who does not practice immigration law full time, but instead wants to assist asylum seekers through pro bono work with one of the many non-profits stepping up to assist people during an increasingly hostile Administration.

A General Overview

The immigration system is housed under the two departments of the executive branch: Department of Justice (DOJ) and Homeland Security (DHS). The immigration court is an adversarial court under DOJ, where immigrants defend themselves against a DHS attorney. U.S. Citizenship and Immigration Services (USCIS) adjudicates affirmative petitions for visas and permanent residence that are non-adversarial. Although immigrants do not have the right to a lawyer paid by the government in immigration proceedings, an attorney in good standing with any state court may practice immigration law. Legal representation increases the chance of obtaining relief in immigration court by *five times*.

Depending on the relief sought, the immigrant may file for relief before the immigration court, USCIS, or in both places. Jurisdiction usually resides in either immigration court or USCIS, but both agencies adjudicate asylum claims depending on when and by whom the request is made. A person qualifies for asylum if they establish past persecution or a well-founded fear of future persecution by the government or uncontrolled private actors on account of race, religion, ethnicity, nationality, political opinion, or a particular social group. Other forms of humanitarian relief, such as protection for victims of trafficking or other crimes, may also be available and additional protections may be afforded to children depending on their circumstances.

Changes implemented by this Administration

The Administration is now “fast

“

The Administration implemented these changes by ignoring existing law or policy and by using extra-judicial Attorney General decisions, rulemaking, and policy memoranda that limit who may seek asylum.

tracking” immigration determinations at the border to remove people more quickly without a full and fair legal process, seeking to exclude victims of interfamily and gang violence from asylum eligibility and when an “unaccompanied child” determination is made, which greatly reduces access to protection for children in danger. The Administration implemented these changes by ignoring existing law or policy and by using extra-judicial Attorney General decisions, rulemaking, and policy memoranda that limit who may seek asylum.

The policy changes and shift in priorities to remove as many people as possible from the country has paradoxically led to increased wait times for court access and adjudication on immi-

gration petitions, but also creates an opportunity for engagement from lawyers and other professionals to use their skills to help vulnerable populations in need of representation. For example, Kids in Need of Defense (KIND) provides robust mentoring to lawyers donating time to unaccompanied children who apply for Special Immigrant Juvenile status (among other relief). Other organizations assist both adults and children with asylum representation. Organizations such as the ACLU of Maryland trains attorneys to provide “Know Your Rights” trainings, which people used during the last round of ICE raids to limit the number of people detained. The steady increase in the number of cases in immi-

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Federal Protections for Immigrant Survivors of Human Trafficking Become Riskier to Pursue and More Challenging to Secure Under Current Administration

BY HEATHER HEIMAN, ESQ.

Federal law provides immigrant survivors of human trafficking in the United States with access to critically important legal protections and services, including legal status through the T visa. Over the last few years, policies implemented by the current Administration have made it more difficult for survivors to apply for and secure the T visa and other life-saving benefits, and survivors whose applications are denied can now face deportation. Coupled with stepped up immigration enforcement and anti-immigrant rhetoric, these policies are having a chilling effect on immigrant communities, making immigrant survivors of human trafficking more hesitant to report to law enforcement and seek immigration assistance from legal service providers.

“Traffickers often target immigration communities as they seek to exploit individuals made vulnerable by a lack of stable immigration status in the United States.

Traffickers often target immigration communities as they seek to exploit individuals made vulnerable by a lack of stable immigration status in the United States. Foreign born victims may travel to the United States from abroad based on the promise of employment or better opportunities, then have their documents confiscated upon arrival and be threatened with deportation by their trafficker if they try to escape or seek help. Immigrants that are forced or coerced into labor or sex work often lack knowledge of U.S. laws and protections, and may not realize that they are being exploited or readily identify as human trafficking survivors. Immigrant survivors may not know how or where to contact police or service providers, and often face language barriers if they find a way to reach out for help.

In 2000, Congress passed the Trafficking Victims Protection Act (TVPA), which defines both sex and labor trafficking as “severe forms of trafficking in persons” that qualifies survivors for protections and benefits under federal law. The TVPA created a special humanitarian visa - the T visa - for survivors of human trafficking who were physically present in the United States and willing to cooperate with law enforcement in prosecution of trafficking cases. Recipients of the T visa receive temporary status that allows them to remain in the United States and the option to later apply for permanent resident status. Under the TVPA, immigrant survivors of severe forms of trafficking can also get certified by the Department of Health and Human Services to receive benefits including access to health care, job training, and

language classes. By addressing the leverage that traffickers have over individuals without stable legal status and encouraging reporting to and cooperation with law enforcement, the T visa provided both a path to safety for immigrant survivors and a critical tool for law enforcement seeking to prosecute trafficking cases.

