



# STARK COUNTY BAR JOURNAL

VOLUME 30 ■ NUMBER 2

FEBRUARY 2024



## WILLIAM MCKINLEY

15TH PRESIDENT OF THE UNITED STATES

BORN: JANUARY 1, 1823  
DIED: SEPTEMBER 14, 1901

THE MONUMENT CELEBRATES THE LIFE OF  
A DEDICATED PUBLIC SERVANT  
AND A  
DEDICATED PUBLIC SERVANT

IN THE CITY OF CLEVELAND

THE MAYOR OF CLEVELAND AND THE BOARD OF  
CITY COMMISSIONERS HAVE COMMISSIONED  
THE MAYOR OF CLEVELAND AND THE BOARD OF  
CITY COMMISSIONERS HAVE COMMISSIONED

# SCBA February 2024 Office Schedule

Feb. 1 <sup>st</sup>	12:00 NOON	Community Involvement Committee Meeting
Feb. 6 <sup>th</sup>	3:00 PM	Judicial Committee Meeting - Judicial Interviews
Feb. 7 <sup>th</sup>	11:30 AM	Family Law Committee Meeting
Feb. 12 <sup>th</sup>	4:00 PM	Disputed Fee Committee Meeting
Feb. 19 <sup>th</sup>	Office closed in observance of Presidents' Day	
Feb. 20 <sup>th</sup>	3:45 PM	Grievance Committee Meeting
Feb. 21 <sup>st</sup>	12:00 NOON	Law Day Committee Meeting
Feb. 21 <sup>st</sup>	4:00 PM	Executive Committee Meeting
Feb. 26 <sup>th</sup>	3:30 PM	SCBA "125th" Planning Meeting

## Did You Know?

As a member of the Stark County Bar Association you may request for your review our annual Budget or our Statement of Assets, Liabilities and Net Assets. These financial documents are available upon request made to Tina McCort, our Executive Director.

## NOTARY EDUCATION CLASS & TESTING

Classes and Testing offered every 2nd & 4th Tuesday  
Stark County Bar Association Office  
**\*By Appointment Only\***

1 Hour Renewal Education Class • 9:00 AM – 10:00 AM

3 Hour New Notary Public Education Class  
12:00 Noon – 3:00 PM

TESTING 3:00 PM - 4:00 PM

**Online classes and testing**  
available at our website: [www.StarkCtyBar.com](http://www.StarkCtyBar.com)

## 2024 CLE Seminars

March 20, 2024 2024 Municipal Court Seminar  
SCBA Conference Room  
See Pg. 6

April 10, 2024 2024 Family Law Seminar  
SCBA Conference Room  
See Pg. 7

## MARK YOUR CALENDARS DETAILS TO COME

April 12, 2024 28th Annual White-Williams  
Bankruptcy Institute  
Hartville Kitchen

May 1, 2024 2024 Law Day Seminar -  
"Legislative Process and The  
Impact On Your Practice"  
Kent State Professional Conference Center

May 16, 2024 2024 Estate Planning & Elder Law  
Symposium  
Kent State Professional Conference Center



**Reminder: M - Z!**  
**Complete your CLE by Dec. 31, 2024**

### THE STARK COUNTY BAR ASSOCIATION



### The Bar Office E-Mail Addresses:

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**Visit us at [www.StarkCtyBar.com](http://www.StarkCtyBar.com)**

## THE BAR JOURNAL

Official Publication of the Stark County Bar Association

**FOUNDED IN 1900**

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All communications and editorial material should be directed to the Bar Association office by the fifteenth day of the month preceding publication.

Opinions and positions expressed in the signed material are those of the author and may not necessarily reflect those of the Stark County Bar Association, its officers, staff or board of editors.

# Own Your Mistakes

*“An error does not become a mistake until you refuse to correct it.”*

*President John F. Kennedy*

After becoming judge, one of the parts I found thrilling was the opportunity to perform weddings for friends. Although I had been asked only a few times, I still got excited to be a part of the couples' magical day. When a close friend asked me to handle one for his niece in Cleveland, my wife Rachel and I were delighted to head north to join the celebration and enjoy the weekend. (Except when a woman who had too many drinks approached me after the exchange of vows believing I was actually a priest and confessed to a mortal sin.)

