

# BAR BULLETIN

MARYLAND STATE BAR ASSOCIATION NEWSLETTER

AUGUST 15, 2018

IN  
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## MSBA President Truffer Honored by Local Bar Association

By Patrick Tandy

On Wednesday, August 8, 2018 Baltimore County Bar Association (BCBA) and Baltimore County Bar Foundation hosted a reception to celebrate MSBA President The Honorable Keith R. Truffer at the Point in Towson, Maryland.

Baltimore County Bar Association President Rebecca Fleming explained, "Judge Truffer has been a

very active member of the Baltimore County Bar Association for as long as I can remember, and we're all really excited and really proud of him, and we just wanted to have the opportunity to get together and congratulate him here in our own home town."

Asked about Judge Truffer becoming President of the Maryland State Bar Association, MSBA and BCBA member Wallace "Wally" Kleid replied, "I think it's

wonderful for the Bar Association. Keith has been a diligent worker in both Baltimore County and the State Bar Association over the last more than a decade. I've watched him start with the, I can't say the lowest-level jobs, but certainly doing all the things necessary to give you the background and experience to be a leader of the Bar Association." Kleid and all participating offered "Best wishes to Keith."

## MSBA Introduces Leadership Academy 2018-2019 Class of Fellows

By Patrick Tandy

The MSBA Leadership Academy exemplifies MSBA's investment in the future of the legal profession in Maryland. Each year, 15 carefully selected Fellows take part in the 12-month program, which through a regimen of mentorship and public service helps to better position attorneys for leadership roles both in the bar and beyond.

MSBA Treasurer Judge Mark F. Scurti joined fellow bar leaders past and present in welcoming the MSBA Leadership Academy's 2018-2019 Class of Fellows during a special reception held in their honor on June 28, 2018, at Westminster

See *Leadership* Page 18



**MSBA extends congratulations and a warm welcome to the 2019 Leadership Academy Fellows:**

Denise Hicks Brown  
Jamar W. Creech  
Brittany Gause  
Ana D. Hernandez  
Krystle Acevedo Howard  
Derrick L. Kemp  
Marguerite E. Lanaux  
Shireen H. Parsi  
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# BAR BULLETIN

Volume XXXV, Number 7

July 15, 2018

Published monthly by the  
**MARYLAND STATE BAR ASSOCIATION**  
520 West Fayette Street  
Baltimore, Maryland 21201  
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TDD 539-3186

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## AUGUST

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**30** MSBA's *Succession Planning Seminar* equips lawyers with the tools they need to help clients and firms plan for the future. Attendees will gain expert insight on preparing for succession due to retirement and disability, sales & mergers, acquisitions, and more. Scheduled for 2:00 p.m. - 6:00 p.m. at College Park Marriott Hotel & Conference Center, 3501 University Blvd E, Hyattsville, MD. Check [www.msba.org/succession](http://www.msba.org/succession) to register and for more information.

## SEPTEMBER

**12** You are invited to join **Maryland Volunteer Lawyers Service's** (MVLS) Board of Directors, staff, pro bono volunteers, and judges and magistrates from the Maryland Judiciary for their *Judicial Reception*. RSVP online by August 17 at [www.mvls.org/judicialreception](http://www.mvls.org/judicialreception). Space is limited. There is a \$25 registration fee for attorneys. This event is free for judges to attend. For more information, please contact Kimberly Weiner at (443) 451-4065 or [kweiner@mvls.org](mailto:kweiner@mvls.org).

**13** The **Howard County Bar Association** cordially invites you to the retirement reception for the Honorable Lenore R. Gelfman. We will be honoring Judge Gelfman for her years of service to the legal community. The reception will be held at the George Howard Building, in the Banneker Room on Thursday, September 13, 2018 from 5:30 p.m. to 7:30 p.m. Heavy hors d'oeuvres will be served. As there is limited space for this event, you are encouraged to register online as soon as possible at [www.howardcountybar.org/events](http://www.howardcountybar.org/events).

**27** The **Maryland Hispanic Bar Association** hosts their 25<sup>th</sup> Anniversary Gala and Dinner from 6:00 p.m. – 9:30 p.m. at Martin's

Crosswinds 7400 Greenway Center Drive Greenbelt, Maryland 20770. MSBA Executive Director, Victor L. Velazquez will be featured as Key-note Speaker. Additional information and tickets are available online at [http://marylandhispanicbar.com/?page\\_id=3210](http://marylandhispanicbar.com/?page_id=3210).

**28** MSBA in partnership with **Judicial Events™** presents the 2018 *Legends of the Boardroom* networking and educational program in Baltimore. This one-of-a-kind event will take place on from 7:30 a.m. to 12:30 p.m. at the Downtown Hyatt Regency. The program will provide not only a great opportunity to network with General Counsel and other in-house attorneys, but opportunities to learn from leaders on emerging or hot-button issues. Panels will include: In's and Out's of the Corporate M&A; Cyber Security and Compliance; International Arbitration; A View from the "C" Suite: What General Counsels Want You to Know About Billing!

For more information about the event, including opportunities to become a sponsor, moderator and/or panelist, please contact Erica Weissfeld at (410) 294-9936, or visit [www.judicialevents.com](http://www.judicialevents.com).

## OCTOBER

**10** Join **Maryland Volunteer Lawyers Service** (MVLS) from 6:00 p.m. to 8:30 p.m. at the American Visionary Arts Museum in Baltimore to Celebrate Pro Bono by honoring volunteer lawyers, donors and friends at their annual recognition reception. Guests will enjoy a cocktail hour, seated dinner and awards ceremony honoring those who have made noteworthy contributions to the delivery of pro bono legal services over the past year. The reception also kicks off Maryland's participation in the American Bar Association's National Celebrate Pro Bono Week (October 21-27). RSVP is required and there is a suggested donation of \$35. For more information visit: [www.mvls.org/cpb2018](http://www.mvls.org/cpb2018).

**11** The **Maryland Bar Foundation** hosts their 26<sup>th</sup> *Annual Professional Legal Excellence Awards Reception* from 6:00 p.m. to 8:00 p.m. The following awards will be presented: The Advancement of Professional Competence; Steven P. Lemmey Legal Excellence Award for The Advancement of Public Service Responsibility; The Advancement of Advocacy for Justice; The Advancement of the Rights of the

See Dateline Page 18

## MSBA Ethics Hotline

### AUGUST

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Members should address their written ethics inquiries to Patricia Weaver, Chair, 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](http://www.msba.org). Please consult the Rules and MSBA Ethics Opinion Website before calling.

