

GTLA **BAR** association

NEWSLETTER

Winter 2008



THE BEST AND THE BRIGHTEST*

Lee Hornberger, GTLA President

"Duty then is the sublimest word in the English language. You should do your duty in all things. You can never do more, you should never do less."

Robert E. Lee

The Winter *Newsletter* President's article primarily concerns Grand Traverse-Leelanau-Antrim Bar Association members who are military veterans.

We sought entries in many ways. First, we asked for veterans in the Fall *Newsletter's* President's article. Second, we followed up with approximately two hundred e-mails and one hundred personal letters to Bar members. Third, when a Bar member suggested another Bar member as a veteran to be recognized, a personal e-mail was sent to that suggested individual requesting information. Fourth, a request for submissions was made at the November 7, 2007, GTLA Fall Dinner, which approximately 100 members attended. In short, we have done a "full court" press to obtain information on all attorney veterans who wished to be involved. However, we wish to apologize in advance, if we have inadvertently left out any veterans who wished to be included. If you were left out, please provide a submission for the Spring *Newsletter*.

In addition, a decision had to be made as to how to edit the material that veterans sent in. After careful consideration, and some minor agony, it was decided that an individual veteran's decision about what to submit might be so personal as to not be suitable for editing or being made perfect. The following are the submissions that we



received from veterans.

Douglas S. Bishop
1965-1974

I entered the U.S. Naval Academy in June 1965 and graduated in June of 1969. I spent a bit more than five (5) years on active duty and then stayed in the reserves for another twenty (20) years. I retired as a Captain, United States Naval Reserve. I spent approximately eight (8) weeks in Southeast Asia, including the Tonkin Gulf on my First Class Midshipmen's cruise. My active duty was aboard the USS *Raleigh* (LPD-1) in Norfolk, Virginia, and the USS *Harry E. Arnell* (DLG-17) in Newport, Rhode Island, with a Mediterranean tour on each. I finished my active duty with two (2) years as Curriculum Development Officer at the Propulsion Engineering School in Great Lakes, Illinois. Since my retirement from the reserves, I have remained as Area Coordinator for the United States Naval Academy Blue and Gold Program, for Western Michigan and the Upper Peninsula.

William Rossbach
1965-1969

I served in the United States Marine Corps from October, 1965 to October, 1969. From April, 1968, until the end of May, 1969, I was assigned to Marine Fighter Attack Squadron 314, an F-4 Phantom jet unit of the 1st Marine Air Wing in Chu Lai, South Vietnam. Assigned to the

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GTLA Bar Association

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GTLA Mission Statement: *The Grand Traverse-Leelanau-Antrim Bar Association is a Michigan not-for-profit corporation whose members are attorneys principally practicing in Grand Traverse, Leelanau and Antrim counties. Its mission is to maintain the highest professional standards and competence among attorneys, to promote collegiality and camaraderie among attorneys, to improve the administration of justice, and to provide law-related service and education to its members and the public.*

2007-2008

The GTLA Bar Association officers for 2007-2008 were elected at the May 17, 2007, annual meeting, with a vacancy and some renewal appointments being made at June 20, 2007, Board of Governors meeting.

President	Lee Hornberger	231-941-3445
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	Michael Richey	6/30/10 231-929-0500
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	Robert Witkop	231-946-4300
Young Lawyers	Aaron Bowron	231-946 - 8630
Women Lawyers	Deborah L Rysso	231-933-5207
Bar Manager	George Beeby	231-922-4715

GTLA Bar Association Committee Chairs

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Pro Bono	David Becker	231-946-8228
Program/Special Events	Jennifer Berry	231-929-3113
TARS	Jo Bullis	231-941-1210

Bar Association Newsletter

Editor & Committee Chair: Lee Hornberger Designer: Michele Howard

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(President's Letter continued from page 1)

squadron's avionics detail, I also spent more than half of my tour assigned to the air base's perimeter guard, duties shared with the U.S. Army's Americal Division. VMFA 314, also known as the Black Knights, received the Presidential Unit Citation for its performance in 1968 and 1969. I was honorably discharged as a Sergeant, E-5, at the end of my active service.

H. Wendell Johnson
1968-1971

I served in the Army Infantry from 26 Aug 68 to 13 Jun 71, leaving as a 1LT. I graduated from Michigan State University in the summer of 1968, and was promptly invited by my Draft Board to work for the government. I did basic training at Fort Dix, New Jersey, followed by Advanced Infantry Training at Fort Polk, Louisiana ("Fort Polk Academy"), then Infantry Officer Candidate School at Fort Benning, Georgia, where I was commissioned a 2LT on 22 Aug 69. My first duty station as an officer was Fort Riley, Kansas, where I served in the 24th Infantry Division. Its mission was to protect Europe. Given what was happening in southeast Asia at the time - I liked the concept. Then the colors of the 1st Infantry Div were retired from Viet Nam and reassigned to Fort Riley, so we all changed patches and became members of "the Big Red One." Fortune smiled on me and I got assigned to Uijongbu, Korea, near the DMZ, the area that divides North and South Korea. In Korea, the DMZ was two miles wide. That was much more civilized than in Viet Nam. The Army gave me a "top secret crypto" clearance, and assigned me to the 51st Signal Bn where I served as the Communications Center Platoon Headquarters Officer. For several months, I held one of two keys needed simultaneously to unlock the arming codes for nuclear munitions maintained along the DMZ. I never knew (thankfully) who held the other key. I was later appointed Security Control Officer for I Corps (Group) Headquarters, the command post over the 2 US Divisions (2d and 7th) and four Korean Divisions. After I got out, the GI Bill provided me a \$220 per month "educational allowance" to assist me with the cost of The University of Michigan Law School education.

Timothy L. Haring
1969-1972

Served U.S. Army, Sept 1969. Honorably Discharged, May 1972, EOD (Explosive Ordinance Disposal) Specialist.

James R. Datsko
1969-1971

US Army (Regular) 1969-1971 [Viet Nam Era]

I was in the Infantry, and destined to be a Lieutenant leading a combat platoon in Viet Nam. Fortunately for me during the second half of my Infantry OCS school at Fort Benning the war was being wound down to the point they were not going to need so many Second Lieutenants as "Frag-Fodder." So the remaining half of my class who had survived the washing-out process was offered the General Wickham option of relinquishing our right to an officer commission in return for knocking a year off our term of enlistment and choice of fort for future posting.

I chose Fort Carson, Colorado, for the skiing opportunities, the Army instead sent me to the next best thing, middle of the desert at Fort Hood, Texas. There I was able to talk my way out of the hot, noisy tanks of General Patton's famed 2nd Armored Division, and into the 2d AD Divisional Band where I hastily re-learned to play my high school trumpet. A Sax player buddy is now a Judge at Long Beach, California. To the best of my knowledge I was the only soldier in our unit who also held a full-time civilian job on the side, driving Yellow Cab to save up money for law school to supplement the GI Bill. You can imagine the excitement of driving the troops to the various bars, NCO lounge, etc. on payday. I also owned a couple of motorcycles while at Fort Hood and taking the Yamaha Enduro out in the desert on the tank trails was nearly as much fun as taking the Honda Scrambler out to the countryside on the quiet paved roads to hot and dusty little crossroad villages, much of which is now under the new lake they created.

Judge Thomas J. Phillips
1972 - 1975

I served in the Navy Judge Advocate General Corps from 1972 to 1975. I completed Naval Officer Indoctrination School during the summer of 1970 and Naval Justice School in February of 1972. Thereafter I served on active duty as a JAG officer attached to the Eleventh Naval District in San Diego. Active duty including training was approximately four years. The majority of my time was spent as either a defense counsel or prosecutor. I was honored by the NAACP with a Freedom Award for work done in representing a black sailor charged with two assaults and rioting about the USS Kitty Hawk. He was acquitted of all charges. Before my naval experience I had planned to be a tax attorney, but I found out that I enjoyed trial work so it changed my career aspirations. I truly enjoyed my time in the Navy.

(Continued on page 4)

(Continued from page 3)

David A. Bieganowski
1982-1987

I served in the U.S. Marine Corps from 1982 to 1987. I spent some time as an aircraft mechanic on KC-130's but most of my tour was as a Marine Security Guard at our embassies in Senegal, Chad and Denmark. We provided interior security for the embassy and protection for ambassadors, dignitaries and even the space shuttle crew. I was discharged at the rank of Sergeant. I am currently the second in command of the local Marine Corps League Detachment.

