



MSBA

# BARBULLETIN

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## Bench | Bar Wellness Week: A Step in the Right Direction!



Baltimore City

The first annual Bench | Bar Wellness Week, September 16 - 19, 2019 was a successful series of events aimed at addressing health and wellness in the legal profession.

On Mental Health Monday, the Bench | Bar Wellness week kicked off with a program titled "Coping with Difficult People and its Impact on Your Emotional Health". The event, sponsored in part by the Bar Association of Montgomery

County, was held in Rockville, Maryland, and aimed at helping attendees: Understand difficult personalities, set client expectations, and reduce stress through the use of healthy tools.

Attendees at Take Care Tuesday's Meditation in the Woods

were given an introduction to meditation and mindfulness practice. The session took place at Chrysalis, a beautiful and unique outdoor venue, in the center of Merriweather Park in Symphony Woods.

On Wake Up Wednesday, attendees from around the state took part in planned fun runs and walks with members of the Judiciary.

Also available on Wake Up Wednesday were short training videos to help you get moving. These videos are available on the MSBA Youtube Channel: [youtube.com/MDStateBar](https://youtube.com/MDStateBar).

Bench | Bar Wellness week ended on Thursday with the Bench | Bar Wellness Expo and Happy Hour at South Point. The



Prince George's County

We are pleased to announce the winners of the week-long STEP CHALLENGE.



INDIVIDUAL

Terry Shuch  
102,756 steps



TEAM OF 5

Julia Tansmore,  
Michael Glenn, Aaron  
Stewart, Tracee  
Fruman, and Shannon  
Beatty  
416,227 steps



BENCH  
PAIRS

Magistrate Hope  
Tipton and Sheena  
Gordon  
143,747 steps

Together, our winners  
walked over **662,730**  
steps or nearly  
**300 miles.**

**Congratulations!**

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# BARBULLETIN

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## The Broken Public Service Loan Forgiveness Program and What it Means for A2J

BY REENA K. SHAH, ESQ.

In April of 2019, the Maryland Access to Justice Commission joined the MSBA for ABA Lobby Days to advocate for two issues on Capitol Hill: continued funding for the Legal Services Corporation (LSC); and Public Service Loan Forgiveness (PSLF).

PSLF was an important issue for the Commission, the MSBA and ABA to jointly advocate on because it was a vehicle by which public service employers, like civil legal aid organizations, can attract talent for significantly less pay than their private coun-

student loan forgiveness program is an important component of access to justice as it provides a path for attorneys to serve in the public interest -- a path that would otherwise be foreclosed due to crushing law school and undergraduate debt.

### Public Service Loan Forgiveness

Congress created the Public Service Loan Forgiveness in 2007, hoping to encourage promising college and professional graduates into public service

“99% of the applicants to the TEPSLF were rejected during the program’s first year.”

terparts.

Concerns about how PSLF was operating pushed Congress to act in 2018 and pass the Temporary Expanded Public Service Loan Forgiveness (TEPSLF) program.

A recent report, released by the Government Accountability Office (GOA) on September 5, 2019, however, shows troublingly that 99% of the applicants to the TEPSLF were rejected during the program’s first year, from May 2018 to May 2019. The report states that the U.S. Department of Education processed roughly 54,000 requests and approved just 661 - approximately 1%. It spent only \$27 million of the \$700 million Congress set aside for the expansion under TEPSLF.

An effective and functioning

careers. In return for 10 years of government or not-for-profit work and 120 qualified student loan payments, borrowers were told the U.S. Department of Education would forgive whatever remained of their federal student loans. Instead of helping people in public service, the program has resulted in rejections for the overwhelming majority of borrowers.

Thousands of borrowers — including lawyers, doctors, nurses, teachers, social workers, first responders and other public servants — complained that the requirements for the original program were so rigid and poorly communicated that lawmakers needed to step in. Facing a growing outcry from borrowers, Congress created an

Be sure you are familiar with public service loan forgiveness requirements. Often, if you don’t meet one of them, you can make changes so that you do.

- You must have federal direct loans.
- Your employer must be a government organization at any level, a 501(c)(3) not-for-profit organization or some other type of not-for-profit organization that provides public service.
- By the end, you need to have made 120 qualifying, on-time payments in an income-driven repayment plan or the standard repayment plan.

expanded program last year entitled the Temporary Expanded Public Service Loan Forgiveness. It is alarming for access to justice advocates that the new program with an infusion of cash, too, does not seem to be working.

The GOA report asserts that the Department of Education is not clearly explaining to borrowers how the program works and how they can contest a denial.

### Law School Debt


Attorneys often graduate law school with substantial student loan debt. According to Law School Transparency, which tracks data related to law school, law school tuition at a public university costs an average of \$27,000 per year for in-state students, and costs \$47,000 on average at private universities as of 2018.

Eighty percent of law stu-

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## LinkedIn News Stories

Hundreds of attorneys follow us on LinkedIn.

 Join them and receive these useful articles and more in real time at [msba.org/linkedin](http://msba.org/linkedin).



### Judiciary announces Towson District Court relocation plans

Towson district court operations will temporarily move to Catonsville for six months later this year to allow for a scheduled HVAC replacement.



### Hundreds of new Maryland laws take effect Tuesday, Oct. 1

Hundreds of Maryland laws go into effect Tuesday, spanning subjects from increasing the age to buy cigarettes and vapes to taxing online sales and banning bump stocks for firearms.



### How Data-Driven Firms Develop KPIs from Court Data

Today’s law firms need key performance indicators: Without an empirical way to measure progress, they simply cannot grow in a meaningful, organized and intentional way.



## MSBA Update on Some MSBA Staff Now Operating in Canton

**A**s of October 7, 2019, certain MSBA staff began to operate at Brewers' Hub in Canton, located at 3700 O'Donnell St., Suite 200, Baltimore, MD 21224. The Maryland Bar Center, located at 520 W. Fayette St., Baltimore, MD 21201, will continue to house Lawyer Assistance Program staff and will continue to serve as a conference room for the MSBA. This shift of staff has not changed the mailing address for the MSBA which remains 520 W. Fayette St., Baltimore, MD 21201.

Additional information about the new space, including directions and parking information will be provided in a variety of ways, including the MSBA website, eWeekly, and Bar Bulletin.



Questions can be sent to [feedback@msba.org](mailto:feedback@msba.org).

### MSBA ETHICS HOTLINE

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**Gerard P. Martin**  
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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](mailto:tweaver@paleyrothman.com). Opinions of the Ethics Committee are available online at [www.msba.org/ethics](http://www.msba.org/ethics). Please consult the Rules and MSBA Ethics Opinion Website before calling.*

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### Hon. Sally D. Adkins (Ret.)

Retired Judge, Court of Appeals of Maryland

After over twenty years of distinguished judicial service, The Honorable Sally Adkins recently retired. Judge Adkins served admirably on three levels of the Maryland court system, most recently as a Judge of the Court of Appeals. Prior to her ascension to the Court of Appeals, Judge Adkins first served as an Associate Judge for the Circuit Court for Wicomico County and then as a Judge of the Court of Special Appeals. She enjoyed a successful general law practice before her appointment to the bench, and throughout her legal career Judge Adkins participated in numerous statewide and local bar associations and committees, including as a Past President of the Wicomico County Bar Association. Judge Adkins now brings this exemplary record of experience and dedication to The McCammon Group to serve the mediation, arbitration, and special master needs of lawyers and litigants in Maryland and beyond.