Unfortunately, my wedding glee ended when Monday morning I was on the elevator with a valued mentor, the late Judge Lee Sinclair, who asked me about my weekend. When I proudly disclosed I had performed a wedding in Cuyahoga County, he nonchalantly responded, “How could you do a wedding in another county? It's not authorized by statute”, and he casually walked off the elevator. At that point my stomach dropped, dizziness set in while I gasped for breath. At that point I thought my judicial career had ended. What would be the repercussions from this well-intended gaffe? A reprimand, suspension, discipline? I immediately envisioned a spinning newspaper image with the bold, black headline of “Judge Commits Fraudulent Wedding” or CNN announcing, “Judge Responsible for Wedding Bell Blues.” Since the bride was a lawyer, I pictured myself sitting as a defendant at a trial being sued for negligent infliction of emotional distress.

For the rest of the day I became delusional. I figured the only person who knew of this tragic blunder was Judge Sinclair. He was a great guy so I figured he wouldn't say anything. If no one knew, no harm no foul. However, after being up all night, I came to work the next day facing the reality that I had to deal with the situation. Both my magistrate and I reviewed law from all over the country (and even



**Honorable Frank Forchione**  
*President, Stark County Bar Association*

Europe), and it appeared that there was no way out. I clearly did not have jurisdiction to conduct a wedding in Cuyahoga County, which then brought up another embarrassing moral dilemma when I had to ask my staff, “If you were not legally married, would you want to know on the honeymoon or when you got home?” (The verdict was unanimous – wait until they got home.)

After being stressed all night and assisted by a few shots of Crown Royal, on the third day I decided to take more decisive action. My hands shook as I telephoned the Probate judge of Cuyahoga County to inform him of my error and the debacle I created. When I finished telling him the story, he broke out in laughter which seemed to last several minutes. While I could see how the judge could find my misguided attempt to help a young couple humorous, I didn't expect it would provide that much of a chuckle. Then he said, “Frank, you're not the first judge who has made this mistake.” He kindly advised me to call the Supreme Court so they could prepare the appropriate order to rectify the snafu. I was so happy that we then engaged in a long conversation about LeBron James. I learned a very valuable lesson that

*(continued next page)*



day – that it was important to own my mistake. As time went on and I spoke to other lawyers who had been in a legal jam, I realized that all my reactions for the past three days were quite normal.

All lawyers make mistakes – after all, we’re human. No one’s perfect, whether it’s a young lawyer or an experienced one. The big issue is how you respond upon learning of the slip. The earlier you get on top of the situation, the better the chance you’ll have to fix it. There aren’t many problems that can’t be cured. Sometimes it’s easier to talk to a mentor or experienced lawyer to obtain a second opinion. Maybe you didn’t actually make an error, or they know of a way to resolve it. Although it’s not always pleasant to face the music, it’s critical that you don’t ignore it. Don’t wait to see if anyone will notice and don’t attempt to try to cover it up. It’s even more important if you’ve ever served with a notice of inquiry from a disciplinary or grievance committee. (Coincidentally, these notices usually appear on your desk the first day after you get back from vacation.) The worst thing you can do is bury your head in the sand. Even if you find it frivolous, you must respond promptly. Sometimes people feel that if there’s no merit, they don’t need to give it the time of day. That is not a good plan. Cooperation is so important during any type of claim of misconduct.

In the end, the practice of law is a minefield. It’s easy to misstep. If you make a poor decision, reflect on it, consider whether it was preventable or whether there are actions you can take so it doesn’t happen in the future. Sometimes a lack of judgment can actually make you a better lawyer. You have the choice to look at it as a failure or an opportunity to grow from. Keep in mind it’s important that we forgive ourselves for not always getting it right. We need to learn from our errors, but we also need to move on. There’s no sense beating yourself up forever. In the end, mistakes happen. It’s what you do with them that determines your future.

- The Stop Heroin From Killing Committee will be hosting its 9th Annual Opiate Symposium on Thursday, February 22, 2024 at the Malone University Johnson Center

from 6:00 to 8:00 p.m. It’s free to the public. This forum is especially important since overdose deaths in Stark County increased 11% last year. It’s an excellent way to gain knowledge to combat this harrowing epidemic. Three powerful speakers will provide vital information regarding addiction, treatment options and the road to recovery.