Despite claims by the current Administration that human trafficking is a priority issue, practices and policies implemented by the federal government over the last two years have generally undermined protections for immigrant survivors and increased their risk of future exploitation. In 2017 and 2018, wait times for adjudication of T visa petitions skyrocketed, leaving immigrant survivors without legal status as their applications awaited adjudication. The federal government

has also granted significantly less T visas (and issued fewer certifications for benefits) than in years prior, and advocates continue to report increased requests for additional evidence by adjudicators reviewing T visa and other humanitarian visa petitions. In 2018, the Current Administration implemented another drastic change in its treatment of immigrant survivors by announcing that denial of a T visa application will trigger a “Notice To Appear” - essentially starting deportation proceedings against the survivor by summoning them for a hearing before an immigration judge.

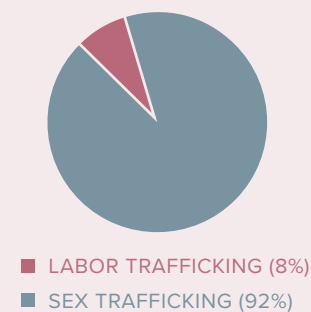
The impact of these policy changes are profound, both for immigrant survivors and law enforcement. According to the 2018 Trafficking in Persons (TIP) Report from the U.S. State Department, advocates are finding that immigrant survivors of traf-

cases fell significantly in both 2017 and 2018, with federal law enforcement focusing on cases involving primarily sex trafficking (92 percent) as opposed to cases involving primarily labor trafficking (8 percent). Advocates also report that few labor trafficking cases referred to federal officials were actually pursued.

These policy decisions compound the trauma immigrant survivors have already experienced by making safety and stability increasingly difficult to obtain, and by forcing survivors to come forward and risk potential deportation to even put forth a claim for benefits and legal status that they are entitled to. In the months ahead, representation of immigrant survivors of human trafficking will be increasingly fraught as attorneys and their clients weigh whether the benefits of trying to access protection outweighs the current risks. ●

FEDERAL PROSECUTION OF TRAFFICKING CASES

Prosecution fell significantly in both 2017 and 2018, with federal law enforcement focusing on cases involving primarily sex trafficking as opposed to cases involving primarily labor trafficking. 2018 TIP Report



ficking are increasingly fearful of reporting to and working with law enforcement, and are also hesitant to seek immigration relief or other services due to increased immigration enforcement and fear of being placed into removal proceedings if their T visa petitions are denied. The 2018 TIP Report also notes that federal prosecution of trafficking

Heather Heiman, Esq., is the Human Trafficking Prevention Project Manager at Maryland Volunteer Lawyers Service. The Human Trafficking Prevention Project (HTPP), a partnership between Maryland Volunteer Lawyers Service and University of Baltimore School of Law,

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PIP - Military Peace Of Mind

BY CYNTHIA ROSENBERG

A little known program that offers peace of mind to our active military who have family members who are vulnerable to deportation or removal is in danger from the Trump administration. **Parole in Place (PIP)** is a discretionary legal authority to grant parole to minimize family separation.

PIP recognizes that vital sacrifices are being made by our military and their ability to serve is compromised when their out of status spouse, children and parents will be deported while the military member valiantly serves the US.

PIP is applied for at local immigration offices which have traditionally been lenient in allowing the service member's immediate family members who have no means to adjust their immigration status to stay in the US temporarily. This allows the military member to concentrate on their military mission while the families can hold "down the fort" domestically.

At the June national conference of the American Immigration Lawyer Association, there were reports that DHS and USCIS

