

LCBA's 77th President, Barbara Aquilla Butler, Takes Over

I just completed my first month in office as President and Jeannie, Tammie, and all the volunteers are already making me look like a rock star. Here is the skinny on what has been happening at the Bar Association.

National Association of Bar Executive (NABE) Small Bar Conference: For the first time in Bar Association History, we sent Jeannie to Charlotte N.C. for the Conference. As a result of Jeannie's hard work, she was awarded a scholarship to cover her expenses so I got to go to the conference as well. It was educational and a wonderful networking opportunity. A big take away however, was that although the Lorain County Bar is considered a 'small bar' in terms of number of members, we operate more like a big bar. Many of the participants were trying to learn from the successes we have had at the Lorain County Bar Association. We are very blessed to have Jeannie and Tammie as they keep our bar association competitive with much larger bar associations with the implementation of such programs as our Lawyer Referral Service, Pro Bono Panel, Modest Means Program, Quality CLE Seminars, Membership Benefits, Foundation, Sponsorships, Community Outreach, and activities for networking and camaraderie for our members. The experience was well worth it and next year I would like to see Jeannie attend the American Bar Association conference for additional education and networking.

Human Trafficking Coalition of Lorain County (HTCLC): We have used our membership and committee contacts to recruit attendees for their Pancake Breakfast Fundraiser as well as volunteers to promote their SOAP program which took place on August 3, 2013. Thank you to all who supported the fundraiser and the volunteers who assisted with the distribution of soap with hotline information and distribution of missing person's information to local motels. I am also very proud to announce that the LCBA Foundation made its first monetary contribution ever which was to the Coalition in the amount of \$500.00 to assist with their local efforts to stop Human Trafficking in Lorain County.

Modest Means Program: All participants completed their training seminar and referrals are starting to be made to the participating attorneys. This will assist with many callers to the Bar Association who have been placed on a waiting list who have modest means who were waiting over a year for an LCBA pro bono attorney. Thank you to all the attorneys and judges who assisted with the formation of the program and all those attorneys participating. Please contact the bar association if you are interested in joining the panel. Next we hope to get some volunteers from the Real Estate and Foreclosure Sections and from the Bankruptcy Section to assist with continuing the success of the Modest Means Program into foreclosure defense and Bankruptcy.

Softball Game: To change things up this year, instead of an annual football game and clam bake, we thought we would do a competitive but friendly softball game at the Crushers Stadium. Thanks to our generous sponsors, we have secured the field for September 19, 2013. Come on out and bring your family. We will have a picnic dinner from 4:30 p.m. to 6:00 for all at \$15.00 per plate with the game beginning at 6:00 p.m. Contact Jeannie to sign up for the team and for dinner reservations.

LCBA Website: We are on the final stages of our Website re-vamp. We will announce its debut shortly to the members.

D.C. Trip: The details of the trip are being finalized for departure in Mid-November.

Section/Committee Grant Program: Although a bit behind schedule, the grant program is still working out a few details before implementing the program. We will let you know as soon as the terms of the program are in place and provide the Sections/Committees with an application to apply for funding for meetings, socials, and networking.

One month down and eleven to go!

Barbara Aquilla Butler
President



LCBA SOFTBALL GAME AT ALL PRO FREIGHT STADIUM



Want to know what it is like to play a game of softball at the All Pro Freight Stadium (home of the Lake Erie Crushers)? Thanks to the generosity of our fantastic sponsors, you can find out because the LCBA has rented out the entire stadium for game of softball for the LCBA members on Thursday, September 19th.

We need 30 people to play. Teams will be drawn from a hat on September 18th. If you are interested in playing, please let us know asap. This is a co-ed event.

Families, friends, neighbors are all invited to watch the game - free. Come a little early and enjoy a picnic dinner

before the game on the Crusher's patio for only \$15. The picnic is from 4:30 to 6:00 p.m. and the game starts promptly at 6:00 p.m. Please let us know if you would like to join in on the picnic.

This event is sponsored by: Nurenberg, Paris, Heller & McCarthy • Waldheger, Coyne • Giardini, Cook & Nicol • D. Chris Cook, Bar Counsel



News from the Recorder's Office Judy Nedwick, Lorain County Recorder

It's the dog days of summer. The back-to-school commercials have started up again. The Indians are just a few games out of first place. It's been a busy, but very exciting summer for your Lorain County Recorder's Office. My staff has been working hard to keep up with the very noticeable increase in document filings.

Some numbers for you to consider:

July 2010 - 2794 Documents Filed

July 2011 - 2909 Documents Filed

July 2012 - 3378 Documents Filed

July 2013 - 4162 Documents Filed

This steady increase is not to blame on foreclosures, as those have been slowly tapering off, but on new construction documents, valid sale transfers, and refinancing.