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# Dateline

OCTOBER

**17** Join the **MSBA Estate & Trust Law Section** for the first meeting of our *2019-2020 Study Group*! The MSBA Estate & Trust Law Section Study Group is a forum for attorneys to discuss and review case law, professional news, issues, and updates related to estate and trust law practice. We host experts in the field to present new findings and answer your questions at every meeting. The Study Group meets on a regular basis from October to June in Baltimore and Bethesda, and is open to MSBA members as well as non-member attorneys and other professionals. The speakers for the study groups appear in one of the two locations, and the presentations are then simulcasted/streamed to the other location. Attendance at this event is free of charge. For more information and/or to register, please visit: [www.msba.org/ET-Study-10-17](http://www.msba.org/ET-Study-10-17)

**22-23** The **MSBA Department of Learning and Publications** is excited to offer the newest presentation of *Essentials of Maryland Practice* on October 22-23, 2019 at the Conference Center at Sheppard Pratt in Towson, MD! Learn from seasoned faculty, the nuts and bolts of Maryland law practice in 16 different areas of law. This comprehensive 2 two day course will help inform new lawyers who are seeking real-world know-how, and serve as a touchstone for seasoned practitioners who trust its reliable, concise authority on various areas of law including Adoption, Guardianship & Change of Name, Real Estate Transactions, Estate Administration, Business Organizations, Traffic, Torts, Landlord/Tenant and more! For more information and/or to register, please visit: [www.msba.org/Practice-Essentials](http://www.msba.org/Practice-Essentials)

**24** *Membership Mingle*: Join your local **MSBA Estate & Trust section** member colleagues for an evening of networking and socializing over hor's d'oeuvres and drinks from 4:30pm - 7:30pm at Kona Grill at Baltimore's Inner Harbor! For more information and/or to register, please visit: [www.msba.org/Membership-Mingle-10-24](http://www.msba.org/Membership-Mingle-10-24)

**25** The **MSBA's State & Local Government Law Section** invite you to the *State and Local Government Fall Institute* beginning at 8:30am at WSSC Headquarters in Laurel, MD. This year's State and Local Government Fall Institute will address some immediate and big issues facing state and local attorneys. For more information and/or to register, please visit: [www.msba.org/SLG-Fall-Institute](http://www.msba.org/SLG-Fall-Institute)

**25-26** MSBA's *60th Conference of Bar Presidents and 12th Young Lawyers' Summit*. Local and Specialty Bar Presidents from around the State to share best practices, brainstorm new programs to better serve their members.

**28** The **MSBA Department of Learning and Publications** is excited to offer the newest presentation *2019 Criminal Law Update*, on Monday, October 28th at the University of Baltimore in Baltimore, MD! Experienced practitioners Nancy Forster and Tara LeCompte will lead a review of new case law from the Maryland Court of Appeals, the Maryland Court of Special Appeals and the Supreme Court. A special hot topic session will address getting and using police body camera footage. If you can't attend the live program in Baltimore, it will be webcast concurrently for viewing around the state and will be available online on-demand one week after the program. 3.5 hours of credit with the surrounding MCLE states will be offered. For more information and/or to register, please visit: [www.msba.org/Criminal-Law-Update](http://www.msba.org/Criminal-Law-Update)

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## From the Boardroom



The MSBA Board of Governors held its first meeting since the 2019 Legal Summit & Annual Meeting on Tuesday, September 10, 2019 at Live! Casino & Hotel in Arundel Mills, Maryland. The meeting opened with a report from MSBA President, Dana O. Williams, Esq. As part of his report, President Williams recapped his four-point plan for his bar year: Continuity, Presence, Practice and Leadership.

In addition, President Williams outlined some changes to MSBA committees. First, he noted that all committee chairs and members were appointed to a one-year term this year, to allow a new method of committee nominations to occur beginning in the 2020-21 Bar year. Under the new method, a nominating committee will be composed to recommend chairs and members. In addition, a new committee application portal will be opened to allow for a greater number of individuals to become engaged with the MSBA through committees.

President Williams also announced a few new committees that will be appointed during the 2019-20 year. He noted that the Strategic Vision committee, which worked hard to develop six key priorities that will guide the MSBA for the next 3-5 years, will be sunsetted, and a new Strategic Implementation committee will be formed to develop KPIs and other metrics to ensure the priorities are implemented. In addition, President Williams intends to appoint an Emerging Issue Task Force whose primary role will be to review and respond to emerging issues involving the legal community in a timely manner. Finally, along with President-Elect, Hon. Mark Scurti, a task force committed to celebrating the 100th Anniversary of the 19th Amendment will be formed.

Following President Williams' report, MSBA Executive Director, Victor Velazquez gave his report. In his update, Mr. Velazquez shared that MSBA membership renewals are 11%

ahead of where they were in the same week of last year's renewal cycle. In addition, Mr. Velazquez shared that the MSBA had made some progress on introducing new products in line with the newly established priorities, including the MSBA Passport, and the development of MSBA Lobby Day. More information about these new programs will be shared as details become available.

After brief reports by President-Elect, Hon. Mark Scurti and Treasurer, M. Natalie McSherry, the Board of Governors heard a special report from Maryland Bar Foundation President, Thomas Lynch, III. Mr. Lynch explained that during his tenure as Maryland Bar Foundation ("MBF"), he intended, with the support of the MBF Board and MSBA Board, to implement a plan to dramatically increase the MBF's annual endowment. Following his presentation, the Board of Governors unanimously voted to give its approval of the proposed plan.

MSBA's Strategic Vision Committee Recommendation Report features highlights the organization's priorities for the next 3-5 years.



More information about the Board of Governors, including agendas and approved minutes can be found at [www.msba.org/BOG](http://www.msba.org/BOG).





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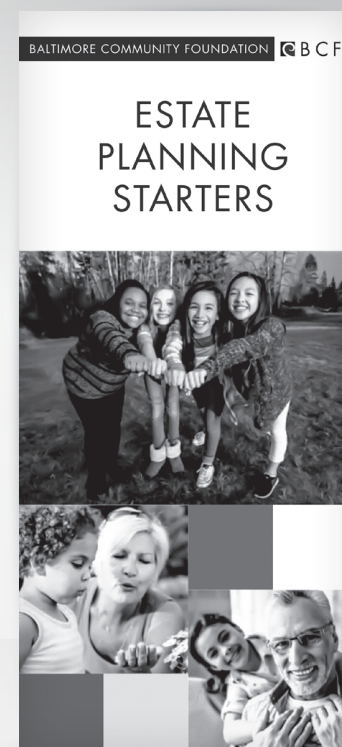
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## PRO BONO PROFILE

### PBRC PARTNER PROFILE:



Barry Bach, Esq.  
MSBA Member, PBRC Volunteer

#### What is your first memory of doing pro bono work?

I was assigned a habeas corpus case by a federal district judge. It was a double murder case, so I remember that! That was my first pro bono endeavor.

#### Why is pro bono service important to you?

I feel that the people who are unrepresented are left out in the cold. If lawyers don't help them, nobody will. If the system doesn't entertain the problems of everyone in society, then the court is diminished, and the fabric of our society is rent asunder.

#### Which of PBRC's projects do you volunteer with and what do you do there?

I work with the Courtroom Advocacy Project, representing tenants in rent court.