- I had the opportunity to attend the unveiling of the President William McKinley statue now located at the front of the Courthouse (see front cover). Many dignitaries and public officials attended this important ceremony. Sometimes we forget the impact he had on world events. If you are interested, a fascinating book was recently released titled, *The Triumph of William McKinley: Why the Election of 1896 still Matters*. I found it to be a very enjoyable read and have passed it on to other public officials.
- A special thank you to all the Stark County Bar Presidents highlighted on the back cover. Their contributions are often overlooked. They all brought different perspectives, outlooks and ideas to make the Stark County Bar Association admired throughout the state. Most lawyers don’t realize how much time and effort is required to take on this challenge. We appreciate and applaud all their efforts.
- Kudos to criminal defense attorneys Stacey Zipay and Craig McKinney and their Criminal Law Committee for hosting the 2024 Criminal Law Seminar. They did an outstanding job of highlighting all the never-ending changes affecting the practice of criminal law.
- We appreciate our unsung heroes of the Professional Continuity Committee, Elizabeth Burick, Mark Skakun, Mark Percival, Susan Collins-Berger and Doug Gotshall who braved the cold Courtyard Center

basement for four hours to help review old files of deceased lawyers and remove important documents to return to their clients! This unpleasant task is critical to our profession. Bravo!!

- Our bar association is very fortunate to have two excellent visual artists in Attorneys David Dingwell and Todd Bergert. Their work has been highlighted through-

out the state. They are looking to see if there are any other local lawyers interested in putting together a joint event to present this enchanting work to the public. We're also working with them to perhaps get their displays made part of our bar's 125 year celebration next year. Please call David directly at 330-455-6112 or Todd at 330-454-1967. We're excited to view all their talents.

## **Notice Of Position Opening For Mediator**

### *Stark County Court Of Common Pleas General Division*

The General Division of the Stark County Court of Common Pleas is seeking a licensed attorney with experience in civil litigation to serve as a part time Mediator for the Court's Mediation Program. Duties and responsibilities of the position include: review of cases referred to the Mediation Program; ensure mediation sessions are scheduled in an accurate and timely fashion; conduct mediation sessions with the parties, attorneys and insurance representatives in the Stark County Courthouse; ensure that the mediation process is impartial; assist the disputants in reaching an informed and voluntary agreement; provide follow-up services to those cases not resolved during the initial mediation conference when resolution thru mediation remains viable with additional time and effort devoted to the case; maintain confidentiality of the mediation proceedings; and attend mediation training and seminars.

Qualifications include: must possess a law degree and be a member in good standing of the Ohio Bar; must be a practicing attorney with a minimum of five years experience in civil litigation and conducted a minimum of five (5) civil jury trials (preferred).

Interested individuals should send a cover letter and resume to Dwaine Hemphill, Court Administrator by email at [DRHemphill@starkcountyohio.gov](mailto:DRHemphill@starkcountyohio.gov) or regular mail 115 Central Plaza North, Suite 400, Canton, OH 44702.

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# Black History Month

## *Salute to Judge Ira Turpin*

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1972 was a unique year. Watergate hovered over Washington, D.C., “The Godfather” commanded the box office, the Cleveland Indians traded “Sudden” Sam McDowell to the Giants for Gaylord Perry, and America began its final withdrawal of troops

from Vietnam. Locally, a new landmark was being set as Ira G. Turpin made history by becoming the first and only African-American judge ever to preside in the Stark County Common Pleas Court. Judge Turpin had earned the public’s trust, as he had been a star on the legal radar for quite some time as the county’s first black assistant prosecutor and chief assistant prosecutor.

Judge Turpin’s road to success could best be easily described as remarkable. He always followed his grandfather’s words – “Whatever you want to be, you can be, and be the best.” Growing up the Southeast side of Canton was very difficult, and he tap-danced on the streets for nickels and dimes, eventually becoming a professional dancer performing all over Ohio and Pennsylvania. He then attended McKinley High School, where he learned that there were going to be many obstacles for him to overcome to be a success in life. A good example is when he played basketball for McKinley, and sadly was singled out and denied a room in a Warren hotel because of the color of his skin. The legendary basketball coach Herman “Bup” Rearick supported him and relocated the whole team to another hotel for the evening. When his guidance counselor advised him not to apply for college, he responded defiantly and confidently, “You just give me the papers and I’ll do the rest.”

After graduating high school he entered the Army and proudly served during World War II. With great mentors, Frank Beane, Sr. and Judge Clay Hunter, Judge Turpin launched his own law practice in 1952 while at the same time working at Ford Motor Company to support his wife and three children. Judge David Dowd once commented, “Judge Turpin is devoted to people.”