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The Honorable Gerald Bruce Lee (Ret.) admirably served for nineteen years on the bench of the U.S. District Court for the Eastern District of Virginia. Prior to his appointment to the federal judiciary, Judge Lee served for over six years as a judge for the Fairfax Circuit Court, and before that, he was a trial lawyer representing individuals and businesses in complex civil disputes. Throughout his illustrious career, Judge Lee served his community on various boards and committees, including the Board of Directors of the Metropolitan Washington Airports Authority, as Chairman of the Virginia Judicial Conference Judicial Education Committee, and as a member of the Virginia Circuit Court Judges Benchbook Committee. Judge Lee now brings his record of excellence and achievement to The McCammon Group to serve the mediation, arbitration, special master, and judge pro tempore needs of lawyers and litigants in Maryland, DC, and Virginia.



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## EVENT

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## PROGRAM

Learn from visionaries who have established national reputations for their winning legal strategies. The panels will be held as plenary sessions to enable you to attend each program, and hear from each speaker. *Continental breakfast will be provided.*



## NETWORKING

Networking at this event is a great way to meet and mingle with the many local (Baltimore and D.C.) General Counsels, and in-house lawyers, and law firm attorneys in attendance.



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## Coming this Fall: Litigation Skills Training and Mentoring

### PBRC Education

Fall is coming, and Pro Bono Resource Center's live training calendar is packed!

#### District Court litigation training

Early this fall, PBRC will present a live one-day training on "Civil Practice and Procedure in Maryland's District Courts." This basic training will be geared to new attorneys, and to attorneys whose work has never taken them into Maryland's District Courts.

The daylong training will include:

- Background information on the court's history, jurisdiction, and interaction with circuit courts;
- Practical information about attorney codes, court forms, clerk's offices, and online resources;
- A "walk through a case" micro-review of Title 3 of the Maryland Rules, with deeper dives into key issues;
- A panel with District Court personnel; and
- In-depth instruction for specific consumer law and landlord-tenant law applications.

In exchange for this free training, attendees commit to volunteer at three consumer protection or rent court clinics.

For more information, or to register, visit [www.probonomd.org/training/district-court](http://www.probonomd.org/training/district-court).

#### Litigation Skills Lunch & Learn series

In October, PBRC will launch a "Litigation Skills Lunch & Learn" series to provide support and mentorship to lawyers who train through PBRC and volunteer in Maryland's legal services community.

Each meeting will include a one-hour skills training, followed by a one-hour mentoring roundtable, where attendees can bring up litigation questions they're currently facing (whether related to the presentation topic or not), and get input from the group. Experienced litigators will be on hand during the second hour, and a light lunch will be served.

- **October topic:** "Tips for getting social media evidence admitted at trial"
- **December topic:** "Tips for getting business records and photographs admitted at trial"

For more information, or to register, visit [www.probonomd.org/training/litigation-mentoring](http://www.probonomd.org/training/litigation-mentoring).

#### More live training opportunities

- Friday, Sept. 14, 2018 (1:00 pm) – Criminal Record Expungement in Maryland; Upper Marlboro, MD
- Friday, Oct. 5, 2018 (10:00 am) – Domestic Violence Advocacy Training; Upper Marlboro, MD
- Friday, Oct. 12, 2018 - Youth Homelessness: What Lawyers Need to Know; Baltimore, MD
- Tuesday, Oct. 16, 2018 (9:00 am) – Estate Planning Basics for Low Income Seniors; Greenbelt, MD

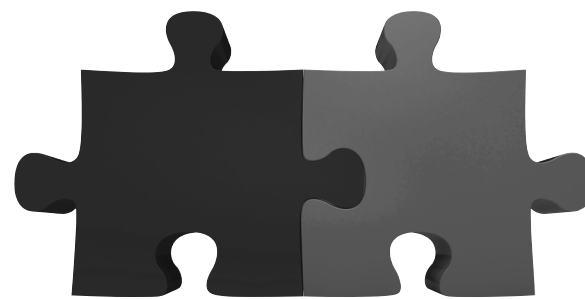
PBRC coordinates live and webcast education programs for volunteer lawyers in a variety of substantive law areas in exchange for a pro bono commitment. Most courses are suitable for beginners.

For a complete list of training options available through PBRC, and to register for live or online trainings, visit: [www.probonomd.org/training](http://www.probonomd.org/training).

Additionally, free slots for a selection of MSBA CLE courses are available through PBRC. Volunteer attorneys are eligible for one of three (3) free slots in exchange for accepting a pro bono case referral from a recognized pro bono legal services program. To see currently available MSBA CLE courses, visit [www.probonomd.org/msba-cle](http://www.probonomd.org/msba-cle).

For more information about Education at PBRC, contact Dave Pantzer ([dpantzer@probonomd.org](mailto:dpantzer@probonomd.org))

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# USCIS Issues Two New Policy Memoranda on Issuance of Notices to Appear and the Adjudication of Applications without First Requesting Additional Evidence

By Edward Neufville

Recently, the United States Citizenship and Immigration Services (USCIS) issued two policy memoranda significantly changing how the agency processes and adjudicates immigration applications and determines who is placed in the removal proceedings (often referred to as deportation proceedings). The June 28, 2018, USCIS memorandum titled “Updated Guidance for the Referral of Cases and Issuances of Notice to Appear (NTA) in Cases Involving Inadmissible and Deportable Aliens” gives USCIS officers the ability to issue NTAs for a wider range of cases. On July 13, 2018, USCIS issued a second policy memorandum, “Issuance of Certain RFEs and NOIDs”, which allows USCIS officers discretion to deny an immigration application or petition without first issuing a Request for Evidence (“RFE”) or Notice of Intent to Deny (“NOID”). While both memoranda are not directly related, it should be noted that based on the language of the June 28<sup>th</sup> and July 13<sup>th</sup> memoranda, denials of immigration petitions or applications could result in the issuance of an NTA to a foreign national.

## A. Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens

On June 28, 2018, the USCIS issued a policy guidance for referring cases and issuing notices to foreign nationals to appear in Immigration Court. These notices, which are called “Notice to Appear” or an “NTA”, which is similar to a criminal charging document, begins removal proceedings against a foreign national.

The June 28<sup>th</sup> memorandum is in line with President Trump’s January 25, 2017 Executive Order (EO) 13768: *Enhancing Public Safety in the Interior of the United States*, which set forth the President’s immigration policies for enhancing public safety and the priorities for the removal of foreign nationals from the United States. Based on the June 28<sup>th</sup> memorandum, the following are specific case examples where USCIS adjudicators will issue an NTA:

1. USCIS adjudicators will issue an NTA in all national security cases, including cases where in the judgment of a USCIS officer,

the foreign national poses a risk to national security.

2. NTAs will be issued in cases where the issuance of the NTA is required by statute or regulations.
3. In matters where there is an evidence in the record of fraud, misrepresentation or abuse of public benefits programs and the foreign national is removable, USCIS adjudicators will issue an NTA upon denial of the immigration application.
4. Foreign nationals convicted of, or charged with, or those whose criminal offense have not yet been resolved or those who have committed acts that constitute a chargeable criminal offense, will be issued an NTA.
5. Cases in which, upon denial of an application, the foreign national no longer has lawful status will be issued an NTA.