Sandra J. Franklin
1984-1986

My legal career began with my service as a Captain in the U.S. Army Judge Advocate General's Corps in 1984. Interpreting and applying the Federal Acquisition Regulations (FAR) and DFARS (for Defense) were part of my every day work life. At that time, the Competition in Contracting Act was new and there was particular vigilance in the area of Procurement Fraud. My job as an Army JAG was to negotiate, review and sign all of the computer and telecommunications contracts for CECOM, the Army Communications and Electronics Command at Fort Monmouth, New Jersey. At that time, the Army was making huge purchases of computer hardware and software for the entire Army, so negotiations with the computer giants of that time were heated, often involving a work-through of the Technical Data Rights clauses of the FAR and DFARS, and intense negotiations over intellectual property rights.

As the only JAG Officer in the CECOM legal office doing procurement work, I also had responsibility for the base construction contracts, which presented challenges in enforcing legal competition.

Throughout my career I have continued to be involved in intellectual property and defense contracting. After leaving the Army in 1986, I joined the small corporate legal staff of General Dynamics Land Systems in Michigan. There, I handled Intellectual Property protection and licensing, interpreting the FAR and DFARS, negotiating Technical Data Rights, Bid and Proposal funding, and Research & Development funding. I continued similar activities for KMS Fusion, Inc. in Michigan and, in private practice, for many companies thereafter. I became involved in defending a procurement fraud case brought by the Department of Justice against a Fortune 100 company, a case which went on for years.

I have helped several spin-offs from The University of Michigan and other technology incubators negotiate and receive federal funding, such as through the Small Business Innovative Research (SBIR), which is where many new defense programs start. I help companies get on the Federal Supply Schedule and have assisted companies in getting through procurement audits.

As you can see, my service in the Army JAG Corps set me off on an interesting and rewarding career. I also remember my service as a time of great fun and I still have many friends in the military or supporting it. I have the utmost respect for all of our service and support members who make enormous sacrifices, including other members of the local Bar who gave service to our country. Thank you!

James C. Baker
1986-1990

I am a United States Marine, having served proudly from 1986 to 1990. During my tour, I served as Presidential Honor Guard for Presidents Reagan and Bush (I), performing ceremonial and security functions at the White House, Camp David, Arlington National Cemetery, and elsewhere. Following that tour, I was deployed with "C" Co. 1st Btn. 9th Marines in the Western Pacific, where I performed a variety of infantry duties, including as a fire-team leader participating in Operation Just Cause, the action in Panama to extricate Manuel Noriega from power. In June 1990, I was honorably discharged, having meritoriously achieved the rank of Corporal. Since that time, I have participated in numerous Marine Corps-related activities, and have recently joined the American Legion.

Matthew Sinor
1999-2002

Prior to becoming an attorney, I served in the United States Army from 1999-2002. I underwent 16 weeks of Cavalry Scout (19D) training at Fort Knox, Kentucky, and was then assigned to the Second Armored Cavalry Regiment at Fort Polk, Louisiana, for approximately three years. I was quickly promoted to the rank of Sergeant and filled the role of Squad Leader in an anti-tank company. Immediately following the tragedy of 9-11, my unit received orders to deploy to Iraq. However, I did not deploy, as I sustained an injury in a training accident, which eventually led to a medical discharge.

After the Battle of Fredericksburg, General Robert E. Lee said:

"It is well that war is so terrible - otherwise we would grow too fond of it."

* "Brightest and best of the sons of the morning,
Dawn on our darkness,
and lend us thine aid ... ,"

Reginald Heber, *Hymns Epiphany* (1811).

NEW FAMILY LAW COMMITTEE

MEETING FEBRUARY 15, 2008

At its December 19, 2007, meeting, the GTLA Bar Association approved the establishment of the Family Division of the Circuit Court Judicial Liaison Committee.

Family law and domestic relations matters will be under the umbrella of the new committee. All family law and domestic relations attorneys are urged to be active in the new committee.

In order to help get the new committee going, there will be an organizing meeting at noon, Friday, February 15, 2008, in the Law Library.

We look forward to seeing an active and successful Family Division of the Circuit Court Judicial Liaison Committee.

Lunch at Minerva's

Remember the good ole' days when you knew all members of the local bar?

In the spirit of establishing more camaraderie among Bar members, we are reestablishing the traditional noon, fourth Friday of the month, Dutch-treat lunches at the open aka "200 area" of Minerva Restaurant at the Park Place Hotel.

This is an opportunity for the bench and bar to have lunch together in an informal setting. Reservations are not required; just show up. The lunches for the next several months are:

Noon, Friday, January 25, 2008.

Noon, Friday, February 22, 2008

Noon, Friday, March 28, 2008

Noon, Friday, April 25, 2008

GTLA Calendar of Events

2008

- Jan 16 Technology CLE Seminar, GTLA Bar Library Noon
- Jan 25 Lunch at Minerva's, Noon
- Jan 30 Ask the Attorney (Ryder-Purcell & Putney)

- Feb 20 Seminar, GTLA Bar Library Noon
- Feb 22 Lunch at Minerva's, Noon

- Mar 19 Seminar, GTLA Bar Library Noon

- Apr 16 Seminar, GTLA Bar Library Noon

- May 2 Law Day Luncheon at 11:30 a.m. Elks Club

REPRESENTATIVE ASSEMBLY INVITES PROPOSALS FOR APRIL MEETING

The State Bar of Michigan Representative Assembly invites submission of policy items for review and voting at its April 12, 2008 meeting.

You can contact your RA members, John Blakeslee at 231-946-2700 or Robert Witkop at 231-946-4300, concerning RA activities.

Information on actions taken at the September 2007 RA meeting can be found at
<http://www.michbar.org/generalinfo/announcements.cfm>



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Joint Custody Arrangements

Robert B. Guyot III, Attorney/Mediator

In Michigan, we normally use the phrase 'joint custody' to describe the parenting arrangement where the child lives with each parent for a substantial amount of time. Elsewhere in this country, it is also described as rotating custody, alternating, divided, split, and shared custody.

Historically, courts have been reluctant to order joint custody, or to enforce agreements between the parents providing for joint custody. For example, both the Roman law and the English common law preferred giving the father sole custody when the marriage terminated. This presumption was obstinately adhered to that upon dissolution of the marriage, the parents were not allowed to agree that the mother would have custody of the children. Instead, because the father was entitled to his child's earnings and services, and because the law obligated the father to maintain and support his child, custody of the child was always awarded to the father.

In the early 1800s, some English courts began to abandon the idea of absolute paternal rights to custody and started enforcing joint custody agreements to give both parents involvement with the children. The notion of absolute paternal control was abandoned for the first time in 1839. As in England, most American courts then began endorsing joint custody arrangements, but this preference was short-lived. Courts began to regularly award custody to the mother, but in 1889 the Kansas Supreme Court first held that custody arrangements should be decided based on the child's welfare and best interest.

In Michigan, most courts now seem to favor joint custody (at least joint legal custody) pursuant to MCL 722.26a.

There are numerous advantages to joint custody. First, joint custody can benefit both the parents and the child by fulfilling their desires to maintain a close relationship. The concept of joint custody recognizes the equal authority of both parents by allowing

each parent to actively participate in the child's life.

Another way that joint custody benefits the parent-child relationship is by eliminating the parents' need to compete for custody of the child, thereby removing the possibility that the child will be forced to choose one parent as the residential parent. Another benefit is the fact that the parents are forced to cooperate. The child's attitude about the experience may be more positive if the parents are amicable.

Parents also benefit from joint custody arrangements. Neither parents experiences the sense of loss, self-esteem and uncertainty about his or her parental role.

Another advantage is that the one parent no longer must should the child rearing burden by himself or herself. Each parent is equally responsible for the physical and emotional development of the child. Joint custody also may avoid some of the conflicts associated with sole custody arrangements.

Joint custody may also benefit the courts! So long as the parents request joint custody and are both fit and competent, the judge is not required to spend time evaluating the reasons why one parent is more competent than the other. Therefore, judicial energy and time are conserved when parents are appropriate candidates for joint custody arrangements.

And what do you think ??

Bob Guyot III, Attorney, is Former Chair of the Child Custody Committee of the Family Law Section of the ABA and currently on the Editorial Board of the Family Advocate, a quarterly magazine of the ABA Section of Family Law.



