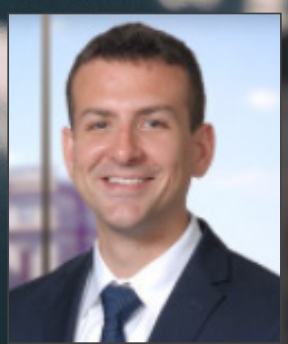
January 2022

Ingham County Bar Association

BRIEFS

Theodore W. Seitz



Kyle M. Asher

Class Action

Contents

SAVE THE DATE

Semi Annual Bench Bar Conference
February 5, 2022

13th Annual Barrister's Dinner
March 10, 2022

Annual Shrimp Dinner/Annual Meeting
May 18, 2022

We are looking forward to resuming in-person events.

@inghamcountybarassociation

@ICBALawyers

ICBA Logo and Letterhead Policy

The ICBA has adopted a policy regarding the use of the ICBA logo and letterhead. If you are currently using or are planning to use the ICBA logo, we ask that you become familiar with and abide by the revised policy. You can read the full policy here.

About ICBA

Founded in 1895, the Ingham County Bar Association continues its longstanding tradition of service to the legal profession and the greater Lansing community, bringing lawyers together to join in a strong organization that works to achieve objectives that transcend the individual.

INGHAM COUNTY BAR ASSOCIATION

P.O. Box 66
Grand Ledge, MI 48837
www.inghambar.org

BOARD OF DIRECTORS

President
Charles A. Lawler
Clark Hill, PLC

President-Elect
Pamlea Amato
Mallory Lapka Scott & Selin, PLLC

Vice President
Steve Sinas
Sinas Dramis Law Firm

Treasurer
Lindsay Dangl
Murphy & Spagnuolo PC

Secretary
Alexander Rusek
White Law PLLC

Immediate Past President
Sandra J. Lake
Hall Matson PLC

NEWLY ELECTED BOARD MEMBERS

Ernscie Augustin
Chalgian & Tripp Law Offices

Brendon Basiga
Basiga Law Firm PC

Alexander Rusek
White Law PLLC
incumbent

ADDITIONAL BOARD MEMBERS

Mary Bowen,
City of Lansing, Office of the City Attorney

Emily Jefferson,
Department of Attorney General

Paul McCord,
Fraser Trebilcock

Chris Wickman,
The Nichols Law Firm PLLC

Jessica Zimbelman,
State Appellate Defender Office

Aylysh Gallagher,
Ingham County Prosecutor's Office

SECTION CHAIRS

Bankruptcy Law
Norman Witte
Witte Law Offices, PLLC

Patricia Scott
Foster Swift Collins & Smith, PC

Criminal Defense Law
Mary Chartier
Chartier & Nyamfukudza, PLC

Chris Wickman
Nichols Law Firm, PLLC

Takura Nyamfukudza
Chartier & Nyamfukudza, PLC

Employment & Labor Law
John A. Maise
White Schneider, PC

Chad Karsten
Fahey Schultz Burzych Rhodes

Family Law
Jennipher Martinez
White Schneider Young & Chiodini, PC

Brooke Elise Van Buren-Hay
Private Practitioner

Erica Terranova
Bailey & Terranova

Probate & Trust Law
Sally D. Babbitt
Babbitt Legal Group, PC

April Alleman
Crenshaw Peterson & Associates, PC

Real Estate Law
William D. Tomblin
William D. Tomblin & Associates

Christopher Patterson
Fahey Schultz Burzych Rhodes, PLC

Young Lawyers
Aylysh Gallagher
Ingham County Prosecutor's Office

Paralegal/Legal Assistant
Elizabeth Cary
Chartier & Nyamfukudza, PLC

Heidi Pierce
Fraser Trebilcock

COMMITTEE CHAIRS

Annual Dinner
Pamela Amato

Annual Meeting
Pamela Amato

Ask A Lawyer:
Raymond Harris / Brandon Schumacher / Emily Jefferson

Awards:
Ernscie Augustin / Paul McCord

Barristers:
Aylysh Gallagher / Ernscie Augustin

Bench-Bar Conference:
Charles Barbieri / Lindsay Dangl / Jessica Zimbelman

BRIEFS:
Mary Bowen

List Serve: Staff

Meet the Judges:
Brendon Basiga / Jessica Zimbelman

Education:
Chris Wickman

Membership:
Emily Jefferson / Paul McCord

Monthly Deliberations:
Steve Sinas

Nominating Committee:
Sandra Lake

Past Presidents:
Sandra Lake

Section Chair Liason:
Chris Wickman / Patricia Scott

Shrimp Dinner:
Robert Refior / Elias Kafantaris

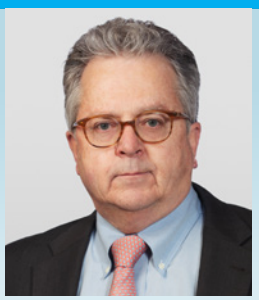
Social Media:
Steve Sinas / Staff

Sponsors:
Alexander Rusek / Lindsay Dangl

EXECUTIVE DIRECTOR

Madelyne Lawry
517-627-3938

President's Message



Charles Lawler,
ICBA President
clawler@clarkhill.com

"Sweep the Sheds. Never be too big to do the small things that need to be done."
— James Kerr from *Legacy*-What The All Blacks Can Teach Us About The Business Of Life.

I was given the book *Legacy*-What The All Blacks Can Teach Us About The Business Of Life, by James Kerr, by a dear friend. The All Blacks are New Zealand's national rugby team. The friend, Sara Tisdale, Head Women's Lacrosse Coach at Central Michigan University and I have exchanged books and thoughts on leadership for years. This exchange through the years has provided me many thoughts to ponder and has driven me to be a better person.

I particularly liked the phrase above because it made me recall the many leaders I have witnessed in my life in sports, business and politics. I now understand why my Boy Scout leader was the one who picked up the camp, why my favorite teacher was the one who picked the papers off the floor and washed the windows on the door coming into the classroom, why my dad cleaned up the workshop after our project when I got to go on to the next activity or enjoy what we had just created, why my wife cleaned up the kitchen while we all enjoyed resting after dinner, why the owner of the business was the one who picked up around the dumpster, and why my favorite coach carried the ball bag. These people did what had to be done. They never put themselves above the task or above others. The All Black players who "sweep the shed" are many times the one who was named the international rugby player of the year or All Black's player who was its all-time leading scorer. Did they have to sweep the shed, probably not, but they choose to. That was part of the character which embodied their team.

Contrast that style with the one who is too good to sweep the floor, pick up the papers on the floor, wash the sinks, wash the windows, carry the ball bags, pick up the stray balls left on the field after practice, make their own copies, get their own coffee, handle "KP" duties at camp and generally never do anything they don't want to do. Are they leaders? They may be, but is that the kind of leadership that is sustainable? Are they the kind of leaders that create loyalty and can survive for years? Is this the kind of leader we want to be?

What do we want our legacy to be as citizens, people, leaders or attorneys? Do we want to be remembered as the one who does the little things that nobody pays attention or the one who demands that we are too important to do the simple tasks? We can create and write our own legacy. Now is the time for us to reflect and consider what we can do during the rest of our life to ensure that the legacy we want to leave is being written. This process is done and evolves from every decision, every task and every interaction with others. Should we keep asking ourselves, are my actions creating the legacy that I strive for? I think so.

I know that I have done many things in my life that probably would not be considered building blocks for the legacy I would like to leave. However, life provided me the opportunity to become an attorney. I have been given the opportunity to represent and help others through life's struggles. I constantly ask myself if I am doing the little things that need to be done to help my clients get to a better place. It is about doing the right thing and, sometimes, doing what we don't feel like doing, what someone else could do or what I am not getting paid for. Always do the little things that need to be done to achieve the result.

We have many opportunities throughout our day to do the little things that need to be done. When we are walking into our office and there is litter on the parking lot we can choose to walk by or pick it up? When we are done with dinner do we help clean up or leave that for someone else? When we see items that we can deliver on the way we are headed do we pick them up and deliver them or just walk by? At the end of our kids sports practice are we helping pick

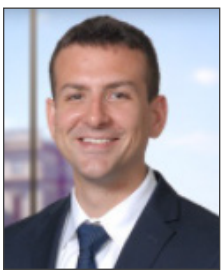
things up so everyone can go home or leave that task to others? At the picnic, dinner, fundraiser, are we helping with the little things or too busy talking to others? There are many opportunities in life for us to do the little things required to get the job done. Are we choosing to take these opportunities? Organizations are built on the foundation of those who do all the little things. I want to be remembered as one of those who was always willing to do whatever it takes to get the job done.

In the *Legacy,* James Kerr also says, "Let someone else praise your virtues." Take a minute and ponder that. Isn't humility a wonderful thing. I believe that the leaders I described above had that humility. They just went about and did the small things required to get the job done. They weren't looking for praise—they just did it. Let's all start just doing it. Let's continue to demonstrate daily that we are built with that same character.

Continuing Jurisdiction: How To Enforce A Class Action Settlement

By: Theodore W. Seitz and Kyle M. Asher

Theodore W. Seitz
tseitz@dykema.com



Kyle M. Asher
kasher@dykema.com

Coming to terms on a class action settlement is not easy. First, unlike the typical settlement agreements, a class settlement requires a multi-faceted agreement, with provisions covering a wide-array of issues, including but not limited to the scope of the class, the settlement fund, notice and claims provisions, safe-harbor, release, and the list goes on and on. Second, it is axiomatic that any class settlement must be free of collusion—the result of extensive arms-length negotiations conducted by experienced counsel. Thereafter, both state and federal rules mandate a judge's preliminary approval, a fairness hearing, and the judge's final approval after hearing from and addressing concerns from any settlement objectors. Under the federal Class Action Fairness Act, 28 U.S.C. § 1715, notice of the proposed class settlement must also be provided to the United States Department of Justice, state attorney generals, and in some instances, state and federal regulators at least ninety days before the final approval hearing. In other words, the class action settlement must navigate through many checkpoints before crossing the ultimate finish line. Although most of these steps are well known to class action practitioners, less attention has been paid to how to protect that hard-won settlement from challenges—especially in the context of a court's continuing jurisdiction to enforce a state-wide, multi-jurisdictional, or even nationwide class settlement.

Just as the process of finalizing a nationwide settlement presents added challenges, so too does the process of protecting that settlement from breach and infringement once it is finalized. That process is important. Because class action settlements can bind hundreds, thousands, or even millions of persons to the agreement, there is a greater risk that one of those parties will fail to comply with the terms of the agreement and, thus, there is a greater need for class counsel, defense attorneys, and courts to remain vigilant to protect against breaches. Fortunately, when that happens, counsel and courts have several options at their disposal.

Preventing Infringement of Class Settlements by Class Members Within Competing Class Actions

It is not uncommon for multiple class action complaints to be filed at the same time, in multiple jurisdictions, that all relate to the same alleged violation of the law. Named plaintiffs in cases filed across a state or even the entire country will fight for the opportunity to represent the interests of an entire class which, at the outset, can lead to

overlapping putative classes filed in federal and state courts alike.