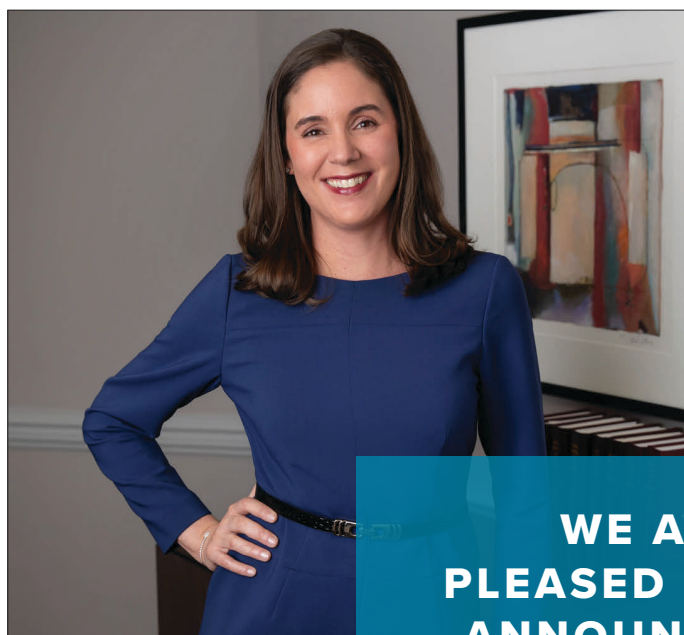
have confirmed the intention to end PIP through inter agency notifications "soon". Instances of refusals to make decisions on PIP applications by USCIS local offices are starting to be reported nationally.

In a July 20, 2019 letter to Acting Homeland Security Director Kevin Aleenan and Acting Dept of Defense Secretary Mark Esper, Senator Tammy Duckworth and thirteen other concerned Senators expressed their strong opposition to this cruel change in policy. The current policy allows the spouse, child or parent to receive parole within the US and apply for permanent residence as opposed to someone without that option who can be removed and face up to ten year bars from returning to the US to seek family reunification.

This is an additional blow after the demise of the MAVNI program which offered a path to citizenship for specially skilled foreign nationals serving as military linguists and others desperately needed to augment our armed forces.

Immigration attorneys are in a rush to file PIP applications as the window of opportunity may close any day. This is not a loophole as alleged by the administration but rather a solution to keeping our hard working military focused on their tasks and not on worrying about their families who are an integral part of our communities. ●

Cynthia Rosenberg, a partner at Rourke & Rosenberg, is Chair of the MSBA Immigration Section



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Fourth Circuit Court Of Appeals Rules Conviction for Theft Under Maryland § 7-104 Is No Longer A Crime Involving Moral Turpitude Or An Aggravated Felony For Immigration Purposes

BY STEPHANIE L. PANKIEWICZ

All criminal defense attorneys should understand they are required to provide advice of the potential of immigration consequences for any non-citizen client, based on the U.S. Supreme Court's decision in Padilla v. Kentucky, 559 U.S. 356 (2010). With that in mind, it's important to stay up to date on changes that occur in the immigration context that can affect your client's immigration status.

An important new case has just come down from the Fourth Circuit Court of Appeals with regards to theft convictions under Maryland § 7-104. In *Martinez v. Sessions*, petitioner *Martinez*, a native of Mexico, was detained and processed for deportation. She had been living in the country for over 20 years, and had several U.S. citizen children. Throughout her time in the U.S. *Martinez* had been convicted three times in Maryland of theft under § 7-104, one for theft under \$500, and twice for theft under \$100. Based on the need of her U.S. citizen children, and her length of time in the country, *Martinez* would have been eligible to apply for cancellation of removal, to permit her to remain

in the country; however, someone who has been convicted of a crime involving moral turpitude (CIMT) is not eligible to apply for cancellation of removal. The Board of Immigration Appeals (BIA) determined that all theft convictions are CIMT's and as a result *Martinez* was ineligible to apply for the cancellation.

Recently, the Fourth Circuit Court of Appeals ruled a conviction under Maryland's § 7-104 theft statute is not a CIMT. *Martinez v. Sessions*, 892 F.3d 655 (4th Cir. 2018). One of the primary reasons for this is because the statute is overbroad. The Fourth Circuit held that because the statute "does not distinguish between substantial and de minimis takings as required to qualify as

a CIMT under *Diaz-Lizarraga*" 26 I&N Dec. 847 (BIA 2016), a conviction under § 7-104 for theft is not a crime involving moral turpitude. Since it is not a CIMT, a conviction under § 7-104 cannot be used as a basis to make someone ineligible for cancellation of removal. It also means it is not an aggravated felony.

To understand the full implications of this decision, it's important to note why a CIMT conviction matters. More so than just cancellation of removal, CIMT's have broad implications for many non-citizens. For example, a lawful permanent resident (LPR) is deportable if she has a conviction for a CIMT, that is not a petty offense and it's committed within five years of admission

into the U.S. or at any time, if the non-citizen has two CIMT convictions. 8 U.S.C. § 1182(a). CIMT's also cause problems for individuals who leave the country and attempt to return, as a CIMT can make them inadmissible.