Traverse City Attorneys Protest Treatment of Pakistani Attorneys

Traverse City attorneys picketed the Grand Traverse County Courthouse on Wednesday, November 14, 2007, to protest the Pakistani Government's treatment of the Pakistani Court System and attorneys. This was part of American attorneys demonstrating their solidarity with their counterparts in Pakistan standing silently before courthouses throughout the nation on Wednesday, November 14, 2007.

The attorneys are deeply disturbed by recent events in Pakistan where President Musharraf has suspended the national constitution, detained eight members of the Supreme Court, and arrested thousands of Pakistani attorneys who were peacefully protesting the dismantling of their legal system.

The protesting attorneys believe independent and unbiased court system is fundamental to the survival of a free society.



From left to right in the photograph are Traverse City attorneys Barry Levine, Joe Quandt, Blake Ringsmuth, Gary Gardner, Philip Rosi, and Lee Hornberger. Grant Parsons was the photographer.

On Property Taxes

John S. Porter, Certified Appraiser, LLC

Property tax law has resulted in many complexities. We receive our tax bills on December 1, then Tax Day is December 31, which is the date of value for the coming year tax billings. Assessment change notices are mailed at the end of February, and the Boards of Review begin in March. The various "values" that we are concerned about are "Taxable Value", "Assessed Value", and "State Equalized Value". The millage rate can vary among Townships and Cities and within those units of government depending on school district and various local special assessments.

In today's environment the Assessed value is almost always equal to the State Equalized Value, so you don't have to worry very much about changes here. The Taxable Value is capped by both the property value and last year's taxable value plus inflation. This Taxable Value is uncapped at the time of transfer and often drastically changes the taxable position of the purchaser compared to the experience reported by the seller.

We have many neighborhoods with falling property values. It is not unusual for the tax bills and taxable value to continue to rise, even though property values in the neighborhood are falling. Perhaps the most distressing situation is when your client is buying a business property and the income projection is grossly overstated due to expenses being calculated on the historic taxable value.

In January it is wise for property owners to be very aware of their assessments, particularly if they have recently purchased their homes or businesses. A spot check of one Township's assessments for property sold in 2006 indicated 6 out of 18 properties had assessments that were 15% (or higher) than 50% of the value indicated by the recorded sale. The recommended procedure for addressing these value related issues are as follows:

1. Compare last year's Taxable Value with the recent sale price of the property. If the Taxable Value is higher than 50% of the sale price, contact the assessor and ask for a reduction.
2. Compare the current year's Assessed Value (on the notice of assessment change which is received in February) with the purchase price. If the Assessed Value is more than half of the purchase price, an appearance or letter to the Board of Review will be necessary. Many Townships permit appeals by mail.
3. Compare the determination of the Board of Review with the purchase price and if the Board's decision is not in line with half the purchase price, contact the Michigan Tax Tribunal and obtain an appeal form (usually small claims proceeding). This form needs to be filed prior to June 30 of the year of the Board of Review appearance.

Attorneys should refrain from giving opinions of value, but should review these procedures with their clients. A client can often accomplish a significant reduction in property taxes without professional assistance. Because of the cap on taxable value, any reduc-

tion will be proportionately held in force for the following years. The cumulative tax savings over time can be very significant.

Assessors will often refuse to reduce an assessment based on a single sale because they claim their studies incorporate sale data, and one sale doesn't prove anything. Boards of Review usually don't feel married to the same system and are more likely to adjust an assessment toward a sale price.

Appraisers are trained to provide information about property values and can assist Attorneys and their clients by providing market data, review of assessments, and appraisals. Market conditions are changing rapidly and I've seen taxpayers save thousands of dollars per year simply by being aware of their property tax status.

John S. Porter is a Certified General Appraiser and manager of Certified Appraiser, LLC of Traverse City. He was a Level III Assessor for 25 years and can be reached at jporter@certifiedappraiser.net.



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Heard in the Halls

Robert W. Parker have been elected to the Board of Directors of Smith Haughey Rice & Roegge.

Peter J. Zirnhelt was recently elected to a three-year term on the Grand Traverse Heritage Center Board of Directors. Zirnhelt also serves on the Grand Traverse Brownfield Redevelopment Authority, Grand Traverse Economic Development Corporation, and on the Scoping Team of the Boardman River Dams Committee.

Aaron K. Bowron recently participated in a panel discussion for Grand Valley State University's People and the Profession undergraduate class.

Paralegal **Corey J. Wiggins**, a 2007 graduate of Cooley Law School, was recently appointed by the Wexford County Board of Commissioners to the County Planning Commission. Wiggins also serves on the Haring Township Board of Review.

Gary M. Ford has joined Bowerman, Bowden, Clulo & Luyt, PC, as a shareholder/director. Gary specializes in representing clients in business, real estate development, zoning, estate planning and associated litigation matters.

Douglas J. Donaldson has relocated to 400 East Eighth Street, PO Box 426, Traverse City MI 49685-0426. (231) 947-6073; (231) 947-1645 FAX; ddonaldson@charterinternet.com.

Barbara Budros has been elected to the Traverse City Commission. In addition, she was honored with the "Tom and Darylne Shea Award" for untiring Community Reconciliation Service, leadership, and, as Tom Shea indicated, "her efficient and easy manner." We wish Barbara the best of luck with her City Commission endeavors.

Charles B. Judson of Smith Haughey Rice @ Roegge has been appointed by the State of Michigan's Court Administrative Office to the Dispute Resolution Court Rule Committee. The purpose of the Committee is to provide recommendations to the Michigan Supreme Court for improving case evaluation and other alternative dispute resolution practices in Michigan's trial courts.

Ronald W. Sondee, with Sondee Racine & Doren PLC, received the Grand Traverse-Leelanau-Antrim Bar Association's Madeline Thomas Award at the bar association's Wednesday, November 7, 2007, Fall Dinner.

Returning to their roots Elk Rapids High School graduates **Jacob J. Graff** and **Michael R. Helveston** have joined the law offices of Graff & Hunt. Jake graduated from Clemson University and Cooley Law School. Mike graduated from the University of Michigan and Wayne State Law School. Jake was admitted to practice in May and Mike was admitted in November.

Robert Whims of Smith & Johnson, Attorneys, P.C. spoke at the Michigan Association of Justice Seminar on December 7, 2007, about Jury Selection.

Sherri Melligen (Dingeman, Dancer & Christopherson, PLC) and husband Chad had a baby boy, Carson David, on June 21, 2007. Congratulations!

Matt Connolly of the Law office of Matthew C. Connolly and **Jennifer Jones** of Dingeman, Dancer & Christopherson, PLC, were married in Las Vegas on September 20, 2007. Congratulations Jen and Matt!

Michael J. Swogger, with the Traverse City office of Garan Lucow Miller, P.C., was named as the 2007 Boss of the Year by the Grand Traverse Area Legal Professionals. Mr. Swogger focuses his practice in estate planning, wills and trusts, probate, premises liability, and general insurance defense.

Doug Donaldson and **David A. Bieganowski** are now sharing space with Dan Hubbell at the Hubbell Law Office. I will have the same work phone number and email. David A. Bieganowski new work mailing address is: David A. Bieganowski, DONALDSON & BIEGANOWSKI, PLC, 400 E. Eighth Street, P.O. Box 426, Traverse City, Michigan 49685-0426, (231) 947-6073, (231) 947-1645 fax.

Mark R. Mueller has become a shareholder of the Law Firm of Garan Lucow Miller, PC. His areas of practice include insurance defense and coverage issues, general civil litigation, first and third party automobile, construction litigation, contract law, premises as well as product liability, recreational vehicle litigation, and fire loss.

Aaron Bowron was recently appointed to the Kalkaska County EDC Board of Directors.

David A. Bieganowski was recently appointed to the Grand Traverse County Planning Commission for a 3-year term.



Lee Hornberger, ICLE faculty member Blaine B Johnson, Jr., and Robert B. Guyot III.

Traverse City Family Law Attorney **Robert B. Guyot III** and Arbitrator/Mediator **Lee Hornberger** recently completed The Institute of Continuing Legal Education's Family Law Certificate Program cosponsored by the Family Law Section of the State Bar of Michigan.

Why a Good Criminal Defense Attorney Matters

Michael S. Stepka and James J. Aprea, Stepka & Aprea, PLLC

As criminal defense lawyers, we have been asked how we live with ourselves defending those guilty of crimes, especially the most heinous crimes. The answer is that it is our duty to protect our clients' constitutional rights, especially the right to be presumed innocent unless proven guilty. This duty is not affected by the quantity or quality of evidence of guilt. Even a confession is not absolute proof of guilt – the phenomenon of false confessions is well documented. News stories about convicts exonerated by DNA evidence after serving years in prison are commonplace.