When this occurs, there is often a first-mover advantage for plaintiffs. Even before a class is certified or final approval is given to a class action settlement, federal and state courts will often stay class proceedings in deference to the first-filed case.[1] And often, there is also an advantage to defendants to settle these claims early, and to draft a broad settlement agreement that covers as many potential claims as possible. This provides some degree of finality and certainty, and prevents the defendants from having to litigate the same claims over and over again in different forums. In theory, once the first nationwide class is certified and class notices are sent out, overlapping class members will be faced with three main options. They can accept the terms of the class settlement (which should include a release provision preventing the class members from pursuing related claims in other forums), meaning that the separately-filed action must be dismissed. They can object to the proposed class settlement, and even seek to intervene prior to the final approval hearing to protect their alleged interests. Or, they can opt out of the class, generally requiring them to proceed on an individual basis. But in practice, things do not always work out that way. For example, a class member who does not opt out of the class settlement and agrees to release his or her claims may still attempt to pursue related claims in a new forum, including a state court, after the settlement is approved and final judgment is entered by the settlement court.

When it is a class member who defies the terms of the settlement, the remedy is often simple. A well-drafted settlement agreement should include language that grants the court with continuing jurisdiction over the parties to enforce and administer the terms of the agreement. When a class member acts inconsistent with the terms of the settlement—whether by filing new claims that have previously been released, or taking action that the settlement agreement expressly enjoins—the defendant can seek relief from the district court that entered the settlement agreement.

So long as the court has jurisdiction to enforce the terms of its settlement, it can act broadly to prevent a breach or other interference with the agreement. For example, federal district courts have held breaching parties in contempt, enjoined state court cases in their entirety when the state court case threatens the federal court's previously-entered settlement agreement, and restricted discovery in state court cases even when the state court had previously authorized such discovery.[2]

Preventing Infringement of Class Settlements by Non-Class Members

Settlement agreements, however, can involve more than just a monetary payment in exchange for a release of claims. In the context of consumer statutory enforcement actions, for example, a federal court or agency may agree to settle a case on the condition that the defendant refrain from engaging in the complained-of conduct in the future, or on the condition that the defendant fix its internal procedures to comply with the law going forward. *See, e,g.*, *Pelzer v. Vassalle*, 655 F. App'x 352, 356 (6th Cir. 2016) (settlement agreement requiring debt collector "to create and implement written procedures for the generation and use of affidavits in debt collection lawsuits," subject to continuing oversight by a court appointed special master and the federal Consumer Financial Protection Bureau); *Grande v. Cty. of Wayne*, 205 F. Supp. 2d 776, 777 (E.D. Mich. 2002) (settlement agreement and consent decree subject to continuing court oversight, which "established guidelines for the operation" of a sewer system "and also provided a framework to bring the sewer system into compliance with federal, state and local laws.")

These types of agreements can be interfered with by non-class members after the final approval of the class settlement agreement. In *Grande*, for example, after the Eastern District of Michigan's settlement agreement established court-required guidelines for the operation of a sewer system, subsequent lawsuits were filed in state court alleging liability "based directly on the[] provisions" in the Consent Decree and class settlement agreement, leaving the defendant in a difficult spot. It could continue to comply with the agreement entered in federal court, exposing itself to potential liability in the state court action. It could stop complying with the agreement in federal court, exposing itself to potential liability in the federal court action.

Better yet, it could rely on the All Writs Act, and have the federal court enjoin actions taken by non-class members, either in other federal or state jurisdictions, which interfere with the federal court's settlement agreement. The All Writs Act provides that federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Although first

instincts may say that only parties to a settlement agreement may be bound or impacted by the terms of that agreement, the Supreme Court has recognized that "the power conferred by the All Writs Act extends, under appropriate circumstances, to persons who, though not parties to the original action or engaged in wrongdoing, are in a position to frustrate the implementation of a court order or the proper administration of justice." *See United States v. New York Tel. Co.*, 434 U.S. 159, 173-74 (1977) (cleaned up). Federal courts have relied on this broad authority to enjoin third parties from engaging in litigation that threatens the terms of a prior court order or agreement, even when jurisdiction would not otherwise exist to allow the court to do so. *Ronnie Van Zant, Inc. v. Pyle*, 270 F. Supp. 3d 656, 674 (S.D.N.Y. 2017); *Grande*, 205 F. Supp. 2d at 779 ("It is immaterial that the [state court] plaintiffs are not signatories" to the federal court agreement).

The All Writs Act can therefore, "under appropriate circumstances," be a powerful tool for counsel and the federal court to prevent those who were not parties to the original settlement agreement, from threatening the terms of that agreement, or forcing defendants from acting inconsistent with that agreement.

Practical Takeaways

First, take care in drafting your settlement agreement. Be sure to require class members who agree to the terms of the settlement agreement to also release all claims arising out of or relating to the claims that have been settled. In addition, be sure to grant the court with broad and continuing jurisdiction to enforce its agreement and any corresponding injunction, as the Supreme Court has warned that "enforcement of the settlement agreement, whether through award of damages or decree of specific performance, is more than just a continuation or renewal of the dismissed suit, and hence requires its own basis for jurisdiction." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 378 (1994).

Second, your role as counsel is not done as soon as the settlement agreement is finalized, approved, and judgment entered by the court. Set up alerts and continue to monitor the status of similar lawsuits filed against your client that can frustrate the terms of the settlement agreement.

Finally, once you have identified a breach, use all options available to protect the hard-fought settlement agreement. When a party to the settlement agreement acts inconsistent with the terms, move to enforce the settlement agreement with the court that entered the agreement. And when a non-party to the settlement agreement threatens the enforceability of that agreement in other jurisdictions, look to whether relief may be appropriate under the All Writs Act.

Endnotes

1 See, e.g., Gill v. Convergent Outsourcing, Inc., No. 2:16-cv-01035, 2017 U.S. Dist. LEXIS 92286 (S.D. Ohio. June 15, 2017) (staying putative federal class action pending approval of separate and overlapping federal class action settlement because "judicial efficiency and economy are not served by duplicated classes"); Asher v. Abbott Labs., 307 A.D.2d 211 (N.Y.S. 2003) (staying putative state court class action pending resolution of first-filed overlapping federal class, noting that "a stay may be warranted when there is substantial identity between state and federal actions").

2 See, e.g., Battle v. Liberty Nat'l Life Ins. Co., 877 F.2d 877, 881 (11th Cir. 1989) (enjoining state court class actions that infringed on previously entered settlement in federal court because "these state court suits, class actions which on their face challenge the propriety of the [federal court] judgment, can only undermine the district court's continuing jurisdiction over this case"); Prudential Ins. Co. of Am. v. Nelson, 11 F. Supp. 2d 572, 580 (D.N.J. 1998) ("Pursuant to the All-Writs Act, 28 U.S.C. § 1651 and the exceptions to the Anti-Injunction Act, 28 U.S.C. § 2283, this Court may issue orders necessary in aid of its jurisdiction . . . Additionally, enforcement of an order may require a federal court to enter orders which restrict state court discovery.")

An Introduction to Trauma-Informed Lawyering

By: Alexander S. Rusek and Aylysh B. Gallagher

"Trauma-informed" is not just the newest social science buzzword. Rather, it is an important set of research-based guiding principles that attorneys in most practice areas must recognize to provide the most effective representation that they can to their clients. So, what is trauma? What does it mean to be trauma-informed? What is trauma-informed lawyering? And where can you learn more about these concepts?

The Centers for Disease Control and Prevention has stated that "[a]n event, or series of events, that causes moderate to severe stress reactions, is called a traumatic event. Traumatic events are characterized by a sense of horror, helplessness, serious injury, or the threat of serious injury or death. Traumatic events affect survivors, rescue workers, friends and relatives of victims who have been directly involved."[1] These effects may not be immediate, can be extremely long lasting, and can impact many, if not all, areas of a survivor's life.

Our justice system and related services also, regrettably, present the possibility of causing further trauma by creating situations where those who have experienced it are re-traumatized. When this happens, clients can experience a lack of control, experience further abrupt changes in their lives, and feel threatened, vulnerable, exposed, and responsible. Recognizing trauma and its potential effects are the first steps to becoming trauma-informed.

It has been said that "'[t]rauma-informed practice' is an increasingly prevalent approach in the delivery of therapeutic services, social and human services, and now legal practice. Put simply, the hallmarks of trauma informed practice are when the practitioner puts the realities of the client's trauma experiences at the forefront in engaging with the client, and adjusts the practice approach informed by the individual client's trauma experience."[2] Vivianne Mbaku of Justice in Aging has also written that "[a] trauma-informed legal practice aims to reduce re-traumatization and recognize the role trauma plays in the lawyer-client relationship. Integrating trauma-informed practices provides lawyers with the opportunity to increase connections to their clients and improve advocacy."[3] More simply, a trauma-informed lawyer "asks clients not 'what is wrong with you?' but instead, 'what happened to you?'"[4] Delivering trauma-informed services is not accomplished by following a single checklist or set of techniques, but rather it requires "constant attention, caring awareness, sensitivity, and possibly a cultural change at an organizational level."[5] A trauma-informed lawyer must also understand that the trauma a client has experienced does not define them as a whole.

Sometimes, it will be obvious that a lawyer needs to incorporate trauma-informed principles into their practice because of the nature of the case, such as when representing survivors of sexual abuse and survivors of tragic accidents in civil litigation, or when prosecutors work with victims of traumatizing crimes. Other times, it may not be as apparent that a lawyer needs to incorporate these principles, such as representing a survivor of domestic abuse in a divorce or child custody matter or representing a criminal defendant who has suffered trauma that has contributed to issues such as substance abuse.

In addition to the positive effects on a client's wellbeing, trauma-informed lawyering offers numerous other benefits. Clients who are comfortable and trusting of their lawyer are far more likely to share their experience with the lawyer, potentially providing far more useful information than they would otherwise share. For example, the civil lawyer may learn critical information regarding their client's damages that would otherwise remain hidden. For the prosecutor, they may obtain information that transforms perceived weaknesses in their case into strong evidence of the guilt of the accused with the additional context provided by the victim. It is also often true that a client will hold the trauma-informed lawyer in higher regard, thus creating a stronger rapport and ultimately more effective attorney-client relationship.

How can you take steps towards becoming a trauma-informed lawyer?

Some have argued that the four key characteristics of trauma-informed lawyering are: identifying trauma, adjusting the attorney-client relationship, adapting litigation strategy, and preventing vicarious trauma.[6] To accomplish these goals, the trauma-informed lawyer will work to ensure that their client feels safe, that the client can trust their lawyer and feel that the relationship has transparency, that the client feels as though they have the ability to make the choices that will impact their lives and that the client is actually empowered to make those decisions, that the client has a collaborative relationship with the lawyer, and that the lawyer has considered cultural, historical, race, gender, and other identity issues that the client may be experiencing.[7] [8] In practice, the first step is to recognize the potential impact that trauma has had on a client and provide a safe environment for them to express their concerns and share their experience with a lawyer that will listen to them, will not judge them, that will not minimize their experience, nor disregard them.

