

BAR BRIEFS

Official Publication of the Macomb Bar Association

June 2023



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Reflecting on a Memorable Journey

By Lori K. Smith, President of the Macomb Bar Association

As I prepare to transition from my role as President of the Macomb Bar Association, I wanted to take a moment to express my deepest gratitude and appreciation to each and every one of you. Serving as your President this year has been an extraordinary honor and a memorable journey.

Together, we have accomplished remarkable feats, achieving significant milestones and surpassing expectations. The progress we have made would not have been possible without the unwavering support of the Macomb Bar board of directors, as well as the outstanding dedication and contributions from our remarkable bench and bar members.

These collective efforts have truly propelled our organization forward, leaving what I hope will be a lasting impact on the legal community we serve. From revitalizing our practice group committees, organizing impactful events, and cultivating programs to provide invaluable resources for legal professionals, we have consistently sought to elevate the standards of our profession and better serve our clients.

Throughout this year, we have strived to uphold the values that define the Macomb Bar Association—integrity, professionalism, and the pursuit of justice. By working together, we have fostered an environment where collaboration thrives, ideas flourish, and barriers are overcome.

Beyond the tangible accomplishments, I want to express my heartfelt appreciation for the support, trust, and camaraderie

that you have extended to me personally. Your dedication and belief in the collective vision have been a constant source of inspiration and motivation. Your commitment to excellence and the pursuit of justice is a testament to the remarkable character and professionalism of the Macomb Bench and Bar.



As I reflect on my time as President, I am filled with gratitude for the opportunity to have worked alongside such extraordinary individuals. You have truly made this journey an unforgettable one. Each of you has played an integral role in shaping the Macomb Bar Association into the incredible organization it is today.

As I step down from my role as President, I am confident that the future holds even greater achievements for our esteemed association. I have full faith in the capabilities of our new leadership and the collective passion and drive that resides within each one of you. Together, you will continue to make a positive impact on our profession and the communities we serve.

Once again, thank you for your support, dedication, and friendship. It has been an absolute privilege to serve as your President, and I will forever cherish the memories and experiences we have shared.

With heartfelt gratitude,
Lori Smith
President
Macomb Bar Association



Leadership

*By Rick R. Troy, Executive Director of the
Macomb Bar Association and Macomb Bar Foundation*

Dear Macomb Bar Members,

Being the President of the Macomb Bar Association is something that only 93 people have accomplished since 1906. I have had the privilege to have worked closely with the last 24 Presidents and, at one time or another, I was also honored to have worked with another 9 past presidents on various bar related projects. My good fortune also includes working with leaders of your profession that have represented you at all levels of the American Bar Association, the State Bar of Michigan, local and affinity bar associations.

It is from this experience that I can honestly share with you that Lori Smith, your soon to be Past President, is a leader with relentless ambition that pursues goals that improve the life of all those around her. She is absolutely the most dynamic, vibrant, and enthusiastic leader of law that I have been lucky enough to work with. Her zest for life is infectious and her tireless work ethic is inspiring to all around her. For the past year, and more, Lori has put you, the membership of the Macomb Bar Association at the top of her list of priorities. Together, we are a better organization because of her dedication and commitment. Join me in thanking Lori Smith for all of her time, effort, and energy.

For most Macomb Bar Association members, this is membership renewal time. You may have recently received an email notice and or the old-fashioned envelope in the U.S. Mail. I encourage you to not only renew, but also to take the next few days and ask just five lawyers if they are a member of the Macomb Bar, or any other local bar association for that matter. If they are not, please take a moment and encourage them to do their part for your profession and join.

As professional membership organizations, local bars play a vital role in supporting and representing your profession in all sectors of the community. We provide resources, networking opportunities, advocacy, and education to members and we offer a platform for members to build professional relationships, share ideas, and collaborate. We assist you in developing skills and knowledge through various seminars and communications, and, more often than you would expect, we provide your profession a voice for advocacy at many levels.