While this change does have significant positive impact for non-citizens who have LPR status or are applying for cancellation of removal, a theft conviction under § 7-104 does still have very serious consequences for any non-citizen here under Temporary Protected Status (TPS), or Deferred Action for Childhood Arrival (DACA). Additionally, the facts of certain thefts could certainly be brought up in a future immigration proceeding and be used as a basis to deny a request to

change status (such as someone applying for citizenship), or whether or not someone is granted a detention bond, or other defenses to deportation.

It is important to note that this case is binding only in the Fourth Circuit. For those practicing in Maryland, many clients with immigration issues will have their cases heard in the Fourth Circuit. However, ICE can have non-citizens detained or moved to a different jurisdiction. Since an individual could be moved to a different jurisdiction, the determination as to whether a conviction under § 7-104 is a CIMT could be different if analyzed in other areas. For example, this decision is not binding on the Third Circuit, which includes States as close as Pennsylvania. Additionally, if the non-citizen is dealing with a re-entry case, it will be dealt with in whichever jurisdiction they are in when they attempt to re-enter the U.S. Despite the uncertainty of its application in other jurisdictions, it is still very important to be aware of this change and its implications for non-citizens dealing with immigration after a conviction for theft under § 7-104. ●



“Recently, the Fourth Circuit Court of Appeals ruled a conviction under Maryland’s § 7-104 theft statute is not a CIMT.”

Mrs. Stephanie Pankiewicz is an Assistant Public Defender in Frederick County and a member of the Immigration Team. Any views expressed in this article are her own, and not reflective of the Maryland Public Defender's Office. The above is meant only to be an explanation of the new opinion and should not be seen as legal advice for any specific case.

How the Jones Act Hurts Agriculture

BY GARY BAISE

The Jones act has created devastation because it limits U.S. shippers from operating vessels built abroad.

The Jones Act, signed into law June 5, 1920, was a good idea at the time, but is devastating to U.S. economic interests today. The Jones Act restricts all foreign vessels from operating in inland waterways and from transporting material and cargo between U.S. ports. You may wonder how such a law came to be. Soon after the Great War, Sen. Wesley Jones (R-WA) looked to pass a law based on the country's lack of shipping capacity during World War I.

"When the war came this lack of shipping [US capacity] costs us hundreds of millions of dollars in higher freight rates or business losses and hundreds of millions of waste in the hasty building of ships to meet the emergency that threatened the overthrow of civilization..." he said.

Sen. Jones used the national security argument to claim we could not depend on foreign ships to help us during war time. He accused opponents of his legislation of being more interested in the interests of foreign shippers than American shippers. "The man or the paper who would discourage the upbuilding of our merchant marine is fighting the battle of alien interests.... Counsel must be taken of courage and not of fear. Our competitors will deceive us, scare us, bluff us or destroy us if they can."

Economic consequences

Sen. Jones was well meaning in his attempt to build a strong U.S. merchant marine, but he was dead wrong about the economic impact his act created. Consider these impacts from the Jones Act:

1. The U.S. is only 1 of 11 countries that excuse foreign vessels from carrying material between ports. A shockingly small 2% of U.S. freight going from U.S.

port to U.S. port travels by sea. In Europe, for example, 40% of European freight travels among those countries by ship. In fact, OECD countries studied shipping of freight and found "...the United States is the third-most restrictive among all 38 [European] countries and the most restrictive among OECD countries with respect to maritime freight services."

2. According to Cato Institute, among 56 countries "...only the countries of Brazil, Egypt, Indonesia, Peru, Spain, and the United States have domestic-build requirements."

Results of the act

Sen. Jones felt that he would help create a major maritime industry. Instead, the U.S. shipping industry and its support system have been depleted. According to Cato, 9 of 10 commercial vessels produced in U.S. shipyards since 2010 have been barges or tugboats. The Jones act has created devastation because it limits U.S. shippers from operating vessels built abroad.

A former maritime administrator has testified that "Over the last few decades, the U. S. maritime industry has suffered losses as companies, ships, and jobs moved overseas." CATO claims "American-built coastal

and feeder ships cost between \$190 and \$250 million, whereas the cost to build a similar vessel in a foreign shipyard is about \$30 million." Sen. Jones envisioned a vibrant shipbuilding and shipping industry. He could not have been more wrong. Cato says that in 2015 there were 124 U.S. shipyards, based on U.S. Maritime Administration data. However, in 2015 Japan had 1,000 shipyards. Another interesting statistic listed by Cato lists ships built by gross tonnage between 2014-2016. U.S. shipbuilders' gross tonnage output was less than 1% of China's and Korea's shipbuilders. Finally, "Of the seven major U.S. shipyards, four produce ships exclusively for the military..." It is not only agriculture which is harmed by the Jones act - it is the entire shipping industry. ●

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. The opinions of the author are not necessarily those of Farm

Futures or Farm Progress.