To learn more about being a trauma-informed lawyer, there are a number of existing and forthcoming materials available. For example, The National Center on Domestic Violence, Trauma and Mental Health has started the Trauma-Informed Legal Advocacy Project ("TILA") which "offers guidance on applying trauma-informed principles to working with survivors of domestic violence in the context of legal proceedings."[9] It is important to note that the resources available through the TILA, while focused on survivors of domestic violence, are not limited or only applicable to trauma caused by intimate partner violence. The same remains true for other trauma-informed resources not directed at lawyers, such as those for first-responders and health care workers.

There are also a number of other useful resources, including podcasts, webinars, and articles readily available on the internet (such as *The Trauma Informed Lawyer* podcast available at shorturl.at/fkqGO and the *Trauma-Informed Legal Advocacy: An Introduction* webinar available at shorturl.at/nstKX). In the near future, the American Bar Association Law Practice Management Section will be publishing a book tentatively called "Trauma-Informed Law: A Primer for Lawyers in Practice."[10] The aforementioned list is not comprehensive and the body of research and literature on trauma-informed practice is growing every day. It is also important to remember that we must recognize our own limitations and levels of expertise. This often means learning about available resources and being prepared to offer them to the client when needed, such as the assistance of counselors and community organizations.

It is also important to keep in mind that a lawyer being trauma-informed alone is not enough, as the lawyer is not the only person that the client will interact with. Thus, training staff and providing them with the resources to be trauma-informed is also critical.

Finally, the effects of learning about and experiencing another person's trauma (sometimes called secondary trauma, secondary traumatic stress, vicarious trauma, or indirect trauma) include symptoms similar to those of people who have directly experienced trauma.[11] Secondary trauma can result in severe job burnout, compassion fatigue, reliving of the trauma, negative changes in beliefs and feelings, and other ill effects.[12] As such, being a trauma-informed lawyer "also encompasses the practitioner employing modes of self-care to counterbalance the effect the client's trauma experience may have on the practitioner."[13]

There are a number of books and other resources that address the effects of secondary trauma and how lawyers and others who experience it can manage. For example, *Trauma Stewardship: An Everyday Guide to Caring for Self While Caring for Others* by Laura van Dernoot Lipsky and Connie Burk, *The Age of Overwhelm: Strategies for the Long Haul* by Laura van Dernoot Lipsky, *Reducing Compassion Fatigue, Secondary Traumatic Stress and Burnout* by William Steele, and *Burnout: The Secret to Unlocking the Stress Cycle* by Emily Nagoski, Ph.D. and Amelia Nagoski, DMA are all highly recommended readings, but certainly do not encompass all of the resources currently available.

In conclusion, recognizing trauma and being mindful, compassionate, empathetic, and aware of it is of the utmost importance in the legal profession because lawyers are often working together with clients who have experienced, and are still experiencing, the worst situations that life can expose them to. The trauma-informed attorney will strive to leave the client in a better place than they found them. As Maya Angelou said, "I've learned that people will forget what you said, people will forget what you did, but people will never forget how you made them feel." Being trauma-informed will not only

enhance the attorney-client relationship but can lead to significantly better outcomes legally and personally for our clients – outcomes that we should all fully embrace.

Endnotes

1 *See* https://www.cdc.gov/masstrauma/factsheets/professionals/coping_professional.pdf
2 Sarah Katz & Deeya Haldard, The Pedagogy of Trauma-Informed Lawyering, 22 Clinical L. Rev. 359, 359.
3 *See* https://ncler.acl.gov/Files/Trauma-Informed-Lawyering.aspx
4 Sarah Katz & Deeya Haldard, The Pedagogy of Trauma-Informed Lawyering, 22 Clinical L. Rev. 359, 363.
5 *See* https://www.cdc.gov/cpr/infographics/6_principles_trauma_info.htm
6 Sarah Katz & Deeya Haldard, The Pedagogy of Trauma-Informed Lawyering, 22 Clinical L. Rev. 359, 360.
7 Harris, M. & Fallot, R. (2001). *Using trauma theory to design service systems. New directions in mental health services,* Jossey-Bass, 89, Spring.
8 *See* https://www.cdc.gov/cpr/infographics/6_principles_trauma_info.htm.
9 *See* http://www.nationalcenterdvtraumamh.org/trainingta/trauma-informed-legal-advocacy-tila-project/.
10 *See* http://www.traumainformedlaw.org/traumainformed-law-book.
11 Cieslak R, Shoji K, Douglas A, Melville E, Luszczynska A, Benight CC (February 2014). "A meta-analysis of the relationship between job burnout and secondary traumatic stress among workers with indirect exposure to trauma." *Psychological Services*. 11 (1): 75–86.
12 Cieslak R, Shoji K, Douglas A, Melville E, Luszczynska A, Benight CC (February 2014). "A meta-analysis of the relationship between job burnout and secondary traumatic stress among workers with indirect exposure to trauma." *Psychological Services*. 11 (1): 75–86.
13 Sarah Katz & Deeya Haldard, The Pedagogy of Trauma-Informed Lawyering, 22 Clinical L. Rev. 359, 359.

AUTHOR BIOGRAPHIES:

Alexander S. Rusek – Alexander S. Rusek is an attorney with White Law PLLC in Okemos, Michigan. Mr. Rusek's practice focuses on complex mass action and class action civil litigation, business law & litigation, criminal law, and appellate law. Mr. Rusek has represented established businesses, new businesses, non-profits, professionals, and individuals involved in multi-party, mass action, and class action litigation, including representing hundreds of survivors of sexual abuse committed by Larry Nassar (Michigan State University/USA Gymnastics), Robert Anderson (University of Michigan), clergy members, Boy Scouts of America volunteers and employees, educators, employers, and others. Mr. Rusek was Mental Health First Aid USA certified in 2019.

Mr. Rusek is a graduate of Oakland University and Michigan State University College of Law, *cum laude*. Mr. Rusek is a founding Director of The Army of Survivors, Inc., board member and Secretary of the Ingham County Bar Association, Past-President of the Ingham County Bar Association Young Lawyers Section, Immediate Past-Chairperson of the Ingham County Board of Commissioners Equal Opportunity Committee, member of multiple local and national bar associations, and Democratic Precinct Delegate for Lansing's Ward 1, Precinct 6. Mr. Rusek is a 2018 recipient of the Lansing Regional Chamber of Commerce 10 Over the Next 10 Award, a 2018 recipient of Oakland University's Young Alumni 10 Within 10 Award, and a 2016 recipient of the Ingham County Bar Association Top 5 Under 35 Award. He has authored multiple articles that have appeared in American Bar Association publications and the Ingham County Bar Association's BRIEFS.

CONTACT INFORMATION:

Alexander S. Rusek can be contacted at:
2549 Jolly Road, Suite 340
Okemos, Michigan 48864
Ph.: (517) 316-1195
Web: www.whitelawpllc.com
Email: alexrusek@whitelawpllc.com
LinkedIn: linkedin.com/in/alexrusek

Aylysh B. Gallagher – Aylysh B. Gallagher is an Assistant Prosecuting Attorney for the Ingham County Prosecutor's Office where she specializes in felony cases involving intimate partner violence. Ms. Gallagher was instrumental in establishing the first Domestic Violence Unit, which includes Prosecution and Law Enforcement. In this role, she focuses on cases that have increased lethality factors, severe injury, victimless/recanting prosecutions, and serial offenders. Ms. Gallagher works closely with law enforcement, advocates, and service providers in the community to improve the community's response to domestic violence and sexual assault. Ms. Gallagher trains local law enforcement agencies, attorneys, and advocates on the dynamics of domestic violence, evidence-based prosecution, and holding offenders accountable. Ms. Gallagher is the current President of the Ingham County Bar Association – Young Lawyers Section and a board member of the Women Lawyers Association of Michigan.

Ms. Gallagher obtained her Juris Doctor from Thomas M. Cooley Law School, graduated top of her class as m*agna cum laude*, and received eight certificate of merit awards. She obtained her Bachelor of Arts in Economics at Michigan State University and graduated with a 4.0 GPA from its Honors College. Ms. Gallagher is also a recipient of the Ingham County Bar Association Top 5 Under 35 Award. She is licensed to practice law in Michigan and Illinois.

CONTACT INFORMATION:

Aylysh B. Gallagher can be contacted at:
303 W. Kalamazoo Street, 4R
Lansing, Michigan 48933
Ph.: (517) 483-6205
Web: www.pa.ingham.org
Email: agallagher@ingham.or

Opinion

Disclaimer, this is an opinion piece. The views of the guest writer are viewpoints of the guest writer only and not that of the Ingham County Bar Association.

Nuisance Law – The Little Axe that Cut Down the Giant Trees

By Veller Morris, *morrisv@cooley.edu*

BACKGROUND OF THE NUISANCE LAW

The study of nuisance law is filled with interesting phraseologies and innuendos that literally invokes the thought of something annoying and causes one to view the law as being insignificant among the more prominent jurisprudence: like contract law, property law, negligence law, or the intentional tort of trespass, just to name a few. Nuisance law is a non-trespassory invasion of another's interest in private use and enjoyment of land, which could either be intentional or unintentional by any type of liability-forming conduct. For example, consistent loud noise, or toxic smoke causing illness, could justify a claim under nuisance law.

In order to truly understand the foundation of nuisance law, we must first look at its origin and the effects it had on the American rule of law. One commentator, Jeff L. Lewin, summarizes its origin by looking at the American Nuisance Law before the *Boomer* case.[1] He started by first reviewing the English origins,[2] the Conquest to Blackstone.[3] He said the word "nuisance" derives from the Latin *nocumentum,* by way of the French *nuisance.*[4] *Nocumentum* is a Medieval Latin word that means loss, damage, or detriment. Similarly, the French word *nuisance* means hurtful, injurious, or prejudicial.[5] Having no intrinsic limitations, the term nuisance eventually became a legal grab-bag that courts seized upon as a substitute for analysis whenever it wished to redress an injury.[6] As a consequence, the law of nuisance remains an "impenetrable jungle" to many lawyers and judges.[7]

Nuisance law belongs in the tort family of litigation and has its own specific elements to prove to win a case. Due to its nature, and complexity, some people have a hard time distinguishing between nuisance law and negligence law. They are very similar – but not the same. In a negligence claim, you have to prove the elements of duty, breach, causation, and harm. But to prove nuisance, you have to satisfy these elements by showing that the landowner was denied the use and enjoyment of his property. You also need to prove that the breach was either intentional or unintentional, and there are various balancing factors. For example, the gravity of the harm caused to the wrongdoer against the injury caused to the person complaining.

The Court normally uses a balancing test to determine if the wrongdoer was a nuisance. Since these elements are sometimes hard to prove, the court sometimes uses the negligence elements to render a decision in a nuisance claim. They sometimes confuse these two very different disciplines. Like its name, nuisance law is associated with everything that bothers you. For instance, if you do not want to deal with a particular situation, you just categorize it as a "nuisance."

To better understand the term, think of a mosquito, singing in your ears that will not go away—every time you take a swipe at it, it temporarily moves away and then returns. Suddenly, you have the urge to catch that pesky little bug, but it escapes your reach only to return. And sometimes when it does return, it bites you. Chances are, you catch it, and at that moment it flies away unto the next victim to bother, and the cycle continues. What will be your response to that pesky little insect? Well, I believe the first thought that will come to your mind is that this bug is a nuisance! Of course, you are correct—it is a "nuisance," and like that pesky little bug, so is the nuisance law.