## B. Issuance of Certain RFEs and NOIDs; Revisions to Adjudicator’s Field Manual (AFM) Chapter 10.5(a), Chapter 10.5(b)

On July 13, 2018, USCIS, in an effort to discourage frivolous or substantially incomplete filings used as “placeholder” filings and

encourage applicants to be diligent in submitting required evidence, issued a policy memorandum providing guidance to USCIS adjudicators regarding discretion to deny an immigration application without first issuing a RFE or NOID. The July 13<sup>th</sup> memorandum, applies to all immigration applications filed with USCIS on or after September 11, 2018.

Immigration applications where the applicant has no legal basis for the benefit sought or requested will be denied without requiring the officer to first issue a RFE or NOID. For example, immigration cases where the applicant is required to show extreme hardship to a qualifying relative, but the applicant is claiming extreme hardship to someone else and there is no evidence of the qualifying relative will be denied. USCIS adjudicators may deny applications submitted for processing if all the required initial evidence is not submitted with the application.

## C. What does this mean for applicants and their lawyers?

In light of the recently issued

memoranda, applicants and their lawyers should be very careful when submitting affirmative applications to USCIS. Applicants and their lawyers are advised to consider the following practice tips:

1. Attorneys should properly vet and screen cases;
2. Applicants and attorneys should not submit “placeholder” applications to USCIS with the expectation that they would have the opportunity to supplement the application at a later time;
3. Attorneys and applicant must review all forms thoroughly, including making sure that all required initial documentation and evidence are submitted with the application;
4. Discuss with the applicant the risk of filing any application with USCIS and the inherent risk of being placed into removal proceedings if the application is denied and the applicant has no lawful status to fall back on.

*Edward Neufville advises individuals and companies on U.S. Immigration Law matters. His firm, Law Office of Edward W. Neufville, III, LLC, is based in Silver Spring, Maryland.*

## 2017-2018 MSBA Annual Report

Where we’ve been, where we’re headed



It’s been a year of change for the Maryland State Bar Association, as we renew our commitment to improving and building on the member services that have made us the voice of Maryland’s legal community for more than 100 years.

A rebrand and new website. Powerful and effective leadership in Annapolis on behalf of the profession. New learning opportunities for every segment of the profession.

Read the 2017-2018 Annual Report online now to look back on all that we have accomplished together in the past year, as we begin the next chapter of the MSBA.

Read the report today at [MSBA.org/AnnualReport](https://MSBA.org/AnnualReport)

# Unaccompanied Immigrant Children in Need of a Volunteer Attorney - *A Headline You Can Change!*



By Cate Hulme, Esq.

There are more than 31,000 cases currently pending before the Baltimore Immigration Court. Of those, several thousand involve unaccompanied immigrant children who arrive in Maryland each year and are automatically placed in removal proceedings. These are children who entered the U.S. without a parent, and were stopped or detained by immigration authorities. There is a special resettlement process for these children, in which the federal government is required to find a suitable person to give the child a safe home. (Children arriving with their parents, but forcibly separated from them, go through the same process as unaccompanied children.) Immigration advocates, both legal and non-legal, are working together to figure out how the needs for separated children differ from those of unaccompanied children.

What is the one thing that all of these children have in common? They will be placed in removal

**More than 80 percent of the children receiving services report that they learned for the first time at the clinic that they had options which would allow them to legally remain in the United States.**

proceedings, and they are going to need an attorney.

Despite the reality that the decision in their case could have life or death consequences, the federal government does not provide an attorney for them. Most of these children have lawful claims to stay in the United States, but cannot afford to hire an attorney.

So the children appear in court alone, without an advocate to help them make their case.

The Maryland Immigrant Legal Assistance Project (MILAP) of the Pro Bono Resource Center of Maryland (PBRC) works with

Maryland's immigration legal services community to provide legal information to these children, and to find them representation. Each Tuesday, PBRC staff are present in the Baltimore Immigration Court, speaking to children in removal proceedings about what will happen when the Immigration Judge takes the bench. Children can also sign up to receive a free legal consultation about the immigration defenses that apply to their situations at one of PBRC's brief advice clinics.

This is where you come in. In just one day of volunteering, you

can educate an immigrant child about the legal options for safely remaining in the U.S.

All of PBRC's legal clinics are staffed by volunteer attorneys. At each immigration clinic, volunteer attorneys conduct comprehensive interviews of immigrants in removal proceedings, including children, to learn about their reasons for coming to the U.S. and their circumstances now that they are here. Then, with the help of attorney mentors, the volunteers provide brief legal advice to children or families about the legal defenses they can use when they have to return to the court.

More than 80 percent of the children receiving services report that they learned for the first time at the clinic that they had options which would allow them to legally remain in the United States. PBRC also provides individualized information to the children about the best way to request legal assistance from the legal services organizations which provide representation for their particular kind of defense.

Even with the knowledge that they are eligible to stay in the country, children cannot navigate the complex immigration legal system alone.

After the clinic, PBRC follows up with the children and their families to see how the search for an attorney is going. Very few families have secured representation by the time of the first follow-up call. More families have received representation by the time of the second or third call, but some have stopped searching due to frustration and exhaustion, because the organizations they went to for help were unable to provide representation to them, primarily because there are not enough legal services staff to offer pro bono representation to everyone in removal proceedings. Even if each child or family could afford an attorney, there are simply not enough attorneys in Maryland whose primary practice includes deportation defense.

This is where you come in - again. As a lawyer, you have the unique ability (and can learn the

specialized skills) to represent one of these children or their families.

The legal community relies upon volunteer attorneys and interpreters to meet the staggering need. PBRC, the pro bono arm of the Maryland State Bar Association, is looking for attorneys to represent immigrant children and families fleeing violence. There is a special need for attorneys with court advocacy experience. Volunteer attorneys can choose between representing a child's guardian in a Maryland State Circuit Court proceeding, or representing a child or family before the Immigration Court (and the various other federal offices that make decisions about an immigrant's case.)

Elizabeth Svoboda, writing for UC Berkeley's *Greater Good Magazine*, asks us all to consider this question: "Imagine it's five years from now and you're looking back on what happened at the border and how you responded. What action would you be proud of having taken?" As a Maryland attorney, I want to look back, and know I stood with one of these children. What do you want?

Training is available for attorneys who want to get involved with any of these activities. All of the trainings are offered for free in exchange for a commitment to volunteer at one of PBRC's clinics or to accept one pro bono case for representation from one of MILAP's partner legal services organizations.

To learn more about this project, and to participate in recorded or live legal trainings, please visit [www.probonomd.org/milap](http://www.probonomd.org/milap). Malpractice insurance, legal training, lists of volunteer interpreters, mentorship, and more are provided to all MILAP volunteers. Email Cate Hulme at [chulme@probonomd.org](mailto:chulme@probonomd.org) with any questions. I'd love to tell you more!