This article was originally published in the July 9, 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.

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There will also be a recent statutory and case law update. If you handle drinking and driving cases, or want to, this program is a must.



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Continuing Legal Education Opportunities

Learning & Publications Department: Raising the Bar for Education

BY ANDREA TERRY, ESQ.

Summer is still here! Now is the perfect time for the newest presentation of **Handling Drinking and Driving Cases in Maryland**, on Wednesday, August 28, 2019 at the Loyola Graduate Center in Columbia, MD! In this full day program, experienced attorneys Pat Maher and Lenny Stamm will cover critical topics for defending DUI cases, including the initial client interview, whether and when to request an MVA hearing and how to conduct

the hearing, challenges to the initial stop, cross examination of the arresting officer, breath test challenges, presenting a defense, plea negotiations, sentencing and more. If you handle drinking and driving cases, or want to, this program is a must.

Back by popular demand! We're offering **40 Hour Basic Mediation Training** at the Uni-

versity of Baltimore in Baltimore, MD on September 23rd through September 27th. Together, trainers Ellen Kandell and Barbara Williams have over 45 years of legal experience as practicing attorneys, mediators, trainers and college professors. Seating is limited so register before *August 30* to take advantage of early bird pricing!



Additional information and online registration available at msba.inreachce.com

UPCOMING LIVE CLE PROGRAMS

Registration is open for:

- **Best Practices for Collection Attorneys in the 21st Century** | August 13, 2019 | Rockville
- **Cheap, Easy Tech that Helps Busy Lawyers Build Better Practice-Management Habits** | August 20, 2019 | Webinar
- **Family Practice Update** | August 22, 2019 | Baltimore
- **2019 Handling Drinking and Driving Cases in Maryland** | August 28, 2019 | Columbia
- **Systematize your Referrals! Ethically Manage, Reward, and Sustain the Best Referral Sources for your Law Practice** | September 17, 2019 | Webinar
- **40 Hour Basic Mediation Training** | September 23-27, 2019 | Baltimore
- **New Client Intake Deep Dive: How to Engage and Evaluate Potential Clients More Effectively and Efficiently** | November 12, 2019 | Webinar

Registration Opening Soon!

- **Workers' Compensation Evening Series** | Oct. 2, 10, 16, 23, 30, Nov. 6, 2019 | Columbia
- **Nuts and Bolts of Medicaid** | October 10, 2019 | Columbia
- **Essentials of Maryland Practice** | October 22-23, 2019 | Towson
- **2019 Criminal Law Update** | October 28, 2019 | Baltimore
- **Advanced Real Property Institute** | November 7, 2019 | Columbia
- **Advanced Tax Institute** | November 11-14, 2019 | Martin's West Baltimore

VIDEO REPLAYS

- **Using & Drafting Trusts in Estate Planning** | August 29, 2019, Rockville
- **Best Practices for Collection Attorneys in the 21st Century** | September 17, 2019, Rockville
- **Family Practice Update** | October 10, 2019, Rockville
- **2019 Handling Drinking and Driving Cases in Maryland** | October 31, 2019, Rockville

NEW ONLINE, ON-DEMAND

- **Recent Developments in Estate Administration** - presented live March 12, 2019
- **Appellate Practice in Maryland** - presented live March 13, 2019
- **Land Use Institute** - presented live March 20, 2019
- **New VA Wartime Pension Benefit Laws: It Finally Happened!** - presented live March 27, 2019
- **Successful Management & Collection of Fees** - presented live April 9, 2019
- **Civil Pre-Trial Practice** - presented live April 24, 2019
- **2019 Hot Tips in Workers' Compensation** - presented live on May 9, 2019
- **IMMIGRATION 911: Putting Out The Fire** - presented live on May 10, 2019
- **2019 Advanced Estate Planning Institute** - presented live on May 21, 2019
- **Hot Topics in Elder Law** - presented live June 5, 2019
- **2019 Using and Drafting Trusts in Estate Administration** - presented live on June 19, 2019

CONTINUED ON PAGE 19

NEW & RECENT PUBLICATION UPDATES

(All titles available in print and electronically)

Now Available

2019 Replacement Pages to Maryland Civil Pattern Jury Instructions, Fifth Edition—The NEW 2019 Replacement Pages for the Fifth Edition replace ALL Pages in the Fifth Edition and is Maryland's most authoritative source of impartial, accurate statements of the law using easy-to-understand language. The 2019 update brings this valuable work up to the minute with brand new and revised instructions, updated commentary, new case law, and statutory references.