In determining whether to charge a person with a crime, prosecuting attorneys analyze and evaluate the evidence. As part of this analysis, a prosecutor should also anticipate, and evaluate the weaknesses in his or her case. Competent criminal defense causes competent prosecuting attorneys to carefully scrutinize the evidence, and hence deters them from pursuing weak cases. Because defense lawyers defend the innocent and the guilty alike, prosecutors win most cases because they avoid trying weak cases they will likely lose. (Plea-bargaining gives both parties a way to avoid losing trials, but that is a different, complex issue).

Thus, effective defense leads to effective prosecution, which

leads to a criminal justice system that is, for the most part, accurate. Although mistakes happen, the accuracy of the system leads everyone, including unwary defense lawyers, to assume that all who are charged are guilty. Thus, notwithstanding the constitutional "presumption of innocence," many times, there is a practical presumption of guilt.

The effect of this practical presumption is that to effectively defend an innocent client, a criminal defense lawyer must usually prove the client's innocence. This is the opposite of how the system, which requires the prosecutor to prove guilt beyond a reasonable doubt, is supposed to work. If they are not careful, defense lawyers can become as skeptical as everyone else about their clients' claims of innocence. Such skepticism, if not checked, can lead to ineffective defense lawyering. In order for our adversary legal system to work properly, there must be competent lawyers on both sides.

Mike Stepka and Jim Aprea are the founding members of Stepka & Aprea, PLLC. Their practice focuses on criminal defense, family law and civil litigation

Law Day 2008

The Rule of Law: Foundation for Communities of Opportunity and Equity

Mike Richey, Law Day Chair

The Grand Traverse-Leelanau-Antrim Bar Association is celebrating the 50th Anniversary of Law Day on May 2, 2008. This year's theme will explore the meaning of the rule of law, fostering public understanding of the rule of law through discussion of its role in a free society.

The Bar Association is currently seeking nominations for this year's Liberty Bell Award. As most you know, the Liberty Bell Award is given to a non-attorney community member who is recognized for his or her community service in raising awareness in others concerning equal



access to the justice system. Nominations for this award may be submitted to Mike Richey at 929-0500, or richey@ddc-law.com, through April 1, 2008.

The annual Law Day luncheon will be held at the Elk's Club in Traverse City. This year's luncheon program will include the presentation of the Liberty Bell Award, as well as announcement of the winners of the Student Essay Contest, the Mayor's Law Day Proclamation, and the annual Law Day speech.

The luncheon speaker has yet to be determined. If anyone has a suggestion, please contact Mike Richey at 929-0500, or richey@ddc-law.com.

Richard Mills Joins Bethany C. Warner & Associates

The law office of Bethany C. Warner & Associates in downtown Traverse City announces that **Richard Mills**, of Coldwater, has recently joined the firm. Mr. Mills is a law (*magna cum laude*) and MBA graduate of the University of Detroit Mercy. He also holds an accounting and business degree from Aquinas College in Grand Rapids. He will be focusing his practice on estate planning. Mr. Mills also practices in the areas of business representation and real estate. Mr. Mills is an active member of the Knights of Columbus and the Kiwanis Club of Grand Traverse Bay. He can be reached at 922-8028 or at rmills@warner-law.com.



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A complete and current set of Michigan Compiled Law Service. Please call Ann Swaney, at the NMC Osterlin Library if you are interested. 231-995-1065

Ronald W. Sondee Receives Madeline Thomas Award

Traverse City attorney Ronald W. Sondee received the Grand Traverse-Leelanau-Antrim Bar Association's Madeline Thomas Award at the Bar Association's Wednesday, November 7, 2007, Fall Dinner. Ron is a partner with the Sondee Racine & Doren PLC law firm.

The Award was established in memory of Madeline Thomas, a local attorney whose greatest work centered on addressing domestic violence. It was through her commitment that the Women's Resource Center became the service and education organization it is today. In memorializing her charitable work, the Bar Association annually recognizes one attorney for the Award.

The criteria for the Award are service to the community and non-profit work. Past recipients include attorneys Jo L. Bullis, Jerry A. Colligan, and Patrick E. Heintz.

Ron, his wife Mary Lynn and their young family moved to Traverse City in 1972. Ron soon became deeply involved in civic and church affairs. In 1973, he began his ongoing service to Munson Medical Center. He became a member of the its Board of Directors and eventually served as Chair of that Board. Ron currently serves



on the Munson Healthcare Board and has served as Chair of that Board. His uninterrupted Board service on behalf of Munson has spanned 34 years.

Ron has been an active member of the Traverse City Rotary Club for 25 years. He served on the boards of two corporate entities spawned by the Rotary Club: Rotary Charities and Rotary Camps and Services. At the request of the Rotary Charities Board, Ron undertook the daunting task of writing a book which preserved the history and activities of the first 80 years (1920 - 2000) of Rotary in Traverse City. Ron is the author of "To Whom Much is Given," which tells that story. His Rotary leadership service culminated when he served as President in 2006-2007.

He has actively served the First Congregational Church in Traverse City, including President of its Council and Chair of its Board of Trustees.

As indicated by the Bar Association "Ron is not just a joiner or passive member of community organizations. He is a leader of them, managing at the same time to be a dedicated husband, father, lawyer, law partner and mentor to many."

FAMILY LAW ATTORNEYS

These programs are offered at Child and Family Services in Traverse City and may be helpful to you.

SAFE HAVEN SUPERVISED VISITATION AND EXCHANGE PROGRAM

Safe Haven is a program for families who are having relationship problems, and need supervised visits or exchanges of their children. In some cases, when parents attempt to exchange or visit their children, the children witness violent confrontations between their parents. Safe Haven provides a safe environment for families going through a difficult time. Separate entrances, and staggered times of arrival and departure as well as security measures are in place to help assure safety.

A referral is required to access Safe Haven services, and is accepted from attorneys, a court order, or other resource agencies.

ALWAYS A PARENT PROGRAM

The Always A Parent program helps individuals who are co-parenting, and having communication issues. When couples experience separation, divorce, abuse or domestic violence, commu-

nication can be very difficult. Always A Parent provides parenting education that defines the impact of parents' behavior on their children. It teaches that cooperative communication between parents is essential to helping families overcome grief, trauma, and depression, and move on to lead healthy, happy lives.

Some of the topics include:

- How To Communicate With Your Co-Parent Effectively
- Helping Children Cope
- Games Parents and Children Play
- Dealing With Anger
- Families In Transition

If you have any questions, or would like more in-depth information, please contact Mary Lou Williams, Program Coordinator, Child and Family Services, 3785 Veterans Drive, Traverse City, MI 49684, (231) 946-8975, email mwilliams@cfsmail.org.

Visit Child and Family Services at www.cfsnwmi.org.

2007 Boss of the Year Michael J. Swogger

The Grand Traverse Area Legal Professionals named **Michael J. Swogger** as the 2007 *Boss of the Year*. Mr. Swogger is a shareholder with the law firm of Garan Luow Miller, P.C., in the Traverse City Office.



He is a Traverse City native and received his B.A. (*cum laude*) from Western Michigan University, *cum laude* in 1986, and his J.D. (*cum laude*) from the Detroit College of Law, *cum laude*, in 1989. Mr. Swogger is admitted to practice in the U.S. District Court for the Eastern and Western Districts of Michigan. He began his legal career as law clerk to the Honorable Sharon Tevis Finch, Wayne County Circuit Court. His professional memberships include the State Bar of Michigan and the Grand Traverse-Leelanau-Antrim County Bar Association. His areas of practice include Estate Planning, Wills and Trusts, Probate, Premises Liability, and General Insurance Defense.

Mr. Swogger has been married to his wife Sharon for 17 years, and they have a 14-year-old son, Hunter, and 12-year-old daughter, Bailey. Outside of work, he enjoys spending time with his family and friends, and volunteering for school activities, including *Odyssey of the Mind*. His hobbies include playing the guitar, golfing, boating, watching football and movies, and talking politics.

Ask the Attorney

David Bieganowski

"Ask the Attorney" airs from nine to ten a.m. of the last Wednesday of each month. If you wish to be a guest attorney on the show, contact Dave Bieganowski at 947-6073.



