



THE SUMMONS

Saginaw County Bar Association



New Saginaw County Jail



MEETING DATES FOR 2020

(Go to www.saginawbar.org for meeting updates)

Board Meeting

(All Board Meetings will be held at Saginaw Country Club, 1st Wednesday of every month at 12:00 PM)

Pro Bono Committee Meeting

(All PB Meetings will be held at Panda House, 3rd Tuesday of every month at 12:00 PM)

Law Day Committee Meetings

-SEE NEW DATE-

(All LD Meetings will be held at Panda House 2nd Wednesday of every month at 12:00 PM)

Soup Kitchen Volunteers needed

(Call John Humphreys 989-401-2115 if you can serve)

Saturday, May 30, 2020

Saturday, August 29, 2020

Saturday, October 31, 2020

Annual Meeting/Golf Outing

Thursday, June 25, 2020

Saginaw Country Club

Pro Bono Week

October 25-31, 2020

Ask the Lawyer

Thursday, June 4, 2020

Topic: Legalization of Marijuana

Speakers: Nate Collison & Adam Flory

Monday, July 20, 2020

Monday, October 19, 2020

Monday, December 7, 2020

(If you want your committee meeting dates listed here, send them to Kelli Scorsone, Executive Director)



Wednesday, April 22nd, 2020

THE SUMMONS

SAGINAW COUNTY BAR ASSOCIATION

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Ann R. Van Haute

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scba@saginawcounty.com

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SCBA Website

www.saginawbar.org

Lawyer Referral Service

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The articles in THE SUMMONS, unless clearly designated otherwise, are those of the author. They do not necessarily represent the opinion of the Saginaw County Bar Association or its members. Please direct your comments on THE SUMMONS, to its Assistant Editor, Ann R. Van Haute, 4301 Fashion Square Boulevard, Saginaw, Michigan 48603 • (989) 498-2100.



PRESIDENT'S MESSAGE

By: Katherine M. Baluha

Wow. What a difference a few weeks can make – I hope you are all healthy and following whatever precautions are at this time being recommended. It seems each day there is some new development with the Coronavirus and how we are to lessen the fallout from such an unprecedented disease. Hearing of the past pandemics of history and the horrible death tolls, I thank my lucky stars that we are

living in a time that allows us to receive information so quickly and we have the technology to fight this disease like never before, while also continuing at a somewhat normal pace even being confined to our homes. Although we were unable to gather for the St. Patty's party, I hope you found some way to celebrate and make it a positive day. We will be having an Escape Room event, hosted by the Young Lawyers Committee, when we are able to have events again. Please be sure to RSVP when we send out the information.

As a follow up to my last article, I wanted to express my gratitude for the opportunity that was provided to anyone that wanted to attend a tour of the jail. As I mentioned, the safety of our members is a great concern and my concern was alleviated after taking my own tour of the jail. Safety and health were clearly at the forefront of the construction of the new facility. Although met with some pushback from defense organizations – the jail was integrated with meeting rooms that allow for contact of attorney and client through a phone on the other side of glass in a confidential meeting room. If you are meeting with clients that have a history of violence or that you feel unsafe meeting with in the normal meeting areas, you have the ability to request to meet in these special rooms when you check in. Do not hesitate



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to ask if your client has been violent since being at the jail as well as often there isn't notice that you have a person that is unsafe you are going to meet with. Also, with the growing concern of sickness spreading, you may want to ask if your client is experiencing health concerns of any kind before deciding where you meet them as well. Please reach out with your feedback or questions on this/any issue – we would love to hear from you.

We as a board were very saddened to have to cancel law day festivities this year. I hope all of you with teams were able to at least meet a few times to discuss the theme of our script, cyberbullying, and that the short time of preparation was a good experience. The National Law Day theme this year is Your Vote - Your Voice – Our Democracy: The 19th Amendment at 100. The 19th Amendment was ratified August 18, 1920, which of course gave women the right to vote. It almost feels unreal that there are women alive today that were not born with this right. However, at the same time women, myself included, fight every day to be given the same rights and treatment as men, whether it is on a personal or professional level. I would stress that those of you with law day teams, although unable to meet

in person, send them an email or letter for their teachers to pass on about the importance of this year's theme and what the 19th Amendment means to not only our country but the world. And shout out to all my fellow SCBA ladies – keep breaking barriers and rising up!