#### How does that project make it easy to volunteer?

In fifty years of practice, I had never been to rent court. I had no idea how to handle a rent court case. PBRC first provided me with a concise, comprehensible webinar, which introduced me to the basic law and defenses. Then they gave me a cheat sheet with all of the relevant law, as well as an outline of the defenses. They let me shadow their experienced staff at first. Then, when I was out on my own, they were always available to answer any questions that I had – before, during, and after the cases. They know what they're doing and they make it easy for volunteers.

#### Did anything seem unusual to you based on your regular practice?

No. People who can't afford legal representation have the same problems as people who can afford representation. And denial of meaningful access to the court is a societal problem that lawyers have an ethical responsibility to try to ameliorate.

#### What do you like most about volunteering in rent court?

I like being able to help folks who don't know their defenses – and prevail frequently, because of these defenses. It's a good feeling. And I think I'm doing something that's meaningful.

#### Can you tell me about a client you've met through the clinic?

I recently had a client from El Salvador. He had a wife and child, and he was concerned. He was fearful about eviction. He was also angry - I think in part because he had paid the rent that was being sought - but pretty confident for a 22 year old person from another country who has been here for two years.

#### How did that case go?

We won. They dismissed it because the rent had been paid. He paid late, and they had just automatically filed suit. But without help, negotiating the court system would have been difficult for him.

#### How has doing this work changed you?

It has given me an appreciation for the tribulations of tenants – for the tenant side of the landlord-tenant issue. And I've learned an area of the law that I had no knowledge of. I'm always thirsty to learn new things.

#### What do you think others should know about Pro Bono Resource Center?

PBRC provides an avenue for lawyers to fulfill their professional responsibility in a way that is both very accommodating to their own schedules, and very personally rewarding. It's not going to interfere substantially with your practice. It's going to take as much or as little time as you want it to take. I also think it's important to realize that you can go outside of your comfort zone, and PBRC will educate you as much as you need to be able to work in that field. ●

## October is Pro Bono Month in Maryland

Check out the Pro Bono Celebration calendar for events across the state!

[probonomd.org/celebration](http://probonomd.org/celebration)

For more information about volunteering in Maryland, contact:

Annie Speedie, PBRC Director of Programming:  
[aspeedie@probonomd.org](mailto:aspeedie@probonomd.org), 443-703-3051.



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# Representing LGBTQ+ Clients in Divorce Matters: Some Brief Considerations

BY ITTA C. ENGLANDER, ESQ.

*When I was in my third year of law school, I read a MICPEL treatise on using contract law to create marriage-like arrangements for same sex couples (if you remember MICPEL, then you know approximately how long it's been since I was in law school).*

This treatise was revolutionary. It opened a gateway into treating same sex couples as legally recognized families. It is now (thankfully) obsolete. Marriage equality has given LGBTQ+ families access to the same marital benefits as everyone else. Which, of course, means that, if things do not work out, they have the right to the same divorces as everyone else. Sort of. Because marriage equality is relatively new, there may be some specific issues that are unique to LGBTQ+ divorces. It is good to be aware of these potential pitfalls as you interview your clients and prepare them for their cases.

## Pronouns And Identified Gender

Pronouns are a much larger discussion and are increasingly relevant as more and more people are openly identifying as gender non-binary. It is useful to bear in mind any time you meet with a client (not just in family law issues) that not everyone uses the pronouns usually associated with their birth gender. There are a variety of different approaches to asking about preferred gender pronouns. As a rule, once your client informs you of a preferred gender pronoun, it is very important to respect that pronoun and try very hard to use it consistently. If you mess up, correct and move on.

It is similarly important to keep identified gender in mind when referring to your client in pleadings. You may also need to file additional pre-trial motions for your client's comfort in the proceedings. Many people have "dead names" (usually the names that appeared on their birth certificates that do not reflect their actual gender identity). Sometimes, people have not legally changed their names. It can be extremely painful to be referred to by a dead name. You may have to file motions to have your clients referred to by preferred gender pronouns or names of common use in proceedings.

## Grounds for Divorce

I got a call the other week from a very distraught woman. Her wife had cheated on her. She had text messages and hotel bills that proved the affair. When the caller confronted her wife, the wife broke down and confessed. The wife said that she did not love this other woman and she wanted to stay married. My caller was heartbroken. She did not want to be in the marriage anymore and wanted to file for divorce based on adultery.

Maryland is not alone in having laws that have not caught up to the reality of the world in which we live. My having to explain to my caller that, technically, the law in Maryland still states that adultery is sexual intercourse between people of opposite genders is one glaring example. There is an Attorney General's opinion that states that adultery in Maryland should include spouses who cheat with individuals of the same sex (100 Op. Atty. Gen. Md. 105). This opinion remains untested at the appellate level and is likely to remain that way. Appellate cases take a long time and a lot of money. A person who wants out of a marriage is unlikely to remain in that marriage through an appellate process when it is more expedient and cost-effective to move out, wait a year, and amend the grounds. This is not to say that practitioners should not rely on the attorney general's opinion and should not argue adultery as grounds (especially if there is an alimony request). It is simply a matter of being prepared to add an additional layer to your argument.

## Alimony/Marital Property

In 2013, I met a lovely same-sex couple who had been together for 45 years. They told me that they had gone to twelve weddings in just three months: "It's like the year after college. All your friends are getting married. They've just been together for decades".

This is a common story among many couples who, until six years ago, could not be married or claim a marital lifestyle. A forty-five-year marriage would immediately signal an alimony inquiry to any practitioner. With a long-term relationship in which a marriage was not even permitted, alimony is more complicated (since alimony is based on duration of the marriage and the lifestyle that existed during that marriage. See Md. FAMILY LAW Code Ann. § 11-106(b)). When it comes to LGBTQ+ couples, it is worth considering not just the duration of the marriage but the duration of the relationship as a whole and the lifestyle and

are part-and-parcel of creating a family. When contemplating a divorce for an LGBTQ+ client, it is important to realize that you cannot take for granted that certain property is necessarily marital. You may need to argue that certain property that would not meet the statutory definition SHOULD be considered marital.

## Custody/Child Support

Families have always been created in a variety of ways both inside and outside the LGBTQ+ community. There is, however, a great likelihood that you will be encountering a situation with an LGBTQ+ litigant where a child at issue is not biologically related to

6. Is there a third parent in the picture whose parental rights have not been terminated (this can sometimes occur if there was a known donor or a traditional surrogate)?

As legal practices begin to catch up to the new realities of marriage, LGBTQ+ litigants in divorce will likely become more mainstream and the arguments made less anomalous. In the meantime, we as legal professionals have a unique opportunity right now to make the arguments in these cases that will become the future standards of family law practice. ●



“We as legal professionals have a unique opportunity right now to make the arguments in these cases that will become the future standards of family law practice.”

sacrifices made within that relationship.

For the same reasons, determining what is marital property for a same-sex couple can be murky. Because marital property is that which was acquired during the course of the marriage, any property acquired before 2013 would not technically qualify as marital property by strict definition. Md. FAMILY LAW Code Ann. § 8-201(e). Such a strict definition, however, could result in gross inequity. It cannot consider funds obtained prior to legal marriage, accumulations of pensions or retirement accounts, or any of the hundreds of assets and debts that

one or both parties to the divorce. Custody is an article in-and-of itself. Possibly a treatise. Certainly far too much to discuss here. Some questions to explore are:

1. Who is on the child's birth certificate?
2. Was there an affidavit of parentage signed?
3. Has there been a second parent adoption of the biological child of one of the litigants?
4. If the child was adopted, who legally adopted the child? Was there a subsequent secondary adoption?
5. Is there a de-facto parent argument in play?