**Join me in thanking
Lori Smith for all
of her time, effort,
and energy. We are a
better organization
because of her.**

Some may argue that they do not need to join their local professional membership organization because they can obtain the same benefits from other sources and network online. While this may be true, joining your local bar offers a structured and comprehensive approach to professional development, networking and advocacy.

The Macomb Bar is a community that shares common goals and interests and, time and again, members support and mentor each other because of this culture of community. Without question, membership is a valuable investment.

Please email or call me with any membership questions. There are simply not enough pages in *Bar Briefs* to write about all of the services, programs, discounts, and projects that we offer throughout the year. Reach out to me to learn more!

Rick R. Troy is the Executive Director of the Macomb County Bar Association and the Macomb County Bar Foundation

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Returning Home: Judge Bieda to Courtroom 1

By Aaron J. Hall, Young Lawyers Section Chair and Editor-in-Chief

“The absolute first time I was ever in a courtroom was in this same exact courtroom: Courtroom 1. I was in Hartsig Junior High and our class walked over to observe the Warren District Court. I believe it was Judge George Montgomery on the bench. I can’t say I remember much of the experience other than there was a lot of waiting. Years later, I got involved in local politics, and I would come and observe Warren City Council meetings, which also occurred in this same courtroom.” He also became friends with George Montgomery and fondly remembers his thoughtfulness and kindness. What a coincidence that this exact courtroom is now the one in which he presides.

On January 10, 2023, Governor Gretchen Whitmer appointed Steven Bieda to the 37th District Court (Warren and Center Line). Prior to his appointment, Judge Bieda was elected to the Michigan House of Representatives (2003-2009) and served in the Michigan Senate (2011-2019). He also worked at the Michigan Department of Treasury as Director of Legislative Affairs. He served as the Chairperson of the Michigan Tax Tribunal since 2019 as an administrative court judge. Judge Bieda earned his undergraduate degree in Public Policy and Master of Public Administration from Wayne State University, his Juris Doctor from the University of Detroit Mercy School of Law, and his Master of Tax Law from Wayne State University School of Law. He is admitted to the U.S. Tax Court Bar and Federal Bar.

Following the Governor’s announcement, Judge Bieda said: “I am honored to receive this appointment to the bench, and I look forward to returning to service in my hometown. The pursuit of justice has always been a motivating factor in my varied public service career, whether in private practice, as an administrative court judge, or as a legislator. I look forward to continuing this service and joining my new colleagues in the 37th District Court.” If there is anything that stands out about Judge Bieda, it is his wealth of knowledge and unique experiences.

Judge Bieda is a first-generation attorney from a large family that always emphasized the importance of education. “My father was an electrical engineer, but he finished his degree in his forties. So he was finishing his undergraduate degree when I was finishing mine.”

Bieda began his career in management consulting for Coopers & Lybrand, now PricewaterhouseCoopers, LLP (PwC), which is one of what the finance industry labels “the Big 4” accounting firms. At PwC, he worked on a wide variety of projects, from efficiency studies to compensation studies to economic development consulting.

While at PwC, he decided to pursue an ambition he held from a young age: law school. (When he was young, he also considered medical school, but based on his legal accomplishments since then,

it’s safe to say he made the right call.) “I was always interested in law because of public service, but I was also interested in the political world because of the course work during my MPA program.”

“It is interesting what path you take in life. I thought about pursuing a history degree, but if I were to really have a career in that I would have to have a PhD. And looking into history, I was always inspired by those figures that also happened to be lawyers. I have a cousin who is related, through marriage, to Justice Cooley.” When he was in his early twenties, Bieda was fortunate to get to know legal and political giants like former Michigan Supreme Court Chief Justice G. Mennen Williams and former Attorney General Frank Kelley, that later becoming a life-long friend and mentor.