Also, coming up this month is Administrative Professional's Day on April 22. I am sure I have mentioned in articles past, but it is worth repeating, how important it is for us to treat our staff with the utmost respect and gratitude. I feel so lucky to have two legal support staff at my office that I have grown to know so much about and we have such a great working relationship that has grown into friendship. After all, we spend much of our time at the office so having happy staff and a good working environment goes a long way for stress relief and staying up on heavy workloads. I hope you all recognize your support staff on this special day (and throughout the year) – a surprise slurpee or lunch together goes a long way

For those of you that celebrate it, have a wonderful Easter! I hope those with travel plans for spring break be extra cautious and if you end up cancelling plans I hope you find fun things to do to stay positive and healthy.





SAGINAW COUNTY LAWYERS' AUXILIARY

By: Claudia J. Wallace

In February, Judy Weldy and Mary Ann Farris attended the American Lawyers Alliance convention in Austin Texas. Alice Gordon (from Kalamazoo, MI) was presented the "Volunteer of the Year Award". Judy and Mary Ann received an ALA monetary award for the Saginaw County Lawyers Auxiliary to be used for their Court House Tours program.

On March 6th, 81 SCLA members along with friends and family attended "The Capitol Steps" at the Temple Theatre after feasting on hors d'oeuvres and cocktails at The Saginaw Club. If you are one of the unfortunate that could not attend the event, stay tuned for reviews next month. Although this was not a fund raiser, due to the large amount of tickets that SCLA purchased, the Temple Theatre gave us a discount and we will be putting forth \$320.00 to our scholarship fund.

Saginaw Law Day Celebration is an event we all look forward to every year. Unfortunately it has been cancelled for 2020 due to the Coronavirus. Thanks to everyone that has worked so hard in planning the event. Behind the scenes prior to Law Day, the law day committee is hard at work as are the advisors that work with the students preparing them for this day. Kelli Scorsone has the challenge of organizing court rooms, judges and schools. Claudia



Wallace solicits volunteers to rate the students and assist at the luncheon afterwards. There are many that work hard to make this day successful and the "event of the year".

May 13, 2020 is the SCLA Spring Luncheon at the Saginaw Country Club. 11:30 a.m. is social time with lunch at noon. Please contact Terry Oeming for reservations 989-692-0322 and to confirm the event is still scheduled.

For those of you that feel lighthearted and carefree check out holidayinsights.com for all the bizarre, special and unique holidays in April 2020. Not sure who comes up with some of the wacky off the wall days but there are some you will recognize and most likely participate in.

Happy Spring!



SCBA EXECUTIVE DIRECTOR'S REPORT

By: Kelli Scorsone, Executive Director

The Michigan State Bar membership count for Saginaw County is 440, this includes all attorneys that use a Saginaw County address. Retirees, Emeritus. Corporate, Sole practitioners, and large law firms. We welcome all these attorneys to join SCBA. And we encourage all these groups to make suggestions as to what this bar can do to encourage the different groups to stay involved, to JOIN!

* * * * *

2020 SCBA Golf Outing and Annual Meeting

At this time the 2020 SCBA Golf Outing and Annual Meeting will continue as scheduled on Thursday, June 25th. We will be monitoring developments over the next weeks and months and continue to follow recommendations from the Centers for Disease Control and prevention (CDC) and the World Health Organization (WHO) for events of this size and keep you informed of any changes and or postponements.

* * * * *

Law Day Events

All the Law Day events are canceled for 2020. Thank you to the committee, schools and attorney-advisors for all the work they have put into this year's events. We will pick up next year with a great program.



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DRUG TREATMENT COURT UPDATE

By: Judge Janet M. Boes

Senator Debbie Stabenow visits with Drug Treatment Court Team.