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# Property Titling Benefits for LGBTQ Couples

BY ERIC S. STEINER, ESQUIRE, MANAGING MEMBER, STEINER LAW GROUP, LLC  
AND RICHARD L. ADAMS, III, ESQUIRE, ASSOCIATE ATTORNEY, O'BYRNE LAW, LLC

*Same-sex marriage in Maryland has made significant strides in the past few years. On January 1, 2013, the Civil Marriage Protection Act went into effect allowing same-sex couples to legally marry in Maryland. See Md. Code Ann., Fam. Law § 2-201. On June 26, 2015, the Supreme Court decided Obergefell v. Hodges, and wrote that “[t]he right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, couples of the same-sex may not be deprived of that right and that liberty. Same-sex couples may exercise the fundamental right to marry.” 135 S. Ct. 2584, 2591 (2015).*

Now that same-sex couples can get married, they must now consider how their property is to be titled. Property owned as tenants by the entirety can only be held by a married couple and provides that each spouse owns an undivided interest in the property, while also enjoying the right of survivorship. This right

and attach itself to a property owned in this fashion. The right of survivorship benefit further avoids potential creditor issues, bypassing the need to process the property through the estate of the first spouse to die. Thus, creditors are unable to file potential claims against the estate, as the property vests with the surviving spouse

(4th Cir. 1985). If the property had been titled as joint tenants with rights of survivorship and had equity, that equity would have to be protected in some other fashion, such as the owner-occupied residential real estate exemption or the “wildcard” exemption, which are limited to \$25,150 and \$6,000, respectively. Additionally,



provides that when one spouse passes away, their ownership interest does not flow through their estate, but instead passes to the surviving spouse by operation of law.

In Maryland, property obtained by the married couple is presumed to be held as a tenancy by the entirety. *Wolf v. Johnson*, 157 Md. 112 (1929), *Marburg v. Cole*, 49 Md. 402, 411 (Md. 1878). Property that is tenancy by the entirety provides a unique benefit: creditors of an individual spouse cannot collect against the entireties property. *Schlossberg v. Barney*, 380 F.3d 174, 178 (4th Cir. 2004). A creditor of only one spouse cannot pierce the shield of the tenancy

upon death.

A divorce will extinguish a tenancy by the entirety and revert the property ownership to a tenancy in common. A tenancy in common provides that each co-owner owns a specific percentage of the property, so this type of property is vulnerable to individual creditors of the co-tenants. When a tenant in common passes away, their ownership interest in the property flows through their estate, rather than to the surviving co-tenants.

In bankruptcy, a single spouse debtor can protect equity in a property titled as tenancy by the entirety against creditors of the debtor. 11 U.S.C. 522(b)(3)(B); *Sumy v. Schlossberg*, 777 F.2d 921

“  
Same-sex couples in Maryland now can enjoy the benefits and protections provided by a tenancy by the entirety.

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# Title VII's Prohibition Against Sex-Based Discrimination in the Workplace: How Far Does It Go?

BY JEFFREY J. SADRI, ESQ.

**T**itle VII of the Civil Rights Act of 1964 prohibits sex-based discrimination in the workplace. 42 U.S.C. § 2000e-2(a)(1). The Pregnancy Discrimination Act of 1978 amended Title VII to expand the definition of sex-based discrimination. The Act specified that the terms “because of sex” or “on the basis of sex” included, but were not limited to, discrimination “because of or on the basis of pregnancy, childbirth, or related medical conditions...” 42 U.S.C. § 2000e(k). Thus, the Legislative Branch, by way of their authority to enact and amend federal statutes, partially clarified the meaning of “sex-based discrimination.”

However, there is still uncertainty as to what sex-based discrimination fully entails. On October 8, 2019, the U.S. Supreme Court heard oral arguments concerning whether “sex-based discrimination” under Title VII includes discrimination based on sexual orientation. The Court consolidated the matters of *Altitude Express, Inc. v. Zarda* and *Bostock v. Clayton City, Georgia*.

In *Zarda v. Altitude Express, Inc.*, 883 F.3d 100 (2d Cir. 2018), Mr. Zarda brought a Title VII sex-based discrimination claim against his former employer, maintaining that he was terminated from employment because of his sexual orientation. 883 F.3d at 107. The Second Circuit held that “Title VII prohibits discrimination on the basis of sexual orientation as discrimination because of sex.” *Id.* at 108. The Court emphasized that “Title VII should be interpreted broadly to achieve equal employment opportunity.” *Id.* at 111 (internal citations omitted). The Court specifically concluded that “sexual orientation discrimination is motivated, at least in part, by sex.” *Id.* at 112; *see also* 42 U.S.C. § 2000e-2(m) (establishing that an employee has the burden to show that sex constituted a “motivating factor” for the employment practice at issue).

Such statutory interpretation has not been consistently utilized. In 2018, the Eleventh Circuit affirmed a lower federal district court’s ruling in *Bostock v. Clayton Cty.*, 2017 U.S. Dist. LEXIS 217815 (N.D.G.A. 2017), that a Title VII action cannot allege discrimination based on sexual orientation as a form of sex discrimination. *See Bostock v. Clayton Cty. Bd. of Comm’rs*, 723 Fed. Appx. 964 (11th Cir. 2018).

Unlike the Second Circuit in the *Zarda* case, which conducted a thorough analysis of Title VII, the Eleventh Circuit in *Bostock* simply upheld its prior ruling in *Evans v. Ga. Reg’l Hosp.*, 850 F.3d 1248 (11th Cir. 2017). *Id.* at 965. The court in *Evans* held “discharge for homosexuality is not prohibited by Title VII.” 850

ions expressed by the Appellate Circuits. The Supreme Court can thereby attempt to interpret what the Legislative Branch meant when they concluded that an individual’s sex cannot “motivate” an employer’s employment practices.

Fortunately, the Maryland Legislature specifically prohib-

transgender people. *See R.G. & G.R. Harris Funeral Homes, Inc. v. EEOC*, 2019 U.S. LEXIS 2846. If any readers have any questions about this case and/or how transgender status may be associated with sex stereotyping, please feel free to reach out. ●

*Jeffrey J. Sadri is an attorney with Bennet & Ellison, P.C. in Annapolis Maryland. He focuses on Discrimination, Sexual Harassment, Wrongful Firing, and Employment Law.*

“Fortunately, the Maryland Legislature specifically prohibits workplace discrimination based on sexual orientation.”

F.3d at 1255 (citing *Blum v. Gulf Oil Corp.*, 597 F.2d 936 (5th Cir. 1979) (similar holding)).

“The Equality Act” passed the U.S. House of Representatives on May 17, 2019. *See* <<https://www.congress.gov/bills/116th-congress/house-bill/5>>. If the Act became law, it would specifically prohibit workplace discrimination based on, among other things, sexual orientation. The Supreme Court may thereby punt the issue entirely and conclude that same is for the legislature to deal with. If the Legislative Branch can take concrete action to broaden Title VII’s protections by formulating the Pregnancy Discrimination Act of 1978, then isn’t it up to the Legislative Branch to act once again? Alternatively, the Supreme Court could exercise judicial activism and resolve the divergent opin-

its workplace discrimination based on sexual orientation. *See* Md Code, State Gov’t §§ 20-101(g), 20-606(a)(1)(i). Twenty-one (21) states (including Maryland), the District of Columbia, Guam, and Puerto Rico have statutes which explicitly prohibit discrimination based on sexual orientation. *See* <[https://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](https://www.lgbtmap.org/equality-maps/non_discrimination_laws)>. While it is positive that Maryland is not the only state which provides such protection, the country is quite far from adequately protecting the LGBTQ community.

