

# PGCBA NewsJournal

Newsletter of the Prince George's County Bar Association, Inc.

www.pgcba.com

May 2015



## INSIDE THIS ISSUE

Bar Directory  
Page 2

Member Announcements  
Page 4-5

Candidate Profiles  
Page 6-10

Article by Robert Bonsib and  
Megan Coleman  
Page 12-17

Tort Seminar  
Page 18

Annual Meeting/Election  
Page 19

Family Law, Matters  
Page 20 - 21

Article –CSA on Criminally  
Negligent Manslaughter  
Page 24

Justice for Veterans  
Page 27

Circuit Court Library  
Page 29

Community Legal Services  
Page 32

J. Franklyn Bourne/PGCBA  
Golf Classic  
Page 36-37

Article – The Business  
of Practicing Law  
Page 38

Classified Ads  
Page 43

## PRESIDENT'S MESSAGE



*Colleagues,*

*“We must never cease to proclaim in fearless tones the great principles of freedom and the rights of man which are the joint inheritance of the English-speaking world and which through Magna Carta, the Bill of Rights, the Habeas Corpus, trial by jury, and the English common law find their most famous expression in the American Declaration of Independence.”*

– Winston Churchill

Every year on May 1st, America celebrates Law Day, to remind us how law and the legal process contributes to the freedoms that all Americans share. 2015 marks the 800th anniversary of the creation of the Magna Carta. What started as an agreement between rebellious English barons and a King wary of a Civil War, has morphed through the centuries into the cornerstone of the democratic legal system.

The Magna Carta was not meant as a constitution between the government and its citizens. Instead, it was a peace treaty between rebel barons

and the unpopular King. The barons were tired of paying ever-increasing taxes to the government so that the King could wage a losing war for lands in France. The barons refused to pay and threatened a civil war. The barons demanded that the King agree to protections of church rights, protection from illegal imprisonment, access to swift justice, and limitations on taxation and other feudal payments to the Crown, with certain forms of feudal taxation requiring baronial consent. With little room to argue, the King agreed and affixed his seal

*cont'd on next page...*

## NEXT BIG EVENT!

*Annual Meeting /  
Elections*

**Honoring the Honorable Julia B.  
Weatherly**

**Tuesday, June 9, 2015  
6:00 P.M.**

**Newton White Mansion  
See page 19**



**Like us  
on Facebook!**

# PGCBA NewsJournal

Newsletter of the Prince George's County Bar Association, Inc.

Published monthly (except Jul./Aug.) by the PGCBA

## PGCBA MISSION STATEMENT

...to represent the legal profession and to serve its members and the community by promoting justice, professional excellence, collegiality and respect for the law.

### PGCBA OFFICES

MARLBOROUGH PROFESSIONAL PARK  
14330 OLD MARLBORO PIKE  
UPPER MARLBORO, MD 20772  
Office: 301-952-1442  
Fax: 301-952-1429  
[www.pgcba.com](http://www.pgcba.com)

### EXECUTIVE DIRECTOR

ROBIN B. HADDEN  
[rhadden@pgcba.com](mailto:rhadden@pgcba.com)

### PGCBA LAWYER REFERRAL SERVICE

ELIZABETH ANDERSON  
301-952-1440  
[LRS@PGCBA.COM](mailto:LRS@PGCBA.COM)

### PGCBA TRAFFIC SCHOOL

ROBIN HADDEN  
301-952-8154  
[rhadden@pgcba.com](mailto:rhadden@pgcba.com)

NEWSJOURNAL  
ROBIN B. HADDEN  
EDITOR  
[rhadden@pgcba.com](mailto:rhadden@pgcba.com)

### ASSISTANT EDITOR

VERONICA POPE  
301-952-1442  
[vpope@pgcba.com](mailto:vpope@pgcba.com)

### 2014- 2015 OFFICERS

**President:** Denise M. Bowman

**President Elect:** Hon. Joseph Wright

**Treasurer:** Jeffrey Harding

**Secretary:** Walter Green

**Immediate Past President:** Jennifer Muskus

### DIRECTORS

Hon. Clayton Aarons, Michael L. Adams,  
Jason DeLoach, Manuel Geraldo, Giancarlo Ghiardi,  
Hon. Robin D. Gill Bright, Nakia Gray, Llamilet Gutierrez, Jennifer King, Donnaka Lewis, Hon. Erik H. Nyce\*, Byron Richardson, Benjamin Rupert\*, Elsa W. Smith, C. Todd Steuart, Hon. Katina Steuart, Hon. Ann Wagner-Stewart, Donnell Turner, Steven Vinick, Magistrate Judy Woodall, Benjamin Woolery,

Hon. Gerard Devlin, Parliamentarian

\*Appointed to the Executive Committee by the President

### COMMUNITY SERVICES SECTION

#### Law Day - OPEN

#### Law Links

Hon. Sheila R. Tillerson Adams.....301-952-3766  
Abigale Bruce-Watson.....301-952-0005

#### Mock Trial Program

Magistrate Judy Woodall.....301-952-3793  
Monica Best James.....443-336-4261

#### Lawyer Referral

Gerald C. Baker.....301-577-4600  
John M. McKenna.....301-474-0044  
Perry Becker.....301-262-4400

#### Public Service Projects

Manuel Geraldo.....202-544-2888  
Hon. Cathy H. Serrette.....304-952-3132

### Speakers Bureau

Hon. Gerard Devlin.....301-262-1696

### Traffic School

Hon. C. Philip Nichols, Jr.....301-952-3907

### MEMBER SERVICES SECTION

#### Mentoring Program

Donnell Turner.....301-952-4159

#### Fee and Dispute Conciliation Program

Bryon K. Richardson.....301-952-5238

#### Memorial

Hon. William D. Missouri.....301-952-3728

#### Solo Practitioner

Jennifer Muskus.....301-449-7444

#### Technology OPEN

#### Young Lawyers

Benjamin E. Rupert.....301-952-5158  
Llamilet Gutierrez.....301-699-2812  
Jennifer A. King.....301-352-4950

### ADMINISTRATIVE SECTION

#### By-Laws/Parliamentarian

Hon. Gerard Devlin.....301-262-1696

#### History

Carolyn Starks Saxon.....301-952-3239

#### Community Legal Services Liaison

Hon. Cathy Hollenberg Serrette.....301-952-3132

#### MSBA Liaison

Bryon Bereano.....301-502-1972  
Jeffrey Harding.....301-627-5500

#### Membership & Admissions

Hon. Clayton Aarons.....301-389-3174

#### Newsjournal

Benjamin Woolery.....301-262-3600  
Hon. Clayton Aarons.....301-389-3174  
Byron Richardson.....301-952-5238

#### Bar Nominations & Elections

Jennifer Muskus.....301-449-7444

#### Sponsorships

Giancarlo M. Ghiardi.....301-982-8617

### SOCIAL & SPECIAL COMMITTEES

#### Golf Tournament

Hon. Toni Clarke.....301-298-4056  
Hon. Joseph Wright.....301-298-4055

#### Hospitality Suite

#### Board Officers

#### Sports Leagues

Jeffrey R. DeCaro.....301-352-4950

#### Auctions

Elsa W. Smith.....301-358-4340  
Nakia Gray.....301-220-2200  
Llamilet Gutierrez.....301-699-2812  
Donnaka Lewis.....301-952-2708  
Hon. Ann Wagner Stewart.....301-952-4017  
Hon. Katina Steuart.....301-952-3500

### LITIGATION SECTION

#### Administrative Law

Daniel F. Lynch.....301-441-2420  
Abigale Bruce-Watson.....301-952-0005

#### Alternative Dispute Resolution

Alyssa Chang.....301-353-0081

#### Appellate Practice

Michael A. Wein.....301-441-1151

### Bankruptcy Law

John D. Burns.....301-441-8780

### Brown Bag Lunches

Benjamin E. Rupert.....301-952-5158  
Nakia Gray.....301-220-2200

### Criminal Law

Todd Steuart.....301-322-2000  
Scott Carrington.....301-952-2704  
Benjamin E. Rupert.....301-952-5158

### Probate, Estates, Trusts & Elderlaw

Benjamin J. Woolery.....301-262-3600  
Kathy Brissette-Minus.....301-883-8710  
Timothy O'Brien.....301-220-2200

### Family Law

Lisa Hesse.....301-262-6000  
Alphonso Hearn.....301-772-0248

### Federal Practice

Robert C. Bonsib.....301-441-3000

### Immigration Law

Joseph Trevino.....301-441-3131

### Juvenile Law

#### OPEN

### Labor & Employment

Jay P. Holland.....301-220-2200

### Law Practice Seminars (Bench to Bar)

Hon. Erik H. Nyce.....301-952-4060  
Llamilet Gutierrez.....301-699-2812  
Jennifer King.....301-352-4950

### Tort Law

Giancarlo Ghiardi.....301-982-8617  
Robert Clark.....301-572-5000

### Workers' Compensation

Debora Fajer-Smith.....301-220-2200

### PROFESSIONAL SERVICES SECTION

#### Alter Ego Program

Hon. Joseph L. Wright.....301-699-2728

#### Judicial Nominating Committee

Jeffrey Harding.....301-627-5500

#### Legislative

Denise M. Bowman.....301-292-3300

#### PGCBA Liaison to Seventh Judicial Circuit YLS

Turner Sothoron.....301-395-5239

#### Prince George's Pro Bono Com. Rep.

#### Coordinates with the State Pro Bono Standing Committee

Alyssa Chang.....301-353-0081

#### Prince George's County Criminal Justice Coordinating Com. Rep.

Hon. Clayton Aarons.....301-389-3174

#### Prince George's County Court

#### Committee for Modernization of the Court Reporter's Office

Hon. Clayton Aarons.....301-389-3174

### TELEPHONE NUMBER FOR CLIENT REFERRALS FOR PRO BONO LEGAL SERVICES

Phone.....240-391-6370/240-391-6395

#### Lawyers in Need

James Flynn.....301-848-4877  
Robin Shell.....240-472-9919

#### Ethics Hotline

John R. Foran.....301-441-2022

#### Designated Conciliator Program

William Renahan.....301-351-7531

Annual subscriptions provided to PGCBA Members at no cost as part of annual dues;  
Non-Member subscriptions \$75 per year.

**Publication Deadline 10th of preceding month.** Approved advertising accepted; rates submitted upon request. Statements or opinions expressed herein are those of the authors and do not necessarily reflect those of the Prince George's County Bar Association, its Officers, Board of Directors or the Editor. Publishing an advertisement does not imply endorsement of any product or service offered.

# PRESIDENT'S MESSAGE, CON'T

to the document in June 1215. The agreement was less than 4,000 words- shorter than the U.S. Constitution. The agreement was later named the Magna Carter, which means "Great Charter" in Latin.

The most famous clause states "No free man shall be seized or imprisoned... but by lawful judgment of his Peers, or by the Law of the land. " This is the basis for our due process rights.

The Magna Carta has been cited in over 170 U.S. Supreme Court opinions. Of these 170 cases, 28% concern due process of law, 13%

trial by jury, 8% concern how the Magna Carta has influenced American constitutionalism, 6% each treat antitrust matters and habeas corpus; 5% concern other civil rights and liberties, and 4% each treat cruel and unusual punishment and excess fines.

On this year's Law Day, I hope you will join me in taking a moment to remember the foundations of our system of law, and appreciate the liberties obtained for us by our forbearers.

Denise



Submission Deadline:  
10th of the month

.....  
The deadline for submissions is  
May 10th for the June  
Newsjournal.

Don't forget to  
sign up for  
PGCBA  
FIND-A-LAWYER  
Listing  
See Application on our  
website  
[www.pgcba.com](http://www.pgcba.com)

## The McCammon Group is pleased to announce our newest Neutral



**Hon. A. Michael Chapdelaine (Ret.)**

Retired Associate Judge

Circuit Court for Prince George's County, 7th Judicial Circuit of Maryland

The Honorable Michael Chapdelaine served the Circuit Court for Prince George's County as a Master for Domestic Relations for five years and as an Associate Judge for more than four years. Prior to his service on the bench, he enjoyed a successful private practice with an emphasis on family law. He is a past Member of the Board of Directors of the Bowie Chamber of Commerce and a Life Fellow of the Community Legal Services of Prince George's County. Since his retirement from the bench in 2011, he has been mediating and arbitrating family law disputes. He now brings this distinguished record of service and accomplishment to The McCammon Group to serve the mediation, arbitration, and special master needs of lawyers and litigants throughout Maryland, DC, and beyond.

THE  
MCCAMMON  
GROUP

### ***Dispute Resolution and Prevention***

For a complete list of our services and Neutrals throughout MD, DC, and VA,  
call 1-888-343-0922 or visit [www.McCammonGroup.com](http://www.McCammonGroup.com)

# MEMBER ANNOUNCEMENTS

## WELCOME NEW MEMBERS!

OLUSEUN O. WILLIAMS  
THE PRINCE GEORGE'S COUNTY  
STATE'S ATTORNEY OFFICE

CHERI M. HAMILTON  
LAW CLERK, CIRCUIT COURT,  
PRINCE GEORGE'S COUNTY

MATTHEW F. EMMICK  
SCHLACHMAN, BELSKY & WEINER, P.A.

KIMERLY M. GLENCER  
LAW OFFICES OF  
KIMBERLY M. GLENCER, LLC

YONELLE MOORE LEE  
THE LEE LAW FIRM, LLC

ALYSON LEIGH WYMAN  
PICKETT & OLIVERIO, LLP

PATRICK L. BROWN  
JOSEPH, GREENWALD & LAAKE, PA

*"The PGCBA is glad to have  
you as our new members!"*

# Save the Date!

## BENCH TO BAR

May 21, 2015  
4:00 pm - Courthouse

Topic: Criminal and Civil - 5 Most Common Ethical Issues  
Facing Lawyers Today

Guest Speaker: TBD

*...followed by...*

## HAPPY HOUR

5:30 PM - OTI

## PGCBA NEWSJOURNAL PAPERLESS???

Did you know that the *PGCBA NewsJournal* is available on our website at [www.pgcbacom](http://www.pgcbacom)? In addition, if you wish to receive your NewsJournal via email in lieu of a paper copy, beginning in September 2015, please let us know at [vpope@pgcbacom](mailto:vpope@pgcbacom).