In February, Senator Debbie Stabenow visited with the Drug Treatment Court Team and several guests here at the Courthouse to learn more about our program and the need for services associated with the program. In addition to Team members, we asked one of our Drug Court graduates and a couple of the Recovery Coaches who work with our

Senator Stabenow advised us that she is working on legislation for comprehensive health centers in the community that will include mental health and substance abuse services.



participants to attend and speak with Senator Stabenow as well. We informed her of the need for treatment and recovery housing, as well as transportation issues. We hope to follow up on those issues with her to pursue federal support and funding.

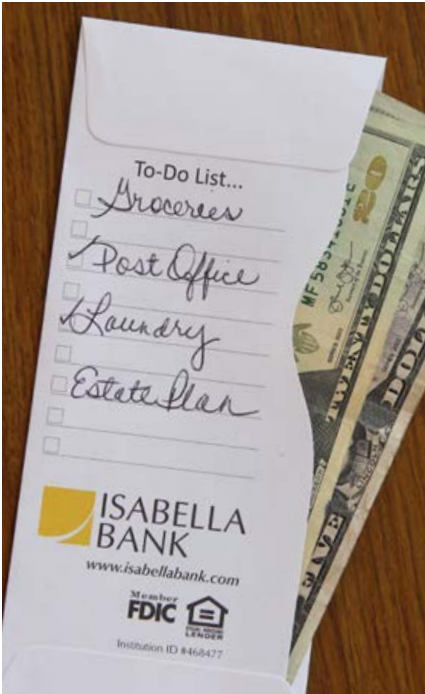
Great Lakes Bay Health Center Services

Representatives of the Great Lakes Bay Health Center have joined our Drug Treatment Court Team to provide treatment. In addition, GLB Health Center offers a comprehensive range of health services for participants in our program. The range of services, as well as the convenience of the Davenport location, should assist with recovery efforts.

Referrals - Questions

Referrals for defendants may be made online by visiting the County website at saginawcounty.com – go to the Courts section and look for the Drug Court line - click on “Referral for Admission - Online Submission” which brings up the form you can fill in and submit online.

Please continue to make referrals as soon as possible in the course of a case. As always, if you have any questions or concerns please contact our Coordinator Sue Smith: ssmith@saginawcounty.com.



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LABOR LAW UPDATE

By: Kraig M. Schutter
Masud Labor Law Group

Early in his term, President Trump nominated members to the National Labor Relations Board (“Board” or “NLRB”) who shared his view that the prior administration had issued rules and decided cases contrary to the neutral stance the Board was supposed to adopt. While it always takes some time for the NLRB to adjust rules and change policy through decisions in contested cases, the return to prior standards have really become evident in the past few months. Here’s a recap of the important recent decisions of the Trump Board:

“Quickie Elections.” The Trump Board recently published a new final rule scaling back the changes to election regulations instituted by the Obama Board in 2015. Those changes had accelerated the election process and instituted a host of clerical requirements, putting employers at a disadvantage in union organizing campaigns. The new rule undoes many of those rules. Most notably, employers are provided a broader window during which to campaign and to prepare for pre-election hearings. This additional

time to respond and communicate their message is very helpful since employers are sometimes unaware of growing support for unionization amongst their workforce until after the petition for an election is filed.

Confidentiality in Investigations. The Trump Board has also overruled Obama Board precedent which had forced employers engaged in an investigation of employee misconduct to weigh the infringement on employee rights to concerted activity against the employer’s need for confidentiality. This had essentially required an employer to conduct an “investigation within an investigation” and to guess as to which concern outweighed the other – the need to protect the integrity of the investigation against the rights of employees to talk with each other about it. Employers can now once again require confidentiality while the investigation is ongoing.

Use of Company Email. Several years ago, the Obama Board decided that employees with access to their employer’s email system had a right to use that system to organize a union. Respecting employer

property rights, the Trump Board has reversed that decision. Now, only where an employee with email privileges has no other reasonable means by which to communicate with co-workers must the employee be allowed to use the company's email for union organizing purposes.

Dress Code Policies. The Trump Board has recently determined that employers may lawfully restrict the size and visibility of union paraphernalia in the workplace. In a case involving Walmart, the Board ruled that the company could maintain a dress code rule that allowed only "small, non-distracting logos or graphics" on their uniforms. The NLRB upheld the company's rule because it was content neutral and was justified by the company's desire to enhance the customer shopping experience.