Future and recent participants in this public service program include:

December 19, 2007 Page Graves (Smith & Johnson Attorneys PC) and Shelley Kester (Wilson & Kester PLC)

January 30, 2008 Katherine Ryder-Purcell (Ryder & Swogger, PC) and Brad Putney (Bradley L. Putney, PLC)

Civil Liberties Presentation at NMC

Dean Sheldon, Good Harbor Mortgage Company

Michael J. Steinberg, Legal Director for the ACLU of Michigan, spoke on November 29, 2007, at Northern Michigan College. He cautioned the audience that these are very important times for the future of civil rights and liberties, citing the indefinite detention of Guantanamo detainees and warrantless wiretapping as examples.



Steinberg discussed several pending legal cases filed by the ACLU of Michigan involving religious freedom, illegal spying, strip searches and freedom of speech. The near capacity crowd at Scholar's Hall included many high school and college students who were eager to hear about their civil liberties and the efforts of the ACLU.

He encouraged people to join the ACLU to fund its grassroots efforts to educate the public as to their individual rights. He stated that in some communities road-side strip searches had become so common that people believed the practice was legitimate.

Steinberg pointed out that the ACLU has been mischaracterized by some elements of the media as being against religion and law enforcement. He noted the ACLU defends the rights of people from all political and religious beliefs, including the right to practice religion. His assertion that we can be both safe and free drew applause from the audience.

Dean Sheldon is a member of GTLA Bar Association and owns Good Harbor Mortgage Company.



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Leaving Chicago for Traverse City: A Road Less Traveled

John W. Rossiter, CPA, MBA, JD, LLM

As an attorney new to the Traverse City area, I recently contacted Lee Hornberger about joining the GTLA Bar Association. During our conversation he asked me ‘what made you decide to leave Chicago and move to Traverse City?’ Quite honestly, it’s a question I’ve gotten a lot over the past six months.

When my Chicago friends asked me it wasn’t a surprise. Whether they are south-side Sox-fans who grew up in Chicago or north-side Cubs-fans who are imported from most everywhere else on the planet, both groups are pretty certain that Chicago is The Greatest City. Period. When my Michigan friends asked the same question I guess I was rather surprised though.

I admit that in the beginning I was just as enamored with the City as everyone else there seems to be. If you want it, you can find it somewhere within the thump and grind of the City. The food is legendary and the entertainment first-rate. With a minimum of effort you will find everything from great jazz at the Green Dolphin and blues at Buddy Guy's Legends, to “Where Rock Meets Bach” at the Chicago Symphony Orchestra or *La bohème* at the Lyric Opera, and anything in between. Or, if you prefer, you could visit The Billy Goat Tavern on Lower Michigan Avenue where Mike Royko hatched tales years ago about Slat's Grobnik and his other ribald acquaintances. It’s quite a city.

As a new attorney I went to work with a boutique firm on LaSalle Street in one of the few Daniel Burnham buildings remaining in the City. It sat next to the majestic Federal Reserve Bank and an eight-iron away from the Board of Trade building that anchors LaSalle Street on the south. You have actually seen the building if you have ever watched *The Untouchables*, *The Road to Perdition*, or *What Women Want*, to name just a few of the movies that it has appeared in. I recall one particular weekend Nicolas Cage was shooting in the building and I had to get a special security pass to come in on a Saturday – because working on Saturdays was the rule, not the exception.

On my way to and from the courts every weekday I walked past the Picasso in Daly Plaza that set the stage for the climactic end of *The Blues Brothers*, and through the Calder Plaza along Ferris Bueller's parade route. At night I went home to a mid-rise in the Edgewater neighborhood with a magnificent view over Lake Michigan. It wasn’t a bad existence and I suppose I could have stayed there for a very long time. A trip to a friend’s wedding in August 2005 made me realize however, that I wasn’t really living. I was just kind of existing.

At the time, I hadn’t taken a full week off in over two years. I wondered where I was going to make up the billables. Ultimately I decided to throw caution to the wind and fly down to New Orleans for a four day weekend to see my friend off into the blissful bonds of matrimony. Instead of the holiday I had expected, I ended up



stranded in the French Quarter through Hurricane Katrina. I could never have foreseen what I would experience during the six days before I was able to escape Louisiana and return to Chicago.

Over the few months after Katrina I examined my life. Somehow, working 70 hours a week in a cold-hearted, congested, wildly expensive city didn’t seem to be the answer. Don’t get me wrong, I enjoy being a lawyer, and I don’t shy away from hard work, but neither do I have any intention of billing 2,000 hours this year or any year in the future.

There are a lot of things about Chicago that I will miss, and many that I won’t. What Northern Michigan offers me though is an opportunity to harmonize my life and my career. I have a fly rod a Winchester and some snow skis that have been ignored for far too long. I’m also keeping an eye out for a sailboat to replace the boat I sold a few years back when I “didn’t have time” to use it. Apparently sometimes it takes a hurricane to get a guy back on course.

John W. Rossiter received his B.A. in Economics & Management from Albion College in 1987. He is a CPA who worked for many years in the area of ERISA governed trusts and investments. He received his MBA, focused in Marketing, from Iowa State University, and both JD and LLM degrees from The John Marshall Law School in Chicago, Illinois with Certifications in Intellectual Property Law, International Trade Law, and International Corporate and Finance Law. He also studied EU law and International Arbitration in Rome, Italy as a guest student with The Temple University Law School. Mr. Rossiter is currently licensed in Illinois and Michigan and has recently joined the Law Office of Gerald F. Chelalo in Traverse City as an Associate Attorney.



What has Judge Rodgers Said About Weekly Rentals?

Barbara D. Budros

As a staff attorney to Judge Rodgers, I am frequently asked by attorneys and lay people alike if the Judge has ever issued an opinion on a particular topic. Recently there seems to be a great deal of interest in opinions about weekly vacation rentals.

First, I would like to point out that all written Circuit Court opinions can be searched by text on the computers located in the law library to find decisions that deal with a particular issue. In order to do this, follow these instructions:

- Open the Word program by double clicking on the Word icon on the desktop.
- Single click on "File".
- Single click on "Open".
- Single click on "My Recent Documents" (located on the upper left hand side).
- Double click on "Decisions" - this will open a list by case number of all decisions in the system.
- Single click on the drop down arrow for "Tools" (on the upper right).
- Single click on "Search".
- Enter Text Search information in the space provided, e.g. "weekly rentals".
- Single click on "Go" - this will open a list of every decision containing your test and may take a few minutes.
- Double click on any one of the decisions in the search list - the decision you click on will appear in the File Name box at the bottom.
- Single click on the File Name box to open the decision.

Second, for those who are interested in the weekly vacation rental issue, Judge Rodgers has had two fairly recent cases. The first one was *Torch Lake Protection Alliance, et al v Ackerman*, Antrim County Case No. 02-7840-CZ which was affirmed by the Court of Appeals in an unpublished opinion dated November 30, 2004 (Docket No. 246879). (Note: This decision was not in the form of a written opinion so it is not available on the library computers. If you would like a copy, give me a call.)

In *Ackerman*, the Defendants owned two lots on Torch Lake. One lot had a single family residence on it for many



years. The Defendants constructed a structure with up to 6 bedrooms on the other lot. They rented both structures or parts thereof to individuals for short periods of time. The Plaintiff Alliance consisted of individuals who lived in close proximity to the Defendants' properties. They filed suit, seeking an injunction to preclude the Defendants from using the structures as weekly rentals. The Court found that the Plaintiffs had standing to enforce the R-1 zoning restrictions imposed by the Milton Township zoning ordinance and that Defendants' rentals violated both the R-1 zoning and the deed restrictions established by the Defendants' predecessor in title. The two deed restrictions at issue provided that Defendants' property "shall be used for private residence purposes only" and the premises may not be used for a number of specified business or commercial purposes, including "as a hotel or tourist camp or public place of resort, . . ."

The second case is *Boss, et al v Kegler*, Leelanau County File No. 07-7461-CH and it is available on the computers in the law library. In *Boss*, the Plaintiffs requested an injunction to prevent the Defendant from renting, on a weekly basis, the parties' shared beachfront property. The Court found that the Glen Lake Township zoning map showed the subject property was zoned R-1 and that the zoning ordinance unambiguously provided two permissible uses in an R-1 district: a single family dwelling and a home occupation, such as a Bed & Breakfast "conducted primarily by members of the family within its place of residence, provided that space used is incidental or secondary to residential use." The Court concluded that "[w]eekly rental for commercial gain is not one of the permitted uses" in the R-1 district and issued an injunction, enjoining the Defendant from using the shared beachfront property for weekly rental purposes.