Similarly, manufacturers and pharmaceuticals of opioid drugs are like that pesky little bug—speaking in the ears of the people and lulling them into a place of complacency and dependency through various means of marketing, sale, distribution, promotions, and advertising to the most vulnerable in society. For decades, lawmakers have been unable to hold big drug manufacturers and pharmaceuticals responsible for their deceptive practices. And like the pesky bug, they were finally caught when the little axe—the nuisance law—was used to bring them to justice by making them pay for the opioid crisis in our society.

The nuisance law has been around for hundreds of years. Judges like it because it is their dumping ground for anything they do not understand. Lawyers like it because anything they cannot explain must be a nuisance. People also love it because if they do not like their neighbors, for example, they just have to say that their neighbor is a nuisance, and no one stops to question the validity of those claims. We will explore a little more about this pesky law, that has long been alluding judges for centuries, to see if it lives up to its name.

There are two elements in nuisance law that you must prove before you can sustain a claim for nuisance against a wrongdoer. We are going to explore how the nuisance law has alluded man for centuries and appears to be insignificant but was skillfully used by modern lawyers to bring down giant corporations, like Johnson & Johnson and Purdue, to their knees in the height of the opioid crisis in our communities. Hence, "the little axe that cut down the giant trees" is a metaphor that shows how this law was given life, is a breathing document, and now stands tall amongst the prominent jurisprudence in our modern era.

For centuries now, the nuisance law has always been used in conjunction with property law. But, for the first time in the history of our republic, lawyers were able to frame the issue that went directly to the heart of the problem of the opioid epidemic. They were able to show how our growing metropolitan cities, where the idea of property owners is somewhat archaic and cannot be used to define our modern societies to bridge that gap between the property owners and the lives of ordinary people, that are affected by the opioid epidemic.

Communities are no longer static; they are fluid and mobile. Nuisance law cannot be restricted to just landowners but must be expanded to capture our ever-changing and growing society. No longer can the law of nuisance be confined within four walls and a plot of land. Instead, it reaches across the gulf and embraces the new concept of applying it to wherever human suffering is present as a direct result of the opioid crisis. This new idea will forever redefine our nuisance law. It is now being used directly in connection with human suffering, conditions and situations created by others that directly affects the moral fabric and conscience of our society, thus, resulting in a massive loss of lives and heartache in every state of America where lives were touched by the epidemic of opioid addiction.

The expansion of nuisance law has grown as a direct result of our fast-paced societies that forced our courts to pierce the corporate veil and reach behind the iron curtain that has shielded big drug companies for such a long time. They have hidden behind the protection of the Food and Drug Association (FDA), which insulated them and granted them immunity from being accountable to the harm that they were causing. It was as if they were mockingly saying, "Our drugs are FDA approved, we have immunity, and we will get away with any kind of harm our drugs are inflicting on society." There was no accountability from these drug manufacturers and big pharmaceutical companies that were creating the nuisance in our society.

Hence, we will explore the history of nuisance law, the effects the opioid drugs had on people living in different states, and how the nuisance law was used to overcome the opioid problems. We will also talk about the steps that were considered by Congress to help alleviate the problems, the possible solutions to help combat the opioid problem, and how the nuisance law was used to overcome the opioid crisis that helped to restore faith and hope in our nation's justice system by penalizing those responsible for the nuisance of the opioid epidemic through litigation. Finally, we will look at the modern view of the court's interpretation of nuisance law and what it might mean for future big drug companies.

HISTORY OF THE LAW OF NUISANCE

In an Albany Law Review article entitled *Symposium on Nuisance,* Jeff L. Lewin provided a unique perspective of the historical context

of nuisance law, from as far back as the 12th century to the present day.[8] He stated that the action for private nuisance can be traced to the twelfth, thirteenth and fourteenth centuries.[9] He said the Assize of Nuisance closely resembled the modern cause of action for private nuisance, providing redress for interference with use and enjoyment of plaintiff's land resulting from acts committed on the defendant's land.[10]

The Assize of Nuisance had certain limitations, however, as it was available only to protect a freehold estate against the wrong of another freeholder and the procedures were quite burdensome.[11] An alternate remedy for private nuisance was provided by the *writ quod permittat prospernere,* which was a writ that could take the form of a Writ of Right or a Writ of Entry.[12] This writ was broader than the Assize of Nuisance, but the procedures were even more inefficient.[13]

He further went on to say that due to the limitations of both writs, litigants in the seventeenth century were permitted to elect between the two writs.[14] Thereafter, trespass on the case--which means an action was brought to recover money damages from a person whose action has resulted in injury or loss-- became a usual and established remedy for nuisance.[15] He further explained the historical development of the nuisance law up to the nineteenth century where he said: "The separate development of nuisance law in the common law and equity courts was '[a] potent cause of confusion,' especially because the equity courts often did not closely observe the technical labels and distinctions employed by the law courts. Further complexity was introduced as the action on the case for nuisance was broadened to include actions by plaintiffs suffering 'special injury' from interference with a public right, such as obstruction of a public highway."

Thus, two entirely disparate wrongs--interference with the use and enjoyment of land (private nuisance) and special injury from interference with a public right (public nuisance) --could be redressed in an action on the case for nuisance..…... [a]t first, most suits for personal injuries from a public nuisance were brought as actions on the case for negligence but, by about 1840, they often were brought as nuisance cases. Courts sometimes cited their holdings as applicable to nuisance cases, without drawing a distinction between personal injuries from public nuisances and injuries to land from public or private nuisances…... the substantive law applicable to actions on the case for private nuisance remained consistent with the absolute protection of property rights under the Assize of Nuisance.

They did so in two ways: first, by expanding the definition of public nuisance to encompass *any dispute* involving multiple plaintiffs, and second, by narrowing the definition of special injury through a requirement that the plaintiff's damages be "different in kind" from those of the general public.

Some courts held that "equity would enjoin only actual nuisances and not prospective ones." ..... thereby denying injunctive relief on the basis of an adequate remedy at law. Traditional nuisance doctrine accorded priority to the right against interference. In an effort to accommodate economic development, American courts began to restrict the zone of absolute protection against interference and emphasized the property owner's right of beneficial use. The courts sought to resolve the tension between the property rights of plaintiffs and defendants without abandoning the natural law foundation of property rights. Their attempts at accommodation were reflected in new theoretical conceptions of the natural rights of property owners.

The dominant approaches may be referred to as the static, dynamic, competing rights, and correlative theories of property. None of these compromises was successful, and they undermined the natural rights foundation of property rights, setting the stage for a positivist reformulation of nuisance law in the Restatement of Torts. Within this positivist vision, nuisance law was recast as a utilitarian calculus in which property rights were defined with the aim of achieving the greatest social good.[16]

Today as we study the nuisance law, it forces us to broaden our imagination and our understanding. It pushes us to look beyond property rights to encompass private individualized right; it touches the heart of human suffering that caused many to be displaced and marginalized by big drug companies, making millions of dollars; by the misrepresentation of the benefits of

the opioid prescription, that affected people everywhere, destroying families and ultimately some resulted in the loss of life.

THE TRAGIC EFFECT OF THE DRUG ON PEOPLES' LIVES IN DIFFERENT STATES

The tragic effects of opioid drugs are being felt everywhere as states struggle to come up with practical solutions. These failures have led many states to seek redress from the court as their last resort and cry for help.

James K. Holder, an in-house defense attorney, stated in his article *Opening the Door Wider? Opioid Litigation and the Scope of Public Nuisance Law* that according to Substance Abuse and Mental Health Services Administration National Survey on Drug Use and Health in 2016, over 11 million Americans misused prescription opioids, nearly 1 million used heroin, and 2.1 million had an opioid-use disorder due to prescription opioids or heroin.[17] According to the National Institute on Drug Abuse, "every day more than 90 Americans die after overdosing on an opioid."[18]

Despite the increasing spotlight on the opioid epidemic, many commentators have criticized both the legislative and executive branch responses to the opioid crisis---at both the federal and state levels-- as being sluggish and ineffective.[19] One side-effect of the slow legislative response has been an escalation of state and local governments looking to the courts to provide relief from spiraling costs of opioid and addiction through public nuisance litigation against manufacturers of opioid medications.[20]

In an article written by Lenny Bernstein, *High-profile trial over who should pay for the opioid crisis* begins, in Cleveland Ohio, U.S. opioid epidemic claimed more than 400,000 lives and left millions of people addicted.[21] He said the fate of these big pharmaceuticals are in the hands of twelve ordinary people who will decide if the pharmaceutical industry should be held responsible for the worst drug crisis in U.S history and will be forced to pay billions of dollars to help clean up the mess they made.[22]

In New York City, the opioid epidemic claimed the lives of many prominent people who never thought that they would have ever fallen victim to the web of lies that were fed to them from big pharmaceutical corporations through misrepresentation about the potency of the drug and its addictiveness. They convinced them that it was safe to take the drug as a temporary solution to relieve their pain, but soon found themselves trapped in a vicious cycle that sank them lower and lower into total despair and were unable to free themselves from the icy grip that had a hold on them and ultimately caused most of them to self-destruct.

Richard Schapiro, wrote an article, *In an Open-air heroin den in New York City's South Bronx, the Opioid Epidemic plays out in plain view*, said in his story— "*Leidanett Rivera, a Puerto Rican, now living in the United States*,[23] "…sits in front of a crudely erected shelter overlooking the railroad bed, surrounded by used needles and other trash."[24] "She fumbles with an unused syringe as she describes surviving two overdoses in the past two months,"[25] "I was lucky to come back twice," says the rail-thin, Rivera, 38.[26] "I might not be lucky the next time."[27] A few minutes pass, …..pulling up her sleeves she reveals her arms covered in puncture marks and dark red scars.[28] Rivera has been abusing drugs for so long that she could barely find a good vein in her neck to puncture. "You see these track marks," Rivera says. "The vein is hard for me to hit."[29] Her addict partner has just shown up. Rivera passes him the needle and tugs down her collar. She looks straight ahead, her face blank, as the man sticks the syringe into the left side of her neck and presses the plunger.[30] Rivera says, "I'm ashamed to say that I sleep in cartons, this is not a house, this is not how I want to be living," she further states, "I know what it is to live clean, I know what it is to have $80,000.00 and to go and have fun. Get on a plane and go and have fun without drugs."[31]

Next to her is Oquendo who is from Puerto Rico, says, "I started using drugs about 10 years ago."[32] Oquendo only relapsed six months after separating from his wife. As a result of the divorce, he now sleeps at a temporary shelter in Hunts Point and has never overdosed. "Not yet,"[33] "Thank God."[34] "We are tired of this life, but there are a lot of no's", he adds, "No jobs, no place to stay, no real help for people like us."[35] "Sometimes you feel like you want

to die because you do not have a purpose in life."[36]

As you can see the lives of these people has been greatly affected and altered due to no fault of their own. They feel very helpless and think that they are all alone and no one cares about them, but despite Oquendo's helpless condition, he still remembers that there is a God because he said, thank God he never overdosed. He just does not know how to get out of the situation he is in or to get the help he needs.