You may notice some new faces when you come to your recorder's office. With all of this extra work coming in, I have needed to hire additional personnel. During the deepest part of the recession, I was down to eight (8) employees total. I started with 23 employees in 2003. The office was crippled. With the increase in workload, I have been able to hire more staff. I have decreased the overall number of managers and added to the workforce. Positive changes for a better experience in your recorder's office.

The Ohio Legislature has voted to support technology in recorder's offices across the state. As part of the biennium budget bill, the legislature has included provisions that will allow county recorder's to bolster their technology funds. This will allow for much-needed improvements to software and equipment. Better software and equipment improves accessibility of records to the citizens. I couldn't be happier with the bipartisan support of this legislation by our local Senator and Representatives!

As always, I look forward to working with you. My door is, and always will be, open.



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What's the value of a law degree? \$1M in a lifetime, report says.

By Debra Cassens Weiss

Two professors are battling the conventional wisdom about the lowered value of a law degree with a research paper finding a JD more than pays for itself.

Over a lifetime, a law grad will make \$1 million more, on average, than a college grad, according to the authors, Seton Hall University law professor Michael Simkovic and Rutgers University economics and business professor Frank McIntyre. The median increase in earnings is \$610,000. Both the median and average figures are for pre-tax income. Inside Higher Ed summarizes their findings.

The median value of a JD is \$350,000 for those in the 25th percentile and \$1.1 million in the 75th percentile. 'People with law degrees are still doing a lot better than people with only bachelor's degrees,' Simkovic told Inside Higher Ed.

Simkovic and McIntyre used data from the Census Bureau's Survey of Income and Program Participation, which records whether individuals have law degrees, and the National Education Longitudinal Study. About two-fifths of those with JDs in the sample studied were not employed as lawyers.

The data in the study covers four panels of graduates from 1996 through 2008 and looks at salaries through 2011. The median and average figures do not factor in tuition costs since they vary so much, though the tuition impact is discussed elsewhere in the article. Nor does the study explicitly compare the value of a law degree from higher-ranked versus lower-ranked schools. Future earnings are estimated based on historic data.

'Data does not suggest that law graduates were unaffected by the recession,' the study says. 'Rather, earnings dropped for both law graduates and college graduates after the late 2000s recession, and law graduates maintained their relative advantage. It is this relative advantage-not absolute outcomes-that measures the value of the law degree.'

'Predictions of structural change in the legal industry date back at least to the invention of the typewriter,' the study says. 'But lawyers have prospered while adapting to once threatening new technologies and modes of work-computerized and modular legal research through Lexis and Westlaw; word processing; electronic citation software; electronic document storage and filing systems; automated document comparison; electronic document search; email; photocopying; desktop publishing; standardized legal forms; will-making and tax-preparing software. Through it all, the law degree has continued to offer a large earnings premium.'

Kyle McEntee, who co-founded Law School Transparency, told Inside Higher Ed that the professors have missed the point. 'Law schools have made a habit out of capturing as much value out of their students as possible-and for a long time, used deceptive and immoral marketing tactics to do so,' McEntee told Inside Higher Ed in an email. 'Tens of thousands of law graduates leave school each year wondering how they're going to manage to pay off their six-figure loans. That's what motivates critics and frightens prospective law students.'

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Looking for a Niche Practice Area? Introduction to the Development of Shale Gas in Ohio

Attorney Jameel S. Turner

For young lawyers, development of a 'niche' practice area may make the difference between success and failure. The problem with niche practice areas is that there are not many left that have not been, forgive the pun, 'tapped.' This traditional point of view may not be applicable to law related to the latest trend in the Midwest energy production industry, shale gas wells. Therefore, young attorneys looking for a niche practice area that is sure to pick up steam in the near future should consider bringing themselves up to speed on the legal issues related to shale gas drilling and production.

Background of Shale Gas Wells

Natural gas production from tight shale rock formations, known as 'shale gas,' is one of the most rapidly expanding trends in onshore domestic oil and gas exploration and production today. In many cases, this has included bringing drilling and production to regions of the country that have seen little or no drilling or exploration activity in the past. Enter Ohio.

Natural gas is a mixture of light-end, flammable hydrocarbons primarily composed of methane, but also containing lesser percentages of butane, ethane, propane and other gases.¹ Natural gas is an attractive energy source because it produces large amounts of energy when ignited and also burns cleanly in that it emits much smaller quantities of potentially harmful emissions than either coal or oil. It is known as the cleanest of all fossil fuels.²

Natural gas is found in rock formations (i.e., reservoirs) beneath the earth's surface and in some cases it may be associated with oil deposits. After extraction, natural gas is processed to eliminate other gases, water, sand and impurities.³ After purification, natural gas is distributed through a system of pipelines across the United States for residential, commercial, industrial and transportation use. The popularity of natural gas is largely due to its versatility.⁴

Traditionally, oil and gas drillers have largely by-passed shale gas formation in the Midwest because of the combination of reduced economics and low permeability.⁵ Historically, the low permeability of shale made it difficult to construct wells with daily production rates that were worthwhile. Recently, technological advances in drilling known as hydraulic fracturing and horizontal drilling have been crucial to the expansion of shale gas development in the Midwest. These drilling techniques have counterbalanced the natural low permeability of the shale in the Midwest, which had to be overcome to make a shale gas well economically viable.⁶ Therefore, in the past few years, the shale gas reservoirs in the Midwest have gone from being considered economic challenges to economically viable, and, with recent increases in natural gas prices due to increased demand, shale gas drillers and explorers have been quick to react.