*Cate Hulme is Manager of the Maryland Immigrant Legal Assistance Project at the Pro Bono Resource Center of Maryland.*



## The “Bridging” Dilemma in Applications for Change to F-1 Student Status

By Anna Stepanova

As Humpty Dumpty, from Lewis Carroll's *Through the Looking Glass and What Alice Found There*, famously stated, “When I use a word, it means just what I choose it to mean. Neither more nor less.” Humpty Dumpty was sure that he could force any meaning he could possibly conceive of onto the words he used.

In the true spirit of Humpty Dumpty's “forced meaning” doctrine, United States Citizenship and Immigration Services (USCIS) has recently issued a new “bridging” policy, which puts applicants seeking changes of status to F-1 in a completely new and inexplicable position. The new policy essentially forces F-1 applicants to also file multiple applications for B-2 Visitor status “bridging” the time from filing the F-1 application to its approval. This requirement, to fill in what are in fact “artificial” gaps in status, creates unnecessary roadblocks for applicants and improperly changes the meaning of immigration law concepts.

### Background

Applications for changes of nonimmigrant status are governed by 8 CFR §§ 248.1(a) & (b). They are filed using Form I-539, Ap-

plication to Extend/Change Nonimmigrant Status. These sections generally provide that, applicants admitted in valid nonimmigrant status who maintain that status until the requested start date, and who file a timely application, are eligible for a change to another nonimmigrant status. Section (c) of this Part allows most applicants to start attending school before (and/or during) the pendency of the application for change to student status. See, 8 CFR § 248.1(c)(1). The only nonimmigrant categories prohibited from attending school until the application is approved are B-1 and B-2 visitors for business and pleasure. See, 8 CFR § 248.1(c)(3).

Additionally, USCIS may approve a change of status request to an F-1 student up to 30 days before the program start date. This so-called “30-day rule” is derived from 8 CFR § 214.2(f)(5)(i), which provides that “[a]n F-1 student may be admitted for a period up to 30 days before the indicated report date or program start date listed on Form I-20.”

Based on this legal framework, an application for change of status to F-1 is properly filed and could be approved if the applicant holds valid nonimmigrant status as of the date of filing, and the gap be-

tween the end of the current status and the requested F-1 start date, as indicated by Form I-20 issued by the school, is no more than 30 days. Historically, this was all the applicant had to do to properly file an approvable application for change of status to F-1.

### Deferral of Program Start Date in SEVIS

Once a student files a Form I-539 for F-1, if the application remains adjudicated within 60 days from the requested start date in SEVIS, the system will automatically cancel it. In order to prevent that from happening, the Designated School Official (DSO) has to manually defer the admission date to a later date within the same term (if the student is able to start his or her program of study while waiting for a decision) or until the start of the next term (if the student's current or former status does not allow school attendance until USCIS approves the application—e.g., B-2 status). As USCIS currently takes up to a year to issue a decision, the program start date may be deferred multiple times in SEVIS, while the actual start date remains the same as initially requested.

### USCIS's “Bridging” Policy

On April 5, 2017, USCIS

issued a new policy requiring that the applicants in B-2 status extend their status to cover any “gap” between the expiration of their previous B-2 status and the program “start date” USCIS referred to in this rule was not the one initially requested, but the one artificially deferred by the DSO to prevent the SEVIS record from being terminated during a long adjudication process by USCIS.

On February 6, 2018, USCIS revised its instructions to include applications filed by applicants in all other initial nonimmigrant statuses. Specifically, USCIS stated that applicants “must find a way to obtain status all the way up to the date that is 30 days before your [deferred] program start date (‘bridge the gap’).” In most, although not all, cases the only possible “bridge” the applicant may be able to “find” is an application to change his or her initial status to that of B-2. By law, an I-539 filed requesting B-2 status can only request a period of 6 months. Given long adjudications of F-1 applications, the applicant may be forced to file multiple B-2 extensions in many cases. Due to the novel and relatively surreptitious fashion in which this new policy was initially introduced by USCIS, the agency began issuing

Requests for Evidence on pending requests for F-1 status to require compliance as a predicate to approval. USCIS would re-state the policy for the applicant and then instruct the applicant to file multiple B-2 applications to create a “bridge” from the status held by the applicant on filing the I-539 to a future date. Subsequently, USCIS approved the B-2 requests and then approved the F-1 request.

### Conclusion

Given many other recent policy making developments by USCIS, the “bridging” policy is just one more attempt to push out international students by devising a hostile environment which is all but impossible to navigate. Trying to keep up with all the new policies, it's hard to resist the temptation to remind USCIS, in another good old quote from Lewis Carroll that it's “Better to say nothing at all. Language is worth a thousand pounds a word!”

*Anna Stepanova is an Assistant Managing Attorney with the Murthy Law Firm in Baltimore. She concentrates her practice in employment immigration law.*

## Dishonorable Discharge?

By Cynthia B. Rosenberg

Foreign nationals have served in our armed forces since the Revolutionary War. They comprised twenty percent of the Union Army, and over 300,000 immigrants served us during World War II.

More recently, pursuant to 10 U.S.C. § 504(b), the Military Accessions Vital to National Interest (MAVNI) program was launched in 2009 by the Defense Department, and became a popular choice for foreign nationals with critical language or medical skills to serve our country. This program allows legal, nonpermanent resident immigrants to join the military and get fast-track citizenship.

The foreign nationals who qualify for MAVNI entered the U.S. on a temporary basis (e.g., via student visas), or as potential asylees. They are willing to serve the U.S., with the expectation that after doing their job faithfully; they will be rewarded with U.S. citizenship. As many as 10,400 troops have come through MAVNI. Many of them have served with honor and distinction, and qualified after three years for U.S. citizenship based on their service.

However, in 2016, the MAVNI program was frozen to new applicants, with additional background screening added for those already in the program. This has left approximately a thousand of these patriotic recruits unable to move forward toward their dream of U.S. citizenship.

The future of MAVNI, and those who are taking part in it, has been jeopardized by a series of decisions by the current Administration over the past two years. Thus, foreign nationals who joined the military to take advantage of the program will be discharged

before they can be cleared for duty. This will leave some without lawful status, and therefore vulnerable for removal from the United States, despite their service as well as their passage through multiple layers of previous vetting.

On October 13, 2017, the Administration imposed more stringent policies involving initial security and suitability screening for lawful permanent residents (LPRs), as well as certifications of honorable service for the purposes of expedited naturalization. At that time, all LPRs were required to complete additional background investigation and receive a favorable military security suitability determination (MSSD) prior to entry in the active, reserve, or guard service.

This was a significant change from the previous policy, which allowed LPR recruits to ship to initial military training as long as their background investigation had been initiated, and they had cleared all other entry screening requirements.

On July 6, 2018, 40 of these foreign-born recruits were discharged, based on lags in security checks, leaving many without lawful immigration status. As a result, up to a thousand people who joined our military in good faith are expected to be discharged in the next few months. Some enlistment contracts were canceled nationwide despite a rule that allowed recruits to wait an additional year for the military to finish the checks.