It is worth noting that, also on October 8, 2019, the Supreme Court heard oral arguments regarding whether Title VII prohibits discrimination against

# New “X” Designation on Maryland Drivers Licenses and Identification Cards Offers Needed Option for Transgender and Gender Nonconforming Residents

BY HEATHER HEIMAN, ESQ.

As of October 1st, 2019, Marylanders now have an option to choose an “X” in addition to the M (male) and F (female) gender markers on official documents issued by the Motor Vehicle Administration (MVA). This third gender designation provides a much needed alternative to traditional binary gender markers for residents who are transgender or gender nonconforming, which includes individuals who identify as nonbinary (when a person does not identify as either female or male) or intersex (when a person is born with sexual anatomy or other biological characteristics that do not fit “typical” definitions of male and female), among other gender identities. With this change, Maryland joins twelve other states and the District of Columbia in allowing residents to choose between M, F, and X on their driver’s license and state ID card. Most of these state law changes have occurred over the last three years in response to the growing visibility of the transgender and gender nonconforming communities and advocacy by LGBTQ+ rights groups.

Identification that accurately reflects an individual’s gender identity or expression is an important recognition provided by the state, and one that can have a profound impact on the day-to-day life of transgender and gender non-conforming persons. In a 2015 nationwide survey conducted by the National Center for Transgender Equality, more than two thirds (68 percent) of participants reported that none of their identification documents, including drivers licenses and state-issued identification, accurately represented their name and gender identity. In addition, almost a third (31 percent) of survey participants with identification that did not

match their gender expression reported experiencing harassment or assault, having benefits denied, or being asked to leave the location they were seeking services.

Most importantly, the new law passed during the 2019 General Assembly session allows for self-attestation of gender by applicants for identification cards, drivers licenses, and moped permits. As of October 1st, residents can visit the MVA to apply for a corrected license, pay a \$20 fee, and then answer a question regarding gender on an interactive touch screen. No other documentation is needed to get a new license issued (unless the resident’s license is not

otherwise in compliance with the REAL ID act – please visit the MVA’s website to learn more). Prior to the this law going into effect, individuals could change their gender on MVA-issued documents, but only after providing the agency with a copy of either a court order, other federal or state identification, a birth certificate that showed the requested gender designation, or those who were successful in requesting a letter of special authorization from the MVA. These requirements presented a steep barrier for some applicants – the process to change one’s gender marker via state court order can be complex and costly, and applicants generally had to prove they were

getting clinical treatment related to their gender transition prior to obtaining a gender change on a passport or birth certificate. Choice of gender on other official documents is often still limited to M and F gender markers – with no third option to reflect the gender identity of transgender or gender non-conforming individuals.

As drivers licenses and ID cards are ubiquitous and are often required for everything from entering a government building to getting on an airplane, reducing barriers so individuals can ensure these forms of ID accurately reflect their gender identity can help reduce stigma and make these everyday transactions easier to navigate. In addition, states that enact policies and put in place systems to support self-identification of gender are addressing discrimination head on and promoting further public conversations about how to best support the transgender and gender nonconforming communities.

While the new law giving another option for gender in Department of Motor Vehicle-issued documents is a step in the right direction, Maryland residents who chose an X will now have to grapple with potentially having identity documents with differing gender designations. Currently in Maryland, individuals can change the gender on their birth certificate from male to female or female to male so long as they provide a signed statement from a licensed health care provider or court order, but there is no “X” equivalent for this crucial

identity document. The federal government also will not issue documents, including passports, without a gender designation of male or female, though that policy is currently being challenged in federal court. Despite these continuing hurdles, other state agencies are taking steps to further accommodate individuals who need a third option for gender on identity documents – in June, the Maryland State Board of Elections announced that they would soon allow residents to change their gender designation to an X on their voter registration cards. ●

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, strives to reduce the collateral consequences of criminal legal involvement for survivors of human trafficking and those populations made most vulnerable to exploitation, including members of the transgender community. 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 assistance with name and gender marker change, family law, housing, consumer debt, tax, and other civil legal matters.



“Identification that accurately reflects an individual’s gender identity or expression is an important recognition provided by the state, and one that can have a profound impact on the day-to-day life of transgender and gender non-conforming persons.”



# Anti-Discrimination 2.0: Balancing Interests Between Sex-Based Rights & Gender Identity

BY CATHERINE M. BRENNAN, ESQ.

Over the last two decades, LGBT activists have worked to amend existing laws that ban discrimination based on protected characteristics in employment, housing, and public accommodations, among other areas of public life, to specifically include “gender identity.” The culmination of this effort in Maryland – the Fairness for All Marylanders Act of 2014 (FAMA) – defines “gender identity” as “the gender-related identity, appearance, expression, or behavior of a person, regardless of the person’s assigned sex at birth, which may be demonstrated by consistent and uniform assertion of the person’s gender identity or any other evidence that the gender identity is sincerely held as part of the person’s core identity.” Despite the worthy goal to protect individuals from unreasonable discrimination, the proliferation of gender identity laws potentially undermines legal protections for women (females) vis-à-vis sex segregated spaces, such as woman-only clubs, public showers, and other spaces designated as “women only.”

## GENDER IDENTITY:

**The gender-related identity, appearance, expression, or behavior of a person, regardless of the person’s assigned sex at birth, which may be demonstrated by consistent and uniform assertion of the person’s gender identity or any other evidence that the gender identity is sincerely held as part of the person’s core identity.**



Women require sex-segregated facilities for a number of reasons, chief among them the documented frequency of male sexual violence against women and the uniquely female consequence of unwanted impregnation resulting from this relatively common form of violence. Public policy, therefore, rationally permits sex segregation in certain settings. Maryland’s anti-discrimination law recognizes this public policy and preserves an exception to the general policy against discrimination with regard to sex-segregated facilities, providing that discrimination based on sex is permissible with regard to a facility that is uniquely private and personal in nature and designed to accommodate only a particular sex. This exception operates as an admission by

that state that women have an interest in sex-segregated facilities. FAMA goes one step further and provides that the prohibition against gender identity discrimination does not apply to “private facilities,” defined as a facility designed to accommodate only groups of a particular sex where it is “customary to disrobe in view of other users of the facility.” That is, the government recognizes that women and girls have an interest in having space away from males where women and girls might expect privacy due to nudity. However, the exception does not recognize an exception for other reasons why women and girls might seek female-only space, such as a desire to congregate with others who face the same sex-based harm.