I believed the reason why most people, like Rivera and Oquendo went undetected and without help for such a long time is because no one wanted to admit to themselves that they had a problem and by the time family, friends, or loved ones realized what was happening, sometimes it was too late or sometimes they had no one who cared for them. They were viewed as the outcast of society, when in fact, they were not in that condition of their own free will.

In New York City, local hospitals teamed up with local churches in the communities to raise awareness about drug effects in people's lives. Pamphlets were circulated throughout the community as a means of educating the public as to the danger of the drug and to teach them how to recognize the signs and symptoms of their loved ones who are held captive by these dangerous opioid drugs. The death rate was rising dramatically, as the drug claimed the lives of several. While several more, strung out by the wayside as they lay on the ground motionless, sometimes partially naked and disoriented. They lose all sense of dignity and moral compass.

Local officials were at their wits end trying to implement and mobilize the community to talk to their children, in an effort to find out what was happening in their lives, encouraging them to pay close attention so they could recognize if there were any changes in their mood or behavior, which would alert them about the problem and seek help for them immediately. All of this was done in an effort to help fight the opioid crisis with the sole intention of combating the epidemic, which has affected the moral fabric of our society and triggered the social decline in our communities.

Today, under the leadership of Mayor Bill De Blasio, New York has opened its first supervised injection sites for drug users in NYC. In an article written by Georgett Roberts and Julia Marsh, '*De Blasio Opening first legal shooting galleries for drug users in the US*' the New York Post, dated, November 30, 2021, said, "With four weeks left in office, Bill De Blasio launched the county's first legal shooting galleries, Tuesday morning, calling them safe havens for addicts---shortly before five people overdosed at just one clinic on opening day." The statistic is high on the number of overdose cases in the city, from what I have read, I should say, if that is our way of helping people who are strung out on drugs by providing them with a safe haven to push more drugs, cannot be a solution to the problem. We will not be able to see the effects now, but ten to fifteen years from now, if we do not change our course of action, we are going to look back on our action and will not be able to recognized our society, because it is going to filled with needle pushing pimps and druggies because somewhere along the line we got off course and need to get back to the moral fabric of our society, where responsible citizens take responsibility for their actions by creating a healthy environment and not one that is unhealthy by a rubber stamping these clinics, legitimizing it, and after he leaves office, he will not be around to help with damage control but the new mayor will be left holding the bag with a bunch of drug infested neighborhoods, unhealthy lifestyles, as a result of the wrong choices folks make in their lives. I would rather see them open rehabilitation clinics to get them cleaned up, instead of supporting their deadly habits which is not a solution to an age-old problem.

According to Allyson Cady, in her article *How a Uniform Fifty-State Prescription Drug Monitoring Program can restore discretion to opioid prescribers,* said, "That it was inevitable for the states to come together to combat the opioid epidemic because of the sharp increase in the opioid prescription painkiller misuse and abuse was so frightening that these practices often lead to drug overdoses and quite possibly death."[37]

The opioid problem did not just affect the lives of people consuming the drug, but it affected the unborn babies as well.[38] Studies conducted by one of our leading scholars in the field, Victoria R. Green, an analyst in Health Policy, in her article,

Opioid Use and Neonatal Abstinence Syndrome, reported in Congressional Research Service, on March 12, 2019. This shows a connection between an opioid addictive drug and Neonatal Abstinence Syndrome.[39] Almost all pregnant mothers who took these drugs experienced the prevalence of opioid use disorder syndrome.[40] The far reaching effects of the drugs went as far as disrupting the lives of the unborn child.[41] Statistics have shown that women that were administered the drug during the critical stages of the fetal development and during prenatal care were more likely to be diagnosed with Neonatal Abstinence Syndrome.[42]

Analyst Green said, "Opioid use disorder is problematic, leading to clinically significant impairment or disorder. The problem has significantly increased among pregnant women and has gradually increased as the nation's opioid epidemic has unfolded." According to a 2014 *Pediatrics* article, focusing on opioid use and NAS. NAS symptoms can occur within 24 to 72 hours of birth and may last up to several months, depending on the type of opioid exposure (e.g., heroin, methadone or buprenorphine). Such symptoms can include tremors, feeding, and sleeping difficulties."[43]

As a result of these studies, many critics are taking a second look at the nuisance law for some kind of relief because as far as they are concerned, the government has let them down. Hence, there is a tremendous call for justice in the land, to bring those responsible to justice, make them pay for the harm done to our society, especially if they knowingly inflicted pain and suffering.

The tremendous growth of the opioid litigation may be in part due to the failure of the legislative branch to tackle the opioid epidemic at its early stages.[44] At the Federal level, the FDA is the gatekeeper for prescription medications and has broad power to regulate the use and advertising of opioid drugs, which have long been under the FDA's control.[45] Despite this, the FDA missed key opportunities to "to get ahead of" the opioid crisis and "a lot of people did not do what they needed to do in the past or we would not be in this situation we are in right now."[46]

In a comprehensive study done by Carla Marienfeld, MD, formerly an Assistant Professor of Psychiatry at Yale Medicine, wrote an article about her findings, a *Research-based, Patient-focused approach on the front line against opioid addiction*: Meet Cristin, she is among the millions of Americans who became addicted to opioids after prescription for medications such as OxyContin and Vicodin[47] were prescribed. The most visible indication of the public health problem has been a dramatic rise in overdose deaths. There were more than 33,000 in the United States in 2015.[48] It is the leading cause of death among young people 18-35 years old.[49] But fortunately, Cristin lived to tell her story. Cristin swallowed her first OxyContin at the age of 18 in 1998.[50] Cristin said she was involved in a motor vehicle accident and was experiencing a lot of pain when she told her doctor that she heard about an amazing new pain reliever from her parents who worked as nurses.[51] She said to the doctor "I heard this medication is good, what do you think?" For the next year, Cristin took the pills as prescribed and it helped with her back pain, allowing her to keep working as a waitress in spite of the disk problems.[52]

But after about a year, her doctor refused to renew her prescription, saying she had been taking the pills for too long.[53] The doctor referred Cristin to a pain clinic where she might find other ways to keep her back pain in check.[54] The clinic did not take her insurance, and as she scrambled to find an alternative, her opioid withdrawal symptoms set in, including chills and vomiting.[55] Her boyfriend's brother was into heroin and told her to try some of it; she sniffed it at first, and it made all her pain go away.[56] But soon the heroin was not strong enough, and she was encouraged to inject the drugs into her system, she was blown away.[57] She spent the rest of her 20's addicted to heroin, drifting through low paying jobs, squalid apartments, and drug-using acquaintances.[58] She detoxed and relapsed too many times to count.[59]

Unfortunately, Cristin's story is all too familiar among our most vulnerable and bright minds in this country, whose future was cut short because of the devastating nature of the drug. Today, Cristin is a survivor and is working to help patients that are addicted to heroin to get the treatment they need and to reassure them that they can get through this because she did.[60]

HOW THE NUISANCE LAW WAS USED TO OVERCOME THE OPIOID PROBLEM

Today, many states have actively sought relief from the courts and were successful in making out their claims against large pharmaceutical companies who suffered the wrath of that little insignificant law, called, "nuisance law." This is the little axe that cut down the giant trees - and there are many more trees to fell.

Michael J. Purcell, in *Settling High: A Common Law Nuisance Response to the Opioid Epidemic*, said that as Legislatures and Administrators struggled to successfully address the ongoing opioid crisis, many state attorney generals have stepped in to file suit against the big pharmaceuticals.[61] In recent years, plaintiff states have used public nuisance claims to go after big manufacturers, though unsuccessful most of the time.[62]

However, the nuisance law was at the heart of litigation against tobacco companies in the 1990's that resulted in what was known as the Master Settlement Agreement – one of the most significant settlement agreements in American Product Liability Jurisprudence.[63] As such, states have continued to invoke it as a cause of action in the face of public health crisis; and most recently, a number of states have included this claim against pharmaceutical manufacturers for the role they have played in creating and maintaining the opioid crisis.[64]

As Purcell reported, during the mid and late 1990's, large pharmaceutical manufacturers like Purdue Pharma, which produces OxyContin, marketed their pain killers very aggressively. They targeted both prescribers and patients alike.[65] In 2007, Purdue Pharma and three of the company's top executives all pled guilty to criminal and civil charges brought by the United States regarding drug misbranding and the fact that they misled regulators, doctors and patients about the likelihood of addiction to OxyContin.[66] The result of these pleas totaled near $600 million in fines and other payments.[67]

Not just Purdue, but most recently, news of broader settlement negotiations came two days after Johnson & Johnson lost a state opioid case in Oklahoma.[68] The Judge in that case awarded the state roughly $572 million to help it abate the opioid crisis.[69] These settlements have a boomerang effect. The state of West Virginia reached settlement with numerous drug distributors and recouped $84 million from them.[70]

This is just the beginning of a massive revolution overtaking the drug company for all the harms done to our society. The high fines levied against the big pharmaceutical companies will never be able to justify the enormous harm done to people everywhere that were trapped by the opioid drugs. These giant pharmaceutical companies allowed corporate greed to throw reasons and caution outside the door for corporate gain. I believe this is just the beginning of the restitution process. A process that will help to bring about treatment, healing and hope to people like Rivera, Oquendo and Cristin and all the others that are affected by the epidemic.

STEPS TAKEN BY CONGRESS TO HELP ALLEVIATE THE PROBLEMS

Many local officials, private citizens, local organizations, hospitals and churches have called upon lawmakers in Washington D.C., to do something about the epidemic. Our children are dying, and no one seems to care. The cry was so loud and hard, they blanketed the air waves, television and printed pamphlets, sounding the alarm to anyone that would listen. Lawmakers on Capitol Hill could not rest because the call was coming from everywhere. When these local officials returned to their local constituents, they had to listen to the complaints of the mothers and fathers, the concerned loved ones about the havoc the drug was reeking in their neighborhood.

These concerns did not go unheard. According to Victoria R. Green, in 2018, Congress enacted the Substance Use Disorder Prevention that promotes Opioid Recovery and treatment for patients suffering from the effects of opioid addiction.[71] She said the act was intended to address the overprescribing and misuse of opioids in the United States, building upon previous legislative efforts that were also intended to help address, in part, the opioid epidemic.[72]

Federal legislation has supplemented these regulatory efforts also focusing on public health solutions for addressing the crisis.[73] Both the Comprehensive Addiction Recovery Act and the 21st Century Cures Act

were enacted in 2016 during the 114th Congressional Session.[74] These laws were passed as a direct response to the crisis but they are of no effect, if states fail to implement them or fail to develop methods to help them in the fight against the opioid epidemic.