Using & Drafting Trust in Estate Planning, 2019 Revised Edition—The 2019 Edition significantly revises Using & Drafting Trusts in Estate Planning. Much of this book focuses on specific trusts, what they are used for, how they fit into an estate plan, and the specific conditions governing each. The authors, experienced estate planning practitioners, have updated the book to include all of the relevant updated case law, IRS rulings, statutes, and regulations.

Civil Pre-Trial Practice, 2019 Revised Edition (with downloadable forms)—The 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.

Pre-Sale Purchase Now Available

Practice Manual for the Maryland Lawyer, Fifth Edition—This first update since the 2012 Fourth Edition brings the Practice Manual up to the minute! The best how-to-guide and fundamental reference on the essentials of Maryland law practice, the Practice Manual is the ultimate practical, nuts and bolts resource. Since 1981 it has served as both a cornerstone for new lawyers who are building real-world know-how and a touchstone for seasoned practitioners who trust its reliable, concise authority. Its two volumes include sixteen chapters covering key practice areas of law, with over 1400 pages of practical information and how-to pointers from experienced, accomplished Maryland practitioners. The publication includes more than 300 forms (there is an option to purchase the book with downloadable forms) to give you a valuable head start on drafting almost every basic practice document.

Civil Practice & Procedure in the District Court of Maryland, 2019 Edition—This new, updated book, published with the input and review of the District Court itself, provides the "nuts and bolts" for handling all aspects of a civil case in District Court. It is a handy, easy-to-follow guide for relatively new, experienced and all who practice in the District Court.

Criminal Practice & Procedure in the District Court of Maryland, 2019 Edition—This new, updated book, published with the help and review of the District Court itself, provides

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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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James P. Quinn, Director
443-703-3041
jim@msba.org

**Lisa Caplan, LCSW-C,
Associate Director**
443-703-3042
lisa@msba.org



Lisa Hayes

Executive Alliance, a statewide not-for-profit organization that promotes the advancement of women in professional and executive roles, named **Lisa Hayes** president of the board of directors. A senior vice president and senior wealth strategist at PNC Wealth Management, Hayes has more than 30 years of professional experience in the wealth management and estate and tax law industries.



Kelvin Antil

Rosenberg Martin Greenberg, LLC welcomed **Kelvin Antil** to its Real Estate practice group in April. Barry Greenberg, RMG's Managing Partner and head of the firm's real estate practice group, said, "Kelvin brings more than thirty years of commercial real estate experience, both as a lawyer and on the development side. We are happy to welcome him to the team."



Joseph C. Kovars

Two attorneys from **Baker Donelson's** Baltimore Office have been recognized by Who's Who Legal, which recognized leading lawyers based on feedback from their clients and peer attorneys. **Joseph C. Kovars**, a shareholder and co-chair of Baker Donelson's Construction Group, concentrates his practice in construction and public contracts law. He represents contractors, subcontractors, sureties and owners in contract formation, and construction disputes involving many types of construction projects. **John Anthony Wolf** is also a shareholder in the Firm's Construction Group, focusing his practice on construction contract negotiation, litigation and Alternative Dispute Resolution (ADR) matters. His clients are involved in domestic and international power, industrial, economic development, public works and commercial projects.



John Anthony Wolf

Roger A. Fairfax, Jr. has been named holder of the Patricia Roberts Harris Research Professorship at **George Washington University Law School**, where he is the founding director of the Criminal Law and Policy Initiative and recently completed a four-year term as Senior Associate Dean for Academic Affairs.



Roger A. Fairfax, Jr.

Pessin Katz Law, P.A. (PK Law) is excited to welcome attorney **Bethany P. Neeb** to the firm. Ms. Neeb is part of the firm's Labor and Employment Group. Ms. Neeb focuses her practice on general litigation, labor and employment defense and insurance defense and practices before state and federal courts throughout Maryland and Washington D.C.



Bethany P. Neeb

The MSBA congratulates all of the attorneys named to the Daily Record's 2019 VIP List. Since 2010, the VIP List recognizes professionals 40 years of age and younger who have been successful in Maryland. A full list of the award recipients can be found at thedailyrecord.com/vip-list/winners.