## PGCBA COMMUNITY AND PUBLIC SERVICE PROGRAM 2015 Awards Solicitation

The PGCBA is soliciting applications for its Community and Public Service Project Awards. Awards are financed with the income received from the PGCBA's Traffic School Program. Since the program's inception in 2000, the PGCBA has awarded over \$102,000 to numerous community, public service and other charitable projects benefiting the citizens of Prince George's County.

Bar members are invited to nominate programs which serve the Prince George's County community. **The organization must be a 501 (C) 3 to apply.** Applications are available on our website [www.pgcbacom](http://www.pgcbacom). You may also contact Robin Hadden at [rhadden@pgcbacom](mailto:rhadden@pgcbacom) if you would like an application sent to an organization that you think would be interested. The Public Grants Committee, under the leadership of Manuel Geraldo will review all applications. Awards will be announced in July 2015.

### SCHEDULE

March 2015 – Begin advertising the availability of the community service funds.

March 16, 2015 – The application process will be opened and the committee will begin to receive applications **via email at [rhadden@pgcbacom](mailto:rhadden@pgcbacom)**

May 15, 2015- The application process will be closed and no applications will be accepted after 5:00 PM on the 15<sup>th</sup> of May.

July 2015 – The recipients of the community service funds will be announced.



# MEMBER ANNOUNCEMENTS

FREE • FREE • FREE • FREE • FREE  
FREE • FREE • FREE • FREE

## BROWN BAG LUNCH

May 7, 2015  
12:00 PM

Lawyer's Lounge, 3rd Floor  
Duvall Wing

Hosted by: The Honorable C. Philip  
Nichols, Jr.

Speakers: Frank Natale, Director for  
Income Security, Maryland Legal Aid;  
Tracy Parker Warren, Veterans' Affairs;  
and Michael Stone, Homeless Persons  
Representation Project.

Topic: "No Wrong Doors"  
– Servicing Veterans

FREE • FREE • FREE • FREE • FREE  
FREE • FREE • FREE • FREE  
FREE • FREE • FREE • FREE • FREE

## CAREER DAY AT COOPER LANE ELEMENTARY APRIL 1, 2015



*Elsa W. Smith participates in Career Day at Cooper Lane Elementary in Hyattsville, MD on April 1, 2015*

*Congratulations!*

Congratulations  
to Benjamin Rupert, on  
behalf of the Pro Bono  
Resource Center of  
Maryland, for being the  
recipient of the 2015 Alex  
Fee Memorial Pro Bono  
Service Award.

# CANDIDATE PROFILE FOR THE POSITION OF SECRETARY



***Erik H. Nyce*** has been a member of the Association since 1987. He has served many terms as Director of the Board as well as two terms on the Executive Committee. Mr. Nyce has served on numerous Committees, most recently the Law 101/Bench to Bar Committee. Over the years he served the Bar Association with the goal of continuing education for the members, and making the practice of law more enjoyable.

# CANDIDATE PROFILES FOR THE POSITION OF DIRECTOR



***Clayton A. Aarons*** is an Associate Judge of the District Court of Maryland in Prince George's County. Previously, he was employed as a solo practitioner in the Law Offices of Clayton A. Aarons, LLC in Largo, Maryland. Judge Aarons was formerly employed by the State's Attorney's Office for Prince George's County, Maryland as Chief of the Circuit Court Division; as Assistant Chief of the District Court Division and as Chief of the Homicide Unit. Prior to his employment there, he was an Assistant Public Defender for Prince George's County, Maryland and served on active duty in the US Army Judge Advocate Generals Corps.

Judge Aarons' bar activities have included service on the Board of Directors of the Community Legal Services of Prince George's County and on the Maryland State Bar Association's, Board of Directors for the Pro Bono Resource Center in Baltimore, Maryland. He has had the pleasure to serve for the past four years on the Board of Directors of the Prince George's County Bar Association. In addition to his bar activities Judge Aarons has served as a volunteer attorney assisting homeowners in battling mortgage foreclosures and for the Springdale Community Association, and on the Board of Trustees

for Metropolitan African Methodist Episcopal Church, for the past twelve years. Judge Aarons intends to continue his service to the bar and the community.



***Michael L. Adams*** is an associate at the firm of Sasscer, Clagett & Bucher where he concentrates his practice in the areas of insurance defense, medical malpractice, and criminal defense. Prior to joining Sasscer, Clagett and Bucher, Michael served as law clerk to the Honorable Leo E. Green, Jr. of the Prince George's County Circuit Court.

Michael was appointed to the PGCBA Board of Directors in 2014, and is currently serving on the golf tournament committee. He is also a member of the Maryland State Bar Association and the J. Dudley Digges Inns of Court.

# CANDIDATE PROFILES FOR THE POSITION OF DIRECTOR



***Giancarlo M. Ghiardi*** has been a civil insurance defense attorney for over 20 years, with most of the cases in Prince George’s County and Southern Maryland. He has tried over 250 personal injury lawsuits to verdict. He has experience with most of the insurance companies in Maryland as he has worked in the private sector with Sasscer, Clagett & Bucher and Decaro, Doran, as well as staff counsel for Nationwide and State Farm. Mr. Ghiardi is presently a Senior Attorney with Timothy Smith & Associates, assisting Tim Smith with the management of a 16 attorney office as Corporate Counsel for State Farm.

Mr. Ghiardi has been an active Member of the Prince George’s County Bar Association for 20 years, and is currently a Co-Chair of the Tort Law Subcommittee. Mr. Ghiardi has had experience as a Presenter for PGCBA seminars with the Annual Tort Law Seminar. He has organized the speakers and agenda for the Annual Tort Law Seminar for the past two years, as well as participated in programs on Voir Dire, the use of defense IME’s, Expert discovery, trial strategy, obtaining Impeachment Evidence and Medical

Evidence and Causation issues. Mr. Ghiardi desires to become more active in the Bar Association and to assist with CLE programs. He looks forward to the opportunity of serving as Director.



***Monica Best James*** was born in Bethesda Naval Hospital, Maryland and, inter alia, attended Fairmont Heights Elementary School (Prince George’s County, Maryland) while her father served in Viet Nam. She moved back to Prince Georges County in 1983 (Suitland, Md.) while attending law school. Ms. James has resided in Bowie, Maryland since 1989. She is the divorced parent of one son, who is a recent graduate from the Smith Business School at University of Maryland, College Park.

Ms. James’ current Professional Licenses are as follows: U.S. Supreme Court, U.S. Court of Appeals - 4th Circuit, Maryland Bar Association, District of Columbia Bar Association, United States District Court of Maryland. A summary of her Employment and Activities: Currently employed as Senior Advisor, Maryland Comptroller’s Office, Courthouse, Upper Marlboro, Md.; Currently, Chairman, Public Safety Committee of Bowie at City of Bowie, Md.; Previously, Director of Legislative Affairs at Maryland Comptroller’s Office; Previously, employed at the Dept. of Labor Licensing and Regulation as Director of Legislative Services & Regulatory Affairs; Previously, Vice President of Government

Affairs at Maryland Chamber of Commerce; Previously, Associate General Counsel II at Maryland National Capital Park and Planning Commission; Staff Attorney at Legal Aid Bureau, Md. and Staff Attorney at Neighborhood Legal Services Program, Washington, D.C. Education: Leadership Maryland; Georgetown University Law Center/National Institute of Trial Advocacy Washington, D.C.; The Catholic University of America, Columbus School of Law Washington, D.C.; Wesleyan College Rocky Mount, N.C.; Camp Lejeune High School, N.C.; Studied Okinawan Martial Arts (Black Belt) and Philippine Martial Arts. Memberships: Prince George’s County Bar Association (Co-Chair Mock Trial Program); J. Franklyn Bourne Bar Association (Past Treasurer); Maryland State Bar Association (Pro Bono Resource Center Volunteer Attorney); Member, The Bar Association of the District of Columbia; Omicron Delta Kappa Honor Society. “I would sincerely appreciate your support for my candidacy.”



**CANDIDATE PROFILES CONTINUED ON NEXT PAGE**



# CANDIDATE PROFILES FOR THE POSITION OF DIRECTOR



**Abigale Bruce-Watson** is a Principal in the law firm of Arrington & Watson, LLC and a former partner with O'Malley, Miles, Nysten & Gilmore, P.A. For the past, 20+ years, Mrs. Bruce-Watson has practiced land use, zoning, municipal and administrative law in Prince George's and Montgomery Counties. She also specializes in Alcoholic Beverage Licensing Law.

Mrs. Bruce-Watson has been a member of the Prince George's County Bar Association since 1992. She is currently serving as Co-Chair of the Administrative Law Section and Law Links Committee. Mrs. Bruce-Watson previously served on the Board of Directors from (June 1999-May 2000) and was the recipient of the President's Award in Recognition of Outstanding Contributions to the Bar and Community (June 2000). Mrs. Bruce-Watson has also served on numerous community and professional boards including Trial Courts Judicial Nominating Commission (13th Commission District - Prince George's County), Maryland Fourth Appellate Circuit Character Committee, Past President/President-Elect/Co-Chair-Legislative Committee – J. Franklyn Bourne Bar Association, and graduate from the Maryland State Bar Association Leadership Academy Program.

Mrs. Bruce-Watson received her undergraduate degree with honors from Spelman College in Atlanta, Georgia and her Juris Doctor from the Washington College of Law at the American University in Washington, D.C.



**Jennifer King** graduated, cum laude, from the University of Maryland, College Park, in 2004 where she received a B.A. in Psychology and Criminology/Criminal Justice. While attending the University of Maryland, she had the opportunity to intern for the Honorable William B. Spellbring, Jr. at the Circuit Court for Prince George's County, as well as with Samuel J. DeBlasis, II, in DeCaro, Doran, Siciliano, Gallagher & DeBlasis, LLP's Workers' Compensation practice group. Jennifer obtained her juris doctorate in 2007 from the University of Baltimore School of Law where she graduated magna cum laude. She was an Associate Editor for the Law Forum and participated in the law school's Civil Advocacy Clinic. In 2005, Jennifer joined the DeCaro Doran Summer Associate Program and remained with the firm as a law clerk during law school. After passing the Maryland Bar in 2007, she became an Associate Attorney. Jennifer is also licensed to practice in the District of Columbia.

Jennifer King is currently serving as a member of the Board of Directors of the Prince George's County Bar Association.

#### Memberships

- Prince George's County Bar Association
- Board of Directors, Prince George's County Bar Association



**Byron K. Richardson** is an Associate County Attorney in the Prince George's County Office of Law and currently serves on the Board of Directors for the Prince George's County Bar Association. Byron has served as a volunteer attorney for Law Day since 2009 and conducts legal seminars on wills and estate planning through the legal ministries at Ebenezer AME Church and First Baptist Church of Highland Park.

# CANDIDATE PROFILES FOR THE POSITION OF DIRECTOR



***Elsa W. Smith*** is a sole practitioner and owner of the Law Offices of Elsa W. Smith, LLC, where she focuses primarily on criminal defense matters. She has served as a panel attorney for the Office of the Public Defender in Prince George’s, Charles and Montgomery Counties. Though born in San Juan, Puerto Rico, Mrs. Smith is the daughter of Cuban immigrants who fled the country’s communist regime. Mrs. Smith is fluent in Spanish. She earned her B.B.A. from the University of Miami School of Business, followed by her J.D. at the University of Miami School of Law in Coral Gables, Florida. Since relocating to Maryland, Mrs. Smith has become a member of the Maryland State Bar Association, the Maryland Criminal Defense Attorneys Association, the J. Franklyn Bourne Bar Association and the Women’s Bar Association-Prince George’s County Chapter. She is also admitted to practice before the U.S. District Court for the District of Maryland.

Mrs. Smith has been a member of the Prince George’s County Bar since 2012. She was appointed to the Board of Directors for a one-year term in 2014. In addition to her duties on the Board, she has served the Bar by providing pro bono legal services to the community. Those service opportunities included criminal expungement clinics at various locations in Prince George’s and Charles Counties.

Most recently, Mrs. Smith served as Auction Committee Chair for the Bar’s very successful and well-received 2014 Holiday Auction at Newton White Mansion. For the second year in a row, she is serving on the planning committee for the Bourne/PGCBA Annual Golf Classic at Lake Presidential golf course. If elected to serve as a Director, Mrs. Smith will use her solid work ethic and commitment to service for the betterment of our Bar Association. Mrs. Smith and her husband reside in Prince George’s County and are the proud parents of an adopted rescue dog, Doc.



***Katina Self Steuart*** - The Honorable Katina Self Steuart began her legal career as an appellate litigation attorney with the U.S. Department of Veterans Affairs, Office of General Counsel and went on to serve as judicial law clerk to the Honorable Maureen M. Lamasney in the Circuit Court for Prince George’s County. Judge Steuart then spent the next ten years as an Assistant State’s Attorney with the Prince George’s County State’s Attorney’s Office until her appointment to the District Court of Maryland for Prince George’s County in 2014. Judge Steuart is a lifelong resident of Prince George’s County.

Judge Steuart has served on the Board of Directors for the Prince George’s Bar Association for the last year. She has also served on the Auction Committee for the Annual Holiday Party and Silent Auction. The opportunity to participate as a Director has been a pleasure and she looks forward to continuing to serve the Prince George’s County Bar Association for another term.



***Donnell W. Turner*** has been employed as Deputy State’s Attorney for the Prince George’s County State’s Attorney’s Office, since 2012. In this capacity, Donnell has overseen several significant units in the office, including homicide, major crimes, domestic violence, grand jury, strategic investigations, and special prosecutions, which handles white collar and police misconduct cases. Additionally, Donnell is involved in the day-to-day operations and plays a significant role in establishing long-term policies and procedures in the office. Prior to working at the State’s Attorney’s Office, Donnell worked approximately ten years as an Assistant U.S. Attorney for the District of Columbia and a trial Attorney in the Criminal Division at the U.S. Department of Justice. Donnell is a graduate of the University of Maryland at College Park and the University of Virginia School of Law. He is currently an adjunct faculty member at Prince George’s Community College. In addition, he has been a member of the Prince George’s County Bar Association Board of Directors since 2013. Donnell currently resides in Bowie.