Now you have the tools to locate the Court's written opinions and you know more about weekly rentals than you probably cared to know. If you need any other assistance, please do not hesitate to call me.

Barbara D. Budros is staff attorney to the Hon. Philip E. Rodgers, Jr. She conducts a great deal of legal research and drafts many of Judge Rodgers's written opinions.

MARK YOUR CALENDARS

**Conflict Resolution Services, Inc. - Traverse City
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**General Civil Mediation Training
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This training meets the MCR 2.411 requirements for anyone who wishes to qualify for a court's General Civil Mediator roster. The post-training internship (observations and supervised mediation) will be arranged through CRS on an individual basis. **Attendance at all sessions and the post-training supervised internship is mandatory to apply for the court-approved mediator roster (MCR 2.411).**

For further information and registration, please contact Jennifer Kowal, CRS Program Director at 231-941-5835 or by email at crservice@thirdlevel.org.

The Long Wait for Social Security Disability Benefits

Wendy K. Bailey, Sterling Law Office

It is hard to be disabled in Michigan. As if being mentally and/or physically disabled was not enough, disabled individuals often struggle through the psychological and financial problems associated with not being able to work and provide for themselves and their families. Some individuals may be able to rely on a spouse's income, support from other family members, worker's compensation benefits, state aid, or long-term disability insurance. However, for most this is not enough. So what can a disabled person do? Apply for disability benefits through the Social Security Administration (SSA). Unfortunately, the average approval rate for disability benefits through SSA for initial applications is around 40%. According to a recent trainee with the Disability Determination Service (DDS) in Traverse City, there is a 64% denial rate for initial applications. Some people try reapplying but they can be denied again and again. The success for many is through the appeal process. This is the time when many individuals hire an attorney and eventually find themselves in front of an administrative law judge.



It is first important to understand what it means to be "disabled" for purposes of disability benefits through the SSA. The SSA will consider benefits only for people who are totally disabled with a condition that will last or is expected to last at least one year or can expect to result in death. To meet this definition, an applicant must not be able to engage in any type of substantial gainful work in the national economy due to severe physical or mental impairment(s), having considered the applicant's age, education, and previous work experience.

There are two programs available to individuals with disabilities: Social Security Disability Insurance (SSD or SSDI), also referred to as Disability Insurance Benefits (DIB), and Supplemental Security Income (SSI). The Social Security Administration administers both programs and under both programs individuals must meet the medical criteria to be deemed disabled.

Social Security Disability Insurance: SSD is a credits based benefits program. Basically, benefits are paid to those individuals who are found disabled and are "insured" through the program by having worked and paid Social Security taxes. Generally, applicants for SSD will need to have worked 5 out of the last 10 years (although for applicants under age 31, there are different criteria). You will be required to submit information about all of your work for the past 15 years (or longer depending on when you are last insured for benefits).

Supplemental Security Income: SSI is a financial needs based program. Through the disability part of SSI, benefits are paid to those individuals who are found disabled and have a very low income and little assets. It is not dependent on whether you have worked or not. For some individuals, they may receive benefits through SSD and SSI – if their SSD benefits are low then they may be supplemented with SSI payments as well.

What does all of this mean for those disabled individuals who are denied benefits? It does not seem like much. However, if that person is disabled and cannot work then he should appeal the initial decision and request a hearing before an administrative law

judge. Unfortunately, this can entail a long, hard wait. Our local hearings office – the Office of Disability Adjudication and Review – is in Grand Rapids, with hearings held in Traverse City. Currently, Grand Rapids has the highest number of cases per judge in the country. This means a big backlog of cases waiting to be processed and heard. To help remedy the backlog, many cases have been shipped out to other offices. I have had hearings for some of my clients with judges from Oak Brook, Illinois, and San Diego, California (in Traverse City). I was informed several months ago by an examiner at a DDS downstate that 10,000-15,000 Michigan cases had been transferred to Texas and California. Despite this, my clients are still waiting over two years for their hearing and longer still before they receive a disability check. But at least once they have received a favorable decision then they will know they will have benefits coming and they can have some financial stability – something that has been lacking in the months and/or years leading up to this decision.

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To book your complimentary Strategy Session, go to www.OneCoach.com/tclaw, or call Dave Crater, at 231.218.7545.

Non-refundable Retainer Decision

A recent Attorney Discipline Board opinion addressed problems that arise when the term "non-refundable retainer" is used in a fee agreement. The Discipline Board held that a client's agreement that a fee is a "minimum fee" and "not refundable" does not override the duty to refund the unearned fees paid in advance for work to be performed in the future.

This case remains on appeal. See the opinion at <http://www.michbar.org/opinions/ethics/cooper.pdf>.

The State Bar of Michigan Practice Management Resource Center has retainer agreement forms that comport with the new opinion. Visit <http://www.michbar.org/pmrc/resources.cfm>, click Client Relations, Client Intake, and then Forms.

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July 1,	2007	5.741%
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July 1	2006	5.815%
January 1	2006	5.221%
July 1,	2005	4.845%
January 1,	2005	4.529%
July 1,	2004	4.357%
January 1,	2004	4.295%
July 1,	2003	3.603%
January 1,	2003	4.189%
July 1,	2002	5.36%
January 1,	2002	5.14%
July 1,	2001	5.782%
January 1,	2001	6.965%
July 1,	2000	7.473%
January 1,	2000	6.7563%
July 1,	1999	6.067%
January 1,	1999	5.8335%
July 1,	1998	6.601%
January 1,	1998	6.920%
July 1,	1997	7.497%
January 1,	1997	7.340%
July 1,	1996	7.162%
January 1,	1996	6.953%
July 1,	1995	7.813 %
January 1,	1995	8.380%
July 1,	1994	7.128%
January 1,	1994	6.025%
July 1,	1993	6.313 %
January 1,	1993	6.797%
July 1,	1992	7.680%
January 1,	1992	8.002%
July 1,	1991	8.715%
January 1,	1991	9.260%
July 1,	1990	9.535%
January 1,	1990	9.015%
July 1,	1989	10.105%
January 1,	1989	10.005%
July 1,	1988	9.210%
January 1,	1988	9.390 %
July 1,	1987	8.500%
January 1,	1987	7.660%

Money Judgment Interest Rates

The money judgment interest rate as of January 1, 2008, for complaints filed in state court on or after January 1, 1987, is **5.003%**. This rate includes the statutory one percent.

The information can be found at the Michigan Treasury website: <http://www.michigan.gov/treasury>. Click on Reference Library, then Reports.

In federal court, the rate is 6.052 percent for judgments entered on or after November 28, 2000.

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LIBERTY BELL AWARD NOMINATIONS REQUESTED

Law Day 2008 is just around the corner. A very important part of our Law Day celebrations is the Liberty Bell Award. We are seeking nominations for the 2008 Law Day Liberty Bell Award recipient.

Our Bar Association awards the Liberty Bell Award each year to a non-attorney member of the community who is recognized for his or her community service by raising an awareness to others in the community of our law and equal access to America's justice system.

Specific qualifications of such an individual include:

- Promotes a better understanding of the Constitution and Bill of Rights as they affect our lives.
- Encourages a greater respect for our laws and the courts.
- Stimulates a deeper sense of individual responsibility so that citizens recognize their duties as well as their rights.
- Contributes to the effective functioning of the democratic institutions of our government.
- Fosters a better understanding and appreciation of the rule of law with fairness and consistency.

Your nominations for the Liberty Bell Award will be given serious consideration. Please submit your nominations for individuals to be considered for receiving the Liberty Bell Award to Mike Richey at 929-0500 or richey@ddc-law.com.

Negligence Law Section to Meet in Traverse City July 21, 2008

The Negligence Law Section of the State Bar of Michigan has scheduled a meeting in Traverse City for Monday, July 21, 2008. The Negligence Law Section meeting presents an excellent opportunity for attorneys to get an update on the important issues the Section is working on and to give Section members feedback on the issues that concern them.

The Negligence Law Section has as its purpose the study of the procedures, rules and statutes which embody the law of negligence to promote scholarship among its members and to unwaveringly promote the fair, equitable and speedy administration of negligence litigation in the Michigan trial and appellate courts. The Negligence Law Section is the largest single section of the State Bar composed of over 4,300 litigators.