Strangely enough, though, Bieda never had dreams of becoming a judge while he was still in law school. “I admired judges, but I just didn’t have that ‘judge’s gene’ as some of my classmates seemed to have. I looked at a law degree as something that would open a lot of doors, whether in the public or private sectors.” That being said, Bieda has been an admirer of former Associate Justice Frank Murphy, a Michigan native who had previously served as a Detroit Records Court Judge, Mayor of Detroit, Governor General of the Philippines, Governor of Michigan and U.S. Attorney General and enjoys reading biographies of other notable judges as well as attorneys such as Clarence Darrow.

While completing his LLM program in Tax Law, Bieda was elected to the Michigan House of Representatives. “As circumstances played out, I ended up being chair of the tax policy committee.” In that role, he was tasked with forming a replacement for the single business tax, which also became the subject of his master thesis and law review article. He authored 54 public acts, including the Legal Defense Reporting Act, Michigan’s so-called “revenge porn” law, the Revocation of Paternity Act, and, although he professes not to have a favorite public act, he notes the long and ultimately successful struggle to pass the Michigan Wrongful Imprisonment Compensation Act which bridged his service in the House and Senate. The Wrongful Imprisonment Compensation bill was signed after 12 years of legislative attempts during Bieda’s last term in the Senate.

“I was fortunate that I was able to work with Governor Rick Snyder on it as well. He was very open to the idea even though I was a Democrat trying to get bills passed in a Republican-controlled chamber.” Democrats were the minority party for 12 of the 14 years Bieda served in the House and Senate. “It is a lot easier to get stuff done when you are in the majority.” But having that ability to work across party lines is perhaps the perfect foundation to serve as a fair and impartial judge.

In his next role, he briefly served as Legislative Director for the



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Michigan Department of Treasury, then was appointed by Governor Whitmer as Chairman of the Michigan Tax Tribunal. He served as an Administrative Law Judge in the Tax Tribunal, a specialized tax court that functions similarly to an appellate court. “You’re hearing the cases after several levels of reviews. You draft written opinions and orders opposed to making fast-paced bench rulings.”

In his courtroom, he treats everyone with respect. “I’m conscious of the time constraints a lot of the attorneys have. And I’m aware and sensitive to the expenses in both time and effort of the parties involved and appreciative of the time they’ve taken to be here. I like to make sure we are addressing whatever concerns people have and that they are treated respectfully and as expeditiously as possible.”

He continues to be deeply concerned about the opioid crisis. While in Lansing, he served on the Opioid Task Force, sponsoring several bills that resulted from the Task Force’s findings. He noted sadly that he recalls his law school internship with the Wayne County Prosecutor’s Office, where he noticed how prevalent substance use disorders are among those caught up in the criminal justice system. His initial reaction to serving at the 37th District Court is the enormity of the problem of substance abuse.

Bieda brings that understanding to the bench. “There is a sensitivity to these cases because you don’t want to punish an addiction, but at the same time you want to look for ways to remedy that.” At the conclusion of these types of cases, he often says in a nice tone, “You know, I don’t want to see you here again unless you need a wedding for \$10.” He wants to see people break the cycle of addiction and achieve a happier, healthier, and safer path for themselves.

After taking the bench on February 1, 2023, Judge Bieda’s immediate impressions had an echo of familiarity. “There’s a sense of majesty when you first walk into the courtroom as an attorney that I’m awed by. I had the same experience being a legislator, when you walk into this place and realize the important role you’re entrusted to carry out; it is really an awe-inspiring experience. Now, I have the same feeling as a judge. I’ve been really impressed with the attorneys that appear before the court. I’m so grateful to the wonderful court staff and fellow judges on the Warren bench and those throughout the county.”

Judge Bieda enjoys the fast pace and high volume in his court, which is one of the busiest in the county. “Yes, it is busy. But the court is really well-run. I have the highest regard for the administration and staff here. It is really efficient.” Bieda notes that Annette Gattari-Ross, the court’s administrator, is a long-time friend and former law school classmate, and expressed admiration for her stewardship and smooth running of the court.