# CANDIDATE PROFILES FOR THE POSITION OF DIRECTOR



**Steve B. Vinick** has been an attorney with Joseph, Greenwald & Laake, P.A. for the past twenty years, and has been a partner for the past thirteen years. His practice consists of representing plaintiffs in medical malpractice actions, personal injury cases, and civil rights matters. Mr. Vinick also practices in the area of criminal defense.

Mr. Vinick has been very active with the Prince George's County Bar Association. He has been on the Board of Directors for the past year. He has volunteered his time for various events and activities over the last twenty years.

He has been very successful in the practice of law. Mr. Vinick was named the Maryland Association of Justice's Trial Lawyer of the Year in 2011 and was named a Super Lawyer for the past four years. He is also active with the Maryland State Bar Association and the National Business Institute (NBI), presenting seminars on auto tort litigation, depositions, trial techniques, Medicare, and the Affordable Care Act.

Mr. Vinick would like to continue his participation in improving the Prince George's County Bar Association. "We have taken great strides in the programs we offer and the activities that we do, and I would like to continue contributing towards the goal of making even more improvements."



**Ann Wagner-Stewart** is currently an Associate Judge on the District Court bench in Prince George's County. In addition to currently serving on the Board of Directors for the Prince George's County Bar Association, she is a board member for Community Legal Services and the University Park Junior Cotillion. As a member of the PGCBA Board of Directors, Ann is designated to participate as a member of the Strategic Planning Committee for IT Priorities. From January 1994 to September 2014, she was a prosecutor in the Office of the State's Attorney for Prince George's County. Ms. Wagner-Stewart served as Deputy State's Attorney from January 2011 until she was appointed to the bench. She previously served as Chief of the Domestic Violence Unit within the State's Attorney's office from its inception in June 2003 to January 2011. Ms. Wagner-Stewart also served as the Vice Chair of the Domestic Violence Fatality Review Team for Prince George's County and Co-chair of the Domestic Violence Subcommittee of the Maryland State's Attorney's Association's Legislative Committee. In 2013 and 2014, Ms. Wagner-Stewart was appointed by County Executive Baker to Co-chair a legislatively mandated Juvenile Court and School Safety Workgroup. She has been an adjunct lecturer for Catholic University's Columbus School of Law and a Faculty Advisor for Trial Advocacy I

training conducted by the National District Attorneys Association. Ms. Wagner-Stewart has served on numerous panels and committees addressing domestic violence issues. She is a member of the Prince George's County Bar Association in good standing and eager to continue her representation of the bar as a member of its Board of Directors.



## ELECTION BALLOTS

*Ballots for Board Positions will be available in the Bar Office as of  
May 1, 2015 or at the Annual Meeting Only!*



# BENCH TO BAR - “FIVE MOST COMMON CRIMINAL DISTRICT AND CIRCUIT COURT CASES: PRACTICE TIPS”

APRIL 16, 2015



Thank you to our panelist The Honorable Nicholas Rattal, Aaron Meyers, ASA; Megan Coleman, Esq.; David Simpson Esq.; Wennesa Snoddy, ASA; and our moderator The Honorable Erik H. Nyce.



# SPEEDY TRIAL – A PRIMER AND REFRESHER

## PART THREE - CONSTITUTIONAL SPEEDY TRIAL CONSIDERATIONS

by Robert C. Bonsib, Esq. and Megan E. Coleman, Esq.



In the last two articles we discussed State Speedy Trial considerations under Maryland Rule 4-271, Criminal Procedure Article 6-103, and *Hicks* and its progeny. In this article we will be discussing Speedy Trial considerations under the 6<sup>th</sup> Amendment to the United States Constitution, the Maryland Declaration of Rights, *Barker v. Wingo*, and Maryland cases applying those principles. Specifically, we will present cases in which a constitutional speedy trial violation *did* occur. Next month's article will present cases in which a constitutional speedy trial violation *did not* occur.

### Overview

"In all criminal prosecutions, the accused shall enjoy the right to a speedy...trial[.]" U.S. Const. Amend. VI; *see also* Md. Decl. of Rts. Art. 21 ("[I]n all criminal prosecutions, every man hath a right... to a speedy trial[.]"). *Howard v. State*, 440 Md. 427, 447 (2014).

In determining whether a defendant's constitutional right to a speedy trial has been violated, a court considers the "[l]ength of [the] delay, the reason for the delay, the defendant's assertion of his [or her] right, and prejudice to the defendant." *Vermont v. Brillon*, 556 U.S. 81, 90, 129 S.Ct. 1283, 173 L.Ed.2d 231 (2009) (quoting *Barker v. Wingo*, 407 U.S. 514, 530, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972)) (first alteration in original). None of these four factors alone establishes a violation of the right to a speedy trial; thus, a court considers the four factors "together[.]" *Barker*, 407 U.S. at 533, 92 S.Ct. 2182. *Howard v. State*, 440 Md. 427, 447 (2014).

### (1) Length of Delay

Length of delay is measured from the day of indictment or arrest. *See United States v. Loud Hawk*, 474 U.S. 302, 310 (1986) ("[W]hen no indictment is outstanding ... arrest ... engage[s] ... the speedy trial provision of the Sixth Amendment."

This is an important distinction from the Maryland Statutory speedy trial rule which considers the time from the defendant's or defense counsel's initial appearance in circuit court, rather than the date of arrest. Thus, the constitutional speedy trial clock begins ticking sooner, but may have to tick longer before the defendant can get relief.

***Apri-trial delay of one year is guaranteed to be of "constitutional dimension" and "presumptively prejudicial" thus requiring the trial court to conduct a speedy trial analysis.*** Generally, a delay of at least one year triggers a speedy trial analysis. *Howard*, 440 Md. at 447-48 (citing *Doggett v. United States*, 505 U.S. 647, 652 n. 1, 651 (1992)). A pre-trial delay of this length is considered one of "constitutional dimension" and a presumption of prejudice arises that a defendant has been deprived of his right to a speedy trial. *Henry v. State*, 204 Md.App. 509, 555 (2012). This presumption merely kick-starts the balancing of the four factors, the one year or more delay alone does not mean that a constitutional speedy trial violation has occurred, and in fact, "the length of delay is the least determinative of the four factors that [a court] consider[s] in" determining whether a defendant's right to a speedy trial was violated." *State v. Kanneh*, 403 Md. 678, 690 (2008).

Most of the cases addressed by the Court of Appeals ("COA") look at delay where the interval between arrest and trial was longer than one year. *See State v. Bailey*, 319 Md. 392, 415, *cert. denied*, 498 U.S. 841 (1990) (two years and nine days); *Brady v. State*, 288 Md. 61, 70 (1980) (fourteen months); *Wilson v. State*, 281 Md. 640, 651, *cert. denied*, 439 U.S. 839

(1978) (four years and two months); *Jones v. State*, 279 Md. 1, 6 (1976) (two years and five months); *Smith v. State*, 276 Md. 521, 528 (1976) (sixteen months).

***However, a delay of less than one year may be of "constitutional dimension" requiring analysis, depending on the circumstances, especially where the case is routine.*** In *Epps v. State*, the COA recognized "that an interval of nine months 'may be wholly unreasonable under the circumstances.'" 276 Md. 96, 110 (1975) (citing *Barker v. Wingo*, 407 U.S. 514, 528 (1972)). Also, in a pre-*Barker* decision in *Jones v. State*, 241 Md. 599 (1966), *overruled on other grounds*, the COA applied the constitutional analysis where the delay was nine and one-half months. Likewise, the Court of Special Appeals ("CSA") considered the constitutional implications of a delay of twelve months in *Caesar v. State*, 10 Md.App. 40 (1970) and a length of delay of eight months in *Barnett v. State*, 8 Md.App. 35 (1969). And in *Battle v. State*, 287 Md. 675, 686 (1980), "[t]he State concede[d] that [an] eight month twenty day delay 'might be construed to be of constitutional dimension so as to trigger the prescribed balancing test.'"

***But a delay of six months has not been sufficient to trigger the constitutional analysis.*** The COA has held that six month delay "was not presumptively prejudicial [and therefore] there is no necessity for inquiry into the other factors which go in to the balance." *State v. Gee*, 298 Md. 565, 579 (1984).

If the Defendant is able to establish that the delay is of constitutional dimension, the Court must then continue to assess these other factors.

### (2) Reason for the Delay

Closely related to length of delay is the reason assigned to justify the delay. Different weights are assigned to different reasons. The *Barker* Court said:

# SPEEDY TRIAL , Con't

A deliberate attempt to delay the trial in order to hamper the defense should be weighted heavily against the government.

A more neutral reason such as negligence or overcrowded courts should be weighted less heavily but nevertheless should be considered since the ultimate responsibility for such circumstances must rest with the government rather than with the defendant.

A valid reason, such as a missing witness, should serve to justify appropriate delay.

407 U.S. at 531. *See also Henry v. State*, 204 Md.App. 509, 550 (2012).

### (3) Assertion of the Right

This is best assessed by looking at the action of defense counsel or the defendant. Did the defense make a speedy trial demand in writing? Did the defense oppose any requests for continuances or make repeated requests for continuances? Did the defense request a speedy trial demand orally at the time the case was continued? Did the defense adopt and incorporate speedy trial demands made by co-defendants?

### (4) Actual Prejudice

While presumed prejudice may be established by a length of delay of more than one year to trigger the analysis, that is different than the prejudice prong which looks to see if the delay caused actual prejudice to the defendant.

Actual prejudice may result from any of the three factors: (1) oppressive pretrial incarceration; (2) anxiety and concern; and (3) impairment of the defense. *See Baily*, 319 Md. at 416-17.

The most severe form of actual prejudice is impairment of the defense such as where a witness goes missing or becomes

deceased, evidence goes missing, or memory by witnesses becomes faded. If the charges are not serious, then actual prejudice of financial strain and loss of employment may be factored in. Generally, the length of delay will serve as a presumption of prejudice in favor of the defendant where it is more than one year. Even when there is no showing of actual prejudice, the defendant's speedy trial rights could be violated. *See Brady v. State*, 288 Md. 61, 62 (1980).

### Analysis of the Four Factors Constitutional Speedy Trial Violations Established In The Following Cases

(1) In *Reed v. State*, 78 Md.App. 522 (1989), the CSA held that while the defendant's statutory speedy trial right was not violated, his constitutional speedy trial right was violated.

Length of delay: This was a prosecution of two counts of simple battery. The length of delay was more than 13 months and the defendant was incarcerated the entire time. The CSA found that the length of delay was sufficiently inordinate to constitute a "triggering mechanism" to engage in the "sensitive balancing process" of reviewing the conduct which gave rise to the delay.

Reasons for delay: The CSA found that the reasons for delay were all attributable to the State, despite the trial court finding the reasons neutral based upon court overcrowding. The CSA found that "[a]lthough the delay must be weighed less heavily than intentional delay, it is nonetheless entitled to some weight." 78 Md.App. at 538.

The first trial continuance occurred when the State's complaining witness became ill and the second continuance was because the court's schedule was too busy to have a trial that day. The third continuance was because the prosecutor was in another jury trial starting that day. The fourth continuance was because there was "no courtroom available." The fifth continuance was because the prosecutor

was involved in another jury trial that day. The defendant's motions to dismiss were denied so the defendant entered a not guilty to an agreed statement of facts in order to secure a sentence of time served so that he could be released. However, his lawyer made sure to put on the record that he was not intending to waive his right to a speedy trial by proceeding this way.

Assertion of right: The CSA found that the defendant made the demand early, often, consistently, and persistently. Thus, the defendant's assertion is "entitled to strong evidentiary weight in determining whether [he was] being deprived of the right."

The defense objected to each and every continuance. The defendant reminded the court how long he'd been incarcerated waiting for trial to begin. The defendant told the court that the same reasons were repeatedly being given for continuances. The defendant even filed a *pro se* motion for speedy trial and defense counsel filed a motion to dismiss. The defendant sent letters to the Clerk of the Court and the State's Attorney protesting the continual delay.

Actual prejudice: The CSA found that the defense was not prejudiced by the delay, but found that the balancing test is not confined to that consideration, "nor is an affirmative demonstration of prejudice necessary to prove a denial of the constitutional right to a speedy trial." The CSA found that the trial court gave too little weight to the "inevitable personal prejudice" that results from delay.

Overall balancing: The CSA held that "the unreasonable delay in this run-of-the-mill criminal case cannot be justified by simply asserting that the public resources provided by the State's criminal-justice system are limited and that each case must await its turn." Reed was denied his constitutional right to a speedy trial.

*cont'd on next page...*

# SPEEDY TRIAL , Con't

Side Note: The defendant's statutory right to be tried within 180 days was not violated: On the day that the case was postponed beyond *Hicks*, the case had only been continued once previously for the same reason, court congestion. The CSA did not find that a single recurrence of the same reason amounted to "chronic" congestion. Also, the postponement was granted one month before the end of the 180-day period, and the next trial date was scheduled for a date slightly more than one month after that period. Thus, the delay was not so inordinate as to amount to an abuse of discretion.

(2) In *Wilson v. State*, 34 Md.App. 294 (1976), the CSA held that the defendants were denied their right to a speedy trial with a 13 month and three week delay in being brought to trial.

Length of delay: 13 months and three weeks. The defendants were charged with robbery with a dangerous and deadly weapon and use of a handgun in commission of a crime of violence and related charges. The CSA noted that this delay was of "sufficient 'constitutional dimension' to 'trigger' the four-fold analytical process enunciated in *Baker*."

Reason for delay: The defendants were arrested on November 30, 1974. They remained incarcerated continuously. The first trial date was June 23, 1975. This was postponed because not enough jurors were available. The second trial date was October 17, 1975 and this was postponed by the State because no courtroom was available. Defendant Wilson filed a motion to dismiss based on speedy trial which was denied. Defendant Green requested a speedy trial, filed a motion to dismiss and that was denied. The third trial date was scheduled for January 13, 1976 and that was postponed because Green's counsel was unavailable. Trial began on January 19, 1976.