One of Judge Turpin’s best attributes was the love of his family. As judge, he took his daughter Dawn to work quite often, making him probably the pioneer of the “take your daughter to work day”. As a Common Pleas judge in the 1970’s and 1980’s, Judge Turpin faced very difficult moments in a changing world. As a teen, I particularly remember him presiding over several cases during the 1978 Canton City school teachers strike, in which my mother participated, along with 85% of the teachers and non-teaching employees. Unfortunately, when a few teachers did not follow the parameters that he had set forth, he demonstrated the necessary courage to jail several for failing to follow his court orders.

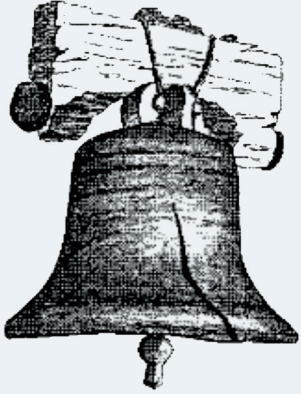
His positive nature, kindness, and knowledge of the law led him to be elected in 1983 to the Fifth District Court of Appeals until his retirement in 1989. Unfortunately, Judge Turpin passed away in 1989, but left all of us to admire the amazing path that he set forth and the leadership and success he earned while overcoming so many hurdles. His journey paralleled the early years of the Civil Rights Movement and truly demonstrated the phrase, “We Can Overcome”.

*Article written by: Honorable Frank Forchione*

# The Liberty Bell Award

In Celebration of Law Day

April 29, 2024 – May 3, 2024



The Liberty Bell Award is presented annually by the Stark County Bar Association to individual(s), particularly non-lawyers, who have rendered outstanding service to the community. All fields of endeavor are intended for promoting a better understanding of our Constitution and the Bill of Rights; encouraging a better respect of the law and the courts; stimulating a deeper sense of individual responsibility so that citizens recognize their duties as well as their rights; contributing to the effective functioning of our institutions of government; and fostering a better understanding and appreciation of the rule of law.

For further information, please contact Teresa P. Cusma, Liberty Bell Award Committee Chairman at 330-324-3982. Nominations will close Friday, March 29, 2024.

## Stark County Bar Association

400 Courtyard Centre Building

116 Cleveland Avenue NW

Canton, Ohio 44702-1728

330-453-0685 • SCB@StarkCtyBar.com

# Law Day Sponsorship

*2024 Law Week April 29 – May 3*

The Law Day Committee is asking local attorneys and law firms if they would be willing to make a donation in the amount of \$400.00 to help sponsor our Law Day Events. As you may know, we offer various events during this week:

- |                             |   |                    |
|-----------------------------|---|--------------------|
| ■ Essay and Poster Contests | ■ Moot Court Competition                | ■ Tour de Courts   |
| ■ Televised Ask-a-Lawyer    | ■ CLE Seminar                           | ■ Ohio Justice Bus |
| ■ Law Day Luncheon          | ■ “Why I Want to Become A Lawyer” Essay |                    |

In return for your valuable sponsorship, you will receive four tickets to the Law Day Luncheon on Wednesday, May 1, 2024 and will also receive recognition in the Law Day Program and in the Stark County Bar Journal. Don't miss out on what is an important event for our bar association.

If you are able to help sponsor these events, please forward a check in the amount of \$400.00 made payable to the Stark County Bar Association, Attn: Tina McCort.

Thank you in advance for your support. We hope to see you at these events.

Law Day Committee



# Stark County Bar Association

## 2024 MUNICIPAL COURT SEMINAR

Wednesday, March 20, 2024 • SCBA Conference Room

- 12:45 P.M. REGISTRATION - Coffee & Water provided
- 1:00 P.M. CANTON MUNICIPAL COURT  
Judges of the Court  
Chief Magistrate Jeremy Foltz  
Magistrate Derek McClowry  
Practice in the Canton Municipal Court - Policies and Procedures
- 1:50 P.M. MASSILLON MUNICIPAL COURT  
Honorable Edward J. Elum  
Honorable Joel C. Fichter  
Magistrate Andrea M. Scassa  
1. Basic Forms to Survive and Updates/Changes to the Law  
2. Landlord/Tenant Current Issues, Hearings, and Mediations  
3. Coordinated Probation/Community Control Orders
- 2:40 P.M. BREAK
- 2:55 P.M. ALLIANCE MUNICIPAL COURT  
Honorable Andrew L. Zumbar  
Policies, Procedures, and Updates
- 3:45 P.M. MARIJUANA LAW UPDATE
- 4:15 P.M. ADJOURN



### 2024 Municipal Court Seminar

\*Members: \$90.00      Associate Members: \$75.00      Non-Members: \$165.00

Name \_\_\_\_\_ Atty. Reg. No. \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

**\*PLEASE NOTE:** If you are currently a member of any local bar association, you may attend at our members' price.

Do you prefer to receive the seminar materials via Email or Hard Copy on the day of the seminar? Circle One.