Legal Market for Shale Gas Lawyers in the Midwest

Needless to say, the entry of the shale gas industry into the Ohio market has created a need for attorneys who are familiar with the shale gas industry as a whole. Thus far, many of the property owners that have been approached by shale gas drillers are using counsel recommended by the driller or are using general counsel here in Ohio that have no previous experience in evaluating agreements and royalty structures related to shale gas production.

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In my limited experience with the shale gas industry (which impacted one of my clients that owns a large amount of land in southeastern Ohio), there were several threshold legal issues that needed to be addressed with respect to the contract that the driller had proposed. These issues included, but were not limited to: Amount of the signing bonus; amount of acreage the driller was permitted to explore and drill; type of drilling to be used; cost per ccf (100 cubic feet) of natural gas extracted; calculation of future royalties from the well; preparation of driller's property easement; and term of driller's easement.

Because some aspects of this particular area of the law were outside of my expertise, I enlisted the assistance of another lawyer with experience in the shale gas industry. I had no idea that signing bonuses were typical in shale gas deals, what the fair market value of a shale gas well was or how well production was measured. The lawyer provided me and my client with the 30,000 foot view of the layoff the land on these issues and supplied me and my client with just enough knowledge to complete the negotiation of the agreement and ensure that my client received fair market value from any natural gas that would be extracted from the shale gas formation on his land.

After completion of the transaction, I began to do additional research into the shale gas industry and quickly realized that there is a significant amount of expertise necessary to develop a working knowledge of the practice area. In addition, I checked with friends and colleagues locally and learned that few Columbus firms have any lawyers at all with a working knowledge of the practice area.

Thus, with the potential for Ohio to have a significant presence in the shale gas industry for a number of years to come, there is an opportunity for young lawyers to develop expertise in this niche practice area. The first step is educating oneself on the shale gas industry as a whole.

Endnotes

- 1 Chemistry and Technology of Fuels and Oils, 2000. Volume 36, Number 2, pp. 82-88.
- 2 Id.
- 3 Id.
- 4 Id.
- 5 Naturalgas.org Overview of Natural Gas, background www.naturalgas.org/overview/background.asap
- 6 Navigant Consulting. 2008. North American Natural Gas Supply Assessment. July, 2008.

Jameel S. Turner is an associate with Bailey Cavalieri. Jameel practices in the areas of corporate business, consumer law and regulatory compliance, liquor law, gambling and unclaimed property. Jameel focuses his corporate practice on the resolution of business disputes and contract negotiation. His unclaimed property practice includes assisting clients through the unclaimed property audit process and the negotiation of voluntary disclosure agreements. This article first appeared in the Columbus Bar Association's CBA Quarterly.

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SPECIAL INVITATION



OUTCOME OF LANDMARK GENOCIDE TRIAL IS A QUESTION MARK

Philip Althouse

Huipiles can tell a story. The colorful, brocaded blouses of the Mayan women who packed row after row in the gallery in the High Risk Crime courtroom in the Supreme Court building in Guatemala this past spring identified them as Ixiles from communities in the mountains to the northwest of Guatemala City.

The women seated the gallery were bonded by a common language, age-old traditions of communal life - planting, harvesting, celebrating births, and worship. But they also brought with them painful memories from encounters with soldiers who streamed up the winding mountain roads from Guatemala City during an 17 month-long 'scorched earth' counterinsurgency campaign that lasted from March 1982 through August 1983. The U.S.-backed campaign was the brainchild of General Efraim Rios Montt who seized power in a March 1982 military coup and aimed at wiping out support for leftist guerrillas who operated in the region. The Ixiles, historically proud of their heritage and perhaps the most independent of the nearly two dozen Mayan indigenous groups in Guatemala, were convenient targets for Montt and Jose Mauricio Sanchez who was head of military intelligence during the period. Montt and Sanchez viewed the Ixiles as collaborators and traitors. Although a majority of the population, Mayans were marginalized in Guatemalan society another factor that made them easy targets. Forced displacement and mass killing ensued. In the end, 15 massacres took place in the department of Quiche resulting in the death of 1771, tens of thousands displaced or exiled into neighboring Mexico, many who were never repatriated after the end Guatemala's internal conflict.