MVLS Volunteers Recognized During MSBA's Pro Bono Service Awards Ceremony

Maryland Volunteer Lawyers Service (MVLS), the largest provider of pro bono civil legal services to low-income Marylanders, congratulates José Z. Canto, Esq. and the Mulinazzi Law Office who were recognized during the Maryland State Bar Association's (MSBA) annual Pro Bono Service Awards ceremony. The ceremony was held on June 15 in Ocean City, Maryland. The Pro Bono Service

Awards recognize attorneys, non-attorneys and organizations that have made a significant contribution to the delivery of pro bono civil legal services to Marylanders in need. Service can be made through litigation, legal/legislative advocacy or any other means that extend legal services to the disadvantaged.

"Mr. Canto and the lawyers of the entire Mulinazzi Law Office are dedicated volunteers who

accept many of our most difficult contested family law cases. They understand that clients need lawyers in these challenging and high stakes cases," said Bonnie Sullivan, executive director of MVLS. "Our program is grateful for its many exceptional volunteers, especially those like Mr. Canto and the Mulinazzi Law Office, who take to heart their ethical obligation to give 50 pro bono hours a year."



Left: Judge Robert M. Bell Award Recipient José Z. Canto, Attorney-at-Law and Founder of The Canto Law Group, with MVLS Executive Director Bonnie Sullivan and MVLS Deputy Director Susan Francis.

Above: Law Firm Award Recipients (L-R) - Michelle Dauksha, Esq., Shannon L. Kowitz, Esq., Kim E. Stepanuk, Esq., Sandra M. Holt, Esq., and Thomas E. Mulinazzi, Esq.

Awards and Awardees

Judge Robert M. Bell Award

José Z. Canto, Esq., a longstanding MVLS volunteer, was recognized with the Judge Robert M. Bell Award. Mr. Canto's dedication to helping Marylanders is reflected in the many pro bono cases he accepts from MVLS each year. Within the past six years, Mr. Canto has accepted 95 cases, with the majority of them being family law matters.

Law Firm Pro Bono Service Award

The Mulinazzi Law Office was recognized because of its representation of clients in contested family law cases, presentations at MVLS volunteer trainings, recruitment of new volunteers and acting as a resource to MVLS staff in family law matters.

To learn more about MVLS or to become a volunteer attorney, visit www.mvlslaw.org.

About Maryland Volunteer Lawyers Service (MVLS)

Founded in 1981 with a mission to provide access to justice for all, Maryland Volunteer Lawyers Service (MVLS) serves Maryland's low-income residents by offering legal counseling and full representation for civil cases. MVLS matches clients with volunteer lawyers who represent them in a wide range of consumer, family and workforce re-entry situations, including foreclosure, bankruptcy, income tax disputes, landlord/tenant disputes, wills, estate planning, criminal record expungement, divorce/custody and deed changes. For more information about MVLS' services, visit www.mvlslaw.org.

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Dateline

CONTINUED FROM PAGE 4

11 Join your local **MSBA Estate & Trust section** member colleagues for an evening of networking and socializing over hor's d'oeuvres and drinks at Blackwall Hitch in Annapolis, Maryland. For more information and/or to register please visit: www.msba.org/Membership-Mingle-9-11

13 MSBA presents the *3rd Annual Legends of the Boardroom by Judicial Events*. The event joins in-house/corporate counsel with outside counsel for a morning of networking, education, and celebrating leaders in the field. CLE credits are available. MSBA members receive up to \$30 off registration with the coupon code: MDDISCOUNT. For more information and/or to register, please visit: www.msba.org/legends

16-19 *Bench Bar Wellness Week*: Take the first steps towards health & wellness at Bench/Bar Wellness Week - the first event of its kind. This complimentary event joins members of the Bench and the Bar to bring you a week long opportunity to focus on ways to improve your health and wellness. For more information and/or to register for an event visit: www.msba.org/WellnessWeek

17 The Maryland State Bar Association **Learning and Publications Department** presents: "Systematize your Referrals!" *Ethically manage, reward, and sustain the best referral sources for your law practice*. Presented by Maddy Martin. The Live Webinar - begins at 12:00p.m. For more information and/or to register, please visit: www.msba.org/Systematize-Your-Referrals