Thus far, the public reaction to this presidential assault on MAVNI has been varied. Media attention has had the effect of reinstating some enlistment contracts that, upon additional review, were deemed to have been wrongly

cancelled. However, this has left many of those who were discharged and not reinstated in fear of returning to persecution in their home countries, and responding to this fear by filing for asylum.

Asylum petitions, however, are not the only way by which these foreign born recruits are fighting back. As of July 19, 2018, one U.S. Army Specialist participating in MAVNI, and having served for four years while still awaiting her naturalization, was subsequently discharged, filed for a Temporary Restraining Order in a Federal district court in California. The outcome of this case is not yet known, but other recruits in the same situation are also preparing similar actions.

What should be the take-away from all of these adverse decisions by our Commander-in-Chief, against those who have put themselves in harm's way to gain a future in the country they have chosen to serve? Sadly, at the moment, there is only one: to advise foreign national clients that enlistment in the U.S. military is no guarantee that they will not be discharged, deported, and subject to harsh punishment in their country of origin for joining a foreign military. Hopefully, changes in the political climate, and additional lobbying in the court of public opinion, will lead to a more honorable future for these courageous foreign nationals, instead of having the fate of a discharge that dishonors our nation as well as jeopardizing the future of those who are guilty of nothing more than the ultimate act of patriotism.

*Cynthia B. Rosenberg practices Immigration Law with Rourke & Rosenberg LLC and is Vice Chair of the MSBA Immigration Section.*



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## MSBA Honors Theresa Michael's Thirty Years of Service

We would like to take this opportunity to recognize Theresa Michael for celebrating thirty years at the Maryland State Bar Association's Headquarters. Theresa started with the MSBA as a Meeting Coordinator for Sections and Committees on August 22, 1988. In her current role, as Executive Assistant and Governance Administrator, she provides administrative support to the

Executive Director, Executive Committee, and the Board of Governors.

If you have not had the opportunity to meet Theresa in the past thirty years, here is a quick biography: she is a Baltimore native, born in Highlandtown. Theresa currently resides in Bel Air, MD with her husband, Frank, and children, Connor and Emma, and her pet bird. When not assisting MSBA

members, Theresa spends her time gardening, relaxing in her pool, and baking her famous cupcakes or brownies that other MSBA staff members love.

Please join us in congratulating Theresa for her hard work and dedication to the MSBA! Feel free to send best wishes to Theresa at [theresa@msba.org](mailto:theresa@msba.org).



# U.S. Supreme Court to Decide: *Is a “Secret Sale” a Bar to Obtaining a Patent?*

By David S. Taylor

As discussed in my July 2018 *Bar Bulletin* article, the U.S. Patent & Trademark Office (“PTO”) recently reached a milestone of granting U.S. Patent No. 10,000,000. The grant is reflective of the importance the public places on securing patent protection covering inventions. After all, patents provide the patent owner with certain statutory rights, including the right to exclude others from making, using, selling, and importing the patented invention.

To be granted a U.S. patent, an invention must be novel and non-obvious over the “prior art.” Thus, delineating prior art from non-prior art is a critical step to determining patentability. The statutory definition of “prior art” has changed over time. Prior to the relatively recent enactment of the Leahy-Smith America Invents Act (“AIA”) (2011), “prior art” was defined to include, among other things, “on-sale” activities (*i.e.*, sales and offers for sale) that occurred in the United States more than one year prior to the effective filing date of a patent application. 35 U.S.C. § 102(b) (pre-AIA). If an accused infringer could show that an invention was on sale in the United States more than one year before the effective filing date, the patent was invalid and the right to exclude others was lost.

Twenty years ago, the U.S. Supreme Court ruled that the “on-sale bar” of pre-AIA Section 102(b) is triggered if the invention is (1) the subject of a commercial offer for sale not primarily for experimental purposes and (2) ready for patenting. *Pfaff v. Wells Elecs., Inc.*, 525 U.S. 55, 67 (1998). The Court of Appeals of the Federal Circuit (“CAFC”), which has exclusive jurisdiction to appeals involving patents, has ruled that a pre-AIA

on-sale bar could be triggered even if the sale or offer for sale of the invention was confidential (or “secret”). See *In re Caveney*, 761 F.2d 671, 675-76 (Fed. Cir. 1985).

The AIA overhauled the law in several key aspects, including the definition of prior art. In regard to “on sale” bars, Section 102(a) (1) of the AIA provides (for patent applications having effective filing dates of March 16, 2013 or later) that an inventor is “entitled to a patent unless . . . the claimed invention was patented, described in a printed publication, or in public use, on sale, or otherwise available to the public before the effective filing date of the claimed invention” (emphasis added).

The debate amongst patent practitioners has been whether the AIA changed the definition of “prior art” to exclude an inventor’s secret sale of an invention to a third party who is otherwise obligated to keep the invention confidential. The U.S. Supreme Court’s grant of certiorari in *Helsinn Healthcare S.A. v. Teva Pharms. USA, Inc.*, \_\_\_ U.S. \_\_\_, 2018 WL 1142984 (2018) on June 25, 2018 may resolve this issue.

More than a year before Helsinn filed its post-AIA patent, Helsinn entered into a license agreement and a supply & purchase agreement with a third party. The third party agreed to make payments to Helsinn and purchase exclusively from Helsinn, contingent upon FDA approval of the formulation. The agreements bound the third party to keep information relating to the claimed invention confidential. Although specific claimed elements of the invention were kept secret, Helsinn and the third party issued a press release announcing the existence of the agreements.

The district court held that the agreements did not invalidate

Helsinn’s post-AIA patent because the AIA requires that the sale make a claimed invention “available to the public.” Thus, the district court found that the AIA changed the law to remove “secret” sales from the prior art. On appeal, the CAFC reversed, holding that the AIA did not change the statutory meaning of “on sale.” *Helsinn Healthcare S.A. v. Teva Pharms. USA, Inc.*, 855 F.3d 1356, 1360, 1368-71 (Fed. Cir. 2017). The CAFC found that the public disclosure of the existence of the agreements was sufficient to invalidate the patent as being on sale, even though the claimed invention remained secret.

The crux of Helsinn’s argument on certiorari is that the “otherwise available to the public” language of the AIA’s Section 102(a)(1) is a “catchall” phrase applying to all of the preceding categories of prior art, including sales; thus, a sale would not qualify as prior art unless it makes the claimed invention “available to the public”. Indeed, this is how the PTO interpreted the statute in issuing its examination guidelines shortly after the AIA’s enactment.

Given the U.S. Supreme Court’s recent record of reversing or vacating and remanding 11 of the last 13 patent-related appeals from Federal Circuit, Helsinn should feel optimistic about its chances. In any event, the Supreme Court’s decision hopefully will provide more certainty in determining what is and is not prior art vis-à-vis “secret” sales.