On the subject of Zoom, he noted that while it isn’t suitable for every scenario, it is often convenient for attorneys and parties to have the option when it promotes efficiency. Bieda noted that while serving as Chairman of the Michigan Tax Tribunal during the beginning of the pandemic, he initiated the successful transition from in-person hearings to remote virtual hearings in both the entire tribunal and small claims divisions of the Tribunal, and believes it will always be a permanent part of court operations going forward.

From Judge Bieda’s perspective, the court is “truly in the service industry. We are providing a service to the public, by protecting and adjudicating disputes. These are our clients, our customers. They have no other alternative to go to. We are providing an important service to the public. We should give the public the highest regard.”

It is unique for a judge to serve on the bench and see issues regarding laws that he voted for—specifically when it comes to expungements. As a member of the legislative committee of the

District Judges Association, he looks forward to using his legislative experience to have a positive impact on the way courts implement new policies and protocols spurred by recent legislation.

In his chambers, he has signed photos of him with Presidents Clinton, Obama, and Biden. He’s also met Presidents Ford, Carter, Reagan, and George H.W. Bush. But one of the best photos is the one with Muhammad Ali.

In a kind “welcome to the bench” gesture, Judge Kathy Galen—a longtime friend to Judge Bieda—accompanied him to shop for a black robe of his own. “It was very generous and kind.” He is very appreciative of how open 37th District Court Judges Chupa, Chmura, and Faunce have been to him. “They have been wonderful to work with and are great resources as well. There is a special comradery among the bench.”

Outside of law, Judge Bieda enjoys traveling. He has been to a number of countries, from Turkey to Taiwan. Australia has yet to be crossed off his bucket list, as the pandemic and wildfires postponed his plans. Machu Picchu in Peru is one of his favorite destinations. In Michigan, he really enjoys Pictured Rocks and waterfalls in the Upper Peninsula. Locally, he bikes in the beautiful parks in Warren. One of the benefits of the 37th District Court is its proximity to terrific eateries. Te Roma and Haney’s are some of his Center Line favorites. In Warren, he recommends Theo’s, Country Oven, Andiamo, Lori’s Cafe, and The Dovetail.

A constant feature among Bieda’s numerous offices throughout the years has been an aquarium, reminiscent of the time he worked at a Pet Store while in college. Another interest of Judge Bieda’s is history. He is a member of the Michigan History Foundation, which is currently helping restore the Ulysses S. Grant House in Eastern Market and contributes freelance writings on behalf of the foundation. Bieda’s longtime interest in history is evident in several previous projects; while serving in the House he initiated a project to honor the

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architect of the capitol building with a commemorative plaque at the architect's gravesite and at the capitol, and while serving in the Senate Bieda initiated and privately raised funds (along with a colleague, Senator Mike Kowell) for the casting and successful placement of two replica cannons honoring Michigan's famed Civil War Battery "A" 1st Michigan Light Artillery Regiment aka Loomis Battery. These historically accurate replica cannons replaced the originals that were melted during a scrap metal drive during WWII.

As an avid numismatist (coin collector) and medallist artist, he designed the reverse 1992 Olympic Half Dollar coin and was instrumental to the design of the Michigan quarter. Governor Whitmer appointed him as a liaison to the United States Mint (a bureau of the Department of the Treasury) for the Michigan Innovation Dollar, which will be released in 2025. Yet another fun fact about Judge Bieda is that he worked with Rosa Parks on the largest labor monument in the country. It's called "Transcending," and it's located in Hart Plaza. Bieda was a fundraiser for the project, doing direct fundraising appeals to labor unions across the state as well as authoring several successful grant applications. It was as a grant writer that he prevailed upon Rosa Parks for a letter of support for the project. Although the monument commemorates organized labor and not specifically the auto industry, the impact of the auto industry is apparent in the sculptural reliefs that make up part of the sculptural grouping. Bieda has a great affinity to the auto industry, and classic cars in general, and he also served as Chairman of the Motor Cities Heritage Area. He's keenly interested in the history of the auto industry and for the architecture the auto industry inspired, noting a local personal connection: "My dad worked at the GM Tech Center for years. I wish they still offered tours of it because it is an architectural jewel. It was the same architect – Eero Saarinen - who designed the St. Louis Gateway Arch."