The CSA found that the State must shoulder the blame for the delay since the defendants were twice ready to proceed

with the trial only to have it postponed because there were not enough jurors or courtroom availability. Though balanced in favor of the defendants, the CSA attached minor weight because the delay was not intentional.

Assertion of right: Wilson moved to dismiss for lack of speedy trial on October 22, 1975 and Green filed a motion for speedy trial on October 28, 1975, and a motion to dismiss on January 7, 1976. These demands were not made until 11 months after arrest and after two postponements had already occurred. Thereafter the State moved with reasonable expedition to bring them to trial in three months. Thus, the CSA balanced this factor to be neutral with minimal significance to be given to either side.

Actual prejudice: The CSA said that no direct evidence of prejudice was demonstrated at the hearing on the speedy trial issue. But the CSA found the delay here was not insubstantial but rather sufficient to invoke the presumption of prejudice and shift the burden to the State to produce evidence to demonstrate that the defendants suffered no prejudice by reason of the delay. The State failed to provide a scintilla of such evidence, the State made no effort whatsoever to carry its burden. Thus the CSA weighed the length of delay and prejudice prongs heavily in the defendants' favor.

Balancing of all factors: The CSA said the factors are either neutral or weighted in the defendants' favor. Thus, the defendants were denied their right to a speedy trial under the 6<sup>th</sup> Amendment to the U.S. Constitution and Article 21 of the Maryland Declaration of Rights. Dismissal of the indictment is the only possible remedy when a speedy trial has been denied.

(3) In *Divver v. State*, 356 Md. 379 (1999), the COA held that a delay of one year and sixteen days violated the defendant's state and constitutional right to a speedy trial.

This case is important because it holds that "[t]here is nothing to prevent a circuit court from deciding whether an Divver's right to a speedy trial was denied in the District Court based upon a record that is made in the circuit court." Thus, the speedy trial clock does not just start again with the *de novo* appeal, but rather, the Court can consider what occurred in the District Court.

Length of delay: 1 year and 16 days. Divver was charged with driving while intoxicated and running a red light. Divver was arrested for DWI on May 25, 1996. Four days after his arrest Divver demanded a speedy trial in District Court. Sixteen days after his arrest the State filed a notice of intent to seek enhanced punishment.

Thereafter there was no activity until February 20, 1997 when the District Court notified Divver that his trial would be held on June 10, 1997. Divver made a motion to dismiss on speedy trial grounds and that was denied. Divver was convicted and appealed to the Circuit Court.

In the Circuit Court Divver demanded a speedy trial and moved to dismiss the charges based on the denial of speedy trial in District Court. The Circuit Court denied the motion. Divver plead not guilty to an agreed statement of facts.

The COA found that "the delay is of uniquely inordinate length for a relatively run-of-the-mill District Court case. Trial of the case to verdict on guilt or innocence presented little, if any, complexity. There was one witness for the State, a police officer whose appearance was subject to the control of the State, and the only witness for the defense was the accused himself. Given these circumstances, the length of the delay in the instant matter operates more heavily in Divver's favor than would usually be the case in many circuit court prosecutions." *Id.* at 390-91.

Reason for delay: There is no evidence in the District Court proceedings that any



# SPEEDY TRIAL , Con't

party requested a delay in setting the trial date, and there was no earlier trial date that was postponed.

At the Circuit Court proceedings, the State responded to Divver's motion to dismiss in District Court stating that "[t]he delay was necessitated by the fact that the District Court of Maryland...was short 2 judges for a significant time during the applicable period."

The COA found that the delay was attributable to the failure of the District Court to assign the case for trial. Although the District Court was down two judges, the COA said that "is immaterial. Assigning cases for trial is the obligation of the State. If the failure to assign the case was due to congestion or understaffing of State offices, the delay is chargeable to the State." *Id.* at 391. Thus, "the entire delay is weighed against the State in the instant matter, although not as heavily as it would were this a case in which the delay was purposeful, in order to hamper the defense." *Id.*

Assertion of right: The COA found that this factor clearly weighs in favor of Divver since he made known his desire to have his speedy trial rights strictly enforced. The State even "escalated the stakes with its notice of enhanced punishment" yet, the State failed to accelerate the process in scheduling the case for trial. *Id.* at 392. The COA said "If...the trial date set by the assignment office is unsatisfactory in relation to the constitutional mandates, the State's Attorney's Office should request an earlier date, and, if necessary, ask the court to order compliance." *Id.* (citing *Smith v. State*, 276 Md. at 531).

Prejudice: Divver was on bail during the delay. Divver did not present any evidence of impairment of the defense, thus this factor weighs heavily in favor of the State.

But, the COA cited *Epps* for "personal factors...such as interference with the defendant's liberty, the disruption of his employment, the drain of his

financial resources, the curtailment of his associations, his subjection to public obloquy and the creation of anxiety in him, his family and friends." *Id.* (citing *Epps*, 276 Md. at 116)). *Epps* cited the concurrence in *Barker*: "for those who desire an early trial, these personal factors should prevail if the only countervailing considerations offered by the State are those connected with crowded dockets and prosecutorial case loads. A defendant desiring a speedy trial, therefore, should have it within some reasonable time; and only special circumstances presenting a more pressing public need with respect to the case itself should suffice to justify delay." *Epps*, 276 Md. at 116 (quoting *Barker*, 407 U.S. at 537)).

The COA found that the actual prejudice factor favors the State, but not overwhelmingly.

Balancing of all factors: Neither the District nor Circuit Courts weighed the factors. The COA found that three of the four factors, especially the length of and reason for the delay weigh in favor of Divver. Weighing in favor of the State is the absence of any actual prejudice to the presentation of a defense and that Divver was not in jail. However, there was prejudice that included personal factors as well as a presumption of prejudice from the length of the delay, both of which favor Divver. Weighing all of the circumstances, the COA concluded that Divver's right to a speedy trial was violated and that the remedy is dismissal.

(4a) In *Brady v. State*, 288 Md. 61 (1980), the COA held that a defendant's speedy trial rights *could* be violated where there was no showing of any actual prejudice – but the case had to be remanded for further findings on the record.

*Brady* is significant because the defendant was unaware of the charges pending against him for the period of delay. Despite his unawareness, the COA held that a pretrial delay of constitutional dimension could still trigger the balancing process

to determine whether he was deprived a speedy trial.

Length of delay: 14 months. Brady was arrested on June 7, 1977 and charged with breaking and entering and he was released on bail. Twelve days later he received a letter from the District Court advising him that the charge had been dismissed because "[t]he State's Attorney's office in Annapolis has failed to comply as to whether this case would be tried in District Court or the Circuit Court..." *Id.* at 62. Unknown to Brady, on August 22, 1977, Brady was indicted for the same charge. The notice of indictment and summons for the arraignment were sent to Brady's last known address and returned undelivered. When Brady did not appear on the date set for the arraignment, a bench warrant was issued for his arrest.

From November 1977 to May 1978, Brady was incarcerated for an unrelated case. When that case concluded, Brady was finally served with the warrant for the instant case on May 29, 1978 which was acting as a detainer. Brady was arraigned on June 9, 1978. Brady first learned of the history of the charge at his arraignment, and he moved for a speedy trial. A trial date of July 25, 1978 was set, and Brady filed a motion to dismiss for lack of speedy trial on July 14, 1978. On the July 25<sup>th</sup> trial date the State sought a postponement because one of its witnesses, a police officer, was absent. Over objection by Brady, the postponement was granted. Brady was tried on August 8, 1978 and found guilty of breaking and entering. The trial court denied his motion to dismiss on speedy trial grounds finding that Brady failed to show actual prejudice.

Reason for delay: The intermediate court stated "we can find little, if any, justification or excuse for the delay. There is no evidence that the slightest attempt was made to notify [Brady] of his indictment. Even the bench warrant issued by the court on September 2, 1977, presumably was

*cont'd on next page...*

# SPEEDY TRIAL , Con't

ignored by everyone until 'placed in file' on May 17, 1978, without any effort expended to serve it or, as charged by it to 'have his body before the Circuit Court for Anne Arundel County' to answer for his failure to appear. Such seeming unconcern by the sheriff, who was admonished 'Hereof fail not at your peril . . .', not only constituted a disregard of [Brady's] speedy trial rights, but appears, without any explanation, to be an affront to the court's order." *Id.* at 63-64.

Assertion of right: Brady asserted his right both when he was charged in the District Court and when he was arraigned in the Circuit Court.

Actual prejudice: The intermediate court said that prejudice "becomes more elusive without awareness that a charge is pending." *Id.* at 64. The CSA again indicated it was "difficult" to presume prejudice when the defendant did not know of the charge and the CSA concluded by holding "that in the absence of knowledge of a pending charge, some actual prejudice must accompany the delay to compel a dismissal." *Id.*

The COA granted Brady's petition for writ on the single question of whether the CSA erred by holding that where a defendant was not aware of a pending charge, actual prejudice must be proved to compel dismissal of the charge for denial of a speedy trial? *Id.*

The CoA found instead that being ignorant of the charges may bring more prejudice to a defendant who is not focusing on the charge, who later may not think of matters as he would have earlier, or where witnesses or other evidence are no longer available. Thus, the defendant's ignorance of the pending criminal charge furnishes no logical basis for refusing to presume prejudice from a long pre-trial delay. *Id.* at 68-69.

Balancing of the factors: The COA remanded the case to the CSA for application of the balancing test in accordance with the principles set forth in the opinion.

(4b) In *Brady v. State*, 291 Md. 261 (1981)

the COA again granted Brady's writ of certiorari after the CSA affirmed the judgment on remand. This time, the COA reversed the conviction with instructions to dismiss the case based upon a speedy trial violation.

Length of delay: 14 months. The COA said that this delay must be weighed against the State. Although it is sufficient to invoke constitutional issues, the COA does not construe it as controlling.

Reason for delay: The COA said that the State, in the performance of its public trust, has a duty to coordinate the efforts of its various criminal divisions in attempting to locate a defendant. Its failure to do so in the instant case is particularly disheartening. Brady was incarcerated on an unrelated charge for six months and the authorities made no attempt to find him. He remained totally unaware of the pending charges against him. "As if the State's neglect were not manifest and egregious enough at this point, the State sought and obtained a two week postponement, during which time Brady remained in jail." The COA found that "[t]his prosecutorial indifference tips the scales most heavily in Brady's favor." *Id.* at 267.

Assertion: Brady was excused from having to make an assertion as it was a direct result of the State's neglect in its duties. In this case it cannot weigh against the defendant.

Actual prejudice: The time incarcerated from May 29, 1978 to trial August 8, 1978 was due entirely to the State's neglect and the prosecution could have been instituted while Brady was confined at the Baltimore City Jail. Thus Brady suffered some actual prejudice. With respect to anxiety or concern, Brady had been placed on probation on May 29, 1978 and should have been released, but the detainer kept him incarcerated. "This sudden awareness that he was not free, but still being held in jail for charges which had been dismissed the year before, must have generated a response more than mere anxiety. He had to be frustrated. In which event, the following two months in jail awaiting the

outcome of the charges had to exacerbate his concern." *Id.* Thus, Brady suffered at least some actual prejudice. Lastly, as to the third element of impairment of defense, the COA, thought it may not be readily apparent that he suffered prejudice, the long delay potentially created obstacles in the defendant's ability to present a defense and should not be discounted. *Id.* at 269. The COA regarded this element as neutral.

Balancing of factors: In balancing the factors, "[t]he factor most determinative of the issue, in this case, is the reason for the delay: prosecutorial indifference. Brady's trial was not delayed because of someone's professional judgment regarding the allocation of scarce resources, but because of the inexcusable failure of the State to check for Brady's presence within the correctional system itself...in our opinion, none of the factors can be found to weigh in favor of the State. We conclude, therefore, that Brady's speedy trial rights were unconstitutionally violated. A dismissal was the appropriate remedy under the facts of this case." *Id.* at 269-70.

(5) In *Epps v. State*, 276 Md. 96 (1975), the COA held that delay that of five and one-half months between time of arraignment chargeable to the State when trial was initially postponed to accommodate a tactical decision of the prosecutor to couple the defendant's case with that of his co-defendants was chargeable to the State.

Length of delay: One year and 14 days. Epps and co-defendants were charged with robbery with a deadly weapon. Epps was arrested on August 9, 1972. He remained confined until the date of his trial on August 22, 1973. The COA said that this length was "sufficiently protracted to be 'presumptively prejudicial' and to provoke inquiry into the other interrelated factors which go into the balance."

Reason for delay: Epps' first trial date was December 28, 1972. The delay between his arrest and the first trial date is not inordinate. On that date, Epps elected to be tried by a judge on that day and his co-defendants elected a jury trial. No jury

# SPEEDY TRIAL , Con't

panel was in attendance that week. The State did not want the cases to be severed and asked for a postponement. The court granted the postponement stating "There may be [a] delay in granting a trial, because of this last-minute change of heart, but I don't think your clients have any cause to complain that they have been denied a speedy trial since they are the cause of this." Trial was postponed until April 13, 1973 as the first open jury trial date, but then the trial was postponed again because there was no jury court available. The trial was rescheduled for June 12, 1973. On that day they were postponed because the arresting officer had collapsed while on duty and was confined to bed for a least a month. Trial was then rescheduled for August 22, 1973. This delay was neutral.

It is the delay between December 28, 1972 and June 12, 1973 that the COA said is the critical period in the evaluation. The COA said that the delay because of overcrowded court dockets and scheduling problems cannot be classified as wholly neutral, particularly where the defendant has seasonably made known to the trial court his desire to be speedily tried, since a judge "can always take control and order a case assigned for trial."

The delay on December 28<sup>th</sup> became purposeful to accommodate the State who wanted to keep the cases joined, despite Epps' election to have a court trial that day.

Assertion of right: On December 28, 1972 Epps made an oral motion that he "be tried today and separately." On June 13, 1973 Epps filed a written motion to dismiss the indictment for lack of speedy trial alleging that one of his alibi witnesses was no longer available since he was serving with the U.S. Armed Forces in Korea. The COA said these demands were "entitled to strong evidentiary weight in determining whether [he was] being deprived of the right."