Please mail checks to: Stark County Bar Association  
116 Cleveland Avenue, N.W., Suite 400, Canton, Ohio 44702-1728

NO REFUNDS UNLESS RESERVATION CANCELLATION IS RECEIVED 24 HOURS IN ADVANCE OF SEMINAR.  
Application will be submitted for 3.00 General CLE Credit Hours.





# Stark County Bar Association

## 2024 FAMILY LAW SEMINAR

Wednesday, April 10, 2024  
SCBA Conference Room

8:45 A.M.

### REGISTRATION

Water, coffee and donuts provided

9:00 A.M.

### ELUDING ELECTRONIC EVIDENCE ERRORS WISELY

Honorable Kristin Farmer

*Stark County Court of Common Pleas*

10:30 A.M.

### BREAK

10:45 A.M.

### THE WEAPONIZATION OF TECHNOLOGY IN DOMESTIC VIOLENCE CASES

Stephen Bradley

*Professional Liaison, OurFamilyWizard*

12:15 P.M.

### ADJOURN



## 2024 Family Law Seminar

Wednesday, April 10, 2024

\*Members: \$90.00

Associate Members: \$75.00

Non-Members: \$165.00

Name \_\_\_\_\_ Atty. Reg. No. \_\_\_\_\_

Address \_\_\_\_\_

Email \_\_\_\_\_

\*PLEASE NOTE: If you are currently a member of any local bar association, you may attend at our members' price.

Do you prefer to receive the seminar materials via Email or Hard Copy on the day of the seminar? Circle One.

Please mail checks to: Stark County Bar Association

116 Cleveland Avenue, N.W., Suite 400, Canton, Ohio 44702-1728

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Application will be submitted for 3.00 CLE Credit Hours.

# FIVE WAYS LAWYERS CAN IMPROVE THEIR MENTAL WELL-BEING

*By Scott R. Mote, Esq., Executive Director, Ohio Lawyers Assistance Program*

Have you ever noticed that it is much easier to tackle problems after you have had a good night's sleep? Or how you feel less stressed after exercising? Have you ever realized how much easier it is to communicate with others when you focus on the present? These are a few examples of being mentally well. When you are mentally well, you are able to recognize your abilities, cope with the normal stresses of life, work productively and rewardingly, and contribute to your community.

Because of the demands of lawyers' responsibilities—making decisions that significantly impact people's lives, the stressors of an intellectually demanding job and long hours—legal professionals are more prone than others to experiencing burnout, depression, anxiety and other problems that can affect mental well-being. If you are finding it difficult to manage your mental well-being, try one or all of the following methods to get your mental health back on track.

## Banish negative thoughts

Have you heard it? The negative thought that pops into your head when you make a mistake, when you say the wrong words, when you wake up in the morning, when you are late? It might tell you that you are stupid, that you are ugly, that you are not good at your job. Learn to recognize these thoughts and challenge them. Replace them with something positive. For example, if you double-booked meetings, and the voice tells you that you are unorganized and a failure, tell yourself that you will do a better job of keeping your calendar up to date. If you wake up in the morning and look in the mirror and the voice tells you that you are ugly and old, squash it. Tell yourself that you look pretty good for your age! Just as we start to believe our negative thoughts, if you replace them with positive affirmations, you will start to believe them.

## Make time for self-reflection

Just as banishing negative thoughts is important, so is taking the time to reflect on your accomplishments. Accomplishments can be as big or small as you want them to be. Consider some of these accomplishments:

- Arriving early to work.
- Helping an elderly woman when she dropped her purse.
- Reading a book to your child.
- Brushing your teeth.
- Establishing a time-saving procedure at the court that was well-received by all.
- Exercising.

Think of at least three big or small accomplishments before you go to bed. This will help you fulfill your sense of purpose and improve your mental well-being.

## Do something you enjoy

What motivates you to get out of bed in the morning? Is it your work, learning a new skill, doing something outdoors, reading, or doing something musical or artistic? When you make time to do something you enjoy, you build your self-worth, which can improve your mental health and well-being, and people with hobbies are less likely to experience stress, low mood, and depression.