*David S. Taylor is an intellectual property attorney at Berenato & White, LLC, with over twenty years of experience.*

## Congratulations Carmen Doig



Pictured from left to right: Carmen Doig, Scholarship recipient and Marsha Williams, Esq., Chair of the Scholarship Committee of the St. Mary’s County Bar Association.

The St. Mary’s County Bar Association is pleased to announce that Carmen Doig, of Lexington Park, Maryland, has won of the Association’s 2018 College Scholarship in the amount of \$1,500. Ms. Doig recently graduated The King’s Christian Academy and plans on attending Truett McConnell University this fall in Cleveland, Georgia, where she will be playing volleyball and majoring in business with a focus on finance and accounting.

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# CONTINUING LEGAL EDUCATION

Opportunities

By Andrea Terry

Keep an eye on the MSBA website at [msba.inreachce.com](http://msba.inreachce.com) for all upcoming live programs. If you cannot attend the live program in person, many are concurrently webcast to enjoy anywhere in the state, and will be available online, on-demand approximately 6-10 days after the live program. All online programming carries CLE credit with surrounding MCLE states just like our live programs. See below for details.

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- cial Elder Abuse.* Columbia, MD. Registration opening soon. \*webcast
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- See Publications Page 19**

## MSBA LAWYER ASSISTANCE PROGRAM WELLNESS TIPSHEET

# Addiction and the Devastation It Leaves in Its Wake



By Lisa Caplan

Have you ever been concerned about a family member or friend's alcohol or drug use, or had a feeling that something is just not right? If you think there is a problem, then likely there is. In order to understand how addiction can affect family members and friends, we first have to understand what addiction is.

Addiction is a chronic disease that is progressive, and far too often, fatal. It is believed that addiction is caused by a combination of biological, psychological and environmental factors. Recovery is an ongoing effort, and it is a process that requires the support of other people in recovery. Once

someone is in recovery, relapse is always possible.

Recovery is not just maintaining sobriety. In sobriety, addicts stop using, but problems still remain and often get worse. There isn't one definition of recovery, but it is a process of building a new life through sobriety, and making necessary life changes including health, behaviors and lifestyle.

Relapse is a progression that begins long before the person picks up alcohol or drugs. It begins by slipping back into old behaviors and thought processes. A common question: "Is it a relapse if the alcoholic or addict uses another drug?" A drug is a drug is a drug. Look at it this way. If someone is an alcoholic,

and they only drank beer, but after 6 months of sobriety, they start drinking vodka, did they relapse? Of course they did. It doesn't make any difference what mood altering drug, including alcohol, is chosen; it is still a relapse. To think that you or someone you know hasn't relapsed because they chose another mood altering drug is called denial.

Denial is a defense mechanism used to avoid something that is uncomfortable. We have all used denial at some time in our lives. It is an automatic response to fear of looking bad, or used to avoid unpleasant consequences. Think about when you were a child, and

**See Addiction Page 19**



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## THE BUSINESS OF LAW

# Stop Practicing 'Door' Law: *Define Your Ideal Client, Define Your Practice*



By Tatia L. Gordon-Troy

You experience it every day, but you just can't find the words to describe it. It's the thing that's been keeping your law practice afloat for the past three years or so, but it's also been the bane of your existence. And you know you need to get out from under it, but you just don't know how. There's a name for it—it's called "door" law. Unfortunately, many solos suffer from it. But there exists a little-known cure for this affliction, and it's called the "ideal client."

Let me explain. "Door" law is something that any of us could fall victim to. It's the relentless desire to make sure our bills get paid, and that we, along with our families, have a roof over our heads and food on the table. It requires us to accept whatever client walks through our office doors or whatever case falls in our laps, for fear of failing to meet our personal obligations. The disease is most rampant among solos who have been practicing one to four years, although many of us still suffer from this well into our fifth, sixth, and seventh years of practice.

But like all good things, the cure for door law calls for some effort on your part, including a strong commitment to seek change, and the ability to say "no" to clients and cases that you know aren't a good fit. It's a lengthy exercise that demands reflection, honesty, time, and exceptional recordkeeping. It's a quest to define your "ideal client."

### Defining Your Ideal Client

"Ideal client does not mean 'most perfect client,'" writes Seattle immigration attorney Alexandra Lozano, author of *Be the CEO of Your Law Firm*. "Rather, the ideal client is the person or entity you wish to serve the most." Lozano explains that a tightly defined market for your services is the best way to begin the process of attracting the kinds of clients and cases you really want.

But how do you go about defining and achieving ideal client "nirvana"? Well, the answer to this question could be contained within your existing client files. Start by asking yourself:

- What types of cases do you enjoy most?
- Are there certain types of cases you would like to handle more often?
- What types of clients do you most enjoy working with?
- What do you know about these particular clients?
  - Gender; Sexual orientation; Religion; Occupation; Age; Education level; Economic status; Marital status; Children or no children; Native language, etc.
  - If it's an entity:
    - For-profit or nonprofit; Mom and pop or large corporation; Type of industry (Products or services); Solvent or insolvent; Online or brick-and-mortar

Lozano believes you must walk, talk, live, and breathe your ideal client in order to define that person or entity. You can start with a description similar to the following:

- A real estate attorney who wants to negotiate leases for small- to medium-sized retail businesses, which are certified minority or women-owned and have been in existence for less than five years with gross revenue of \$200,000 to \$500,000.
- An estate planning attorney who wants to work with clients who have estates of \$2 million or more,

with various property ownerships and the need for trusts.

- An immigration attorney who desires to work with privately owned hospitals in rural areas with a population of 300,000 or less that are in need of foreign physicians and specialists for children.

### How Defining Your Client Benefits You

Knowing what drives you to do what you do every day and which types of clients help keep those pistons firing can bring enjoyment back to your chosen life's work. Defining your ideal client also can help you focus your marketing efforts so fewer dollars are wasted on campaigns that don't bring in revenue.

Today's marketing is a complicated game of cat and mouse. What you don't want to do is spend thousands on Facebook ads if your ideal client rarely spends time on Facebook. Or maybe you're paying someone to write a weekly blog when your ideal clients could be better reached by holding a "know your rights" seminar at the local church.

With all the talk of SEO, Google AdWords, video marketing, blogging, and numerous social media sites that suck up so much of your time, attorneys can't help but be overwhelmed. Reflecting on what makes your law practice worthwhile will eventually place you on the right path to a lucrative and enjoyable practice.

Two resources that explain the "ideal client" focus or niche practice are *Be the CEO of Your Law Firm* and *The E-Myth Attorney*, both of which can be found on Amazon in print and Kindle.