Fifteen years ago human rights groups began to press for the prosecution of Rios Montt who still held political office. In 1999 Nobel laureate Rigoberta Menchu Tum filed a complaint against Montt and four other former generals for torture, genocide, and state-terrorism. After the appointment of Claudia Paz y Paz as Guatemala's Attorney General a domestic prosecution effort began to take shape. In January 2012 Paz y Paz issued an indictment against Montt and Sanchez for crimes against humanity and genocide. Their trial began in March 2013. For the first time in history, a former head of state was being tried by a domestic court for the crime of genocide.

After persistent efforts to thwart the prosecution of the case on April 18th that included multiple tirades toward the three trial judges and the proceedings and the filing of 100 amparos (appeals) the with Constitutional Court, defense counsel finally succeeded in derailing the trial by declaring it illegal and walking out of the courtroom. The defendants sat in the dock with their arms folded. At the same time Patricia Flores, a judge who presided over the pretrial phase of the case issued an order annulling the prior four weeks of trial based on unresolved evidentiary issues. Guatemala Attorney General Claudia Paz y Paz, denounced Flores' ruling as politically motivated.

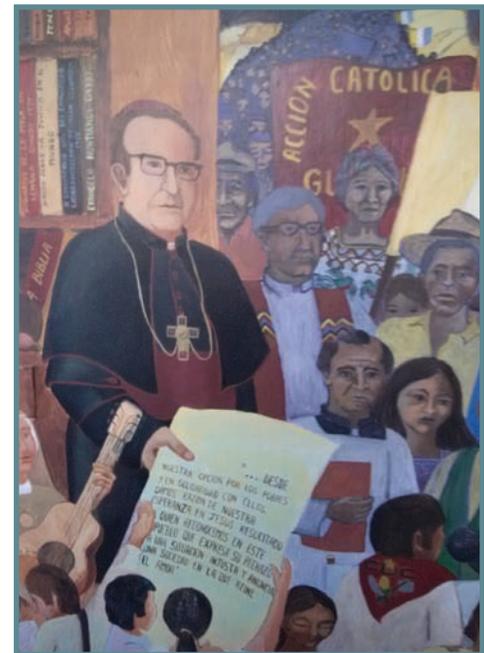
Her order was rejected by the trial panel. After an outcry from the international community the appellate court reinstated the trial which concluded after testimony of 100 lay and expert witnesses and the introduction of massive documentary evidence.

Outtakes from the 1983 documentary film 'When the Mountains Tremble' were some of the most interesting and compelling prosecution evidence against Rios Montt whose boasting on film helped to establish his command responsibility.

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Remains of genocide victims exhumed from mass grave where buried by Guatemalan military. Photo taken in forensic anthropology lab in Guatemala City (FAFG).



Mural from human rights office of the Catholic Diocese in Guatemala city. the mural depicts the life of Bishop Juan Gerardi who was assassinated in 1998, three days after releasing a report that extensively documented human rights crimes by the government during the 36 year civil war.

On May 10th the trial panel found Rios Montt guilty of genocide and crimes against humanity but acquitted Sanchez. The court's written decision was 718 pages in length. In a post-conviction statement, Montt said that the commanding officer in charge of the El Quiche region should be held accountable. That man is none other than Otto Perez Molina, current President of Guatemala. The celebration of the judgment was short-lived. Within ten days the verdict was overturned by the Constitutional Court, rewinding the trial to April 19th. Domestic charges are pending against Rios Montt for his role in the December 1982 Dos Erres Massacre. At this time it is not certain that he will ever be tried on those charges.

Philip Althouse is a member of the National Lawyers Guild International Committee and Task Force on the Americas. He was invited to participate in a delegation to attend the Rios Montt trial hosted by the Center for Justice and Accountability, a San Francisco-based human rights legal advocacy group. He is an alumnus of the University of Wisconsin-Madison, School of Education of which recognized his participation in the delegation in its summer 2013 newsletter.



Mural outside the National Police Archives in Guatemala City. The inscription reads "Oppressed by the weight of the gun." The Archive is the repository of 80 million records which document torture and murder by police and military during the civil war years. The records were discovered by accident in 2005 after an explosion nearby drew attention to the building in which they are housed. Until that time, the government had denied the existence of any such records. After their discovery, the mountain of documents was painstakingly prepared for digital archiving by specialists who work at the Archive. Its primary funding is from European human rights agencies and private donations.



Site of the Genocide Trial

505 Broad St. Elyria, midway between Elyria Municipal Court and County Justice Center, look for Spiderman. He is looking to rent or to form a joint venture. Be a part of the downtown Elyria resurgence. Be limited only by what you can imagine.

First Floor: presently offices. Approximately 2000 sq. ft.