On top of all of that, Bieda is also an accomplished artist. He was a cartoonist for his high school and college papers. If he were not an attorney, he would have pursued his first passion and become a political cartoonist. "It is not just the craftsmanship of the cartoon—it's the combination of the art and the very serious message it imparts that I always found fascinating." On the walls of his office are several Puck magazine covers of American political cartoons from the 19th and early 20th century. Perhaps those will inspire him to contribute some cartoons to Bar Briefs.

With a law degree, Judge Bieda has proven that you can do so many things. Just because you start off in a certain type of role in a certain area of law doesn't mean you have to spend the rest of your career doing the same thing. "When I grow up, I'll figure out what I want to be," Bieda chuckled.

For law students, new attorneys, and lawyers of all ages, he recommends remaining open-minded to different opportunities and drawing from past experiences to succeed in new roles. "Stay optimistic. Find an area of law that sparks an interest and provides a work-life balance, and it will lead to a fulfilling career."

Regarding work-life balance, he recommends getting involved with your local community by sharing your talents, whether with a charity or a special interest group. It is important to have friends in the Bar Association because they have similar experiences and share an understanding of common challenges and victories. "You should always have something more than just work. You have to have a work-life balance."

Aaron J. Hall, of the Macomb County Prosecutor's Office, is the District 1 (Macomb & Wayne) Executive Council Member for the Young Lawyers Section of the State Bar of Michigan.



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Law & Order: The Practice. Perry Mason. There's a reason why most of the best legal dramas are about jury trials: they showcase passionate legal advocacy by lawyers who demand the facts and the truth, whether by discovering crucial evidence at the last minute or cross-examining mendacious witnesses until they break down and confess. But very few people would watch a show focused on the reality of appellate law, no matter how exaggerated—and that's why you probably can't even name one (excluding, of course, that classic Joe Mantegna vehicle *First Monday*.) Reviewing a record, researching case law, and writing briefs doesn't make for good viewing. And oral arguments—even in the most high-profile cases—would put the average viewer to sleep. It is perhaps for this reason that the average layperson, the average client, and even the average lawyer might not understand what a good appellate lawyer does, and what a good appellate lawyer can bring to the table, even while the trial-level proceedings are ongoing.

An appeal is not a second trial. It is almost never an opportunity to re-litigate the facts or who was telling the truth. It is a new front in the legal battle with a different purpose and different audience, and one that demands a unique skill set. So, what can a good appellate lawyer do?

Prevent you from losing the appeal before the trial even ends. Appeals courts decide cases based on a defined factual record, and only on legal issues properly raised in the trial court. The appeal is not the time to raise new legal arguments (or, heaven forbid, new facts). In fact, appeals courts generally refuse to even consider legal arguments that were not adequately "fleshed out" in the trial court or that were not raised at the proper time. The failure to preserve issues can cause you to lose, even if the law would otherwise be on your side. Did the trial judge refuse to grant you summary judgment on a killer legal argument, but then you forgot to make the same argument in your motion for judgment notwithstanding the verdict after the jury unjustly ruled against you? If you're in federal court on appeal in the Sixth Circuit, you're out of luck, because the argument has been waived. There are also complex rules governing how to preserve jury instructions or challenges to an ambiguous or inconsistent jury verdict form. Having an appellate attorney—even one who won't yet be involved in writing—at least review key dispositive pleadings, jury instructions, and post-trial motions to ensure the proper presentation and preservation of key legal issues can be worth every penny.