Actual prejudice: The COA reiterated that "an affirmative demonstration of prejudice" is not necessary to prove a denial of the constitutional right to a speedy

trial. But in this case Epps suffered actual prejudice. Epps' incarceration from his arrest on August 9, 1972 to trial August 22, 1973 was "an interval which we consider, under the circumstances, to have been oppressive. One of the interests which the right was designed to protect was thus defeated." Also, the delay impaired his defense because his alibi witness who was available on December 28<sup>th</sup>, was no longer available after February because he was serving in the armed forces in Korea.

Balancing of the four factors: The COA concluded under the facts of the case that the delay in brining Epps to trial, caused by the prosecution and concurred in with the passive cooperation of the court, violated the defendant's right to a speedy trial.

## Next Article

In the next and final of the four-article series, we will discuss cases where the Court held that the circumstances surrounding the delay did not constitute a denial of the constitutional right to a speedy trial.

*Robert C. Bonsib, Esq. is a partner and Chair of the PGCBFA Federal Practice Committee and Megan E. Coleman is an Associate at MarcusBonsib, LLC in Greenbelt, MD and both concentrate their practice in the defense of state and federal criminal matters. Email: [robertbonsib@marcusbonsib.com](mailto:robertbonsib@marcusbonsib.com); [megancoleman@marcusbonsib.com](mailto:megancoleman@marcusbonsib.com)*

*Website: [robertbonsib.com](http://robertbonsib.com)*

## STEPHEN J. DUNN

ATTORNEY AT LAW

**FEDERAL WORKERS' COMPENSATION (OWCP)  
U.S. MERIT SYSTEM PROTECTION BOARD (MSPB)  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)  
OFFICE OF PERSONNEL MANAGEMENT (OPM)  
DISABILITY RETIREMENT**

110 West Road, Suite 445  
Towson, MD 21204-2364  
Phone (410) 321-8368  
Fax (410) 321-1599

208 East Market Street  
York, PA 17401-1249  
Phone (717) 845-7301  
[www.sdunnlaw.com](http://www.sdunnlaw.com)

## Kim S. Haskell, D.D.S., P.A.



Family & Cosmetic Dentistry



Children · Adults · Seniors · Tooth Colored Fillings · Dentures  
Root Canals · TMJ Treatment · Implant Crowns

*A dental practice that cares with a gentle  
approach and a commitment to excellence.*

- Voted Among Top Dentists by Washingtonian Magazine -

We Proudly Accept:  
**UNITED CONCORDIA**  **DELTA DENTAL** 

14414 Old Mill Rd. #101 · Upper Marlboro, MD 20772  
301-627-6646 · [www.haskelldental.com](http://www.haskelldental.com)

**PRINCE GEORGE'S COUNTY BAR ASSOCIATION'S**  
**TORT LAW COMMITTEE PRESENTS**  
**THE 2015 TORT LAW SEMINAR**

**“Taking the Mystery Out of Jury Selection –  
Wise Use of Peremptory Strikes”**

**Guest Speaker – Carolyn Koch, Jury Consultant  
Jury Solutions Company**

**“Rules Applicable to Voir Dire – A View from the Bench”**

**Speaker: The Honorable John Davey  
Judge, Circuit Court for Prince George's County, Maryland**

**“Effective Opening Statements”**

**Speaker: Robert Clark**

**“Update on Use of Technology in the Courtroom”**

**Speaker: Jeremy Dineen, Video Manager and Certified Trial Technician,  
Planet Depos**

**June 9, 2015**

**(Prior to the June Annual Meeting)**

**4:00 p.m.**

**Newton White Mansion**

**2708 Enterprise Road, Mitchellville, MD 20721**

**CLE and Annual Meeting Joint Price: \$90.00 for Members; Non-Members \$110.00**

**CLE Only: \$45.00 for Members; Non-Members \$55.00**

**Annual Meeting Only: \$55.00 for Members; \$65.00 for Non-Members**

**Please register at [rhadden@pgcba.com](mailto:rhadden@pgcba.com) or 301-952-1442 and make check payable to  
PGCBA**

**mail this form with check payments**

**Name(s)** \_\_\_\_\_

**Firm** \_\_\_\_\_

**Amount** \_\_\_\_\_ **Check #** \_\_\_\_\_

**Phone** \_\_\_\_\_

**Mail to: PGCBA, 14330 Old Marlboro Pike, Upper Marlboro, MD 20772**

# **Annual Meeting/Election**

## **June 9, 2015**



**Honoring**  
**The Honorable Julia B. Weatherly**  
**Circuit Court**  
**Prince Georges County Maryland**

**NEWTON WHITE MANSION**

**6:00 PM**

**\$55.00 per person**

**Please consider a Sponsorship Package**  
**\$1,000 to include a Table for 10 People and**  
**Special Acknowledgements**

**Please RSVP by May 29, 2015 301-952-1442**

Make checks payable to PGCBA and mail to Prince George's County Bar Association,  
14330 Old Marlboro Pike, Upper Marlboro, Maryland 20772



# FAMILY LAW, MATTERS: SPECIAL IMMIGRATION JUVENILE STATUS

by Sarone Solomon, Esq.

## **Introduction**

Due to the rising number of unaccompanied minors crossing the border from Central America, the humanitarian crises at the border has become the center of immigration debate. While the increasing number of unaccompanied minors crossing the border recently captured the attention of the mass media, the plight of undocumented minors in America is hardly a new phenomenon. As a champion of human rights and signatory to the 1951 Refugee Convention and 1967 Protocol, the United States has an obligation to provide safe asylum to refugees and ensure that migrants are not subjected to human rights abuses. Minors are among the most vulnerable group of migrants that cross the United States' border. In an effort to provide legal protection for this group, Congress created the Special Immigration Juvenile (SIJ) status in 1990. Obtaining SIJ classification affords legal status to undocumented minors, who were subjected to abuse, neglect, or abandonment. It creates a pathway for them to become legal permanent residents, and eventually United States citizens.

While immigration is generally an issue within the jurisdiction of the federal government, the state trial courts play a significant role in the process of obtaining SIJ status. That is, in order to qualify for SIJ status, a minor must first obtain a state court order making specific factual findings as to the minor's eligibility for SIJ status. In Maryland, the Circuit Courts have jurisdiction over cases seeking SIJ fact findings. Due to the large influx of unaccompanied minors, the number of SIJ fact finding cases in Prince George's County Circuit Court has increased. This article is intended to provide an overview of the role of the Circuit Courts in SIJ status cases, and highlight the key elements in SIJ fact finding orders.

## **Jurisdiction of State Courts In SIJ Status Case**

Under the Immigration and Nationality Act of 1990, Congress created SIJ status to afford an opportunity for undocumented minors to remain in the United States

in cases where their parent or parents mistreated them and deportation to their home country would not be in their best interests. Since its inception, the requirements for SIJ status have evolved through several amendments to the Immigration and Nationality Act. Arguably, the most dramatic change occurred in 1997, when Congress made an order from a state juvenile court making SIJ findings a mandatory component of a petition for SIJ status.

The 1997 amendment of the Immigration and Nationality Act seemingly brought the state courts into an area of the law that is generally reserved for the federal government. In Maryland, the constitutionality of the 1997 amendment was recently challenged in *Simbaina v. Bunay* No. 01092 SEPT TERM 2014, 2015 WL 426835 (Md. Ct. Spec. App. Feb. 3, 2015). In *Simbaina*, the Court of Special Appeals found that the requirement for a state court order with specific factual findings neither offends the Maryland Constitution nor violates the separation of powers under the federal Constitution. The Court of Special Appeals stated "the federal government can delegate specific powers to the States to make determinations helpful to determining the immigration status of certain individuals, including the SIJ status." *Id.* at 4 (Md. Ct. Spec. App. Feb. 3, 2015). To be sure, under the 1997 amendment, the state courts are not making a final determination of the eligibility of the minor for SIJ classification. Rather, Congress's delegation of authority only requires state courts to issue an order making factual findings regarding the best interest of the minor—which traditionally is the expertise of the state courts. While the state courts' factual determinations are generally upheld by the immigration officials, such determinations are merely advisory to United States Citizenship and Immigration Services (USCIS).

Having affirmed the constitutionality of the state court order requirement, the Court of Special Appeals, in *Simbaina*, held that Maryland Circuit Courts have jurisdiction over SIJ status cases. No. 01092 SEPT

TERM 2014, 2015 WL 426835, at 6 (Md. Ct. Spec. App. Feb. 3, 2015). Because the courts of equity have jurisdiction over cases involving custody and guardianship in Maryland, the Court reasoned, they are also the appropriate forum for SIJ orders. *Id.* (citing Family Law Article § 1–201(b) (5)). Furthermore, the Court of Special Appeals held that the federal definition of juvenile courts was broad enough to include Maryland Circuit Courts. *Id.*

## **Petition for SIJ Fact Findings**

A petition for SIJ fact findings is commonly filed in proceedings that involve custody, guardianship of a minor, adoption, child in need of assistance determination, delinquency, modification of a prior order, and registration of a foreign custody order. Although attorneys tend to file a separate motion petitioning the Court for SIJ fact findings, petitions for SIJ fact findings are not separate causes of action, and therefore there is no requirement that a separate motion be filed. *Simbaina v. Bunay*, No. 01092 SEPT TERM 2014, 2015 WL 426835, at 6 (Md. Ct. Spec. App. Feb. 3, 2015). The law merely requires petitioners to state sufficient facts in pleadings to unequivocally communicate to the Court that SIJ fact finding is a relief sought. *Id.* Following a hearing regarding the minor's eligibility for SIJ status, the Court issues an order with factual findings.

## **Factual Findings In A SIJ Court Order**

A Maryland Circuit Court must make factual findings in the SIJ order for the undocumented minor to be eligible for SIJ status. The Circuit Courts' order must state: (1) that the child is unmarried and under the age of 21; (2) that the child is dependent on the Court; (3) that reunification with one or both parents is impossible because of abuse, negligent or abandonment or similar basis under state law; and (4) that it is not in the best interest of the child to be deported to the country of origin.

In Maryland, the age requirement proved to be problematic for many years because the age of majority was 18 years, and, for the most part, the Maryland Circuit Courts making SIJ fact findings did not have

# FAMILY LAW, MATTERS, CON'T

jurisdiction over individuals over the age of 18. In other words, while individuals between the ages of 18 and 21 could be beneficiaries of SIJ status under the Immigration and Nationality Act, they were unable to obtain the prerequisite order from Maryland Circuit Courts to be eligible for SIJ status. This issue was resolved when the Maryland legislature passed H.B. 315, effective October 1, 2014, granting equity courts jurisdiction over children under 21 years of age for SIJ status purposes, as codified in Family Law Article § 1-201.

The Court must find that the child is dependent on the Circuit Court or placed under the custody of an agency or an individual appointed by the Circuit Court. U.S.C. § 1101 (a)(27)(J) (i). This requirement generally means that the Circuit Court making the SIJ fact finding has jurisdiction over the care or custody of the minor. Prior to 2008, to qualify for SIJ status, the minor had to be declared eligible for long-term foster care. The William Wilberforce Trafficking Victims Protection Reauthorization Act, enacted in 2009, amended the eligibility requirements to include children that were “placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court [.]” U.S.C. § 1101 (a)(27)(J) (i). This has been interpreted, as noted above, to apply to proceedings in which the care or custody of a child is at issue.

Additionally, the Circuit Court must make a best interest determination with respect to reunification with a parent or parents, as well as deportation to the country of origin. The SIJ status order must find that reunification with both or one of the parents of the child is unviable because of abuse, neglect, or abandonment, or similar basis found under state law. U.S.C. § 1101 (a) (27)(J) (i). It is noteworthy that the minor does not have to be abused, neglected or abandoned by both parents. In fact, the minor is eligible for SIJ status, even when the Circuit Court awards custody to one parent upon a showing of abuse, neglect, or abandonment by the other parent. Nor does


the abuse, neglect, or abandonment have to take place once the child is in the United States. Finally, the Court has to find that deportation is not in the best interest of the minor. U.S.C. § 1101 (a) (27) (J) (ii). In many cases, this element is met when it is established that there is no one that can care for the child in his or her home country or that the child has been subjected to threats or assault from gangs from which there is no adequate protection.

## Conclusion

SIJ status cases highlight a unique intersection between state law and federal immigration law. The importance of the Circuit Court’s SIJ fact findings cannot be overstated, as they significantly impact the ability of an undocumented minor to obtain a legal status and avoid deportation. Undocumented minors are among the most vulnerable group of immigrants in America. Attorneys for these children bear a tremendous responsibility to ensure all the relevant facts are presented to the

Court, as without SIJ status, children that desperately need protection may be returned to their country of origin, where their lives may be in jeopardy.