Reception area 17'4" x 11'4"

Work and file room 14' x 4'

Office #1 14'4" x 9'9" Office #4 10'4" x 7'

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Office #3 14'4" x 8'11" Office #6 11'5" x 9'5"

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Congratulations to local attorney ANGELA WU! The Ohio State Bar Association Foundation has named her the 2014 District 10 recipient of the COMMUNITY SERVICE AWARD FOR ATTORNEYS 40 AND UNDER.

This award is presented to attorneys, 40 years of age or younger, who contribute substantial time and effort in service to a local social service, or a local civic, artistic, or cultural organization. The service must be outside the recipients' practice of law and must be given without compensation. Emphasis is placed on current service. Recipients should represent the ideals of the legal profession and, by example, be a credit to the profession.

Angela's nomination, submitted by Attorney Joseph Cirigliano, states:

Angela is the perfect candidate to receive this award. She works tirelessly with numerous service organizations to better her community and to assist youth with many different difficulties they face daily. After graduating from Harvard Law School in 2006, she returned to the Cleveland area to specialize in poverty law as staff attorney at the Legal Aid Society. Her practice areas included domestic violence, family law, landlord-tenant law, consumer law, public benefits, and torts litigation. She later served as legal counsel to the Lorain County Department of Job and Family Services and the Lorain County Child Support Enforcement Agency. Alongside her law practice, she established Oberlin Street Law, a non-profit facilitating non-lawyer participation in the law through education and the arts. She currently manages Oberlin Street Law, her own solo practice, and her college practicum course in law as Visiting Instructor of Politics at Oberlin College. In this unusual arrangement, she is able to engage diverse resources of her community to empower low-income residents and teens to find creative strategies that address injustices in their lives. In January 2012, she was selected as Executive Director of the Zion Community Development Corporation and will continue her practice in this role by engaging residents of the underdeveloped southern region of Oberlin in their own economic empowerment. Inspired by Gerald Lopez's classic, *Rebellious Lawyering*, she is applying legal theory to the practice of human rights and development in her own community. Ms. Wu is also a graduate of Oberlin High School, Harvard College, and the Zoltan Kodaly Pedagogical Institute of Music as a U.S. Fulbright Scholar to Hungary. She has a passion for working with youth involving domestic violence and dating issues. She is also very involved in the movement against human trafficking. She volunteers more hours than she works to help organizations that reach out to victims of both domestic violence and human trafficking. She has many phenomenal ideas to spread awareness of these issues.



Angela definitely represents the ideals of the legal professional and, by example, is most certainly a credit to the profession.

Lawyer Referral Service • Modest Means Program

The Lorain County Bar Association has started making referrals to its Modest Means Program. We have begun this program slowly to ensure that we are doing exactly what we are supposed to be doing -- helping those with very modest means obtain the legal assistance they need. We will soon begin to advertise this program to the various social service agencies in the area and to the local media outlets. We are certain once the word gets out about this program, we will be inundated with requests for assistance. The preliminary stages of the program will focus on domestic relations referrals but we are hopeful that we will be able to include other areas of practice in the very near future.

This program is geared to assist low-income individuals in the Lorain County area living paycheck to paycheck that cannot afford market rate legal representation or a large retainer fee. This program will match up these individuals with an attorney that is willing to assist them with their legal needs for a reduced fee.

By joining the MMP as a referral source, you will not only help out members of our community that would otherwise have nowhere to turn, you will gain valuable experience, expand your client base, establish yourself in the legal community, and maintain a steady work flow.

Please contact Jeannie or Tammie at the LCBA office (440-323-8416) for more information on this program.

Attorney Registration Forms and Payment Due September 1

Ohio attorneys are reminded to register for the upcoming biennium by September 1.

Ohio Supreme Court Office of Attorney Services Director Susan Christoff said all attorneys on active or corporate status must register with Attorney Services and pay a \$350 registration fee every odd-numbered year. Christoff said attorneys who fail to register and pay the fee by the September 1 deadline or within the late registration period will be suspended. The registration fee has not increased since the 2007/2009 registration period, Christoff noted.

Active and corporate attorneys should expect to receive a packet of registration materials in early July that will contain instructions on how to register and a form to verify the accuracy of their contact information, including a current residence, office, and email address.

Attorneys can register either by mail or electronically. Mailed registrations will be deemed timely if postmarked by September 1, or earlier. Online registrations must be completed by 11:59 p.m., September 1 to be deemed timely. Attorneys who successfully complete the process will receive confirmation by mail. Those who do not receive confirmation should contact Attorney Services.

To make the registration process easier, attorneys can also click on the 'Biennial Attorney Registration' button on the front page of the court's website. The button is located on the right-hand side of the page and will take the user directly to the Online Attorney Services portal. From there, the user should click on the 'Access Online Attorney Services' link.