Bring a fresh perspective and package arguments for appellate success. Trial lawyers who work a case, often for years, can find it hard to objectively view their case—let alone focus on the best issues that the appeals court will care about. An appellate specialist, like

the appellate judge, will be approaching your case and your record fresh. Paradoxically, while an appellate attorney in the trial court will work to ensure that all of the possibly relevant legal arguments are preserved, a good appellate attorney will downplay or even disregard all but the best two or three. With very few exceptions (primarily criminal appeals), rehashing all of the legal arguments raised at trial is likely to result in a muddled, unfocused brief that is less likely to result in a favorable outcome.

Further, while your trial is about the facts of your case, an appeal is about more. As former Michigan Supreme Court Chief Justice Robert Young was fond of noting, the appeals court is there to decide what the rule will be not only in your case, but in the next hundred cases like it. Win or lose at trial, if it involves an issue that you are likely to see again, if you botch the appeal it will hurt you for years to come. Appellate attorneys are frequently immersed in researching and legal writing, and are attuned to emerging trends in the law. A good appellate specialist can identify issues most likely to resonate on appeal, and tailor the appellate brief to focus on those issues to obtain a favorable legal ruling that may also serve as favorable legal precedent to you down the road.

Understand the audience and advocate accordingly. Appellate advocacy also requires a different approach from trial advocacy, and an appellate attorney must exercise different legal muscles than their trial-court counterparts. The vast majority of appellate cases will be won or lost on the briefs. But judges have a busy docket and their attention spans can be short. The brief is the most important—and, in many cases, the only—chance to convince the judges to rule in your favor. Good appellate attorneys are excellent writers and skilled researchers, who know how to present written advocacy that identifies and distills the key legal points into a focused, effective message while being easy to follow and understand.

Finally, many appeals will culminate in a short, structured oral argument, which is usually around 10-15 minutes long. It is different than the often free-wheeling, open ended arguments that lawyers make to trial judges. While most cases won't be won at oral argument, they certainly can be lost there. It is critical to know your audience. Oral argument is not the place for a jury argument, which is likely to be counterproductive, as the same kind of rhetoric that stirs a jury will likely annoy an appellate judge. And since you likely won't know which judges will hear your appeal until after the briefs are filed, oral argument is likely the first and only opportunity to further tailor arguments to the specific judges deciding your case. An appellate specialist is likely to know by reputation and history the idiosyncrasies and judicial philosophies of your judges, and what arguments are likely

to sway them. At the same time, a forceful position on an argument that wins over one judge is worthless if it alienates the other two. A skilled appellate advocate will know how to navigate the intricacies of addressing the concerns of multiple judges with often conflicting ideologies—including knowing when a judge is throwing a softball or trying to extract a concession that will doom your case.

The authors are members of KHVPF's skilled appellate practice team. Thomas J. Davis served as a federal appellate clerk and spent nearly a decade in a Washington, D.C. appellate practice before joining KHVPF in 2014. David Porter specializes in appellate practice clerked on the Michigan Supreme Court and U.S. Court of Appeals for the Sixth Circuit.

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Blended Families Beware: Avoid Unintentionally Disinheriting Your Loved Ones with Effective Estate Planning

By Alan F. Jurcak, Associate

While Michigan law on estate succession has adapted to better accommodate blended family structures, many of these families are surprised to learn the actions they must take to effectively protect their assets for their desired beneficiaries. These measures can be inconvenient, but ensuring your wishes are honored for your children and/or stepchildren is well worth the hassle. Whether your family is in the process of creating or updating your estate plan(s), or you're still undecided on whether forming an estate plan is worth the time and expense, there are several common considerations that should be front and center for nearly all blended families.