Additional information concerning the Section and the meeting can be obtained from Paul E. Pedersen at 248-363-2322 or pedersen@pkkwa.com

Minutes from the Board of Governors Meeting

Joe Van Horn, Secretary

Wednesday, September 19, 2007

Present: George Beeby, Lee Hornberger, Jennifer Berry, Joe Van Horn, Jo Bullis, David Bieganowski, Eleanor Lynn, Mardi Black, Deborah Rysso

Absent: Barbara LaSusa, Larry LaSusa, Shelley Kester, Mike Richey, Aaron Bowron, John Blakeslee, Robert Witkop

The meeting was called to order at 4:38 p.m. with a quorum.

Secretary's Report: The August 15, 2007 minutes were approved with Jennifer Berry moving for approval and Eleanor Lynn seconding. Motion was carried unanimously.

Treasurer's Report: Jo Bullis presented the Treasurer's Report. Motion was made to accept the financial statements, which was seconded and carried unanimously.

President's Report: Lee Hornberger presented the President's Report. A meeting was recently held with the Circuit Court judges to discuss continuity in the Bar and to gather ideas on increasing membership. Discussion was also held concerning instituting a monthly informal "Dutch Treat" luncheon at a location such as the Park Place for any local bar members and the judges. A meeting was recently held with TADL Director Michael McGuire concerning the dual authority between TADL and the Board of Governors over the law library. It was discussed that both organizations share in leadership over the law library.

Manager's Report: George Beeby presented the Manager's Report. The fall dinner meeting will be held at Boone's Long Lake Inn on Wednesday, November 7, 2007.

Committee Reports:

CLE Committee: Larry LaSusa was absent and Lee Hornberger provided a report in his absence. Three CLE's have been arranged, including a bankruptcy CLE on Wednesday, November 21, a CLE by Judges Phillips and Hayes on Thursday, December 20, and a technology CLE on Wednesday, January 16, 2008. Larry LaSusa is currently working on some additional CLE seminars at this time.

Law Day: Mike Richey was absent and Lee Hornberger provided a report in his absence. Ideas for a speaker at this event are still being accepted. Any suggestions concerning a speaker should be sent to Mike Richey.

Newsletter Committee: Lee Hornberger provided a report. There will be a running article in the Newsletter entitled "Ask the Attorney." Volunteers are currently being sought. There are several articles which have been submitted for publication in the Newsletter. George Beeby has placed the Newsletter on the GTLA website.

Membership Committee: Jennifer Berry has agreed to chair this committee and assist in attempting to increase GTLA Bar membership.

Events Committee: The Bar Association Dinner will be held at Boone's Long Lake Inn on November 7, 2007.

Women Lawyer's Association: Deborah Rysso provided a report. There is now an opt-out provision for the Free Legal Clinic at the Women's Resource Center. The Women Lawyer's Association will also be meeting at a restaurant in Frankfort on October 5, 2007 for a fundraiser.

Old Business:

Judicial Independence Forum: Discussion was held concerning the Judicial Independence Forum. A presentation was made by Mary Grover of the League of Women Voters concerning this forum. A request was made that the GTLA Bar Association sponsor this forum. Jennifer Berry moved that the GTLA Bar Association sponsor this forum. Mardi Black seconded the motion. The motion was defeated on a vote. After additional discussion, a motion was made by Mardi Black to permit the use of the following statement by the Judicial Independence Forum:

The GTLA Board of Governors believes that judicial independence is an important issue and endorses the frank and open discussion of options to promote judicial independence and integrity. Eleanor Lynn seconded the motion, which was passed after a vote of the Board.

Website Transfer: This issue was tabled until the next meeting.

Written Policy Concerning the Use of Membership Lists and Mailing Labels: A draft policy concerning this issue was provided to the Board. It will be reviewed and commented upon further at upcoming meetings.

New Business:

GTLA Softball Game: The possibility of organizing this event for next year was discussed. The issue will be addressed in future meetings.

The meeting was adjourned on motion at approximately 5:45 p.m.

Wednesday, October 17, 2007

Present: George Beeby, Lee Hornberger, Jennifer Berry, Joe Van Horn, Jo Bullis, Barbara LaSusa, David Bieganowski, Eleanor Lynn, Mardi Black, Mike Richey, Deborah Rysso, Aaron Bowron, Robert Witkop

Absent: Larry LaSusa, Shelley Kester, John Blakeslee

The meeting was called to order at 4:39 p.m. with a quorum.

Secretary's Report: The September 19, 2007 minutes were approved with Dave Bieganowski moving for approval and Aaron Bowron seconding. Motion was carried unanimously.

Treasurer's Report: Jo Bullis presented the Treasurer's Report. Due to timing issues, some expenses incurred in the prior fiscal year will actually show up in the current year's budget. Motion was made to accept the financial statements, which was seconded and carried unanimously.

President's Report: Lee Hornberger presented the President's Report. A decision has been made recently to replace the CD-Rom research capabilities at the law library with Westlaw covering those same areas. It is hoped that this transition will occur quickly.

Manager's Report: George Beeby presented the Manager's Report. A meeting was held with the local Westlaw representative concerning the transition of the research in the law library to Westlaw. Additional meetings will occur to complete this transition.

Committee Reports:

Women Lawyer's Association: Deborah Rysso provided a report. A recent dinner in Frankfort was well attended by the Women Lawyer's Association and was a success. Barbara LaSusa is in contact

with a possible speaker for the annual meeting in May of 2008. Barbara LaSusa moved that there be an appointment of a two-member committee to look into the possibility of procuring this speaker and submit a memorandum to the Board on that issue within 30 days. Deborah Rysso, who would also be the second member on the committee, seconded this motion. Motion carried unanimously.

Young Lawyer's Association: Aaron Bowron provided a report. Discussions with ICLE contacts have occurred concerning the creation of a possible live seminar in the local area for young lawyers concerning lifestyle and practice issues. Discussions have also occurred with representatives of the State Bar Young Lawyer's Association concerning its willingness to co-sponsor a speaker in the local area on areas of interest to young attorneys and possible assistance with the cost of such a speaker. Discussion was also held about the possibility of a future CLE on the issue of forensic meteorology.

Representative Assembly: Robert Witkop provided a report. This organization recently met in Grand Rapids. Discussion was held on a number of topics, including the unauthorized practice of law by interdisciplinary entities, possible amendments to MCR 2.107, and resolutions concerning attorney/client privilege issues.

Old Business:

Written Policy Concerning the Use of Membership Lists and Mailing Labels: This issue will be discussed further at the next meeting.

New Business:

Legal Services of Northern Michigan Endowment Fund: Eleanor Lynn provided a report on the attempt of Legal Services of Northern Michigan to fund an endowment. Eleanor Lynn moved to allow the Deputy Director of this entity, Mary Cavanaugh-Gahn, to provide a five-minute information-only presentation about this endowment and to allow written information on it during the upcoming fall Bar Association Dinner. The motion was seconded by Aaron Bowron and carried.

October 12, 2007 Letter: Discussion was held on various topics with respect to a letter sent to the Executive Director of the GTLA Bar Association from Lee Hornberger. George Beeby provided a response to the issues in the letter.

At 6:20 p.m., a motion was made by Mardi Black to go into executive session. Jennifer Berry seconded this motion, which was carried unanimously. Thereafter, the Board was in executive session until approximately 6:52 p.m.

At 6:52 p.m., on unanimous motion, the Board left executive session and returned to public session. A motion was made to place the Executive Director on probation for a term of 3 months, with the terms of the probation and areas of improvement to be provided in written form, and the probation to be monitored by an Oversight of Bar Management Committee, which will then make a recommendation to the Board at the conclusion of probation. This motion was seconded and carried.

The meeting was adjourned on motion at approximately 6:53 p.m.