*Sarone Solomon, Esq. was born and raised in Ethiopia until she was 15 years old. She moved to Plano, Texas in 2003, where she graduated from Plano East High School in 2006. In 2010, she graduated with Bachelor of Art degrees in Political Science and Sociology from Southern Methodist University in Dallas, Texas. Then, she moved to Washington, DC, where she graduated from American University, Washington College of Law in 2013. She also received Masters of International Affairs from American University School of International Service, where she graduated Cum laude, in 2014. She was a law clerk to the Honorable Sheila R. Tillerson Adams and the Honorable Julia B. Weatherly. She is currently serving as law clerk to the Honorable Cathy H. Serrette.*



MD State Certified

**AAC - Prince George's County**  
4333 Northview Drive, Bowie, MD 20716  
410-768-5988 (p) - 410-768-5989 (f)  
www.annearundelcounseling.com  
Glen Burnie - Annapolis - Edgewater  
Bowie - Kent Island - Centreville

**“Clinical & forensic professionals dedicated to comprehensive evaluation, education & treatment.”**

Our Services:

MD State Certified: DWI/DUI Programs  
Substance Abuse Education & Treatment

MVA Approved & Court Approved

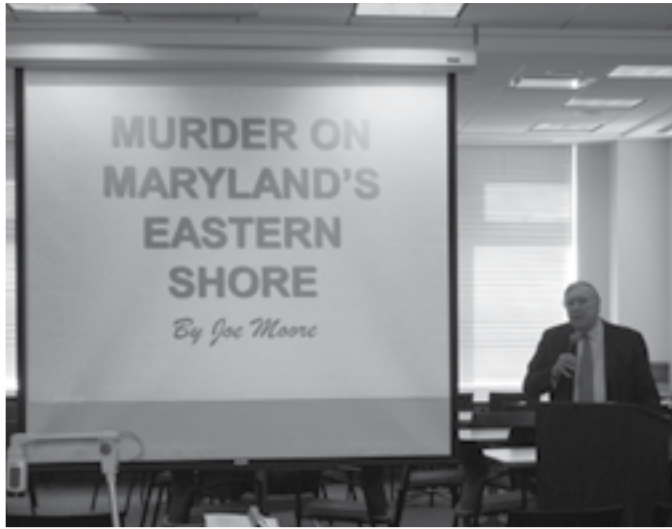
Anger Management ~ Domestic Violence  
Sexual Offender Evaluation, Education & Treatment  
Shoplifting/Theft Prevention & Prostitution/Solicitation Programs

Customized Programming Available

Counseling/Therapy - Psychiatric Evaluations & Medication Management

# “ALAN GOLDSTEIN MEMORIAL CRIMINAL PRACTICE SEMINAR”

## MARCH 28, 2015



**COMPLETE  
LEGAL  
ADVERTISING  
SERVICE**

**The Sentinel**  
NEWSPAPERS

Accurate • Reliable • Flexible • Best Rates  
Experience • County Wide Coverage  
Prompt Service • Community-Oriented

Contact Sherry Sanderson at 301-838-0788  
Prince George's County & Montgomery County



**ECONOMIC VALUATIONS**

**Pushkin & Pushkin, Inc.**

Actuaries & Consultants since 1979

- Pension Divorce Valuations
- 401(k) Marital Tracings
- Wrongful Death & Personal Injury Analyses
- Actuarial Valuations
- Expert Testimony
- Loss of Earnings Studies

[www.pushkinandpushkin.com](http://www.pushkinandpushkin.com)

Member of the National Association of Forensic Economics

**Pushkin & Pushkin, Inc.**

30 E Padonia Rd, Ste 406 • Timonium, MD 21093  
Baltimore: 410.561.1945 • Washington: 301.951.9430

## We Process Commercial Settlements For Real Estate and Title Attorneys...

Passport Title serves as title agency and back office for over 40 real estate attorneys and title producers who rely on us to process their commercial and residential closings.

Here is what you get with our business model:

- Expert, responsive processing by local employees
- You eliminate overhead expense, liability, audits, and management
- You have more time to close and acquire new clients
- We share gross income with you
- You are covered by our bonds and insurance
- We have no minimum monthly caseload requirement
- Closings take place anywhere you choose
- We are licensed in MD, DC and VA

We are the title company for attorneys who do NOT want the burden of managing their own title agencies

Call John Cotter: 240-542-1920  
jcotter@passporttitle.com  
www.passporttitle.com



### RONALD I. WEINER, PHD, LLC

*Specializing in Forensic Mental Health Services for over 40 years*

SEX OFFENDER TREATMENT SERVICES  
FOR ADULTS & JUVENILES

COMPREHENSIVE PSYCHOSEXUAL RISK ASSESSMENTS

POLYGRAPH EXAMINATIONS

WHITE COLLAR CRIME/FRAUD  
FORENSIC SENTENCING EVALUATIONS

SEXUAL ADDICTION/SEXUAL DISORDERS OUTPATIENT  
TREATMENT PROGRAM

COMPETENCY EVALUATIONS

RONALD I. WEINER, PHD, LLC  
801 ROEDER ROAD, SUITE 425  
SILVER SPRING, MD 20910  
301-949-4907 (PHONE) 301-585-8740 (FAX)  
WWW.RWEINERPHDLLC.COM

# PGCBA

*Rent our  
Conference Room.*

Members:  
\$15 per Hour

Non-Members:  
\$30 per Hour

Large Conference Table  
Seating for 15  
Wi-Fi  
Free Accessible Parking

Call 301-952-1442

# CSA ON CRIMINALLY NEGLIGENT MANSLAUGHTER

by Llamilet Gutierrez, Esquire

**Beattie v. State (216 Md.App. 667 (2014))**

***Md. Ann. Code Criminal Law Article §2-210: criminal negligent manslaughter.***

Bruce J. Beattie attempted to make an illegal U-turn on I-70 East to the median emergency pull through in order to get onto I-70 West. Beattie made the turn and was perpendicular to traffic blocking the width of I-70. Michael Neimus was driving at the speed limit on I-70 East and was unable to avoid hitting Beattie's truck. Neimus died on impact. Beattie was convicted in the Circuit Court, Baltimore County of criminal negligent manslaughter by vehicle or vessel under Maryland Annotated Code Criminal Law Article §2-210. §2-210 criminalizes a failure to perceive a substantial risk when the failure constitutes a gross deviation from the standard of care exercised by a reasonable person.

Beattie appealed his conviction and presented two questions to the Court of Special Appeals: (1) Did the Circuit Court err in denying appellant's motion to dismiss the indictment on the ground that the statute is unconstitutionally vague? (2) Was the evidence sufficient to support appellant's conviction for criminally negligent manslaughter?

The Court of Special Appeals examined the language of the statute to determine whether the term "criminal negligence" is unconstitutionally vague. According to precedent, the Court of Special Appeals began with a presumption that the statute is constitutional. The appellant bears the burden of overcoming the presumption and establishing the statute's unconstitutionality. The court considers two factors in determining if a statute is unconstitutionally vague: (1) whether the statute is sufficiently explicit to inform those who are subject to it what conduct on their part will render them liable to its penalties, and (2) whether the statute provides legally fixed standards and adequate guidelines for police,


judicial officers, triers of fact, and others who enforce, apply, and administer the law so that the law is not susceptible to irrational and selective patterns of enforcement.

The Court of Special Appeals agreed with the State that the language of §2-210 was sufficiently clear and that there was no need to look beyond the text to understand the meaning of the statute. The Court of Special Appeals found "criminal negligence" to be easily defined. The standard is separate and distinct from gross negligence as defined in §2-209 (manslaughter by vessel or vehicle). "Gross negligence" under §2-209 results when a defendant is conscious of the risk to human life posed by his conduct but he ignores the risk demonstrating a wanton or reckless disregard to human life. "Criminal negligence" under §2-210 results when a defendant fails to perceive a substantial and unjustified risk that death would occur. The difference between these two standards is the defendant's mental state (*i.e.*, defendant's consciousness of the risk of his conduct). As a result, the Court of Special Appeals found that §2-210 informs persons of ordinary intelligence of the prohibited conduct, and it provides a legally enforceable standard.

On the second issue, the Court of Special Appeals found that there was sufficient evidence to support Beattie's conviction. The test for appellate review requires that the court give deference to all reasonable inferences drawn by the fact-finder. In applying this test, the Court of Special Appeals found that there were extensive uncontested factual findings by the trial judge in the Baltimore County Circuit Court. Specifically, the Court of Special Appeals cited that the appellant drove his 70-foot trailer, in the dark, across three traffic lanes on a highway with a 65-mile-per-hour speed limit at a location where he could only see a distance of a quarter of a mile. The findings supported that the appellant's conduct created a substantial and unjustifiable risk of death

and his failure to perceive the risk was a gross deviation from the standard of care that would be exercised by a reasonable person.

The Court affirmed the judgments of the Circuit Court for Baltimore County.



- Personal Injury
- Wrongful Termination
- Wrongful Death
- Discrimination

Valuation of Business, Securities and Pension Funds for Divorce and Business Cases  
University Professor with Extensive Experience

**Dr. Richard B. Edelman**  
8515 Whittier Boulevard • Bethesda, MD 20817  
**1-800-257-8626 301-469-9575**  
References and Vita on request- Visit at:  
[www.economic-analysis.com](http://www.economic-analysis.com)



**DO YOU NEED A MEETING ROOM?**  
We have several sizes starting at \$15.00 per hour

**DO YOU HAVE AN OFFICE?**  
We could be a great satellite location!

**DO YOU NEED AN OFFICE?**  
We have furnished Offices-call for more information.

Virtual Office Plans start at \$55.00 per month!

**BLE EXECUTIVE AND VIRTUAL OFFICE SUITES**  
9701 Apollo Drive  
Suite 301 Largo, MD 20774  
(301) 322-1700 [www.blesuites.com](http://www.blesuites.com)

The Law Firm of  
**Sasscer, Clagett & Bucher**

is pleased to announce that

**EMILY J. SPIERING**

Former clerk to the Honorable Leo E. Green, Jr.,  
Circuit Court for Prince George's County

has become an associate in the firm

5407 Water Street, Suite 101  
Upper Marlboro, Maryland 20772

(301) 627-5500

If you would like to know more about Emily and Sasscer, Clagett & Bucher,  
visit our website at [www.scblawyers.com](http://www.scblawyers.com).

**YOUR AD  
HERE**

.....  
Please call the PGCBA  
for more info:  
301-952-1442

**INSIGHT TREATMENT CENTERS**

Pre-Trial Evaluations  
Weekend DWI programs  
Spanish Speaking Classes

6-Week DWI Education Program  
Anger Management/Domestic Violence  
Intensive Outpatient Program

MVA Maryland approved  
Fully confidential Alcohol and Drug Abuse Rehabilitation Services

301-423-0967 Patricia Harris, CEO, President 301-423-0967  
Henry McKinnon, JD, LCSW

Convenient Office Locations

4920 Niagara Rd. Ste 101  
College Park, MD 20740

4710 Auth Place, Ste 690  
Camp Springs, MD 20746

**JENNIFER FAIRFAX**

Adoption Law • Reproduction Law • Surrogacy • Donor Agreements  
Domestic, Second Parent and Relative Adoptions



827 Woodside Parkway  
Silver Spring, MD 20910  
301.221.9651  
fax: 301.589.2339  
jfairfax@jenniferfairfax.com  
www.jenniferfairfax.com



Fellow of the  
**AMERICAN ACADEMY OF**  
Assisted Reproductive Technology Attorneys



Fellow of the  
**AMERICAN ACADEMY OF**  
Adoption Attorneys

Member of RESOLVE Mid-Atlantic Region • Licensed in Maryland and the District of Columbia

**Security Clearance  
Lawyers**

**McAdoo Gordon &  
Associates, P.C.**

**202-293-0534**

**[www.mcadoolaw.com](http://www.mcadoolaw.com)**



**BROWN BAG LUNCH - APRIL 2, 2015**  
**“PRESENTATION OF DISTRICT COURT AUTOMOBILE TORT CASE”**  
**WITH JUDGE JOSEPH WRIGHT**



# Multi-Specialty HealthCare

Over 25 years of Orthopaedic, Medical, and Physical Rehabilitative  
Care for Personal Injury and Workers' Compensation Cases

*40+ Doctors on Staff | 25+ Locations | Medically Managed Cases  
Regional MRIs | Work Rehabilitation Facility | Attorney Portal  
Spanish Speaking Capabilities*



*Learn more about  
our Attorney Portal at  
[mshclegal.com/portal](http://mshclegal.com/portal).*

**OVER 25 LOCATIONS**  
In The Following Counties:

*Anne Arundel · Baltimore · Baltimore City  
Cecil · Charles · Harford · Howard  
Montgomery · Prince George's*

*Proud Platinum Sponsor of MAJ  
Silver Sponsor of the TLA-DC*

**24-Hour Appointment Line 1-800-631-7587**

[www.MSHCLegal.com](http://www.MSHCLegal.com)  
[www.multi-specialty.com](http://www.multi-specialty.com)



# JUSTICE FOR VETERANS

The Honorable Sheila R. Tillerson Adams, Administrative Judge for the Circuit Court for Prince George's County, is pleased to announce the formation of the first Veterans Court in the State of Maryland. This Court will meet the first and third Thursday of every month, and is a supervised, voluntary, sanction-based treatment program. The presiding Judge for the newly formed Veterans Court will be the Honorable Beverly J. Woodard. Veterans entering the judicial system with a non-violent and/or felony offense, documented substance abuse dependencies, and mental health issues, are its focus.

Each Veteran will be supported by a strong interdisciplinary team as well as linked with services available from the Veterans Health Administration, the State Department of Veterans Affairs, the Veterans Benefits Administration, Veterans Service Organizations and volunteer Veteran Mentors. The Court will essentially act as a "one-stop shop", linking Veterans with the programs, benefits and services they have earned.

The guidance and support of the Veterans Court Team will insure the implementation of each participant's goals and focus on helping them become a productive and law abiding citizen. Graduates of the program will emerge with the same dignity and honor they learned during their service in the United States military. For more information please contact the Office of Problem Solving Courts at 301-952-2780.

**HAPPY HOUR**  
APRIL 16, 2015



OUR NEW BAR YEAR  
BEGINS

**JULY 1, 2015**

MEMBERSHIP DUES AND NEW PARKING PASS

RENEWALS WILL BE MAILED OUT

THE FIRST WEEK OF

JUNE AND DUE BY JULY 1, 2015.