Attorneys have a continuing obligation to keep the Supreme Court apprised of their most current residence, office and email addresses to ensure registration and other materials are timely received. Attorneys may update their own records online or mail the changes directly to Attorney Services.

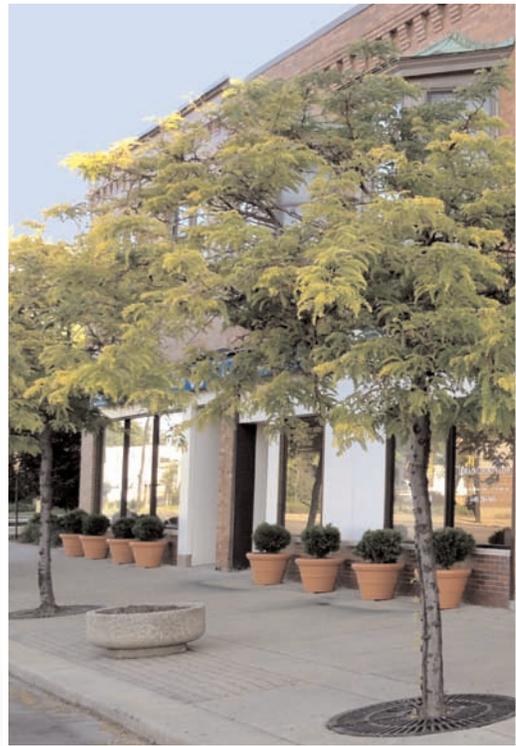


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Unrestricted Fund: meets ever changing community needs, including future needs that cannot be anticipated at the time the gift is made. Foundation staff, working with community volunteers, evaluates all aspects of community well-being – arts and culture, economic development, education, environment, health and human services, neighborhood revitalization, and more. The flexibility of an unrestricted gift provides grants that respond to the community's most pressing needs both today and tomorrow.

Field of Interest Fund: addresses needs in an important area of community life – the arts, AIDS, aging, at-risk youth. Your client identifies their personal interest area when making the gift; the Foundation awards grants to local agencies and programs that are making a difference in the area your client selects.

Designated Fund: awards grants to a specific agency. Your client can help provide ongoing funding for a senior center, museum, church – any local non-profit charitable organization. Your client identifies the recipient they wish to benefit through their gift; Foundation staff manages the annual distribution of funds.

Donor Advised Fund: allows your client to have ongoing involvement in the use of their gift. They work with the Foundation program staff, identifying ways to use dollars from their donor advised fund to address the issues and needs they care about most. Your client's recommendations are submitted to the Foundation board for approval; the Foundation then distributes grant dollars.

To discuss these and other ways for your client to be remembered, call Brian Frederick at 440-984-7390.



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Join Judge Belfance for an off the record
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Expect More!

Court Clarifies Law on Criminal Restitution Awards

Bret Crow

On July 17, 2013, the Ohio Supreme Court today clarified the authority of a trial court to order restitution in a criminal case. While the trial court has discretion to order restitution, the legislature has specified that the amount awarded cannot be greater than the economic loss suffered as a 'direct and proximate result' of the commission of the offense.

In a 5-2 decision authored by Justice Terrence O'Donnell, the court reversed a decision by the Eighth District Court of Appeals affirming an order to pay \$63,121 in restitution to investigate and appraise the value of stolen property.

Daniel Lalain had worked as an engineer with Aero-Instruments, a Cleveland company that designs aviation and aerospace components such as air-speed and altitude sensors. In June 2008, he resigned without notice, taking electronic files copied from his work computer as well as duplicates of documents from his office files. In addition, he retained two probes that he had previously taken home for testing.

The Cuyahoga County Grand Jury then indicted Lalain for first-degree felony theft, alleging that he had stolen property allegedly valued at \$1 million or more, but he subsequently pleaded guilty to an amended indictment for fifth-degree felony theft of property valued at \$500 or more but less than \$5,000. At the plea hearing, the trial court notified Lalain of the potential criminal penalties to which he would be subject, including a possible requirement that he make restitution, but it never specified any amount.

Three days before the sentencing hearing, Aero-Instruments submitted a letter asking the court to order Lalain to pay restitution of \$55,456 to cover the time the company's employees had spent investigating his theft, and an additional \$7,665 to cover the costs of a forensic audit, for a total restitution award of \$63,121. At the sentencing hearing, Lalain's attorney disputed the amount for the costs of the forensic audit, arguing that those costs were not an economic loss caused by Lalain's theft offense but were rather a discretionary cost that Aero had chosen to incur in connection with its abandoned civil lawsuit. After hearing contrary arguments from the prosecutor, the court sentenced Lalain to a term of community control and ordered him to pay \$63,121 in restitution. Lalain appealed to the Eighth District Court of Appeals, which affirmed the trial court in a 2-1 decision.