## Focus on the present

Focusing on the present, or mindfulness, is not just a popular phrase. It's an evidence-backed lifestyle that psychologists recommend for those struggling with anxiety and other mental health issues. Being in the present moment, or the "here and now," means that you are aware and mindful of what is happening at this very moment. For example, say you are at home having dinner with your family, but your mind keeps going back to the details of the day's trial that focused on a violent crime. It is difficult to turn off the images in your head. You are not focusing on the present. But if you concentrate on where you are at this moment—a warm and relaxed dinner with your loved ones—you can start to train your brain to focus on the present. You cannot go back and change anything that happened throughout the day. Embrace the here and now of this moment with your family. Tell yourself not

to be distracted by events from the past or to worry about the future. You cannot change it! Center yourself in the here and now, and focus all of your attention on the present moment. This helps relieve stress and anxiety.

#### Communicate and connect

As a legal professional, you were probably taught to be confidential about certain aspects of your job, which makes it difficult to talk to friends or family members who do not have the same career as you. If you feel frustrated, overwhelmed or burned out, it is helpful to talk to others in a similar situation. If there is another lawyer in your area who you are comfortable reaching out to, ask them if you can have some of their time to talk shop. You will probably find out that other colleagues are experiencing many of the same challenges that you are. It helps to discuss and learn about how other lawyers cope with different situations. Connecting with others gives you a better sense of belonging and reduces feelings of loneliness.

If you find it difficult to find another legal professional to talk to, you can contact the Ohio Lawyers Assistance Program, a confidential organization dedicated to helping Ohio's judges, attorneys, and law students obtain treatment for substance use disorders and mental health issues ([ohiolap.org](https://www.ohiolap.org); (800) 348-4343).

If you are a judge or magistrate who needs assistance, contact the Judicial Advisory Group (<https://www.ohiolap.org/judges>; (800) 348-4343), a confidential

peer-based assistance group that helps judges and magistrates with personal and professional issues.

Connections with other people outside of the courtroom are also important. When you embrace good relationships, you not only build your sense of belonging and self-worth, but you also provide emotional support to others. You can nourish these relationships in many ways. For example, you could have at least one meal a day with your family, make a weekly or monthly get-together with your friends, volunteer, or turn off the TV or your phone to make more time for meaningful conversations with your loved ones.

#### It's ok to ask for help

If you find that your mental health is keeping you from your responsibilities and interrupting your normal activities, you should seek help. It's ok to ask for help! You would ask your doctor for help if you had chest pains, right? Asking for mental health help is the same as asking for help for any other ailment, and recovery is possible. You just need to recognize it, understand it and talk about it.



## **The 28th Annual White-Williams Bankruptcy Institute**

**April 12, 2024 | 8:20 a.m. - 4:35 p.m. | The Hartville Kitchen**

### **LIVE SEMINAR**

**More Details In Next Month's Bar Journal.**

## ***NEW MEMBERS***

**Kendra Barabasch, Esq.**  
Baker Dublikar  
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Fifth District Court of Appeals  
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Law Department  
Two James Duncan Plaza  
Massillon, OH 44646  
Phone: (330) 830-1718  
Fax: (330) 833-7144  
Email: [cpace@massillonohio.gov](mailto:cpace@massillonohio.gov)

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Phone: (330) 451-7619  
Email: [capiekarski@starkcountyohio.gov](mailto:capiekarski@starkcountyohio.gov)

## ***NEW ASSOCIATE MEMBERS***

**Allyson M. Oyster, Paralegal**  
Sponsored by: Brent A. Barnes, Esq.

**Tatyana Norman-Webler, Law Student**

## ***CHANGES OF ADDRESS***

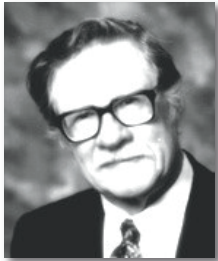
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Fax: (330) 471-8860  
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Canton, OH 44702  
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# In Memory

## Gene Barnhart, Esq.



We are deeply saddened by the loss of our longtime partner, colleague, and friend, Gene Barnhart. After earning his Juris Doctorate from The University of Cincinnati College of Law, he joined Black McCuskey in 1955 where he practiced full-time until his retirement in 1998, and then part-time until shortly before he passed.

Gene mentored many young attorneys throughout his career. Additionally, he was committed to improving his community by serving on various boards. Gene was passionate about his faith and served on many committees at his church.