Since its enactment in October 2014, there has been no litigation directly under this provision of FAMA. However, any organization offering services specifically for women and girls needs to grapple with FAMA, particularly if having female-only space is a component of the organization’s mission. There are innumerable instances where female-only space matters, such as in homeless or domestic violence shelters, or rape crises centers. Nudity alone is not the only reason why women and girls might want privacy away from males. For example, women processing sexual assault trauma might not wish to be in a group therapy session with males who identify as women, given that most perpetrators of sexual assault against

women are male. In 2018, males were the offenders in 73 percent of violent incidents committed against females. Rachel E. Morgan & Barbara A. Oudekerk, Bureau of Justice Statistics, NCJ 253043, Criminal Victimization, 2018 (2019). Similarly, women fleeing male violence who seek refuge in a women’s shelter have very good reasons why they may want a women-only space. Preserving these spaces was not a priority in the enactment of FAMA. It remains to be seen how this conflict between the sex-based rights of women and girls and the right to a “gender identity” will resolve over the coming years, and Maryland practitioners should be ready to help flesh out the legal parameters of women-only space. ●

*Catherine M. Brennan practices in the area of consumer and commercial financial services law. She has worked on women’s issues and LGBT issues in Maryland since 1995, including lobbying for the 2002 Anti-Discrimination Act, which banned discrimination in key areas based on sexual orientation, and serving as a plaintiff in Williams v. Glendening, No. 98036031/CL-1059 (Baltimore City Cir. Ct., Oct. 15, 1998), in which the court agreed that the Maryland sodomy law did not apply to private, consensual sex between adults of the same sex.*



# Here is What is Not a “Wetland” Under New WOTUS Proposal

BY GARY BAISE

*Trump administration’s proposal is clear effort to keep government agencies from taking private property.*

**E**PA and the Army Corps of Engineers (Corps) clarify in a new proposal for Waters of the United States what is NOT a wetland. Groundwater, including groundwater which is drained through a tile system, is one of these exclusions! This exclusion is aimed at the Des Moines Water Works case and others who want to claim farm tile or any agricultural drainage through a tile should be a point source. Ephemeral surface features and diffuse stormwater runoff such as sheet flow over uplands is excluded as a WOTUS.

## Ditches, Too

EPA and the Corps “...would exclude all ditches from the definition of waters of the United States except those ditches identified in paragraph (a)(3) of the proposed rule.” The ditches which would be WOTUS are those connected to a tributary which would satisfy the conditions of being a tributary. Another exclusion helpful to agriculture is prior converted cropland. This exclusion has been in prior definitions of what is or is not a wetland.

What continues to be dangerous to farmers regarding this exemption is USDA’s definition of the swampbuster provision administered by NRCS. For example, if land has been productive and used decades ago and then allowed to go fallow and farming begins again on the land after December 23, 1985, a farmer or rancher may get attacked by USDA. Even so, there’s more good news in the new proposal.

“The agencies also propose to exclude artificially irrigated areas, including fields flooded for rice or cranberry growing, that would revert to upland should application of irrigation water to that area cease.” This exemption appears to be aimed at a case in Massachusetts where EPA has pursued one cranberry farmer and his family for approximately 28 years. It would appear relief has come too late.

The Trump administration, to be very clear, proposed to “...exclude artificial lakes and ponds constructed in upland, such as water storage reservoirs, farm and stock watering ponds, settling basins, and log cleaning ponds, as long as they are not subject to jurisdiction under

either paragraph (a)(4) or (a)(5) of the proposed rule.”

EPA and the Corps under the Trump administration will exclude water-filled locations in uplands which are created by mining, construction activity, from obtaining fill, sand, or gravel. Under the Obama administration there was a possibility of these water-filled depressions being declared a WOTUS.

## Environmentalists Howling

Environmental groups, of course, are howling over the fact that many water features are no longer subject to the long arm of EPA and the Corps. The agencies do make it clear these water-filled depressions must be in “uplands”.

“

**This proposal is a clear example of the President and his administration attempting to keep government agencies from taking private property.**

For example, stormwater control features which are excavated or constructed in uplands to treat or store stormwater are excluded from WOTUS. Note that these features are not excluded from WOTUS if they are constructed in a wetland.

To make it clear, the agencies exclude any structure such as “...detention, retention, and infiltration basins and ponds and groundwater recharge basins.”



Again, all these must be constructed in uplands. EPA and the Corps rely on the U.S. Supreme Court case of *Rapanos*. That case made it clear that the waters just discussed “...were not primarily

not WOTUS.

This proposal is a clear example of the President and his administration attempting to keep government agencies from taking private property. ●

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

the focus of the CWA (Clean Water Act) such as channels that periodically provide drainage for rainfall.”

The proposed Trump administration rule from EPA and the Corps claims that it wants to be very specific about excluding waters and water features from being a WOTUS. The two agencies believe they have comprehensively excluded certain waters and features which are



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BY ANDREA TERRY, ESQ.

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## MSBA Lawyer Assistance Program Wellness TipSheet



# Wellness tips to live by

BY LISA CAPLAN

I have been writing tip sheets for many years and have learned many tips on how to stay healthy. We all have our favorite tips that we live by, so I asked the MSBA team to tell me their favorite tip and thought I would share them with you.

1 I start my day, literally roll out of bed onto the floor, and do no less than **10 minutes of yoga and stretching**. It helps me feel grounded and is a great way to start the day.

2 **Diaphragmatic breathing** is a great way to calm your nerves. Whenever possible, take the stairs. If you live in the city walk to the stores to get your errands done.

3 Most of us fear gaining weight while on vacation so my rule is to **build physical activity into each day**. This could be walking, kayaking, biking, etc. Just keep moving and eat what you want. You may still gain weight but probably not as much.

Don't stress over the small stuff. Ask yourself if this will be an issue tomorrow, in a week or a month from now, and actively decide if it is worth stressing over.

4 **Don't hold your breath**. A lot of us don't realize it but we hold our breath, and this builds tension in our bodies. Remind yourself to breathe - there are even Apps to help you remember.

5 **Take quiet time away from screens**. Listen to the sounds of nature. A short break will help you recharge.

6 **Search online for positive news**. There is a lot out there and a lot of good happening.

7 **A daily gratitude list**. Each morning or when you feel down or stressed say five things for which you are grateful.

8 **Remember it's not always about you**. Everyone is dealing with something in their life that is difficult. Remembering this will help you be more sensitive to others.

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## Health & Wellness Corner

# Mindfulness and Mitigating Stress

BY STEPHANIE LEWIS, ESQ.

The legal profession presents many sources of stress: continuous conflict, tight deadlines, demanding clients and colleagues, to name a few. Not that stress is all bad. After all, the stress response helps us meet deadlines and quickly respond in the moment during a trial. Chronic stress wreaks havoc on the nervous system and overall physical and mental health though. As stated by The National Task Force on Lawyer Well-Being, the strain of today's legal practice has pushed the profession to a tipping point in terms of mental and physical well-being. National Task Force on Lawyer Well-Being, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change (August 2017). Mindfulness is one of the actions the Task Force recommended the legal community consider to improve the state of lawyer well-being.

### What is Mindfulness?

The topic of mindfulness often graces the consumer magazine covers you see while in the grocery store checkout line. It is also all the rage in corporate America and a regular topic of business magazines. So, what is mindfulness? Jon Kabat-Zinn, Ph.D., founder of the well-regarded Mindfulness Based Stress Reduction program, defines mindfulness as "paying attention, in a particular way: on purpose, in the present moment, and non-judgmentally." Jon Kabat-Zinn, *Wherever You Go, There You Are: Mindfulness Meditation in Everyday Life* (1994). In other words, mindfulness is being tuned in to what is going on in you and around you in the moment, not with intense, laser-focused inquiry, but with a gentle curiosity.