# *Information from the Prince George's County Circuit Court Law Library*



## **New Titles! New Editions! At the Prince George's County Circuit Court Law Library**

*The Prince George's County Circuit Court Law Library presents a list  
of new materials acquired during March 2015.*

*Feel free to visit the Library and review any materials, new or old.*

### **New titles at the Law Library - March 2015**

#### BOOKS

Building a Parenting Agreement That Works: Child Custody  
Agreements Step by Step, 7<sup>th</sup> ed.  
KF 547 .L97 2010 RESERVE

Complete Guide to Federal and State Garnishment, 2014 ed.  
KF 9026 .Z95 C66 2013

Consumer Protection and the Law, 2013-2014 ed.  
KF 1609 .C639 2013

Copyright Handbook: What Every Writer Needs to Know, 11<sup>th</sup> ed.  
KF 2995 .F53 2011 RESERVE

Determining Child and Spousal Support, 2013 ed.  
KF 549 .A15 D48 2013

Government Discrimination: Equal Protection Law and  
Litigation, 2013-2014 ed.  
KF 4764 .Z9 G68 2013

Lane's Goldstein Litigation Forms, 2013 ed.  
KF 8836 .L364 2013

Law of Modern Commercial Practices, 2<sup>nd</sup> revised ed., 2013  
KF 872 .L39 2013

Nolo's Deposition Handbook: The Essential Guide for  
Anyone Facing or Conduction a Deposition, 5<sup>th</sup> ed.  
KF 8900 .B44 2010 RESERVE

Quicken WillMaker Plus, 2014  
KF 750 .Z9 W55 2013 RESERVE

#### NATIONAL CONSUMER LAW CENTER

Collection Actions: Defending Consumers and Their  
Assets, 2<sup>nd</sup> ed. and 2013 supplement  
KF 1024 .S54 2013

Fair Debt Collection, 7<sup>th</sup> ed. with 2013 supplement  
KF 1024 .H63 2011

#### CD-ROMS

Copyright Handbook, 11<sup>th</sup> ed.  
Kept at Reserve Desk

Maryland Domestic Relations Forms, 2014 update  
Kept at Reserve Desk

Quicken WillMaker Plus, 2014  
Kept at Reserve Desk



# THE MOCK TRIAL COMPETITIONS HAVE ENDED, BUT OUR LAW DAY EVENT IS COMING! | *by Monica Best James, Esquire*

Despite ice storms, rampant snowfalls, broken pipes and floods in the Courthouse, the preliminary matches of the Mock Trial Program have ended. We have a team of winners from among the MANY successful teams. Please congratulate Elizabeth Seton 1 of Prince George's County! Elizabeth Seton is the Circuit 7 Champion for 2015. These young women will now compete in the Regional competition. We wish them the best of luck. The top four teams were: Elizabeth Seton 1, Eleanor Roosevelt, Bowie, and North Point.

The winners of the All Star Ballots are as follows:

Best Attorney Overall  
Jasmine Cooper, Parkdale

Best Prosecution Attorney  
Shweta Roy, Eleanor Roosevelt

Best Defense Attorney  
Caitie O'Donnell, North Point

Best Witness Overall  
Shilpa Roy, Eleanor Roosevelt

Best Prosecution Witness  
Josh Maxwell, DeMatha

Best Defense Witness  
Telelah Langley, Bowie

My Co-Chair, Magistrate Judge Judy Woodall and I, extend our deepest appreciation to all of the Attorney-Coaches that volunteered their time and talent to the young advocates in the

competition. We also extend a special thank you to the judges and courthouse administrators that worked with us to ensure that we had the resources and assistance that we needed to make our program a success.

Finally, we cordially invite participating members of the bench, Attorney-Coaches, our top teams and All Star Ballot winners to be guests of honor at the Prince George's County Bar Association's Law Day Celebration on May 1, 2015 at the Showplace Arena in Upper Marlboro. This year's Law Day Program will feature remarks about the Magna Carta. The Honorable Alexander Williams, Jr., Ret. will be the guest speaker.



**2014-2015 Mock Trial Team**



LEGAL STUDIES  
INSTITUTE  
*Continuing Legal Education*

*In Partnership with Anne Arundel Bar Association*

**Presented by the Young Lawyer's Committee**

**Tricks and Trades from the District Court Judges** Learn from the Judges themselves the best ways to have a successful District Court law practice. \$55.00 (add \$10.00 if out of county)

**Speakers:** Hon. John P. McKenna.

**When:** June 4, 2015 6–8:15 pm

Hon. H. Richard, Duden, III

Hon. Danielle M. Mosley

Hon. Thomas V. Miller

**Where:** Anne Arundel County Circuit Court, Jury Room

*Sponsored by the Bar Association of Frederick County*

**Personal Injury 101: From Open to Close with Tips** Learn from seasoned attorneys what important information you need to know to effectively represent clients who have been injured in a personal injury cases. \$65.00 (incls. \$10.00 out of county resident fee)

**Speakers:** Thomas Gross, Esq.

**When:** June 17, 2015; 4 – 7 pm

**Where:** Delaplaine Visual Arts Center, 40 S. Carroll St., Frederick, Maryland

*Mediation Seminars and Trainings*

**LEG 396 – 20 hour Child Access Mediation Training:** \$350.00 (\$355.00 if an out-of-county resident) *Note: This training meets Maryland Rule, Title 17-104(b)(2) requirements for mediating child access disputes.*

**Speakers:** Robert A. McFarland, Esq.,  
Patricia Cummings, LCSW-C

**When:** October 8, 9, and 10, 2015

**Where:** Room 219, Cade (CADE) Bldg.

**CLE Course Material**

Not able to attend one of our programs? Interested in the material? The materials are available on the Anne Arundel Community College Bookstore website, [www.aaccbooks.com](http://www.aaccbooks.com), click on General Books.

**For easy and fast registration, print out a registration form from the website below and fax it to (410) 777-4325 or email a PDF to [lehoward1@aacc.edu](mailto:lehoward1@aacc.edu).**

101 College Parkway, Arnold, MD 21012 | **410-777-7323**

For registration, speaker and seminar information, **visit**

**[www.aacc.edu/legalstudies/cle](http://www.aacc.edu/legalstudies/cle).**





This year CLS marks our 30<sup>th</sup> Anniversary! We celebrated with our Pro Bono Awards & Silent Auction on April 30, 2015, where we honored out top volunteer attorneys of the year, namely **Bennie R. Brooks**, **Edith Lawson-Jackson** and **James Thomas**. We are grateful for their outstanding dedication in bringing legal assistance to low income members in Prince George's County.

We also presented a Special Recognition to CLS Past President, the **Honorable Julia B. Weatherly** for her substantial contributions to educating the legal community. Judge Weatherly has spent countless hours around the State of Maryland and nationally teaching CLEs and other seminars to practitioners, new judges, and new law clerks.

#### Success Story

Client and his family were confronting a dire housing situation. The past few years have been times of extraordinary hardship for the family as they were coping with the terminal illness of their youngest child.

The parents' ability to hold a steady job was compromised by the constant care their son required. After the son's passing at the age of eleven, the family turned their attention to the urgent need of keeping their home.

The client sought assistance from his local County Council member, Eric Olson. Councilmember Olson turned to CLS to inquire how we may be able to help the client. Client came to our office on 07/09/2014. We did an intake and requested documentation to start the process. Our staff legal assistant/certified housing counselor, Oswaldo Perez, assisted client as a Housing Counselor with the necessary documents and sent it to Bayview Loan Servicing (the Lender). In this case there was a co-borrower who

was hesitant to sign any documents related to loan modification but eventually agreed to do so.

The Lender denied the HAMP Loan Modification but did move forward with an internal modification review. On 09/26/2014, the Lender approved a Permanent Loan Modification to our client. Additionally, the Lender approved a Loan Forgiveness of about \$80,000 (due to amounts of unpaid installment since July 2011, interest, late charges, fees and cost); the interest rate was lowered from 7.1 % to 5.66 %, and their monthly mortgage payment was reduced from \$ 2,180 to \$ 1,630.49, which included taxes and Insurance.

#### We Have Funding Available to Pay for Attorneys Fees!

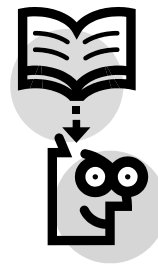
CLS continues to refer cases under our Family Law Judicare Program. Funding

for this program is made available by Maryland Legal Services Corporation. Attorneys receive \$80.00 per hour up to \$1,600.00 per case. Payment is made after the case is concluded.

Please contact Michael Udejiofor at 240-391-6532 to be added to the list!

Community Legal Services of Prince George's County, Inc. is a non-profit organization established to provide quality civil legal services to low-income persons in Prince George's County. It does this through the generous contribution of legal advice and legal representation by members of the private Bar. Additionally, CLS operates free legal clinics in the County. They are located in the in Circuit Court House, Langley Park and Suitland. For more information about our services, please contact Nora C. Eidelman, at 240-391-6532, ext. 12.

**HAVE YOU TAKEN YOUR PHOTO FOR  
THE PGCBA MEMBERSHIP  
DIRECTORY???**



**IF NOT**

**PLEASE CONTACT RCL PORTRAIT DESIGN AT  
800-580-5562**

**HELP MAKE OUR BAR DIRECTORY A  
COMPLETE SUCCESS**


**THE CENTER FOR FORENSIC ECONOMIC STUDIES**  
 Research ■ Analysis ■ Litigation Support

productivity s-corp  
 employee stock options MCARE fringe  
 Kackzkowski v. Bolubasz household services em  
**DAMAGES** he  
 tal personal maintenance cost of capital pl  
 earnings reduction to present value employ  
 ERISA front pay hedonic damages  
 McClinton v. White fringe benefits reduction  
 life expectancy mitigation

We've been helping clients tell their damages story since 1980. Call us to discuss how we can help put the pieces of your damages case together.

[www.cfes.com](http://www.cfes.com)  
[cfes@cfes.com](mailto:cfes@cfes.com)  
 800.966.6099

  
**LAW OFFICE OF REID M. WEINSTEIN, L.L.C.**  
**REID M. WEINSTEIN**  
 Attorney at Law

---




**Automobile Accidents**  
**Personal Injury**  
**Insurance Coverage**

*Barred in MD and DC*  
*Extensive trial experience*  
*Satellite office in Prince George's County*

---

**Tel. 240.460.6245**  
[rweinstein@reidweinsteinlaw.com](mailto:rweinstein@reidweinsteinlaw.com)  
 751 Rockville Pike • Suite 11-B  
 Rockville, Maryland 20852  
[www.reidweinsteinlaw.com](http://www.reidweinsteinlaw.com)



  
**AMERICAN UNIVERSITY**  
**WASHINGTON**  
**COLLEGE OF LAW**

---


**SUCCESS IN LITIGATION**

---

**LL.M. in Trial Advocacy and  
 Litigation Skills Summer Institute**

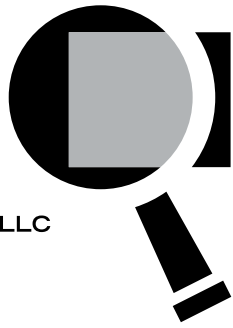
- Trial Strategies and Techniques
- Fact & Expert Witness Depositions
- Pretrial Motions
- Courtroom Technology
- Arbitration, Mediation & Negotiation

[www.wcl.american.edu/trial](http://www.wcl.american.edu/trial)



# DUGAN BABIJ TOLLEY LLC

**Finding Answers.  
Demanding Justice.**



**Your Partner.  
An Advocate for Your Clients.**

Accepting referrals in the areas of birth injury, cerebral palsy, complex medical malpractice and catastrophic personal injury litigation.



1966 Greenspring Drive  
Suite 500  
Timonium, Maryland 21093  
Toll Free: 1.800.408.2080  
Phone: 410.308.1600  
Fax: 410.308.1742  
[www.medicalneg.com](http://www.medicalneg.com)

Member  
Martindale-Hubbell  
**Peer Review Rated**  
FOR ETHICAL STANDARDS AND QUALITY SERVICE



# **PLEASE CALL NOW !**

The value of a personal injury case is significantly impacted by what work is done during the first 30 days

Do not Fall prey to the complexities of a personal injury case

The sooner you contact us, the more value we can add to your client's case

**Consider a Rule 1.5 fee-sharing agreement**

## **WE EXCLUSIVELY REPRESENT THE INJURED**

- MOTOR VEHICLE ACCIDENTS
- TRUCKING ACCIDENTS
- SLIP AND FALL
- CONSTRUCTION ACCIDENTS
- WORKER'S COMPENSATION
- WRONGFUL DEATH
- SOCIAL SECURITY/DISABILITY

**Licensed in Maryland and the District of Columbia**

**MCGOWAN & CECIL, LLC**

**[www.Lawmcs.com](http://www.Lawmcs.com)**

**410.551.2300**

**301.483.9960**

**J. FRANKLYN BOURNE BAR ASSOCIATION AND  
THE PRINCE GEORGE'S COUNTY BAR ASSOCIATION**



**FIRST  
FINANCIAL  
GROUP**



# GOLF CLASSIC

*To Benefit the J. Franklyn Bourne Scholarship Fund and  
the Fisher House Foundation (Joint Base Andrews)*

## Lake Presidential Golf Course

3151 Presidential Golf Drive, Upper Marlboro, MD 20774

**TUESDAY, June 23, 2015**

**8:30 a.m. Tournament Shotgun Start**

**1:00 p.m. Golf Clinic**

**\*Early Bird by May 15, 2015 with Payment\***

**\*\$125.00 single/\$500.00 foursome\***

**\*\$150 single/\$550 foursome\***

**\*Must pay and sign-up as a foursome\***

*Fee includes: Range Balls, Prizes for 1<sup>st</sup>-2<sup>nd</sup> place, Prizes for Longest Drive &  
Closest to Pin, Lunch, and other Golf Gifts*

**CLINIC: \$50 per person** (includes awards ceremony and lunch)

Go to [www.pgcba.com](http://www.pgcba.com) for SPONSORSHIP OPTIONS

For questions, please contact **Robin Hadden, 301-952-1442 [rhadden@pgcba.com](mailto:rhadden@pgcba.com)**

Or **Jason DeLoach, 301-292-3300 or [jdeloach@alexander-cleaver.com](mailto:jdeloach@alexander-cleaver.com)**

Enclosed is a check in the amount of \$\_\_\_\_\_.

Please reserve \_\_\_\_\_ spots for June 23, 2015 Tournament \_\_\_\_\_ spots for the Golf Clinic.

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Foursome to Include: \_\_\_\_\_

Firm/Address: \_\_\_\_\_

Clinic Participants: \_\_\_\_\_

Return this form with check made payable to "J. Franklyn Bourne Scholarship Fund, Inc." and mail to  
Prince George's County Bar Association, 14330 Old Marlboro Pike, Upper Marlboro, Maryland 20774.