POSSIBLE SOLUTIONS TO HELP COMBAT THE OPIOID PROBLEMS

There are several suggestions out there as to how best to combat the opioid epidemic that destroyed a lot of lives and the best possible ways of exercising control that would be most effective to both the patient and the prescriber. One such suggestion came from a budding Juris Doctor, Allyson Cady, *How a Uniform Fifty-State Prescription Drug monitoring program can restore discretion to Opioid prescribers and autonomy to chronic pain patients,* she said, in part, that, beginning in the late 1990's the United States began to feel the effects of what was recently declared a 'public emergency' by the Department of Health and Human Services—the opioid epidemic.[75] She said the Government believed that the increase in opioid misuse, abuse and overdose was directly related to the number of opioid prescriptions written by doctors.[76] State Legislatures responded by passing laws imposing strict prescribing limitations and harsh punishment for those doctors who broke the law and disregarded newly set limitations.[77] As a result of the penalty doctors will face, they became fearful and thus began a decline in the amount of addicts that showed up on our streets.[78]

Recently, the Pennsylvania legislature has taken steps to restrict opioid prescribing practices.[79] In particular, Pennsylvania issued prescribing guidelines that recommended 100 mg per day as the maximum dose.[80] Now a majority of states have adopted the prescription drug monitoring program to help combat the opioid epidemic.[81] As of recently, legislation authorizing the collection of data is in place in almost every state, except Missouri.[82]

Although all these states adopt the programs, some are more effective than others in implementing the programs.[83] The Cures Act allocates annual funding to the National Institute of Health to alleviate financial and administrative burden and promote research and data sharing which are meant to help existing initiatives.[84]

In the 1960s Yale Medicine ran the first Methadone clinic.[85] Today, their studies in that area has helped them to train other doctors which allows them to get a special license so they can administer the drug, buprenorphine which is FDA approved.[86]

MODERN VIEW OF COURT'S INTERPRETATION OF THE NUISANCE LAW AND WHAT IT MIGHT MEAN FOR BIG DRUG COMPANIES

One of the leading cases to use the nuisance law to address the opioid epidemic was brought in the state of Ohio as a class action lawsuit. *In re Nat'l Prescription Opiate,* 406 F. Supp.3d 672 U.S.D.C, (N.D. Ohio, 2019).[87] This was a multidistrict litigation brought by public entities against manufacturers of prescription of opioid medications, seeking to recover the cost of the opioid epidemic and alleged that manufacturers overstated the benefits and downplayed the risk of the use of their opioids; manufacturers moved for summary judgment on the public nuisance claim.[88]

In the District Court, Justice Polster held that fact issues precluded summary judgment on public entities' nuisance claims against manufacturers under Ohio law.[89] The Ohio Supreme Court said that the plaintiffs cause of action fit within the Absolute Breath of Nuisance Claim. *In re Nat'l,* 406 F.Supp.3d at 673.[90] Plaintiffs introduced facts and expert evidence demonstrating factual material issues regarding interference with public health and public safety interest. *Id.* at 674.[91] Plaintiffs cite statistical showing of an unprecedented opioid-related increase in overdose deaths.[92]

There was also a growing need for foster care, because most of the children lost their parents due to opioid addiction.[93] In support of the plaintiffs' claims, they used the testimonial evidence of Dr. Russell Portenoy, one of the key opinion leaders funded by the manufacturers who used his work to highlight the benefits of a controlled group but failed to report the downside once the drug was administered for a prolonged length of time.[94]

The plaintiffs point to training materials used by the representatives allegedly showing deliberate misrepresentation of the risks

attending opioid use and accused the manufacturers of violating the Federal Control Substance Act. *Id.* at 676.[95] The Court agreed with the finding and found that the manufacturers violated the Controlled Substance Act and denied their motion for summary judgment.[96]

When it comes to the law, nothing is absolute, there is always a gray area, meaning that the result could go either way. It all depends on the attorney's skills, preparation, and knowledge of the law. Surely, it was a breath of fresh air to hear a judge say in his courtroom, that the Ohio Supreme Court has expressly recognized the breath of the absolute public nuisance cause of action. *Id.* at 673. That was indeed music to my ears because when you qualify something as absolute, you are saying that nothing stands in its way, and no one or anything could supersede it because it is all powerful.

I am thinking, when did he first realize the supreme power of the nuisance law? I could easily say that I might be expected to hear such a proclamation when it comes to the Constitution of the United States. Yes, indeed, that is more likely, but to literally elevate that pesky little law to that status was simply brilliant and the beginning of the prominent role it was going to play in shaping the narrative. As a result of that, justice was meted out on behalf of millions who died as a result of misrepresentation, deception, abuse, and lies that was told by the manufacturers, and their representatives, in promoting a false sense of security about the use and benefits of the opioid drugs.[97]

Some of them, namely Purdue, went as far as claiming that OxyContin was weaker than Morphine, knowing that OxyContin was twice as potent in its natural form.[98] Such misrepresentation is equivalent to manslaughter, because to knowingly turn a blind eye to the evils that you are perpetuating on society is reckless and unconscionable and so, it was at that moment, the force and effect of the law needed to be upgraded to deal with the recklessness of the manufacturers because of how they have dealt treacherously and wickedly. They abused the confidence and trust of everyone who depended on them and instead used their influence in a manipulative way for the sake of capital gain.

That new status of the nuisance law is what earned it, its fame and notoriety among modern jurisprudence. In the past, judges did not even want to be bothered with it because they always got the elements wrong. It was so hard to prove that they did not want to deal with it. But now, this Judge has recognized the importance of the law and finally qualified it in his ruling by denying the manufacturers motion to dismiss the claim against them.

The dominant feature of a long-lost law, that appears to be ancient and fits no specific purpose, has resurfaced to take its prominent role in society; the nuisance law was responsible for restoring faith and hope in our justice system by penalizing those that were responsible for the crisis in our communities. The law of nuisance is like a living, breathing document that morphs into life like a butterfly, that waits for its wings and at the right moment it emerges, standing tall and imposing, like a force to be reckoned with, thus conquering all in its path. And now this butterfly has been formed, it has taken off, and there is no telling what influence these changes will have on our society, a society that dares to dream big, to challenge the status core. The nuisance law has risen to prominence and will be respected and will forever be known as the law that took down giant corporations.

As a result of the massive wins, plaintiff's attorneys were experiencing tremendous success because of the various affirmative rulings on the nuisance claims. Every manufacturer who was once engaged in deceptive practices, advertising and misrepresentation are on notice that they can be held liable for their unscrupulous practices. That little axe, the nuisance law, which has 'absolute power' will be wielded against them as an effective sword and will not stop until the tree is chopped from its roots. If the root is bad, then the whole tree is bad. The manufacturers got off light this time by paying money damages but next time they might be put out of business. Most recently, one of the Democratic candidates, Bernie Sanders, on CBS News, on February 29, 2020, said, "The big drug companies should be worried if he becomes president" but, we know he did not become president, he said 'They are exploiting the American

people off in an unseemly way."[99] He said that Americans are paying ten times more for prescriptions than other countries.[100] Regardless, to whomever occupies the white house, every state legislature, governor, lawmaker, local hospital, private citizen, prescribers and users of these drugs wants to see changes to our big pharmaceutical companies. So, it is only a matter of time before the dynasty of drug manufacturers and pharmaceutical industry will be brought to its knees by the nuisance law.

CONCLUSION

Nuisance law is an evolving concept in law and society that needs to be further explored and like any scientific work that would gain notoriety, it needs to be tried and tested for its durability, adaptability, consistency and longevity. Nuisance law, the most powerful jurisprudence in modern history!

Endnotes

1 Jeff L. Lewin, *Symposium on Nuisance Law: Twenty Years after Boomer v. Atlantic Cement Co.,*54 Alb. L. Rev. 171, 189 (1990).
2 Id.
3 *Id.*.
4 *Id.*
5 *Id.*
6 Id.
7 *Id.*
8 Id.
9 *Id.*
10 *Id.*
11 *Id.*
12 *Id,*
13 *Id.*
14 *Id.*
15 Lewin, *supra* at 189.
16 Lewin, *supra* **at** 189.
17 James K. Holder, *Opening the Door Wider? Opioid Litigation and the Scope of Public Nuisance Law* 13 No.2 In-House Def. Q. 33.
18 Holder, *supra* at 33.
19 *Id.* at 33.
20 Holder, supra at 33.
21 Lenny Bernstein, *High-profile trial over who should pay for the opioid crisis begins Washington Post (Oct. 16, 2019).*
22 Bernstein (2019).
23 Richard Schapiro, *In an Open-air heroin den in New York City's South Bronx, the Opioid Epidemic plays out in plain view*, New York Daily News (May 20, 2017).
24 Schapiro (2017).
25 *Id.*
26 Schapiro (2017).
27 *Id.*
28 *Id-.*
29 *Id.*
30 *Id.*
31 *Id.*
32 *Id.*
33 *Id.*
34 *Id.*
35 *Id*
36 *Id.*
37 Allyson Cady, Fifty-State monitoring opioid drug program
29 Health Matrix (2019).
38 Victoria R. Green, *Opioid Use and Neonatal Abstinence Syndrome*, Congressional Research Service, (Mar. 12, 2019). https://crsreports.congrss.gov.
39 Green, (2019).
40 *Id.*
41 *Id.*
42 *Id.*
43 *Id.*
44 Holder at. 33.
45 *Id. at 33.*
46 Id.
47 Carla Marienfeld, https://www.yalemedicine.org/stories/overcoming-opioid-addition.
48 Marienfeld.
49 *Id.*
50 *Id*
51 *Id.*
52 Carla Marienfeld, https://www.yalemedicine.org/stories/overcoming-opioid-addition.
53 *Id.*
54 *Id.*
55 *Id.*
56 *Id.*
57 *Id.*
58 *Id.*
59 *Id.*
60 *Id.*
61 Michel J. Purcell, *Settling High: A Common Law Response to the Opioid Epidemic*
52 Colum. J.L. & Soc. Probs. 135.
62 Purcell, *supra* at 135.
63 *Id.*
64 *Id.*
65 *Id.*
66 *Id.*
67 *Id.*
68 Colin Dwyer, *Not Just Purdue: Big drug companies considering settlement to resolve opioid suits Chicago N.P.R. (Aug 28, 2019).*
69 *Id.*
70 *Purcell at 135.*
71 Green, (Mar. 12, 2019).
72 *Id.*
73 Purcell, *supra* at. 135.
74 *Id.* at 135.
75 Cady (2019).
76 Cady (2019).
77 *Id.*
78 *Id.*
79 *Id.*
80 *Id.*
81 *Id.*
82 *Id.*
83 Id.
84 Purcell, supra at 135.
85 Marienfeld.
86 *Id.*
87 *In re National Prescription Opiate,* 406 F. Supp.3d 672 (U.S.D.C, N.D. Ohio, E.D. 2019).
88 *In re Opiate,* 406 F. 3d at 672.
89 *Id.* at 672.
90 *Id.*
91 *Id.*
92 *Id.*
93 *Id.*
94 *Id.*
95 *Id.* at 672.
96 *Id.*
97 *Id.*
98 *Id.*
99 Bernie Sanders, CBS News (Feb. 29, 2020).
100 Sanders (2020).

Congratulations, Jessica!

2021 Distinguished Brief Award

Jessica Zimbelman
jzimbelman@sado.org

In November 2021, Ingham County Board Association Board member and State Appellate Defender Office Managing Attorney Jessica Zimbelman was awarded the 2021 Distinguished Brief Award by the Western Michigan University Thomas M. Cooley Law Review.