*Tatia L. Gordon-Troy, Esq. is a member of the Maryland Bar and helps attorneys self-publish as a way to market themselves and their practices. She runs her own firm, Ramses House Publishing LLC. Copyright ©2018. Ramses House Publishing LLC, www.publishingforlawyers.com.*

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# Smart Work Trends to Increase Productivity

By Haley Shaw

Take a second and think about how you spend your workweek. What are some common trends you notice throughout your day? Attorneys are often sedentary, spending much of their day sitting at a desk, juggling emails, phone calls, reading, and then sometimes commuting to resolve a case. In their book "Yoga For Lawyers" (<https://amzn.to/2O7Xw11>), Hallie N. Love and Nathalie Martin state, "This combination of an overworked brain and an inactive body causes the body and the mind to become disconnected and out of balance." If you are an individual with a sedentary work schedule, make a conscious effort to move your body, eat healthier, and surround yourself with positive and uplifting individuals. Take a second and ask yourself these questions:

"What are some common trends throughout my workday?"

"How many hours a day am I

behind a desk?"

"How many hours a day am I driving/commuting?"

As a Wellness Consultant for MSBA, I have noticed some common work trends for lawyers include: sitting for more than 8 hours a day, dining out for lunch/dinner, late nights, early mornings, minimal breaks, and long hours in court. Throughout this article, we will discuss breaking three unhealthy work trends, suggesting convenient and effective methods to increase your productivity at work, and in life.

### Work Trend 1: High Stress Environment

Everyone deals with stress, not just lawyers. Attorneys tend to experience higher levels of stress than average Americans. As a lawyer, what are the most stressful situations you encounter? What causes you stress? Write down a list of

common situations that cause you stress. You need to know your own trigger points in order to counter their negative effects. Love and Martin state that some common stressors include, "negative people, difficult conversations/situations, increase in financial obligations, tight schedules, long hours, workload, traumatic event, chronic illness, etc."

Once you identify the causes behind stressful situations, it is time to analyze and determine how to combat, or deal with that stressor in a positive way. Eliminate negative people from your life (if possible). Surround yourself with individuals who are on the same path as you. If you cannot get rid of the negative people, step away, take a deep breath, and approach that individual - or group of people - and ask to have a conversation. Inform them how you feel; see how they respond, and move forward.

Stress comes in all shapes and sizes. We have good, and bad stressors in our lives. We defined some common negative stressors, what about the good? One common good stressor is exercise and fitness. Placing your body in an uncomfortable state, for a finite duration, will help you present yourself in a different way. You will feel more confident, energy levels increase, and endorphins run high right after you move your body.

**Try this:** For one week (7 days) place your body in an uncomfortable state for at least two minutes each day. Some examples include: go for a run, take the stairs, try a new workout, or take a cold shower.

Stress levels will differ based on personality and how you respond to situations. Instead of worrying yourself sick (literally), assess the situation, individual, environment in a positive way.

### Work Trend 2: Long Hours

As stated in Work Trend 1, tight schedules and long hours place negative stress on our bodies. Our mind-body connection slowly starts to diminish over time if we do not resolve the situation. As a lawyer, it's hard to take time off when you are in the middle of a case, meeting with clients, or trying to keep up with your phone and emails. Take at least 90 second breaks throughout the day to disconnect. Leave your phone at your workstation, head outside for some fresh air, and just breathe. Take a walk around the office to get your mind off of your to-do list, work, or a high stress encounter. Do this for at least 90 seconds a couple times throughout the day. At the end of the day, assess yourself. Ask the question: after each break, did I notice an increase in energy, and productivity levels?

See *Productivity* Page 19



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**Jim Lanier** has joined Warnken, LLC as a partner where he will continue representing claimants in workers' compensation matters.



*Jim Lanier*

**Karen L. Federman Henry** has joined Funk & Bolton, P.A., as of counsel in the firm's Baltimore office. She concentrates on matters impacting Maryland municipalities and counties, as well as appellate litigation, drawing on her experience with the Office of the County Attorney for Montgomery County, Maryland, and as a Maryland Assistant Attorney General.

**Lee Carpenter** has joined Saul Ewing Arnstein & Lehr as an associate in the Private Client Practice, in the Firm's Baltimore office.

**Anthony Clark** has joined Kramon & Graham as an associate in their Real Estate practice group.

**Kathleen Seifert** has joined Ferrante & Dill as an associate attorney. Kathleen's practice will focus on Domestic Relations matters and representing the Calvert County Department of Social Services.



*Karen L. Federman Henry*



*Lee Carpenter*



*Anthony Clark*

**Megan Benevento** of Joseph Greenwald & Laake has been honored by The Daily Record with placement on their 2018 Very Important Professional (VIP) Successful by 40 list.

**Stephen Lutche**, Shareholder at Snee, Lutche, Helmlinger & Spielberger, P.A., has been appointed to The John Carroll School Board of Trustees for a three-year term.

**Smithey Law Group LLC**, a law practice focusing exclusively on employment law, has opened in West Annapolis at 706 Giddings Ave, Suite 200, Annapolis, MD 21401.

**Whiteford, Taylor & Preston** has opened a Richmond office at 919 East Main Street, Suite 1000, Richmond, VA 23219; (804) 977-3300.



*Stephen Lutche*

## SERVICES

**ECONOMIST:** Lost income, benefits and life-care plans valued for personal injury, wrongful death and employment cases. University professor with extensive experience. DR. RICHARD B. EDELMAN, 8515 Whittier Boulevard, Bethesda, MD 20817. (301) 469-9575 or (800) 257-8626. References and vitae on request. Visa/MC. Please visit at: [www.economic-analysis.com](http://www.economic-analysis.com).

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## LEADERSHIP...Page 1

Hall in Baltimore.

"As Treasurer, it is my responsibility to see that money is well spent," said Scurti, "and I can tell you there is no greater group that the Maryland State Bar Association invests their money in than the Leadership Academy. We are absolutely dedicated to this fantastic program."

Leadership Academy alumni have gone on to serve among the Association's very highest ranks, including Committee Co-Chairs Judge Dana Middleton and Jessica Quincosa, as well as MSBA Past President Debra G. Schubert and current Secretary Deborah L. Potter.

"Our graduates are far and wide," said Scurti. "It's amazing, the positions that Leadership Academy graduates have taken over the years. They've risen up the ranks of leadership within the MSBA, in many of our Sections, many of our Committee Chairs, and many members of the bench. I am very proud to see that."

Among the several dozen in attendance was Leadership Academy Co-Founder Robert Gonzales, who with fellow MSBA Past President Harry S. Johnson, launched the program in 1997.

## DATELINE...Page 3

Disadvantaged; The Advancement of Public Understanding of the Law.

**25 The Women's Law Center of Maryland** hosts their Annual Dinner & Awards Ceremony from 6:00 p.m. to 9:00 p.m. at The Grand Baltimore, 225 North Charles Street, Baltimore, MD to honor three exceptional award recipients who are making great strides in the areas

of family law, women's rights, and access to justice in Maryland. Additional information and tickets are available online at [www.wlcmd.org/get-involved/fundraising-events/annual-meeting-awards-ceremony](http://www.wlcmd.org/get-involved/fundraising-events/annual-meeting-awards-ceremony). Keynote Speaker. Additional information and tickets are available online at [http://marylandhispanicbar.com/?page\\_id=3210](http://marylandhispanicbar.com/?page_id=3210).