Joint Employer Status. In 2012, the Obama Board determined that McDonalds Corporation shared liability as a joint employer with its multitude of franchisees under a newly described "indirect control" standard. While the federal courts have restricted the Obama Board's ruling to some degree, on January 13, 2020, the Trump Board released its long-awaited rule that returned the joint employer standard to its

original form where, to share joint employer liability, an employer must possess and exercise substantial direct and immediate control over the essential terms and conditions of employment in a manner that is not limited and routine.

No Duty to Collect Dues at Contract Expiration. For nearly 60 years, employers with labor agreements could stop deducting and remitting union dues at the expiration of a contract. In 2015, the Obama Board flipped that rule on its head. The Trump Board has recently been able to reinstate the original rule.

Deferral to Arbitration. Companies with labor agreements are typically susceptible to two forms of attack from their unions – grievance/arbitration filings and unfair labor practice filings with the Board. The Board has had a longstanding practice of not proceeding with cases where the matter can be resolved in arbitration. The Obama Board changed that practice and the Trump Board has recently returned to it.

For any concerns you or your clients may have concerning these rules or any other labor or employment matters, please contact the Masud Labor Law Group.



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BANKRUPTCY CASE NOTES

By: Jack Weinstein

May a debtor, in his Chapter 13 plan, bifurcate the undersecured portion of a co-signed auto loan which more favorably treats the loan's unsecured portion? That was the issue in the case of *In re: Aaron R. Brown*, 30 CBN 119, 2019, WL 6119774 (Bankr. E.D. Ky. 11/15/19). The case involved a below median income debtor who filed for Chapter 13 relief to protect his primary asset, being a 2015 Ford Mustang. The car had a fair market value of \$18,000 which was security by an Ally Bank loan.

The debtor owed a balance of \$33,324 on his auto loan. Debtor's father had co-signed the auto loan. The Chapter 13 Trustee agreed with the debtor that the loan was a consumer

debt and that the vehicle was debtor's primary asset and sole means of transportation. Debtor proposed a plan to pay \$1,020 to the Trustee per month for 46 months treating Ally's claim as fully secured with the Trustee required to pay Ally \$840.00 per month.

However, the Trustee objected to the plan's confirmation because debtor was treating Ally's claim as fully secured. Debtor responded stating that §1322(b)(1) allowed him to treat the co-signed loan as fully secured and payable at the contract interest rate. Further that he needed to do so in order for the co-debtor's stay to remain in place.

The Bankruptcy Judge agreed with the Trustee that the debtor needed to

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bifurcate Ally's claim into the secured and unsecured components based on the vehicle's fair market value in order for §1322(b)(1) to apply since that Section only applies to unsecured claims. However, debtor's plan could treat Ally's unsecured claim more favorably than other unsecured creditors as §1322(b)(1) provides for the unfair discrimination for separately classified unsecured, co-signed, consumer debts to be treated differently.

Bankruptcy Judge Tracey N. Wise stated that the "Section 1322(b)(1) inquiry stops there. This ruling does not leave a trustee or general unsecured creditors without adequate remedies since while different treatment of co-signed consumer debts is allowed, every Chapter 13 debtor must prove that the proposed plan has been submit-

ted in good faith under §1325(a)(3), a Code provision that is adequate to the task of policing any debtor's mischief."

Judge Wise concluded that the debtor must propose a new plan that bifurcated Ally's claim. Consideration of the Trustee's objection to payment of interest on Ally's unsecured claim was premature as of the decision date.

On a different note, Reuters reported that low interest rates have induced Americans to pick up their borrowing to record levels, but fewer are finding themselves with severe credit problems such as bankruptcy, foreclosure or debt collection proceedings. The article went on to state that even though the amount of debt is still climbing, that people were handling their business better regarding their repayment. American consumers reached a record

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\$13.95 trillion in debt as of the end of the third quarter of 2019. However, consumer debt was not growing as fast relative to gross domestic product as it had been before the 2007-2009 financial crisis.