Any brief submitted to the Michigan Supreme Court, where an opinion was issued between October 1, 2020 - July 31, 2021, qualified for consideration.

The Distinguished Brief Award recognizes the most scholarly briefs filed before the Michigan Supreme Court, as determined by a panel of judges. The 2021 judges included Judge Michael J. Riordan, Judge Paul J. Denenfeld, Professor Christi Henke, Professor Bradley Charles, Professor Thomas Myers, and Professor L. Graham Ward. The briefs are evaluated using seven set criteria: question presented, point headings, statement of case, argument and analysis, style, mechanics, and best overall brief. The purpose of the award is to promote excellence in legal writing. The winning briefs are included in an edition of the Law Review.

Jessica was recognized for her brief on behalf of Paul Betts in *People v Betts*. On July 27, 2021 the Michigan Supreme Court held in *People v Betts* that the 2011 Sex Offenders Registration Act was unconstitutional ex post facto punishment. This was the first time the Michigan Supreme Court has found that registration is punishment. The Court's opinion ended nine years of litigation, which began with a motion in the trial court by Mr. Betts himself and included two oral arguments in the Michigan Supreme Court. Punitive aspects included the public nature of the registry, the onerous in-person reporting requirements, the geographic exclusion zones, the lengthy periods of registration—up to life—based on the offense name alone, the lack of an individualized determination of risk, and unclear efficacy. The Court recognized the unjust realities for people forced to register under arcane procedures – constant monitoring and public scorn, all of which comes with little to no effect on public safety.

Other winners included **Mark R. Bendure and Sima G. Patel.**

Congratulations, Jessica!

Press Release

Sinas Dramis announces 2022 "Best Law Firm"

Recognitions in Detroit, Lansing, Kalamazoo

SINAS DRAMIS LAW FIRM
Since 1951

Adam Fisher, Digital Marketing Director
517-604-1419, adamfisher@sinasdramis.com

LANSING, Mich. --- Sinas Dramis Law Firm is pleased to announce once again the firm's rankings in the 2022 "Best Law Firms" List. These rankings demonstrate our commitment to justice, Knowledge of the law, and esteemed reputation with our clients and legal community. Sinas Dramis is proud to receive recognition in three of our four Michigan locations, including a new recognition for Detroit in insurance law.

This year, Sinas Dramis Law Firm received the following tiered rankings by U.S. News and Best Lawyers:

- **Metropolitan Tier 1** – Lansing
  - Plaintiffs Personal Injury Law
- **Metropolitan Tier 1** – Detroit
  - Insurance Law
- **Metropolitan Tier 2** – Detroit
  - Plaintiffs Personal Injury Law
- **Metropolitan Tier 3** – Kalamazoo
  - Plaintiffs Personal Injury Law

Sinas Dramis is Headquartered in Lansing, with additional offices in Grand Rapids, Kalamazoo, and Detroit. Since opening the doors more than 70 years ago, the firm has expanded shoreline to shoreline, and with these distinctions, our clients can be sure that when they select a Sinas Dramis Michigan personal injury attorney, they'll receive the highest level of legal counsel.

Sinas Dramis recognizes that when someone is injured and that injury greatly impacts their life, selecting an attorney to assist them is an extremely important decision. We appreciate that each client we represent has a unique case, but the one common denominator, is that they need someone they can trust and rely on to fight for them. These recognitions demonstrate our commitment to being that for all our clients, and passion we have for achieving the outcomes they desire.

Once again Sinas Dramis is thrilled with this year's recognition – especially our additional recognition in Detroit, and we remain committed to continuing our mission to stand up for Michigan's injured, and ensure they receive the guidance and justice they deserve.

Press Release

On Thursday, January 20, 2022, our much beloved Meet the Judges event returns to in-person!

The event will be from 5:30 p.m. to 7:30 p.m. at the Lansing Brewing Company, 518 E. Shiawassee.

The event is informal and allows members of the bar to network with judges from the Michigan Supreme Court, the Court of Appeals, federal judges, local judges, administrative law judges, trial judges, and local referees. You can register here. The Board will continue to monitor public health conditions to make sure this event can safely be held in-person. There will be a mask requirement when not eating or drinking and please stay home if you are feeling unwell. All that said, we look forward to gathering in 2022!

Press Release

Chartier & Nyamfukudza

2021 Unsung Legal Hero Lizzy Sailor

C|N CHARTIER | NYAMFUKUDZA | P.L.C.
CRIMINAL DEFENSE LITIGATION

Mary Chartier
Partner & Litigator
Chartier & Nyamfukudza, P.L.C.
2295 Sower Boulevard
Okemos, MI 48864
Phone: 517.885.3305
Fax: 517.885.3363
mary@cndefenders.com
https://link.edgepilot.com/s/b64a8e46/wwehuJ_H10uonpARXKaJOw?u=http://www.cndefenders.com/

Chartier & Nyamfukudza paralegal Lizzy Sailor was recently honored by Michigan Lawyers Weekly as one of the 2021 Unsung Legal Heroes. Lizzy's skills as a paralegal have been instrumental in the firm's numerous courtroom successes and exonerations. Lizzy is also the producer of the podcast Constitutional Defenders and a licensed private investigator. Lizzy joins prior winners from C&N—Tony Palmer-Peterson in 2018 and Kim Barrus in 2019.

Kim Barrus, Tony Palmer-Peterson & Lizzy Sailor

Press Release

DICKINSON WRIGHT PLLC

Media Contact: Kelly Durso, Public Relations Senior Manager,
313-223-3085, kdurso@dickinsonwright.com

Dickinson Wright Receives 36 Rankings in U.S. News

Best Lawyers "2022 Best Law Firms" Survey

FOR IMMEDIATE RELEASE November 8, 2021

LANSING, Mich. – Dickinson Wright PLLC is pleased to announce it received 23 national rankings and 13 rankings in Lansing in the "2022 Best Law Firms" report by *U.S. News and Best Lawyers.* The firm received 118 first-tier rankings overall.

Besides the national and Lansing rankings, the firm was recognized for legal excellence for practices in our Ann Arbor, Detroit, Grand Rapids, and Troy, Mich.; Austin and El Paso, Texas; Columbus, Ohio; Ft. Lauderdale, Fla.; Las Vegas and Reno, Nev.; Lexington, Ky.; Nashville, Tenn.; Phoenix, Ariz.; Silicon Valley, Calif.; and Washington, D.C. offices.

The rankings, presented in tiers, showcase more than 10,000 law firms ranked nationally and/or by metropolitan region. Firms were ranked nationally in one or more of the 80 legal practice areas and by metro or state in 118 practice areas. Below are Dickinson Wright's "2022 Best Law Firms" rankings:

Lansing, MI

Tier 1
Administrative/Regulatory Law
Appellate Practice
Bet-the-Company Litigation
Commercial Litigation
Energy Law
Gaming Law
Government Relations Practice
International Mergers & Acquisitions
Municipal Law
Public Finance Law
Real Estate Law
Utilities Law

Tier 2
Corporate Law

National Rankings

Tier 1
Appellate Practice
Commercial Litigation
Construction Law
Litigation – Real Estate
Real Estate Law
Tax Law

Tier 2
Banking and Finance Law
Bankruptcy and Creditor Debtor Rights/ Insolvency and Reorganization Law
Corporate Law
Employment Law – Management
Land Use & Zoning Law
Litigation – Bankruptcy
Litigation – Labor & Employment
Mergers & Acquisitions Law

Tier 3
Labor Law – Management
Leveraged Buyouts and Private Equity Law
Litigation – Banking and Finance
Litigation – Construction
Litigation – Intellectual Property
Litigation – Securities
Technology Law
Trademark Law
Trusts & Estates Law

About Dickinson Wright PLLC

Dickinson Wright PLLC is a general practice business law firm with more than 475 attorneys among more than 40 practice areas and 16 industry groups. The firm has 19 offices, including six in Michigan (Detroit, Troy, Ann Arbor, Lansing, Grand Rapids, and Saginaw) and 12 other domestic offices in Austin and El Paso, Texas; Chicago, Illinois; Columbus, Ohio; Ft. Lauderdale, Fla.; Lexington, Ky.; Nashville, Tenn.; Las Vegas and Reno, Nev.; Phoenix, Ariz.; Silicon Valley, Calif.; and Washington, D.C. The firm's Canadian office is located in Toronto.

Dickinson Wright offers our clients a distinctive combination of superb client service, exceptional quality, value for fees, industry expertise, and business acumen. As one of the few law firms with ISO/IEC 27001:2013 certification and one of the only firms with ISO/IEC 27701:2019 certification, Dickinson Wright has built state-of-the-art, independently-verified risk management procedures, security controls and privacy processes for our commercial transactions. Dickinson Wright lawyers are known for delivering commercially-oriented advice on sophisticated transactions and have a remarkable record of wins in high-stakes litigation. Dickinson Wright lawyers are regularly cited for their expertise and experience by Chambers, Best Lawyers, Super Lawyers, and other leading independent law firm evaluating organizations.

Press Release

Michelle Lane

Selected Leader in the Law

CHALGIAN & TRIPP
LAW OFFICES PLLC

Contact: Jill A. Clouser, Social Worker,
clouser@mielderlaw.com
1019 Trowbridge Rd
East Lansing, MI 48823
P: 517-332-3800 | F: 517-332-4600
mielderlaw.com

Attorney Michelle Lane was selected by Michigan Lawyers Weekly as one of the 25 "Leaders in the Law" Class of 2021.

Ms. Lane practices in the East Lansing office of Chalgian and Tripp. Her practice is exclusively estate planning and estate administration. Ms. Lane is a frequent presenter on topics related to estate planning, and volunteers extensively in her community and throughout the State.

Michigan Lawyers Weekly honors 25 outstanding attorneys each year with this Award. "We all recognize that Michelle is simply exceptional in what she does, and who she is as a person and a professional," said Susan Chalgian. "Clients love her and other lawyers respect her," Chalgian said.

ICBA
Schedule of Speakers

Meeting Date	Speaker/Topic	Confirmed Speaker	Sponsor	Other Notes
January 12th, 2022	Kevin Schumacher: Intersection of Bankruptcy and Probate, Post-Covid;	July 30, 2021		Sally
February 9th, 2022	Mark Quimby: Retirement Planning for Attorneys and Small Firms;	August 10, 2021		April
March 9th, 2022	Judge Sullivan: View from the Bench	August 2, 2021		Sally
April 13th, 2022	AG's Office			April
May 11th, 2022	Liaison/Elder Law & Disability Rights Section; Christine Caswell;	August 3, 2021		Sally
June 8th, 2022	Summer Brunch			Sally & April

Attorney General's Office: Exploitation of Vulnerable Adults

Ingham County Bar Foundation

The past 18 months have been unusual for everyone. The Ingham County Bar Foundation welcomes the following Fellows to the Foundation:

2020 Fellows

John Castillo
Pamela Dausman
George Elworth
Hon. Richard Hillman
Thomas Hitch
Charles Janssen
Paula Manis
Joshua Richardson
Col. John Wojcik

2021 Fellows

Hon. Randy Tahvonen
Catherine Tucker
John Roberts

Welcome and Congratulations!