The most common succession pitfall for blended families, both with and without an estate plan, is the unintentional disinheritance of a child. A married couple's typical estate plan arrangement will devise all the decedent's assets and property to the survivor, to be later distributed according to the surviving spouse's estate planning documents. This approach works seamlessly where the couple's wishes are perfectly aligned, but this is often not the case for couples with children from a prior relationship. In that scenario, unless the surviving spouse's estate plan specifically names the decedent's children from a prior relationship as beneficiaries, those children will be disinherited upon the surviving spouse's death, even if they are named as successor beneficiaries in the first decedent's estate plan. This is because Michigan's Estates and Protected Individuals Code (EPIC) generally excludes stepchildren from the meaning of the word "children." See MCL 700.1103(f).

The same concern applies for testators who do wish to name their stepchildren as beneficiaries in their will or trust. Even if the testator considers their stepchildren to be the same as their own children, they will not be treated as such under Michigan law unless they are formally adopted. Therefore, a general disposition in the testator's will or trust to "my children" will result in the stepchildren being disinherited if they're not specifically designated by name as a beneficiary under those documents.

Usually, these situations can be mostly resolved by either establishing a separate trust for your stepchildren or cooperating with your spouse to individually designate each other's children from previous relationships under your wills. However, EPIC's distinction between biological children and stepchildren has fallout effects that can frustrate these efforts, requiring further action beyond adjustments to your will and/or trust.

Joint Accounts; Survivorship Rights

Establishing joint financial accounts with your spouse may be the most convenient way of organizing your family's assets, but the prospect of disinheriting a stepchild still looms here for blended families. Joint account owners are granted survivorship rights in the other owner's

share of ownership – meaning that when one of the owners passes away, all of the dying owner's right and interest in the account passes automatically to the surviving owner, regardless of contrary provisions in the decedent's will. Without separating your financial assets into individual accounts, you risk allowing your assets intended for your children to pass according to your spouse's estate planning documents in the event they survive you. Furthermore, even if your spouse's estate plan is exactly aligned with your own wishes at your death, they will retain the ability to change their beneficiary designations at any time following your passing. Because of this, the only way to ensure your financial account assets pass according to your estate plan is to maintain individual accounts separate from your spouse.

The principles of survivorship rights apply to all forms of joint ownership – including real property. Like above, if you and your spouse jointly own your home with full rights of survivorship granted to each other, title will pass to the survivor of you automatically and circumvent the protections built into your will or trust.

Life Insurance

Life Insurance is another common estate planning tool used to avoid probate, but be wary when it comes to the beneficiary designations. If your policy simply names "my children" as the primary or secondary beneficiary, the exclusion of stepchildren discussed above will similarly apply. It's also important to make sure you've reviewed your Life Insurance policies following your remarriage. Regularly reviewing your Life Insurance policies is always beneficial, but especially so after any changes to your family structure.

ERISA Waiver

Under the Employee Retirement Income Security Act (ERISA), the spouse of an employer-sponsored retirement plan participant is generally entitled to 50% of the retirement plan's death benefit, with the remaining 50% passing as designated by the participant in the required beneficiary designation form. In order for your spouse to forego this entitlement and allow the entire death benefit amount to be distributed according to your beneficiary form designations, your spouse must execute and submit a spousal waiver form.

Effective estate planning consists of far more than adhering to general recommendations and can be complex for many families – we can help! Warner specializes in Tax & Estate Planning and is the perfect partner to build your individualized estate plan with. Contact us today to discuss how we can assist you with achieving your family's particular legacy and tax goals.

Alan F. Jurcak received his law degree cum laude from MSU College of Law, where he was senior associate editor of the International Law Review. He holds bachelor's degrees from MSU in international relations and Mandarin. He completed a legal internship with HROne in Shanghai, China.



Perspectives on Diversity and Inclusion in the Legal Profession

By *Esse T. Tuke, MCBA Diversity & Inclusion Chair*



As the world becomes increasingly diverse and complex, so do the legal issues facing our society. As members of the legal profession, it is our duty to understand these issues and serve our diverse clients and communities. Embracing the growing diversity and working towards inclusion of affected groups in the legal profession, makes us better attorneys.