Household debt is above 73% of GDP versus approximately 83% a decade ago. Mortgage debt now accounts for roughly two-thirds of household debt. Student loan debt however has doubled over the last 10 years and is now the second largest category of consumer debt. Americans added another \$20 billion in the third quarter of 2019 bringing the total student loan debt up to \$1.5 trillion. Student debt is now equal to nearly 8% of GDP up from less than 2% in 2004.

However, the number of new personal bankruptcy filings last quarter dropped to its lowest level since the New York Fed began tracking that data earlier this century. The number of households entering foreclosure proceedings on their homes was the second lowest on record. Meanwhile, the percentage of delinquent loans being pursued by third-party collection agencies has dropped below 9% for the first time.



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4th Annual Adoption Day

November 26, 2019



The Adoption Tree in the lobby of the Saginaw County Family Division



Saginaw County Family Division Employees

“My name is Maegan Hill, and I am the Adoption Specialist and Deputy Probate Register for the Saginaw County Family Court. On November 26, 2019, Judge Barbara Meter and I celebrated our 4th Annual Adoption Day, and it was the best one yet! We added 14 more names to our already blooming Adoption Tree. This year we had many different types of adoptions: Direct Placement (biological parent chooses adoptive home), Step-Parent, State Ward (foster care), Adult and Relative Adoptions. The hearings are joyful with many smiles, laughter and happy tears. This year each child received a customized Adoption ornament, a gavel that stated “National Adoption Day 11/26/2019”, a family photograph to memorialize their Adoption Day and a teddy bear with “National Adoption Day” and “November 26, 2019” on each foot. Our Adoption Day is always held on the Tuesday before Thanksgiving. We would love to have you join us for our 5th Annual Adoption Day on Tuesday, November 24, 2020.”



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**STATE BAR OF MICHIGAN
REPRESENTATIVE ASSEMBLY MEETING
SEPTEMBER 26, 2019**

On September 26, 2019, Jennifer van Benschoten and Randy Price attended the Representative Assembly meeting in Novi. The agenda included four proposals.

The first proposal asked whether the Michigan Supreme Court should adopt a court rule that requires a probation officer who interviews a defendant as part of a presentence investigation to give the defendant's attorney notice and a reasonable opportunity to attend the interview. Discussion of the proposal was very minimal. The Assembly brought the proposal to a vote. There were 84 that voted yes, and 18 that voted no.

The second proposal considered whether MCR 3.206 should be amended to modify the designation of parties in a domestic relations action to "petitioner" and "respondent". The proponent of the proposal was the Family Law Section Council of the State Bar of Michigan. It provided a survey of captioning rules for domestic relations matter throughout the country. Currently there are 20 states which use the captions of "plaintiff" and "defendant". There are approximately 26 states which use "petitioner" and "respondent". Other states use a blend depending on the case type. After a brief discussion, the Assembly brought the proposal to a vote. There were 97 that voted yes and there were 9 that voted no.

Next was a proposed amendment to the Michigan Code of Judicial Conduct 2(F) to prohibit membership in organizations that practice invidious discrimination. At that point, the meeting became short on time. So, the moderator asked for a show of hands on how many representatives wished to place their opinions on the record. After many hands were raised, the moderator suggested the proposal be tabled until the April 25, 2020 Assembly meeting so that the Assembly could have ample time for discussion. The Assembly voted in favor of tabling the proposal until the next meeting.

Finally, the Assembly discussed whether to recommend the Michigan Supreme Court adopt principles and commentary on professionalism for lawyers and judges. The reason behind the proposal was due to an increase in uncivil conduct of lawyers and judges. The State Bar sponsored a summit in October of 2018. The summit included 80 judges and attorneys. The summit recommended 10 principles for lawyers and judges which included commentary. None of the Assembly members wished to open the floor for discussion. The proposal was brought to a vote. There were 94 that voted yes and 14 that voted no.



SAVE THE DATE



Not too early to mark your calendar

June 25, 2020

SCBA Golf Outing and Annual Meeting
and ELECTION OF OFFICERS

	
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**Save the date for the 2020
National Celebration of Pro Bono
October 25-31, 2020**

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