Lalain then sought and was granted Supreme Court review of three propositions of law challenging the restitution award, and the court also accepted the conflict question certified by the court of appeals: 'Whether, despite the defendant's failure to object, it is error for the trial court to order a defendant to pay an amount of restitution in the absence of a specific plea agreement and without a hearing or evidence substantiating the economic loss claimed by the plaintiff?'

In today's ruling, in addition to applying the legislature's directive that the amount of restitution is limited to economic loss that is a direct and proximate result of the commission of the offense, the court also held that '[a] trial court is required to conduct a hearing on restitution only if the offender, victim, or survivor disputes the amount of restitution ordered.'

In writing for the court, Justice O'Donnell stated, 'although the statute allows the court to base the amount of restitution on an amount recommended by the victim or the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, it does not provide restitution for the costs of preparing such a report,' and hence restitution could not include the cost of the forensic audit report. The majority also determined that the trial court should have conducted a hearing after the defense disputed the amount of the restitution, and it dismissed the conflict question because the factual premise of the certification question was not supported by the record.

Joining Justice O'Donnell in the majority were Justices Paul E. Pfeifer, Sharon L. Kennedy, Judith L. French, and William M. O'Neill. Justice Judith Ann Lanzinger concurred in part and dissented in part. Her opinion was joined by Chief Justice Maureen O'Connor. Justice Lanzinger wrote that although she agreed with the remand for a restitution hearing, she would answer the certified question by holding that 'restitution is limited to the amount referred to in the theft offense to which the defendant enters a plea unless the defendant agrees to a higher amount as part of the plea agreement.'

In her view, Crim.R. 11(C)(2)(a) states that for a plea to be voluntary a defendant must understand the maximum penalty, which potentially includes restitution. Because Lalain pled to a fifth-degree felony theft offense, that by its definition states the amount involved concerns stolen property valued between \$500 and \$5,000. 'Nothing prevents the state from requiring - full restitution' in a greater amount than the theft offense to which a plea has been taken. The defendant must know what maximum consequences are when giving up rights and entering a guilty plea.'

2012-0302 and 2012-0408. State v. Lalain, Slip Opinion No. 2013-Ohio-3093. Cuyahoga App. No. 95857, 2011-Ohio-4813. Judgment reversed and cause remanded. Pfeifer, O'Donnell, Kennedy, French, and O'Neill, JJ., concur. O'Connor, C.J., and Lanzinger, J., concur in part and dissent in part. Opinion: <http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2013/2013-Ohio-3093.pdf>



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Announcements

The law firm of Wickens, Herzer, Panza, Cook & Batista law firm has announced the addition of Philip J. Truax. Mr. Truax is a member of the Litigation and Real Estate Departments, and focuses primarily on a variety of construction and real estate matters, commercial and environmental litigation, and product liability. In addition to his extensive experience in complex business and tort litigation, Mr. Truax works with contractors, subcontractors, and material suppliers to preserve, pursue, and defend claims in connection with public and private projects. Mr. Truax earned his J.D., cum laude, from Case Western Reserve University School of Law in 2005 and his B.S. from Ohio University in 2001.

Additionally, Wickens, Herzer, Panza, Cook & Batista has announced the another addition -- Arthur W. Brumett II. Mr. Brumett is a member of the Litigation Department and focuses primarily on Workers' Compensation representation of self-insured, State Funded, group-rated, and public employers. Mr. Brumett received his bachelor's degree from Wright State University and his juris doctorate from Cleveland-Marshall College of Law. Mr. Brumett resides in Rocky River.

Former Lorain County Common Pleas Court Judge Joseph E. Cirigliano, now a private practice attorney in the litigation department of Wickens, Herzer, Panza, Cook & Batista, was named a director on the board of Liberty Bank, which is headquartered in Beachwood. Each director's term runs for one year. The bank serves local consumers and privately held businesses with sales of up to \$50 million. 'Mr. Cirigliano is an astute individual who is well respected in his field. He brings a wealth of knowledge to our board and will have a direct and constructive impact on our bank,' said William A. Valerian, chairman of the board and chief executive officer of Liberty Bank. In addition to serving as a judge, Cirigliano is also active within the legal community, having served with the National Judicial College and National Conference of the Judiciary on the Rights of Victims, as well as having acted as law director for North Ridgeville, and contributor to the Ohio Judges Resource Manual. He has also held positions on the Ohio Judicial College Board of Trustees, Elyria City Civil Service Commission, and Lorain County Community College Board of Trustees, and was an adjunct instructor in commercial law at Lorain County Community College.

Brouse McDowell is pleased to announce that it has been selected as one of The Plain Dealer's Top Workplaces. The Top Workplaces are determined based solely on employee feedback. The employee survey is conducted by WorkplaceDynamics, LLP, a leading research firm on organizational health and employee engagement. Brouse McDowell is a 70+ attorney firm with offices located in Akron, Cleveland and Avon.