Diversity in the legal profession refers to the representation of different races, ages, genders, religions, sexual orientations, and abilities among attorneys, legal professionals, and people we encounter while performing our duties. Inclusion, on the other hand, is the creation of a professional environment where everyone is valued and can contribute to the best of their ability. It is not enough to simply hire a diverse workforce; we must also create a culture of inclusion where everyone feels comfortable and respected.

A diverse workforce brings different perspectives to the table and can lead to better problem solving and more creativity in legal strategies. For example, a younger attorney may bring a different perspective to a family law case involving custody and visitation issues. An attorney with a disability may have unique insight into how to advocate for reasonable accommodations in the workplace. However, this is only the surface level diversity.

Diversity and inclusion is about breaking down tired stereotypes and prejudices that prevent us from understanding the experiences of those who are different from us. Two people from seemingly opposite viewpoints, when able to respectfully share their thoughts and the other party actively listening, can reach understanding. Understanding doesn't necessarily mean agreement, but without understanding, you cannot even attempt to get on the road to agreement.

As members of the legal profession, it is my hope that my colleagues will actively work towards greater diversity and inclusion, in their own personal sphere of influence. Importantly, in the small moments...

...the moments in the office where you hear someone be intentionally or unintentionally insensitive, a side bar with that person to course correct goes a long way towards keeping the work environment a comfortable space for other attorneys, litigants/clients, and staff.

...the moments where you catch yourself making an assumption about a person based on appearance or perceived ability, pause and challenge that assumption. Allow the reality of the human you're interacting with, to present themselves as they are and proceed to interact with them accordingly. Jumping to conclusions is never a good idea.

...the moments where you realize your office holiday policy

doesn't include your new hires religious holiday. You hopefully look for a way to accommodate and allow the time for celebration and meet office goals and deadlines. Win-win thinking.

Uncomfortable stuff? Sometimes it can be. But we, legal professionals, walk headfirst into tough things, daily, and make it look easy. Challenging ourselves, and those we claim to love/invest in, to be better and more internally just is a worthy endeavor.

In summary, as we advocate for justice in the courtroom, it is our responsibility to seek and protect justice within our office and community interactions. By embracing diversity and inclusion more holistically in different areas of our lives, we can all become more aware attorneys, employers, friends and citizens, helping to create a legal profession that is reflective of the best of our society's values.

How can the MCBA Diversity & Inclusion Committee help?

We are growing our diverse committee and planning events designed around building community, storytelling, sharing tips, and safe space to ask questions. Often when uncomfortable topics around diversity and inclusion come up, no one knows where to go to have a measured conversation, seeking understanding and higher ground. Our committee can be that resource. MCBA members can submit questions, even anonymously, to seek guidance and best practice with dealing with staff, clients or other attorneys where conversations around inclusion are needed.

Our committee will have programming based on the feedback we receive from the members on issues they are seeing and sharing good news going on in this space. Lastly, we will be partnering with other bar associations and D&I committees of other counties to keep MCBA members aware of D&I happenings across Michigan.

For example, our February event, My Experiences: As a Black Female Legal Professional, was a huge success. Big thank you to our esteemed panel of Macomb County legal professionals including, Hon. Teri Lynn Dennings, APA Jevona Fudge and veteran attorney Andrea Fanning, for sharing your time and stories so generously. The panel was moderated by yours truly. The conversation was inspiring, revealing, and vulnerable. Positive Energy. Great questions. Good laughs and good eats. This is a recipe for building community, let's keep it going.

JOIN US!

If you are interested in joining the Diversity & Inclusion Committee, please contact Samantha Jones at SJones@MacombBar.org with your email address and you will be added to our committee email list where you will get meeting invites and information on events in the works.

Esse T. Tuke is the managing attorney at The Tuke Firm, PLLC.

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