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Profit and Loss Budget vs. Actual

Jun'06-Nov 2007 Annual Budget

Ordinary Income/Expense

Income	Jun'06-Nov 2007	Annual Budget
Dues		
Assoc. Dues	29,845.00	29,000
Women Lawyers Dues	1,240.00	800.00
<u>Total Dues</u>	<u>31,085.00</u>	<u>29,800.00</u>
Golf Outing	3,587.00	3,000.00
Interest MM Account	530.01	1,200.00
Meals— Quarterly Mtgs	210.00	360.00
Miscellaneous		
Bank Service Charge Refund	99.00	0.00
Miscellaneous-Other	12.00	100.00
<u>Total Miscellaneous</u>	<u>111.00</u>	<u>100.00</u>
Newsletter	700.00	2,500.00
Photocopies—Library Copier	698.40	3,000.00
TARS		
TARS dues	1,950.00	3,000.00
TARS Referrals	249.00	2,000.00
<u>Total TARS</u>	<u>2,199.00</u>	<u>5,000.00</u>
Total Income	39,120.41	45,060.00
Expense		
Accounting Fees	540.00	600.00
Bank Service Chg	181.00	0.00
CLE Comm	0.00	700.00
Copier/Fax	194.80	500.00
Dinners/Program	4,090.36	5,500.00
Education		
Bar Leadership Forum	0.00	700.00
GTALP Student Scholar.	0.00	100.00
Law Day	1,166.23	3,500.00
<u>Total Education</u>	<u>1,166.23</u>	<u>4,300.00</u>
Golf Outing Exp	3,663.74	3,200.00
Law Library		
Law Books/Supp	60.00	3,500.00
Modem & Phone	978.07	2,300.00
<u>Total Law Library</u>	<u>1,038.07</u>	<u>5,800.00</u>
Legal Eagles	0.00	500.00
Mailing/Postage		
Mailing/Postage	438.15	1,000.00
Printing	201.34	0.00
<u>Total Mailing/Postage</u>	<u>639.49</u>	<u>1,000.00</u>
Manager's Budget		
Insurance	0.00	400.00
MABE Dues	50.00	50.00
Office Supplies	293.79	800.00
Past Presidents Plaque	75.55	100.00
PO Box Rental	68.00	80.00
Salary & Fringe	10,066.46	19,000.00
<u>Total Managers Budget</u>	<u>10,553.80</u>	<u>20,430.00</u>
Miscellaneous Expense	186.59	200.00
Newsletter Exp	1800.90	1,500.00
TARS Exp	223.90	5,000.00
Travel Expense		
Bar President Travel	0.00	250.00
Bar Representative Travel	197.68	0.00
Manager Travel	430.50	300.00
<u>Total Travel Expense</u>	<u>628.18</u>	<u>550.00</u>
Website Expense	300.00	600.00
Women Lawyer	1,240.00	800.00
Total Expense	26,447.06	56,180.00
Net Ordinary Income	12,673.35	-7,575.00
Net Income	12,673.35	-7,575.00

Balance Sheet

Nov 30, 07

ASSETS

Current Assets	
Checking/Savings	
Checking - TCSB	1,264.07
Money Market Savings - TCSB	41,270.34
<u>Total Checking/Savings</u>	<u>42,534.41</u>
Total Current Assets	42,534.41
TOTAL ASSETS	42,534.41

FIXED ASSETS

Computer Equipment	
Accumul. Depreciation	-1,201.00
Cost	3,275.46
<u>Total Computer Equipment</u>	<u>2,074.46</u>
TOTAL Fixed Assets	2,074.46

TOTAL ASSETS

44,608.87

LIABILITIES & EQUITY

Equity

Open Bal Equity	26,571.60
Retained Earnings	5,363.92
<u>Net Income</u>	<u>12,673.35</u>
Total Equity	44,608.87

TOTAL LIABILITIES & EQUITY

44,608.87

Michigan Legal Resources

Sets, Textbooks, Forms and Pamphlets

Civil/Forms Practice/General

___ Callaghan's Michigan Civil Practice Forms, 3 rd	\$1,318.00
___ Michigan Civil Jurisprudence	\$2,636.00
___ Michigan Litigation Forms & Analysis	\$847.00
___ Michigan Pleading & Practice	\$2,195.00
___ Michigan Legal Forms with CD of forms	\$1,155.00
___ Michigan SCAO Approved Forms with CD	\$178.50
___ Michigan Lawyer's Manual	\$752.00
___ Michigan Uniform Commercial Code Forms & Practice, 2 nd	\$611.00
___ Michigan Real Estate with Forms Binder with CD ROM	\$540.00
___ Michigan Business Organizations with Forms & CD ROM	\$270.00

Criminal Law

___ Michigan Criminal Law & Procedure (Gillespie)	\$1,533.00
___ Michigan Criminal Law & Procedure: Practice Deskbook (Gillespie)	\$207.50
___ Michigan Criminal Law & Procedure: Search & Seizure (Gillespie)	\$119.00
___ Michigan Nonstandard Jury Instructions with CD ROM	\$199.00
NEW Michigan Courtroom Handbook on Criminal Procedure (Editorial with SADO)	\$131.00
NEW Michigan Criminal & Motor Vehicle Code	\$62.00
___ Michigan Criminal Laws & Rules	\$86.00
___ Michigan Sentencing Guidelines Manual 2 nd Ed.	\$28.00

Probate & Estate Planning Law

___ Planning for Estates and Administration in Michigan	\$648.00
___ Michigan Probate: A Practice Systems Library Manual	\$264.00
___ Michigan Probate Law Pamphlet	\$92.00
___ Michigan Estate Planning with Forms and CD ROM	\$270.00

Family Law

___ West's Michigan Family Law pamphlet	\$89.00
___ Michigan Child Support Formula Manual	\$20.00
---- Family Law with Forms NEW	\$270.00

Laws and Rules

___ Michigan Rules of Court State & Federal	\$84.00
___ Michigan Legislative Service	\$414.00
___ West's Michigan Law Finder	\$52.00
___ Michigan Administrative Law	\$303.00
___ Michigan Tax Guide	\$1091.00

Trial/Litigation Practice

___ Michigan Court Rules Practice Text and Forms	\$796.00
___ Courtroom Handbook on Michigan Civil Procedure	\$131.00
___ Courtroom Handbook on Michigan Evidence	\$131.00
___ Hackett's Michigan & Federal Evidence, 2d	\$299.00
___ Michigan Court Rules Practice: Evidence	\$270.00
___ Michigan Court Rules Practice: Index	\$88.00
___ Trial Handbook for Michigan Lawyers 4 th	\$248.00
___ Michigan Nonstandard Jury Instructions with CD ROM	\$420.00
___ Michigan Nonstandard Civil Jury Instructions, with CD ROM	\$199.00
___ Michigan Torts 2 nd	\$234.00
___ West Group's Michigan Practice:	
Guides Complete	\$600.00
-Civil Procedure Before Trial	\$252.00
-Civil Appeals	\$126.00
-Civil Trials and Evidence	\$252.00
-Enforcing Judgments and Debts	\$126.00
-Torts	\$252.00
NEW: West's Jury Verdict Michigan Reports Newsletter	\$295.00
___ Weekly Updates	
Michigan Reporter Advance Sheets	\$317.00

Primary Law Research

___ Michigan Compiled Laws Annotated	\$2200.00
___ Michigan Compiled Laws – Compact Ed.	\$312.00
___ West's Michigan Digest, 2 nd (post- 1932)	\$2,034.00
___ Michigan Reporter	\$2922.00
___ Michigan Official Supreme Court Reports	\$5,510.75
___ Michigan Official Appeal Reports	\$3,120.00
___ Michigan Employment Digest (New)	\$60.00
___ Michigan Insurance Digest (New)	\$60.00
___ Michigan Personal Injury Digest (New)	\$60.00
___ Michigan Workers' Compensation Digest	\$60.00
___ Michigan Family Law Digest (NEW)	\$60.00

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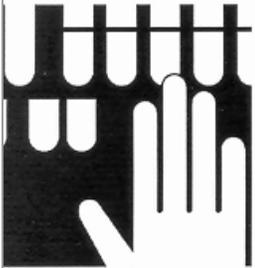
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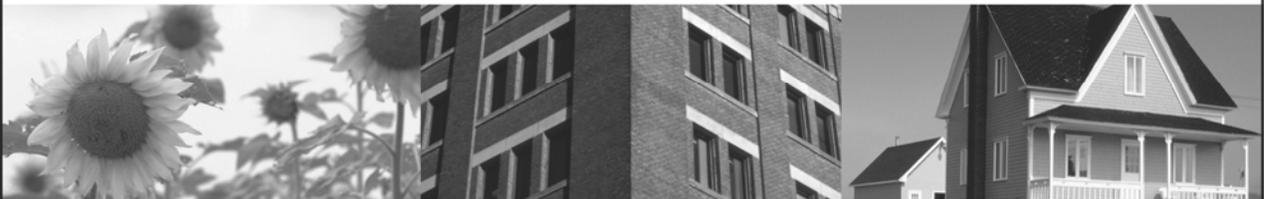
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