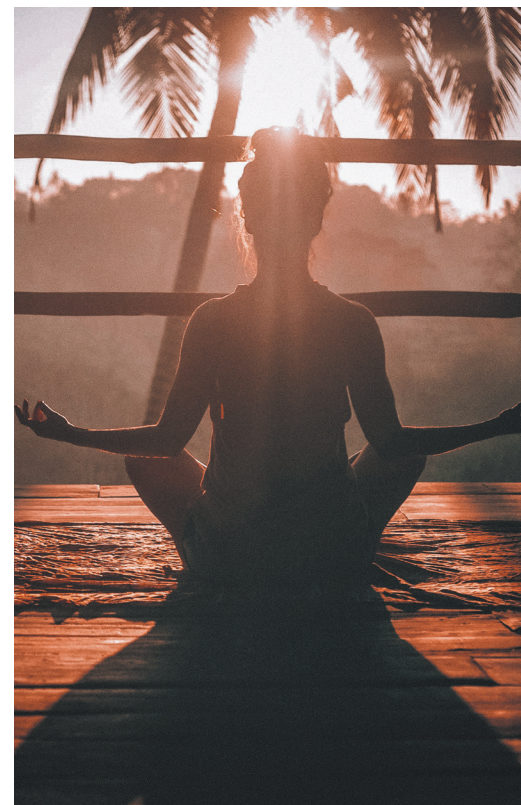
### Benefits of a Mindfulness Practice

Its value for attorneys is multidimensional. Recent research, while still ongoing, indicates that mindfulness helps improve focus and concentration and reduce worry, stress, and anxiety. Daniel Goleman & Richard J. Davidson, *Altered Traits: Science Reveals How Meditation Changes Your Mind, Brain, and Body* (2017). Many of our thoughts and emotions are about the past or the future, unsubstantiated stories and assumptions, and self-criticism. This chatter in our mind is so ever present we may not even be aware of it. A mindfulness practice helps you explore the thoughts, emotions, and bodily sensations and gain a deeper awareness of what is underlying your stress. This self-awareness provides you space to choose how you will respond, rather than automatically react, in challenging moments. In some instances, the practice will enable you to not only mitigate stress but gain an awareness that eliminates it.

### Ways to Engage in Mindfulness Practice

Mindfulness can be accessed in many different ways.

- **Seated Meditation:** Mindfulness is most closely associated with a seated meditation where one focuses on the breath. For many this can be a



great way to calm the nervous system. It is not for everyone though. Seated meditation can involve other points of focus (like sound) or an open awareness.

- **Moving meditation:** Slow, gently body movements are another way to practice mindfulness. These include walking meditation, mindful yoga, and Qigong. (You may be familiar with Tai chi which is a form of Qigong.)
- **Informal practice:** In an informal practice you focus on how you meet a certain aspect of your day. As an example, you might engage in present moment awareness when you're brushing your teeth, driving, or listening. Or you may focus on assumptions you make.

Each of these approaches can help you deepen your focus and mitigate stress.

### Getting a Practice Started

It's called a mindfulness practice because it takes practice either on your own or with a partner or group. If it is right for you, find a local mindfulness class, certified instructor, or app. Over time as you test out different approaches you will find which most resonate for you. ●

*Stephanie Lewis, the founder of LiveWellFlow (livewellflow.com), is a practicing attorney, certified wellness coach, mindfulness instructor, and Qigong Practice Leader. Her mindfulness training includes certification through WarriorOne, a mindfulness teacher training program for lawyers.*





Zachary S. Gilreath

**Zachary S. Gilreath** has joined **Freeman Rauch, LLC**, as an associate attorney.

**Maryland Volunteer Lawyers Service (MVLS)**, the largest provider of pro bono civil legal services to low-income Marylanders, welcomes the addition of **Sarah Witri** to the organization's management team. As MVLS's new Pro Bono Program Manager, Witri will be responsible for overseeing the organization's Core Pro Bono Program, which includes collaborating with intake paralegals, reviewing applications and placing cases with volunteer attorneys.



Sarah Witri

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## Access to Justice

CONTINUED FROM PAGE 2

dents take out student loans to attend law school. On average, those who graduate from a private law school incur law school debt of \$122,000 and those who graduate from public law schools incur \$88,000. These sums are in addition to an average of \$30,000 in undergraduate debt.

The promise of PSLF made it feasible for a young lawyer with a staggering amount of debt to choose a career as a civil legal aid

the average salary for a staff attorney at the organizations receiving grants from LSC is about \$63,000. The report found that more experienced supervising attorneys earn an average of \$84,000, and a litigation director at one of these organizations might expect to make an average of \$107,000, the report found.

Meanwhile, the starting salary for a first-year associate at a BigLaw firm is typically over

by LSC grantees in 2018. And while some of those cases were handled by private attorneys volunteering their time, about 89% of all cases were still resolved by staff attorneys at civil legal aid organizations.

Yet, the Justice Index from the National Center for Access to Justice shows that Maryland only has 1.49 public interest lawyers per 10,000 poor people as compared to 40 lawyers per 10,000

**“About 89% of all cases were still resolved by staff attorneys at civil legal aid organizations.”**

attorney, public defender, or prosecutor – jobs with typical starting salaries of \$50,000 or less that are essential to the functioning of our justice system and for achieving access to justice.

### Civil Legal Aid Salaries and Impact

The Legal Services Corporation (LSC), which is the largest provider of funding to civil legal aid organizations nationally, on September 23, 2019 released a report entitled *By the Numbers: The Data Underlying Legal Aid Programs*. The report shows that

\$150,000, with some firms offering up to \$190,000 for first-year attorneys, especially those living in major cities.

While salaries remain low and the discrepancy between public and private sector salaries only seems to grow, civil legal aid continues to deliver value to society. LSC's report shows that across the 132 legal aid groups supported by LSC, attorneys closed 743,000 cases, including over 200,000 family cases and over 200,000 housing-related cases. Overall, 1.8 million people live in households benefited

people of the general population. And only 0.7% of the attorneys in Maryland work for civil legal aid organizations.

The dysfunction in the student loan forgiveness system, combined with the already low salaries in the public sector, is the perfect storm that may create a crisis in talent for civil legal aid organizations - which will ultimately hurt the functioning of our civil justice system and the ability of all Marylanders to access civil justice on an equal footing. ●

## Wellness Week

CONTINUED FROM PAGE 1

expo provided attendees with quick and simple tips designed to help them create a healthier and happier lifestyle, and featured numerous activities and exhibitors.

The first annual Bench | Bar Wellness week was a huge success, and we look forward to the 2nd Annual event in 2021. In the meantime, please visit the MSBA Health & Wellness Portal, [msba.org/wellness-portal](http://msba.org/wellness-portal), for resources to improve health and wellness throughout the year. ●



Charles County



Howard County



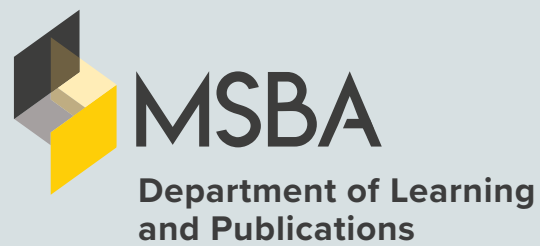
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## Dateline

CONTINUED FROM PAGE 4

## NOVEMBER

**4** The **MSBA Estates and Trusts Section & Learning and Publications Department** is excited to offer an all new presentation of *Maryland's New Elective Share Law: Adjustments and Opportunities*, beginning at 8:30am at the Loyola Graduate Center in Columbia, MD! For more information and/or to register please visit: [www.msba.org/Elective-Share](https://www.msba.org/Elective-Share)