23-27 By popular demand The MSBA is pleased to offer a *40-Hour Basic Mediation Training* September 23-27, 2019 at the University of Baltimore in Baltimore, MD! The experiential training will run from 8 a.m. to 5 p.m. each day and will comply with the requirements of Maryland Rule 17 for circuit court mediators. Together, trainers Ellen Kandell and Barbara Williams have over 45 years of legal experience as practicing attorneys, mediators, trainers and college professors. Learn the skills & theory of facilitative mediation practice. Seating is limited so register now to take advantage of early bird pricing! 40 hours of CLE credit will be offered from the surrounding MCLE states. For more information and/or to register, please visit: www.msba.org/Mediation-Training

Recent Immigration Law

CONTINUED FROM PAGE 8

gration court and the curtailing of commonly-used tools to manage caseloads, such as administrative closure make the need for volunteer attorneys imperative and nonprofits operate with the express purpose of supporting these efforts. Although Maryland is not a border state, it is not immune to changes in immigration practice, and a concerted effort is needed to help protect vulnerable populations in the state.

More important than ever for attorneys to get involved

Unlike in criminal proceedings, people appearing in immigration court are not guaranteed an attorney, even if they are children. In addition, a new policy from the Administration limited the availability of in-person interpretation in immigration court. The National Association of Immigration Judges has described the changes made by

this Administration as an attack on the fairness of the process as they are being asked to do more with less resources. As a result of these changes, immigrants in removal proceedings need our help more than ever to increase their chances of succeeding in this unjust and cruel system.

Fortunately, many nonprofits, such as those named above, have stepped up to assist those caught in the system. Attorneys

hoping to help can assist triaging efforts at the border, can represent people released to various locations throughout the United States, including Maryland and the DMV. Organizations such as CLINIC, the Pro Bono Resource Center, and Kids in Need of Defense (KIND) provide robust mentoring and training materials to assist pro bono attorneys in navigating the complex immigration system regardless of

their previous experience with immigration matters.

People of all ages are in need, with varying levels of needed engagement. Prospective clients are often dealing with severe trauma and cannot be expected to navigate the system without help. Attorneys have a chance to make a real difference in people's lives while getting courtroom experience and administrative practice. ●

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Federal Protection

CONTINUED FROM PAGE 10

strives to reduce the collateral consequences of criminal legal involvement for survivors of human trafficking and those populations made most vulnerable to exploitation, including immigrant survivors of human trafficking. The HTPP provides free legal representation to help survivors vacate, expunge, or shield prostitution and other related charges on their criminal records, as well as address family law, housing, consumer debt, tax, and other civil legal matters. While the HTPP does not provide representation in immigration matters, survivors can access brief advice and referrals for immigration assistance.

FAMILY PRACTICE UPDATE

August 22

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CLE Programs

CONTINUED FROM PAGE 15

UPCOMING LIVE WEBCASTS

- **Best Practices for Collection Attorneys in the 21st Century** - August 13, 2019 | 9:30 a.m. - 1:30 p.m.
- **Family Practice Update** - August 22, 2019 | 8:30 a.m. - 1:00 p.m.
- **2019 Handling Drinking and Driving Cases in Maryland** - August 28, 2019 | 9:00 a.m. - 4:00 p.m.
- **Nuts and Bolts of Medicaid** - October 10, 2019 | Columbia, MD | 8:30 a.m. - 4:00 p.m.
- **2019 Criminal Law Update** - October 28, 2019 | 9:00 a.m. - 1:30 p.m.

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Recent Publication Updates

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Maryland Business and Litigation Lawyers: What You Need to Know but Didn't Know to Ask, Second Edition

- Model Jury Selection Questions for Maryland Criminal & Civil Trials
- The Maryland Rules of Evidence Pocket Edition, 2018

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

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Attorneys can use AIS to:

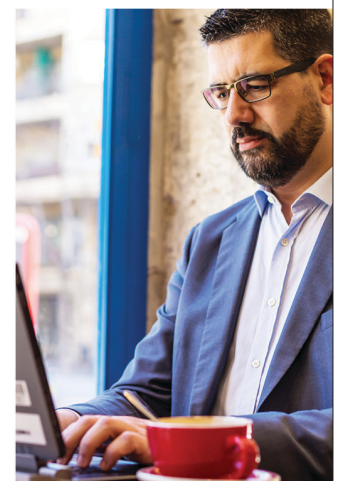
- Pay the annual Client Protection Fund assessment.
- File the IOLTA Report.
- File the Pro Bono Legal Service Report.
- Confirm your Tax ID Number or report you do not have one.
- Review and update contact information.

Pro bono and IOLTA reports must now be completed online through AIS.

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Failure to fulfill pro bono and IOLTA reporting requirements may result in decertification from the practice of law.



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