Fellowship is limited to 5% of the active members in the Tri-County Area (Ingham, Eaton, and Clinton Counties). To become a Fellow, an attorney must be a member of the State Bar of Michigan for at least 5 years, be actively engaged in the practice of law in the Tri-County area, possess outstanding character and ethics, and have a reputation as a leader in the legal community.

Click here for more information on being a Fellow: What is a Fellow?

A person can become a Foundation member for $25 per year. To become a member, or to make a donation to the Foundation, follow the link to this page: Support ICBF here

Criminal Defense Law Section

The Criminal Defense Law Section is comprised of criminal defense attorneys who defend people accused of committing crimes. The Section is dedicated to sharing knowledge related to emerging and important topics specific to criminal defense. The Section is also committed to offering opportunities for attorneys to hone critical skills needed to defend those accused by the government.

If you are looking for a way to learn about the latest in forensics or practice your evidentiary knowledge, they you'll want to join this section. The Section meets at the State Bar of Michigan, 306 Townsend St., Rooms 1 and 2, in Lansing.
If you have suggestions for future topics, please contact Section Co-Chairs Mary Chartier, Takura Nyamfukudza or Christopher Wickman.

Upcoming Meetings: March 19th from 12:00 - 1:00pm via Zoom

There is no cost to attend meetings. Speakers and topics will be announced. To RSVP for the Criminal Defense Law Section meetings, email Chris Wickman at cwickman@nicholslaw.net.

Employment and Labor Law Section

The Employment and Labor Law Section holds its meetings from noon to 1 p.m. each month at WMU-Cooley Law School, 300 S. Capitol Ave., Room 911, in downtown Lansing.

Section Co-Chair is John Maise. Contact John if you have ideas for topics and speakers.

Stay tuned for an updated schedule of events.
Upcoming Meetings: TBA

If you have questions about Section meetings, please email John at jmaise@whiteschneider.com.

Family Law Section

The Family Law Section meets on the second Wednesday of the month from noon to 1 p.m. in Rooms 1 and 2 of the State Bar of Michigan Building, 306 Townsend St., in Lansing. Lunch is provided.

Section Co-Chairs are Brooke VanBuren-Hay, Jennipher Martinez and Erica Terranova.

Upcoming Meetings:
- TBA

If you have suggestions for meeting topics, want to sponsor a lunch or just have general questions, please email erica@baileyterranova.com.

Paralegal/Legal Assistant Section

The Paralegal/Legal Assistant Section offers free networking and educational events for legal staff in Ingham County. Meetings are held the third Wednesday of each month at the State Bar of Michigan Building, 306 Townsend St., in Lansing.

Section Co-Chairs are Elizabeth Cary, a Paralegal at Chartier & Nyamfukudza, PLC, and Heidi Pierce, a Paralegal at Fraser Trebilcock.

Upcoming Meetings:
- TBA

If you have questions or would like to learn more about the Section, contact Elizabeth at lizzy@cndefenders.com.

Probate and Trust Section

The Probate and Trust Section holds its meetings the third Tuesday of each month from noon to 1 p.m. at WMU-Cooley Law School, Room 911, 300 S. Capitol Ave. in Lansing.

Section Co-Chairs are Sally Babbitt and April Alleman. If you plan to attend a meeting, please RSVP to April Alleman at april@crenshawpeterson.com.

Upcoming Meetings:

- TBA

Join The Section's Facebook Page

The Probate and Trust Section has a group Facebook page: ICBA Probate & Trust Law Section. The Section encourages members to join the group. As a way to streamline RSVPs and minimize emails, you can RSVP for the Section meetings via this Facebook page. (Please let us know if you are not on Facebook.)

Lunch Sponsors

The sponsored lunches have been a very popular replacement for the brown bag lunches of old. The Section would like to continue the sponsored lunches. If you are interested in sponsoring a ¼ ($100), a ½ ($200) or full ($400) lunch, please call Sally Babbitt at 517-507-3306 or email sally@sallybabbittlaw.com.

Real Estate Section

The Real Estate Section holds its meetings at WMU-Cooley Law School, Room 911, 300 S. Capitol Ave. in downtown Lansing.

Section Co-Chairs are Bill Tomblin and Christopher Patterson.

Upcoming Meetings:

- TBA

Lunch is served at meetings. Upcoming speakers and topics will be announced. Member input is always appreciated.
If you plan to attend a meeting, please RSVP to Bill Tomblin at Wdtomblaw@aol.com.

Bankruptcy Law Section

The Bankruptcy Law Section meets at noon on the fourth Thursday of each month at WMU-Cooley Law School, 300 S. Capitol Ave., Room 911, in downtown Lansing.

Upcoming Meetings:

- TBA

Please feel free to join the Bankruptcy Section for its monthly meetings. Contact Section Co-Chairs Patricia Scott or Norm Witte for details.

To RSVP for meetings, contact Patricia Scott at pscott@fosterswift.com.

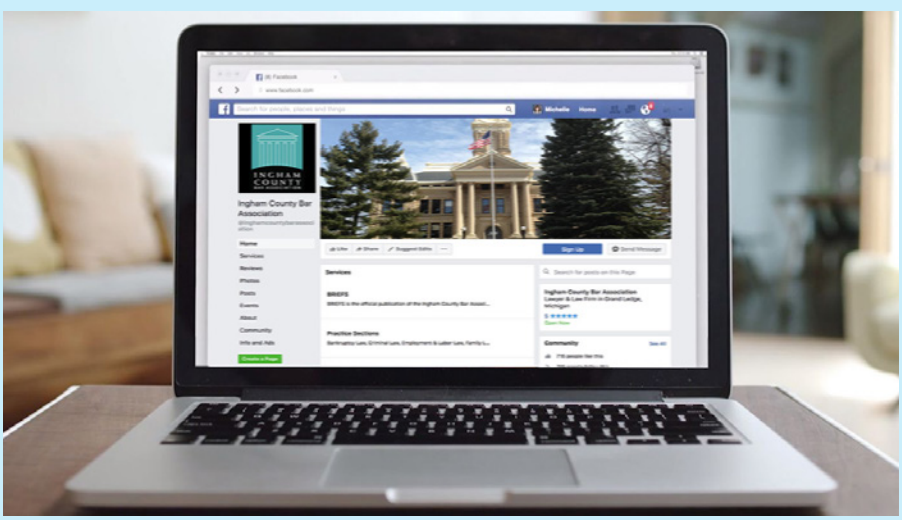
ICBA Sponsorship Opportunities

For more than 120 years, the Ingham County Bar Association has continued its tradition of service to the legal profession and the greater Lansing community. As part of its longstanding commitment to the profession, the ICBA hosts events throughout the year that are educational and entertaining, in addition to networking opportunities for members. These events are made possible by the generous support of ICBA members.

One way for members to support the ICBA is through its annual sponsorship packages. The ICBA now offers a program that focuses on the increasing importance of social media marketing.

Law firms have the opportunity for their Facebook posts to be "shared" on the ICBA's Facebook page. This means a law firm's Facebook content will be seen by a larger audience, including ICBA members and those with whom ICBA has a relationship, thereby giving the law firm a greater presence throughout the legal community.

For more information on ICBA sponsorship opportunities, click the links below.



2020-2021 Firm/Corporate Sponsorship Opportunities

2020-2021 Vendor Sponsorship Opportunities

ICBA Membership Scholarship Application

The Ingham County Bar Association may offer scholarships to prospective members who are experiencing a hardship and cannot pay the standard rates to be an active member of the bar.

Scholarship recipients remain anonymous. It is the discretion of the ICBA President to grant any scholarships. Scholarships can only be approved on an annual basis (i.e., the scholarship does not automatically renew year-to-year).

The scholarship application can be accessed here.

Lawyer Referral Application

Please take note that the Ingham County Bar Association does not do Lawyer Referrals. If you need to use this service provided by the State Bar of Michigan, please call them at **(800) 968-0738** between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, to speak with a lawyer referral representative or you can use the links below.

- Lawyer Referral and Information Service Registration Form
- LRIS Quick Reference Guide
- Become a Lawyer Referral Service Panel Member

SBM
STATE BAR OF MICHIGAN

BRIEFS Author Guidelines & Policies

IN GENERAL

Publication Schedule
BRIEFS is published by the Ingham County Bar Association six times a year (September, November, January, February, April and July).

Copy Deadline
Content submissions are due the 15th of the month for the following month's issue (e.g., deadline is March 15th for the April issue). Late submissions are accepted at the discretion of the editor.

BRIEFS Committee Meetings
A minimum of four committee meetings are held each fiscal year. Additional meetings are held, as necessary. To be added to the mailing list for meeting notices, email the editor at briefs@inghambar.org.

Author and Article Pictures
The preferred picture format is full-color .jpg (JPEG) files, 72 dpi or better. For head shots, the resolution should be high enough to be viewed clearly when approximating a 2" x 3" photo online. Please do not send thumbnail photos, as they will not be published.

Article Length and Format
Article length varies, so the following is only a guideline. Articles may be edited to fit a specific amount of space.

Raising the Bar announcements:100-200 words
Local legal events notices:100-150 words
Columns: 300-500 words
Articles: 700-1,000 words
Submit articles in a Word .doc/.docx

Article Ideas
Writing an article for BRIEFS is an excellent way to publicize your expertise, and we encourage your submissions. Please send ideas for articles or completed articles to the editor, at briefs@inghambar.org. Within 24 hours, you will receive an email confirmation that your article was received.

Opinion Articles
Opinion articles selected for publication will be printed with a disclaimer noting that the viewpoints are that of the author and not of the Ingham County Bar Association. BRIEFS reserves the right to reject, edit or modify content submitted for publication.

Author Information
Along with your article, please include your full name, e-mail address and a short biography (2-3 sentences). Please also send a photo of yourself, preferably in .jpg (JPEG) format and in color, if possible.

MEMBER ANNOUNCEMENTS

News of career moves, presentations, honors, recognitions, etc. is published in the "Raising the Bar" section. We accept and publish announcements only for ICBA members.

BRIEFS does not accept or publish announcements based on peer recognition and review sites, such as Super Lawyers, Best Lawyers, Best Law Firms, etc.

BRIEFS does publish honors and awards given by legal publications such as Michigan Lawyers Weekly (i.e., Leaders in the Law) under the following conditions:

1. BRIEFS will only publish such announcements for ICBA members.
2. Announcements will appear only in Raising the Bar and are limited to 50-75 words.
3. Announcements must comply with any applicable copyright/trademark requirements of the publication.
4. ICBA takes no responsibility for the published announcement.

ADVERTISING

Details on display and classified advertising can be found here.

ARCHIVED ISSUES

Past issues of BRIEFS can be found here.

BRIEFS Advertising Contract, Rates & Policies


INGHAM
COUNTY
BAR ASSOCIATION
Thanks for reading
BRIEFS
WELCOMING IN 2022!
Feedback?
briefs@inghambar.org
Next issue:
March 2022 dedicated to our Mental Health Awareness
@inghamcountybarassociation
@ICBALawyers