Gene enjoyed architecture, classical music, and opera, but his greatest pleasure was spending time with his family. He was a devoted husband, father, and grandfather. We mourn the loss of Gene along with his family and friends, knowing that he lives on in the hearts of those who knew him. He will always be a member of the Black McCuskey family.

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# Report of Bar Applicant Committee

On January 4th and January 11th the Bar Applicant Committee conducted interviews of 7 candidates.

The breakdown of activity is as follows:

Candidates interviewed and approved for a subsequent bar examination .....	7
Re-Examination application approved .....	6
Supplemental applications approved .....	1
<b>Total approvals granted .....</b>	<b>14</b>

Committee members present and conducting interviews were Chairman James M. Conley, Scott P. Sandrock, James J. Collum, Katie Erchick Gilbert, Christine A. Johnson, Anthony Kaplanis, Ivan L. Redinger, Jr., and Judge Richard D. Reinbold, Jr..

We thank the members for taking time from their busy schedules to assist in conducting the interviews!

## Stark County Bar Association Legal Scholarship

The Stark County Bar Association offers a Legal Scholarship. Consideration is given to the following:

- Students enrolled or accepted as a full or part-time student at an educational institution accredited to award a Juris Doctorate degree;
- Students pursuing a course of study designed to result in a Juris Doctorate degree; and
- Students in good academic standing in Law School or in prior academic work, as determined by the Scholarship Committee.

The Scholarship Committee also gives priority consideration to students with demonstrated financial need; students from the Stark County area; and students likely to pursue a law career in the Stark County area.

Stark Community Foundation administers our Scholarship, and the Scholarship Application may be found on their website at [www.starkcf.org](http://www.starkcf.org). The Application Deadline is April 1, 2024.



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## *Challenging Conventions: Character Letters in Contemporary Legal Discourse*

As high-profile celebrity cases continue to dominate American headlines, the discussion surrounding using character letters has emerged as a polemic and debated subject. Recent cases involving individuals like actor Danny Masterson and rapper Tory Lanez (Daystar Peterson) have led this debate to the forefront, bringing into question the appropriateness and effectiveness of character letters presented in legal proceedings.<sup>1</sup> After these reference letters became available, the public responded with intense scrutiny and questioned the aptness of these letters.<sup>2</sup>

It is crucial to point out that character letters are typically presented post-conviction.<sup>3</sup> The letters are meant to help the judge understand who the defendant is, beyond what might have been gleaned from the indictment or trial proceedings. It serves as a request to the judge to contemplate the impact of the sentence as well as consider the defendant's humanity.

The utilization of character letters in criminal proceedings is by no means a recent innovation. Retired Judge Mark W. Bennet, from the USDC for the Northern District of Iowa, estimated that he had read roughly 30,000 to 40,000 character letters during his career. He stressed that the letter's author should state how they know the defendant, their character, and their prospects for rehabilitation. The author must describe why they believe the defendant is worthy of mercy.<sup>4</sup>

Nonetheless, in the case of Masterson and Peterson, the letters fell short in their appeal. The letters were called tone deaf by the public, as they failed to achieve their purpose of conveying the defendants' character and circumstances. Colleen McCormack-Maitland, Deputy Director of Legal Services at the Legal Action Center (LAC), discussed how the pushback against the letters written for Masterson may be obscuring the intention and importance of the testimonials. She further contends that, "it's not about whether the person is guilty, it's about telling the judge who they think the defendant is."<sup>5</sup>

Regardless of the defendant's social status or public image, composing a character letter continues to pose a difficult endeavor. It demands that the author remains in a

delicate balance between offering genuine insight into the accused person's character while acknowledging the offense without appearing dismissive of its gravity.<sup>6</sup>

The debate surrounding character letters extends beyond celebrity cases. This public debate highlights the broader question as to whether these letters still deserve their value and merit in modern legal proceedings. Dr. JoAnne Sweeney, University of Louisville Professor of Law, discussed in the University of Missouri-Kansas City School of Law-Law Review that the letters themselves are not objectionable, but rather that the stories told are misused to appeal to the judge's discretion or implicit biases.<sup>7</sup>

Sweeney contends that the solution is not to eliminate judicial discretion by creating mandatory minimums but by assisting judges and prosecutors in exercising discretion more carefully. In particular, she mentions implementing judicial education and specific guidance based on the area of the crime, such as highlighting where their implicit biases may be through taking Implicit Association Tests. Concerning sexual assault cases, it is recommended to participate in the National Judicial Education Program (NJEP),<sup>7</sup> which educates justice system professionals on sexual assault cases and cases involving the intersection of sexual assault and domestic violence.<sup>8</sup>

Using character letters within the legal system remains a matter of contention that requires a nuanced evaluation of their relevance, ethical considerations, and potential impact on the judicial system. As society develops its perspective on justice and equity, the debate surrounding character letters will persist and continue to invite reflection and scrutiny within legal discourse on the judicial system.