Send your latest news and updates to  
Lisa Muscara for inclusion in Et Alia:  
[lisam@msba.org](mailto:lisam@msba.org).

**Work Trend 3: Clutter**

When you head into your office, what does your workstation look like? Are papers piled up, scattered throughout your station, or neatly organized? Your workstation correlates to how your brain feels. Think about it. When your work station has four post-it note reminders, papers scattered everywhere, or cluttered garbage, it is likely that your brain feels the same way. Set your work station up for success with these three tips:

1. Organize your station through-

out your day. Take 30 seconds to reorganize your folders, papers, and throw away garbage, after your 90-second breaks, as recommended in Work Trend 1.

2. Have your office smell good with candles, essential oils, or air fresheners.
3. Display your favorite motivational quote where you can see it everyday. My favorite is, "The journey of a thousand miles begins with a single step."

As a reminder, we all live busy, high-stressed lives. Take time for

yourself, be present in the moment, set your workstation up for success, and associate yourself with positive, uplifting individuals in your life. Your perspective will change when you switch these three "unhealthy" work trends, with each "healthy" recommendation.

*Haley Shaw owns Amp Up Fitness and works with MSBA to provide health and fitness content to members. You can contact Haley at Haley@AmpUpFitness.com or check out her website for offerings at www.AmpUpFitness.com.*

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PUBLICATIONS...Page 15

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This is the authoritative reference for Maryland attorneys on "when" an order is appealable. Judge Arthur provides essential updated information and advice relating to the timing of appeals. The timely filing of an appeal is critical. Failure to comply with the rules can cause parties delay and expense and, most important, the loss of the right to appeal altogether. To avoid such grave consequences to clients, practitioners need to know and apply the rules correctly.

Updates for the 2018 edition include—

- Analysis of latest rulings from the Court of Appeals and Court of Special Appeals of Maryland
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**GIBBER ON ESTATE ADMINISTRATION, SIXTH EDITION**

*Allan J. Gibber, Esq.*

The new 6<sup>th</sup> Edition significantly expands the treatise with thorough references to new case law and statutory amendments through 2017. The revised text also reflects new rates and statutory amounts, and includes new and updated samples of all the official forms throughout the volume.

Gibber's new 6<sup>th</sup> Edition is an indispensable resource for the bar, the bench, and the Registers of Wills of this state, and will guide you to being a better estate attorney.

**PLEADING CAUSES OF ACTION IN MARYLAND, SIXTH EDITION**

*Paul Mark Sandler and James K. Archibald*

UP-TO-DATE—The *Sixth Edition* adds discussions of pertinent court decisions issued since the *Fifth Edition* by the Court of Appeals of Maryland, the Court of Special Appeals of Maryland, and the United States District Court for the District of Maryland, and is current as of December 31, 2017. While including discussions from prior editions, it picks up where the *Fifth Edition* left off. It examines and analyzes cases, statutes, treatises and other reference sources on Maryland law and pleading. Included is an updated chart of statutory provisions that provide for the award of attorney's fees. It has been revised to address evolving requirements in various areas of practice, such as claims against government entities under the Maryland Tort Claims Act and Local Government Tort Claims Act, claims for protective orders in domestic cases, claims for workers compensation benefits, and claims under the Maryland Human Rights Act and local county ordinances governing human rights.

ADDICTION...Page 15

were caught taking a cookie before dinner. Your immediate response might have been to say, "I wasn't taking a cookie," or "I just wanted to see if we had any left." In addiction, denial may be used to avoid giving up a dependency you feel you can't do without, or are not ready to do without.

In addiction, denial can come from the addict, family or friends. It can be expressed through many forms of rationalization – dishonesty, self-deception, excuses, or justifications. Through all this denial, the person actually believes that they don't have a problem, it is under control, or the problem is not that bad. It is as if they have blinders on.

**How Does Addiction Affect the Addict's Family and Friends?**

- Family and friends may be in denial about the seriousness of the problem, potentially putting the addict or others in danger, for example knowing that they are driving under the influence.
- Walking on "eggshells" because the thoughts and feelings of the family are controlled by the rapidly shifting moods of the addict, often destroying the family unit.
- Family and friends being burdened by the addict's constant state of chaos and problems caused by the addict's addiction, for example losing their job, financial problems, relationship issues, fluctuating moods, etc.
- Children overcompensating for confusion and chaos in the family by possibly over achieving in school or acting out.
- Family members and friends can often feel responsible for the ad-

dict and "curing" their "illness"

- Addicts are preoccupied with their alcohol and drug use. Their life revolves around it and they isolate from friends and family.
- Family members and friends can become codependent – putting the needs of the relationship before your own needs or, by definition, "making the relationship more important to you than you are to yourself."
- Addict's continuous lying and manipulation breaks down trust, and relationships are lost.
- Everyone knows the addiction exists, but no one talks about it, causing a constant stressful and tense environment.
- Constant state of worry.
- Family members and friends begin to enable the addict by shielding the addict from experiencing the full impact and consequences of their behavior. Enabling is different from helping and being supportive in that it allows the enabled person to be irresponsible and continue with their behavior.

**How Not to Be an Enabler**

Sometimes the best way to help an addict is to stop helping. What we believe is "helping" may actually be hurting the addict in the long run and prolonging the illness. For example, each time you give someone money, or call their boss because they are hung over or under the influence, you keep the addict from feeling the consequences of their behavior. By providing this safety net, the addict never needs to take responsibility for their actions, and therefore doesn't feel the need to get better.

Examples of enabling:

- Making phone calls for the person that they should be making themselves
- Lending or giving money for anything including food, rent or clothing
- Making excuses for the addict's behavior with family members and friends
- Being available every time the person needs to vent about their problems
- Taking care of the person when sick from using alcohol or drugs
- Ignoring that little feeling that tells you that your friend or family member may have a problem or has relapsed
- The addict will not get help if you keep bailing them out of their problems. As hard as it is, sometimes the best thing you can do is take care of yourself, and let the addict suffer the consequences of their behavior, take responsibility, and make the choice to get help.

If you need assistance, please contact the Lawyer Assistance Program for free, confidential assistance. Jim Quinn, Lawyer Assistance Director, (443) 703-3041, [jim@msba.org](mailto:jim@msba.org) or Lisa Caplan, LCSW-C, Lawyer Assistance Counselor, (443) 703-3042, [lisa@msba.org](mailto:lisa@msba.org). Toll free (800) 492-1964.

*Lisa Caplan is a Licensed Certified Social Worker at the clinical level (LCSW-C), has over 20 years' experience in her field, and extensive experience providing wellness workshops and working with lawyers and judges in the areas of mental health, substance abuse and trauma.*

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