The LCBA would like to welcome the following new members: Brian Bonham, Arthur Brumett and Julia Szabo.

Office Sharing Available at Lorain National Bank Building, 124 Middle Avenue, 6th Floor, Elyria, Ohio 44035. Very convenient to Elyria Municipal Court and the Lorain County Common Pleas Court. 2 private offices; 1) approx.. 15 x 15, \$500/month; 2) approx. 9 x 9, \$300/month. Price includes sharing reception area and kitchen as well as off-street parking. Additional arrangements can be made for secretarial/reception services, copy machine, fax, DSL, and/or conference room. Open house: Sat., Sept. 7, 2013 10 a.m. until 12:00 noon. Contact Attorney Randolph Roth at 440-284-3896.

Office Sharing Available at the Executive Building, 300 4th Street, Elyria. Share conference room, reception area and kitchen. Arrangements can be made to share copy machine, fax, DSL and whatever additional cooperation you can think of. \$100/month for conference room privileges; \$175/month cubicle; \$300/month small office; \$400/month larger office. The prices include off street parking for you and your clients. If needed, there is space for your staff. Contact Jim Deery at 440-323-9500.

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The Law Firm of Fauver, Keyse-Walker & Donovan is proud to announce that Darrel Bilancini has joined the firm as an Of Counsel attorney.

Bilancini, who serves as the Avon Lake Municipal Court Judge, a part-time elected position, joins the Fauver law firm with 35 years as a lawyer in the private practice of law. A Lorain native, Bilancini attended Lorain Catholic High School, John Carroll University, and the John Marshall College of Law. He is twice elected to the Judge's position in the Avon Lake Municipal Court serving Avon Lake, Avon, and Sheffield Village.



Have an announcement you want to share with the members of the LCBA? Contact the office with the information.

If you have a change in your contact information, please let the LCBA know so that we may keep your information current.

Calendar of Events

Seminars

08/29/13	1.00	11:30 a.m.	Trust Account Guidelines • LorMet Community Federal Credit Union
09/06/13	2.00	11:30 a.m.	Lunchbox - Class Action Suits • LorMet Community Federal Credit Union
09/12/13	1.00	11:30 a.m.	Lunchbox - Preserving Issues for Appeal • Jury Assembly Room
10/03/13	1.00	11:30 a.m.	Lunchbox - Ohio Eviction & Landlord/Tenant Law • Jury Assembly Room
10/18/13	1.50	11:30 a.m.	Lunchbox - Estate Planning 101 • LorMet Community Federal Credit Union
11/14/13	TBA	8:30 a.m.	Annual Probate Seminar • Elyria Country Club
12/12/13	2.50	9:00 a.m.	Annual Ethics, Profess. & Substance Abuse Seminar • Spitzer Conference Center

Social Events

Thursday, August 15, 2013	7:00 p.m.	LCBA Night with Lake Erie Crushers
Thursday, September 19, 2013	8:00 a.m.	Off the Record Breakfast 9th District Court of Appeals Judge Eve Belfance, Lorain County Probate Court
Thursday, September 19, 2013	4:30 p.m.	Softball Game and Picnic Dinner • Lake Erie Crushers' Stadium
Friday, November 15, 2013	4:30 p.m.	Annual Welcome Reception • Cork's & Stubby's

Meetings

Thursday, August 15, 2013	4:30 p.m.	Domestic Relations Meeting • Wood & Wine
Friday, August 16, 2013	12:00 noon	Executive Committee Meeting • LCBA Offices
Tuesday, August 20, 2013	4:45 p.m.	Juvenile Section Meeting • TBA
Wednesday, August 28, 2013	12:00 noon	Small/Solo Practitioners Committee • LCBA Offices
Tuesday, September 10, 2013	5:30 p.m.	Paralegal Committee • Wolfey's
Thursday, September 19, 2013	4:30 p.m.	Domestic Relations Meeting • Wood & Wine
Thursday, September 19, 2013	5:30 p.m.	Criminal Section Meeting • Location will be determined
Thursday, October 10, 2013	12:00 noon	New Lawyers Committee • Panera Bread
Thursday, October 17, 2013	4:30 p.m.	Domestic Relations Meeting • Wood & Wine
Tuesday, November 19, 2013	4:45 p.m.	Juvenile Section Meeting • TBA
Thursday, December 12, 2013	5:30 p.m.	Criminal Section Meeting • Location will be determined

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G. L. Severs	1969-1970	Paula Kuhn	2009-2010
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Bruce Alexander	1971-1972	Thomas R. Theado	2011-2012
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J. C. Wm. Tattersall	1973-1974	Barbara Aquilla Butler	2013-2014
Frank J. Janik	1974-1975		
Harold A. West	1975-1976		
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