**5** *Membership Mingle*: Join your local **MSBA Estate & Trust section** member colleagues for an evening of networking and socializing over hor's d'oeuvres and drinks! This event will be held from 5:30pm to 7:30pm at Furey Doolan & Abell, LLP in Bethesda, Maryland. For more information and/or to register please visit: [www.msba.org/Membership-Mingle-10-24](https://www.msba.org/Membership-Mingle-10-24)

**7** Join the **MSBA Learning and Publications Department** for the newest presentation of 2019 *Advanced Real Property Institute* beginning at 8:15am at Sheraton Columbia Town Center in Columbia, MD! For more information and/or to register, please visit: [www.msba.org/ARPI](https://www.msba.org/ARPI)

**8** Success as a small firm or solo practitioner takes a unique blend of technical knowledge and business savvy. The **MSBA Solo Summit** is designed to bring you up to speed on the skills and strategies that will give you an edge. Meet other attorneys and share insights on technology, marketing, and management strategies that will raise your practice to great heights. The 2019 Solo Summit will be held at Live! Casino & Hotel in Arundel Mills, Maryland beginning at 8:00am. For more information and/or to register, please visit: [www.msba.org/SoloSummit19](https://www.msba.org/SoloSummit19)

**12** The **Maryland State Bar Association Learning and Publications Department** presents: *New Client Intake Deep Dive: How to engage and evaluate potential clients more effectively and efficiently* Presented by Maddy Martin. The live webinar begins at 12:00pm. For more information and/or to register, please visit: [www.msba.org/Deep-Dive](https://www.msba.org/Deep-Dive)

**16** **MYLaw** presents *Trials & Tribulations In, On & Off the Court*. Trials & Tribulations is a wonderful event that raises funds to support fantastic programs for Maryland youth! Held once every 18 months, Trials & Tribulations has a storytelling component and silent auction. The storytelling piece is based on a new theme each year. This year's T&T is "In, On and Off

the Court" and will focus on Sports and Entertainment Law. We hope you will join us for what we are sure will be a fun, heartwarming, and entertaining evening of networking, storytelling and auction bidding at The Horseshoe Casino! For more information and/or to buy tickets, please visit: [www.msba.org/trials-tribulations](https://www.msba.org/trials-tribulations)

**18** **MSBA & the Howard County Bar Association** Present: *Connections*. Join us for a social & networking event, open to all attorneys (member & non-member) in Howard County for an opportunity to meet MSBA president Dana Williams, Esq., Howard County Bar Association President, George Hermina, Esq., and MSBA Executive Director Victor Velazquez. Mingle, network, and participate in a brief discussion on the value of being a member as well as things to come. For more information and/or to register for this complimentary event, please visit: [www.msba.org/Connections-Howard](https://www.msba.org/Connections-Howard)

**21** The **MSBA Labor and Employment Law Section** invites you to attend the *Maryland Federal and State Employment Law Update* beginning at 6:00pm at Sheraton Columbia Town Center Hotel in Columbia, Maryland. Learn about the most recent developments in state and federal employment law, including employment laws passed by the Maryland General Assembly during the last legislative session. The panel will also address recent developments at the Maryland Civil Rights Commission. Panel members include Glendora Hughes, General Counsel for the Maryland Civil Right Commission, plaintiffs' attorney Tonya Bana from Tonya Bana, LLC, and management attorney Tiffany M. Releford from Whiteford, Taylor & Preston, LLC. Richard Neuworth from Lebau & Neuworth, LLC will moderate this up-to-the minute update for the Maryland labor and employment law practitioner. For more information and/or to register, please visit: [www.msba.org/Employment-Law-Update](https://www.msba.org/Employment-Law-Update)

**21** The **MSBA Taxation Section** presents the *19th Annual Tax Professionals' Networking Night* beginning at 6:30pm at The Prime Rib at Live! Casino & Hotel in Arundel Mills, Maryland. More more information and/or to register please visit: [www.msba.org/Tax-Networking](https://www.msba.org/Tax-Networking)

**28** **Thanksgiving** - Courts and MSBA Offices Closed





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## Property Titling

CONTINUED FROM PAGE 10

the filing of a bankruptcy severs the joints tenants with rights of survivorship into tenants in common. *In re Panholzer*, 36 B.R. 647, (Bankr. D. Md. 1984).

Before same-sex marriage was legalized in Maryland, same-sex couples that jointly owned property were limited to titling their property simply as joint tenants with rights of survivorship. After the Civil Marriage Protection Act, same-sex couples in Maryland now can enjoy the benefits and protections provided by a tenancy by the entirety. Same-sex couples in Maryland who own jointly-held property should make it a priority to review their deeds with experienced counsel. ●

## Wellness Tips

CONTINUED FROM PAGE 18

⑨ **Look for the silver lining.** There is something to learn from the bumps in the road.

⑩ Cut down the stress and anxiety of your “To-Do” list by following this simple rule: **The 2-minute rule.** If it takes 2 minutes or less, don’t write it down, do it now.

⑪ **Self-Care** is a great way to take control of your life and feel empowered.

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). Toll Free confidential line 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. In her free time she enjoys spending time with family and friends, paddle boarding, sailing, rock climbing and doing triathlons.*

## CLE Programs

CONTINUED FROM PAGE 16

### NEW ONLINE, ON-DEMAND

- **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 Family Practice Update** - presented live on August 22, 2019
- **2019 Handling Drinking and Driving Cases in Maryland** - presented live August 28, 2019

### UPCOMING LIVE WEBCASTS

- **How to Conduct an Effective Workplace Investigation** - October 3, 2019 | 9:00 a.m. - 11:30 p.m.
- **Nuts and Bolts of Medicaid** - October 10, 2019 | 8:30 a.m. - 4:00 p.m.
- **2019 Criminal Law Update** - October 28, 2019 | 9:00 a.m. - 1:30 p.m.
- **The Maryland’s New Elective Share Law: Adjustments and Opportunities** - November 4, 2019 | 9:00 a.m. - 12:30 p.m.
- **Premarital Agreements – Drafting and Negotiating from the Estates/Trusts and Family Law Perspectives** - December 3, 2019 | 8:30 a.m. - 1:30 p.m.

## CELEBRATE PRO BONO National Pro Bono Celebration October 20-26, 2019

[www.celebrateprobono.org](http://www.celebrateprobono.org)

### Giving back in October

More than a decade ago, the ABA launched a National Celebration of Pro Bono for the last week of October to inspire new and innovative pro bono activities across the country. Maryland accepted the challenge, and ultimately extended the celebration to the entire month of October, given the multitude of activities statewide. The events include free legal clinics for low-income Marylanders, trainings and workshops for attorneys, and celebratory events for law firms, nonprofits, volunteer attorneys, and the judiciary.

Pro bono service is the professional responsibility of all attorneys, and this October is a great time to attend a training, to try a new form of service, and to celebrate the impact that Maryland lawyers are having.

The Pro Bono Resource Center of Maryland gathers information from across the state and coordinates a calendar of events. Please visit the calendar online at [probonomd.org/celebration](http://probonomd.org/celebration) for further details or contact PBRC at: [pbrc@probonomd.org](mailto:pbrc@probonomd.org).

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## CLE Publications

CONTINUED FROM PAGE 16

**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.

ADDRESS SERVICE REQUESTED

<b>Bench   Bar Wellness Week: A Step in the Right Direction!</b>	Page 1
<b>The Broken Public Service Loan Forgiveness Program and What it Means for A2J</b>	Page 2
<b>From the Boardroom</b>	Page 4



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