By Kasey Brown  
Stark County Law Library  
kcbrown@starkcountyohio.gov

### Footnotes

<sup>1</sup>"Iggy Azalea Says She Supports Prison Reform While Explaining Tory Lanez Sentencing Letter" *Rolling Stone*. 8 August. 2023. Accessed 15 November. 2023. Available at: <https://www.rollingstone.com/music/news/iggy-azalea-explains-sentencing-letter-tory-lanez-1234802514/>

<sup>2</sup>Anglesey, Anders. "Mila Kunis and Ashton Kutcher 'Sorry' Video Ignites Further Backlash" *Newsweek*. 10 September. 2023. Accessed 15 November. 2023. Available at: <https://www.newsweek.com/mila-kunis-ashton-kutcher-sorry-video-ignites-further-backlash-1825830>

<sup>3</sup>"Winning Your Case with Effective Character Letters" *SADO*. Accessed 15 November. 2023. Available at: <https://sado.org/articles/article/912>

<sup>4</sup>"Character-Reference Letters" *Prison Professors*. January, 2019. Accessed 16 November. 2023. Available at: <https://prisonprofessors.com/character-reference-letters-2/>

<sup>5</sup>Abad-Santos, Alex. "The Backlash Against Ashton Kutcher and Mila Kunis, Explained" *Vox*. Last Updated 18 November. 2023 Accessed 17 November. 2023. Available at: <https://www.vox.com/culture/2023/9/12/23870223/ashton-kutcher-mila-kunis-backlash-danny-masterson-character-letter-explained>

<sup>6</sup>"The Importance of Character Letters for Court" *Kenney Legal Defense*. 17 July, 2022. Accessed 17 November. 2023. Available at: <https://www.kenneylegaldefense.us/2022/07/17/importance-character-letters-court/>

<sup>7</sup>Sweeney, J. "'Brock Turner Is Not a Rapist': The Danger of Rape Myths in Character Letters in Sexual Assault Cases." *UMKC Law Review*, vol. 89, no. 1, pp. 121-159 Accessed 17 November, 2023. <https://search.ebscohost.com/login.aspx?direct=true&db=lg&AN=146136065&site=eds-live>

<sup>8</sup>"National Judicial Education Program" *Legal Momentum*. Accessed 17 November. 2023. Available at: <https://www.legalmomentum.org/programming/national-judicial-education-program>

# Court Administrator Job Opening

The Tuscarawas County Court of Common Pleas, General Trial Division seeks a licensed attorney to serve as the full-time Court Administrator. Under the general direction of the Judges, the Court Administrator provides general direction and supervision of Court systems operations including case management, records management, budget, fiscal, technology, human resources, facilities management, jury management, and oversees the Community Corrections Program.

For the full position posting see: <https://www.co.tuscarawas.oh.us/employment-opportunities/>

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Any associate member in good standing shall be entitled to the rights of membership except that an associate member may not hold office, vote, evaluate judges or judicial candidates, or serve on the following committees: Personnel Committee, Grievance Committee, Disputed Fee Committee, Nominating Committee, Judiciary Committee, Professional Continuity Committee, Bar Applicants Committee, Finance Committee, Notary Public

Committee, and Executive Committee.

Becoming an Associate Member requires that you be sponsored by a regular member of the Association, excluding law students.

With the exception of law students, who shall not be required to pay dues, all other associate members shall be responsible for paying the yearly dues as designated by the Executive Committee of this Bar Association. Please call the Bar Association at 330-453-0685 for more information.



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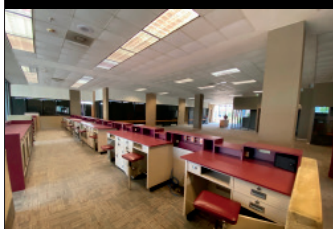
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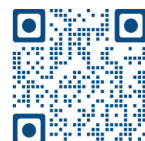
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