J. FRANKLYN BOURNE BAR ASSOCIATION AND  
THE PRINCE GEORGE'S COUNTY BAR ASSOCIATION



# GOLF CLASSIC

To Benefit the J. Franklyn Bourne Scholarship Fund and  
the Fisher House Foundation (Joint Base Andrews)

June 23, 2015

Lake Presidential Golf Course

One of the 2014 Top Ten Public Golf Courses in Maryland

3151 Presidential Golf Drive  
Upper Marlboro, MD 20774

## SPONSORSHIP OPTIONS

<b>PLATINUM: \$3,500.00</b>
(3) Foursomes
Logo Gift*
Presenting Sponsor (Awards)
Display signage at sign-in & Lunch
Address golfers at Luncheon
Tee Sign at Prize Hole

<b>GOLD: \$2,500.00</b>
(2) Foursomes
Logo Gift*
(1) Tee Sign at Prize Hole
Special Recognition

<b>SILVER: \$1,250.00</b>
(1) Foursome
Logo*Gift
(1) Tee Sign at Prize Hole

\*Sponsors Must Provide Logo

<b>GENERAL SPONSORSHIP</b>	
<b>\$400.00</b>	<b>\$200.00</b>
(2) Golfers	(1) Tee Box Sign
(1) Tee Box Sign	

Please make checks payable to: J. Franklyn Bourne Scholarship Fund, Inc.  
Contact: Robin Hadden, 301-952-1442, [rhadden@pgcba.com](mailto:rhadden@pgcba.com) or  
Jason DeLoach, 301-292-3300, [jdeloach@alexander-clever.com](mailto:jdeloach@alexander-clever.com)





The practice of law not only requires your attention in representing clients and preparing for trial, but it is also a business. Like any other business, your operations must conform to the laws in the state where you practice. It is imperative that you are in compliance with local laws governing security breaches.

It seems like there is a new story of a Fortune 500 corporation being hacked each week. Target, Home Depot, and Apple are just three of the large number of companies who had their customers' sensitive financial information hacked in 2014. As a result of our growing reliance on technology, businesses end up keeping more information on computers and in the Cloud, including credit card numbers, social security numbers, addresses, and other information businesses need to function. And it is not just customer information; businesses need employee information for payroll and tax purposes as well. Obviously there are criminal penalties for the individuals or groups that steal the information from these companies, but what about the companies themselves? Do they owe any duty to their customers to protect that information from hackers?

The answer is yes. Under general principles of negligence, a business owes that level of care that a "reasonable person" in the position of the business would provide in protecting the information of their customers. What a "reasonable person" does is a little harder to define. But it is not from lack of trying on the part of the judicial system. One of the fastest areas of growth in class action lawsuits nationally right now is from commercial customers effected by large security breaches.

In addition to common negligence claims, many states have created specific causes of

action that allow individuals who have had their information taken to be compensated for that breach. In Virginia, it is an unlawful invasion of a person's privacy to look at personal information. In Maryland, invasion of privacy is a tort, which allows the victim to recover for any damage that it caused them. This means that an employer must not only guard against hacks from outside sources to some reasonable extent, but there needs to be safeguards in place to avoid employees from accessing personal information that they would not normally have access to. If an employee steals the information of a customer, or of another employee, the employer could potentially be liable if there was no safeguard in place to avoid those types of breaches.

A company that suffers a breach could also face government fines, as well as lawsuits from angry customers. The Federal Trade Commission states that individuals have an expectation that a company will take reasonable steps to

protect customer information, and if the company fails to take those steps, it could face fines. In addition, federal law requires that companies truncate the credit card information on receipts, and failure to do so could also result in fines.

Most states, including Maryland, DC and Virginia, have instituted laws requiring that companies report breaches in security to the affected customers. In Maryland, companies must take steps to reasonably protect customers' sensitive information, must conduct a prompt investigation upon evidence of a security breach, and must notify customers if the investigation shows there is a reasonable chance the data will be misused. Violation of these rules will be deemed to be unfair or deceptive trade practices under the Maryland Consumer Protection Act and could result in criminal penalties.

Next month we will discuss issues surrounding debt collection.

***DREAD DISCOVERY?***





**LET DISCOVERY DEPOT:**

- Organize ●Review ●Scan ●Redact ●Bates Number●

*Additional Services Include:*

- Preparing Deficiency Letters
- Comprehensive Document Lists
- Draft 9-207's
- Additional Paralegal Services Upon Request

**(C)443.404.3020 email: [discoverydepot123@gmail.com](mailto:discoverydepot123@gmail.com)**

Protecting our  
**Community** takes the  
**Confidence**  
to take on groundbreaking cases, and the  
**Character** to be a fearless advocate.



For more than 40 years, **Joseph, Greenwald & Laake, P.A.** has provided Maryland and Washington D.C. residents with skilled guidance in all aspects of personal injury cases.

**Accepting Rule 1.5  
referrals in the areas of:**

Auto Accidents  
Medical Malpractice  
Product Liability  
Professional Negligence  
Wrongful Death

**Related attorneys:**

Andrew E. Greenwald  
Burt M. Kahn  
Walter E. Laake, Jr.  
Timothy F. Maloney  
Steven M. Pavsner  
Steven B. Vinick



Community Confidence Character

**EXPUNGEMENT/IMMIGRATION PRO BONO EVENT  
AT CASA DE MARYLAND  
WEDNESDAY, APRIL 15, 2015**



***RYAN REHABILITATION LLC***

**Bilingual Treatment Services**

**Alcohol & Drug Treatment Program**

**DUI / DWI 12 Hours Education Program and 6 to 26 Sessions Treatment Program**

**Now Available Driver Improvement (DIP) Online**

**Just Opened New Office conveniently located:**

**5210 AUTH ROAD SUITE 100**

**SUITLAND, MD 20746**

**Phone: 301-258-7771**

*Just off 495 at Exit 7*

*Short walk to Branch Ave. Metro Station*

*Providing The Area's Highest Quality Committed, Dedicated, And Experienced Counseling Services.*

**Dr. James M. Ryan**

**LCPC, LCADC, CRC, CDMS, CVE, CSC**

**Clinical Director**

**Exceptional service / Reasonable rates**

**We Accept most Insurances / Call for Appointment**

**Transfer Clients Welcome!**

**English 24Hr: 240-277-7128 Spanish**

**19586 Club House Road**

**Montgomery Village, MD 20886**

**Phone: 301-258-7771**

**Website: [www.ryanrehabilitation.com](http://www.ryanrehabilitation.com)**

**E-mail: [ryanrehabilitation@gmail.com](mailto:ryanrehabilitation@gmail.com)**

**3821 Farragut Avenue**

**Kensington, MD 20895**

**Phone: 301-949-7771**



THE DAILY RECORD  
MARYLAND'S  
**TOP 100**  
**WOMEN**

Congratulations to  
**Debbie Potter** on being  
named a *Daily Record*  
Maryland's Top 100 Woman!

"The 2015 Maryland's Top 100 Women honorees inspire those around them by their actions, their words and their deeds," said Suzanne Fischer-Huettnner, *Daily Record* publisher. "They share an amazing talent for balancing many facets of their lives. They have achieved personal success, but they also contribute to bettering the communities in which they work and live. And they are active mentors of the younger generation of businesspeople."

Debbie is dedicated to giving back to the communities she serves. She is currently on the **MSBA Executive Committee**, the **University of Maryland College Park Board of Trustees**, the **MSBA Board of Governors**, the **CLREP Board of Directors**, the **Anne Arundel Bar Association Board of Trustees** and the **Maryland Association for Justice Board of Governors**.

She continues to work tirelessly for her clients. Since January, in her advocacy for personal injury victims, Debbie has obtained a \$4 million settlement, A \$1.6 million settlement and \$306,000 jury verdict on a "zero offer" case.

Congratulations on this well deserved honor!

**BigDogsSmallFirm.com**

Upper Marlboro and Annapolis  
301.627.8700



The NewsJournal is published nine times a year by the PGCBA. We welcome the submission of articles and other items of interest to the Bar members and also encourage your comments on the NewsJournal's articles, columns, and letters.

The PGCBA may reject or suggest edits for content, style and length of any submission. Anonymous submissions are not published. The views expressed in the articles, letters and columns reflect the opinions of the authors and may not reflect the views of the PGCBA, its officers, or directors.



## ARBITRATION AND MEDIATION SERVICES

CHRISTOPHER R. DUNN, ESQUIRE  
17251 Melford Boulevard  
Suite 200  
Bowie, Maryland 20715  
Phone: 301/352-4962  
Email: [cdunn@decarodoran.com](mailto:cdunn@decarodoran.com)  
[www.decarodoran.com](http://www.decarodoran.com)



*EXPERIENCED ATTORNEY WITH MORE THAN  
26 YEARS IN PRACTICE*

Personal Injury	Premises Liability	Professional Malpractice
Products Liability	Insurance Coverage	Employment Law
Construction	Contracts	Commercial

**Hourly Rates Available Upon Request**

## COMMITTEE CHAIRS



We want  
your articles!

Submit them to  
Ben Woolery before  
the 10th of  
the month at  
[benwoolery@verizon.net](mailto:benwoolery@verizon.net)

# YOUR AD HERE



Please call the  
PGCBA for  
more info:  
301-952-1442

# CLASSIFIED ADS

## Classified Advertising Rates Per Month

### PGCBA Members:

2 lines (minimum) \$15,  
3 lines \$19,  
4 lines \$23,  
each additional line \$4

### Non-Members:

2 lines (minimum) \$17, 3 lines \$21,  
4 lines \$25, each additional line \$5

Internal Box Responses \$5 add'l.

Post-publication billing;  
automatic renewal each month  
until notification of cancellation.

Deadline for Submission: 10th of  
month preceding publication.

## CONFERENCE ROOM RENTALS

**UPPER MARLBORO: CLOSE TO COURTHOUSE - PGCBA Bar Office Conference Room (Wifi now available) Hourly Rentals**-Schedule your next committee meeting, deposition, arbitration, mediation or client/attorney conference by calling (301) 952-1442. **Members: \$15 per hour; Non-Members \$30 per hour.**

**LAWYER'S LOUNGE CONFERENCE ROOM - COURTHOUSE** - available for members to rent at \$15 per hour. Call (301) 952-1442 to schedule.

## OFFICE SPACE - AVAILABLE

**BOWIE-IRRESISTIBLE TERMS:** Attractive Office. All amenities. Call Robert Law at (301) 464-3900.

**UPPER MARLBORO:** Furnished office with parking, library, phone, fax. Walking distance to courthouse. Call Ed O'Connell (301) 627-7700.

**GREENBELT - FULL AND PART TIME USE** - Great location at Beltway exit 23, between U of MD and NASA, near METRO and U.S. District Court. Fully furnished, ground level, free

parking, 24/7 access. Call K. Folstein, 301-982-3080.

**OFFICE SPACE AVAILABLE IN LANHAM.** Includes use of conference room, phone system and WiFi, Call Keith Parris at 301-306-8222.

**4 EXECUTIVE OFFICES AVAILABLE IN GREENBELT:** Attractive offices in a great location off Greenbelt Road in the Belle Point Office Park, ground floor with private entrance. Bus stop in front, near Metro and U.S. District Court. Easy access to all venues. Four large offices with secretarial/paralegal space and small conference room. Kitchen and numerous amenities. Ample free parking with 24/7 access. Call Sue Frederick at 301-441-1400.

**PRIME OFFICE SPACE AND CONFERENCE ROOM AVAILABLE** across from the Charles County Courthouse. Ideal for an annex office in Charles County. Call (301) 633-8051

## POSITION AVAILABLE

**ESTABLISHED, MULTI-FACETED SUBURBAN MARYLAND LAW FIRM SEEKS ATTORNEY** with substantial experience and an established self-managed practice in real estate transactions and document preparation. The firm is forward thinking and

compensation is based on production and origination factors. All replies will be kept strictly confidential. Reply to [jchazen@mrrlaw.net](mailto:jchazen@mrrlaw.net) with resume and other relevant information and requirements.

**ASSOCIATE-PERSONAL INJURY LITIGATION:** Maryland law firm practicing mainly in Prince George's County and Montgomery County requires bilingual attorney (Spanish) with experience in plaintiff's workers' compensation and or automobile accident litigation, and or criminal/traffic defense. Must be member of MD bar. DC bar a plus. Email resume to [naculi1975@gmail.com](mailto:naculi1975@gmail.com)

**REAL ESTATE SETTLEMENT ATTORNEY** The Greenbelt office of Village Settlements, Inc., is seeking a real estate settlement attorney with two to five years of settlement experience. We are looking for an attorney with experience reviewing titles, solving title issues, conducting settlements, drafting contracts and other real estate related documents. Maryland Bar is required, DC and Virginia a plus. Please e-mail your resume and salary requirements in confidence to [dparker@villagesettlements.com](mailto:dparker@villagesettlements.com). No phone calls please.

## SERVICES

**ECONOMIST:** Dr. Richard Edelman. Lost Income Valuation. See Ad on page 24.

## LAWYER REFERRAL SERVICE REPORT:

03/15/14-04/15/15

Number of Calls: 482

Number of Referrals: 266

Top 5 Areas of Law:

1. Torts
2. Real Estate
3. Family
4. Consumer
5. Employment





Prince George's County Bar Association  
PGCBA NewsJournal  
14330 Old Marlboro Pike  
Upper Marlboro, MD 20772

ADDRESS SERVICE REQUESTED



Turning over your Real Estate Settlement processing to Four Seasons Title could be the best business decision you make in 2015!!

***What do you have to lose?***

***Retain Your***

Clients  
Control  
Profit  
Lender Business

***Lose your***

Headaches  
Liability  
Back Office  
Reconciliation & Audits

Four Seasons Title is fully compliant with ALTA Best Practices and ready for the new CFPB Rules effective August 1, 2015... Are You?

***If not, call us!***

Contact us to discuss how we can help you get the most out of your settlement business!

***Terri Hirschmann, Esq.***

(301) 316-8594  
THirschmann@brennantitle.com  
Admitted to Maryland

***John M. Brennan, Esq***

(301) 261-8177  
JBrennan@brennantitle.com  
Admitted to Maryland

***Offices in Maryland, DC, and Virginia***

Annapolis, MD  
Washington, DC  
Camp Springs, MD  
McLean, VA

Ft. Washington, MD  
Waldorf, MD  
Prince Frederick, MD  
Ocean Pines, MD

*A division of Brennan Title Company ~ [www.brennantitle.com](http://www.brennantitle.com)*