Amazing Race: JoAnne Kloppenburg and Rebecca Bradley Debate at MBA Judicial Forum
A Member Benefit of

STATE BAR OF WISCONSIN

Group Term Life Insurance Plan

Affordable group term life insurance, approved by the State Bar of Wisconsin as a benefit of your membership.

Added peace of mind for your family—protection for their future

No one wants to think about death, but if you avoid planning for the future, you could be forcing your family to abandon the lifestyle they are accustomed to.

The State Bar of Wisconsin Group Term Life Insurance Plan with coverage issued by The Prudential Insurance Company of America—was designed for a simple purpose: to provide money to help keep your family’s hopes and dreams for the future on track following an untimely death. It’s money to help pay the mortgage, so they can continue to live in the family home; or to help with college expenses, so your children can get the education they deserve. It’s money to help ensure your family’s financial future is protected.

Coverage designed with you in mind

All State Bar of Wisconsin members under the age of 65 are eligible to apply for the Group Term Life Insurance Plan. Rates for the State Bar of Wisconsin Group Term Life Insurance Plan are competitive, helping to make the decision to apply an easier one. And, as your needs increase, you can simply apply for more coverage.

Features at a glance:

- Up to $1,000,000 of term life insurance that can help keep your family’s future on track
- Coverage you can keep, even if you change employers
- Optional Accidental Death Coverage*
- Insurance approved by the State Bar of Wisconsin.

Optional Dependent/Spouse Coverage

Covered members may also apply to insure their spouses under age 65 and eligible dependent children.

How do I Apply?

Applying for coverage is quick and easy. Members of the State Bar of Wisconsin can visit wisbar.org/grouptermlife to download a form or apply online.

Please call the Plan Agent, Bultman Financial Services, at (800)-344-7040 to speak to a representative. Providing this coverage to you family could be one of the most important things you ever do for them.

*This policy provides ACCIDENT insurance; only it does NOT provide basic hospital, basic medical, or major medical insurance as defined by the New York State Department of Financial Services. IMPORTANT NOTICE—THIS POLICY DOES NOT PROVIDE COVERAGE FOR SICKNESS. The State Bar of Wisconsin Group Term Insurance coverages are issued by The Prudential Insurance Company of America, a Prudential Financial company, Newark, NJ. Contract Series 82960. The Plan Administrator is Pearl Insurance, 125 East 6th Avenue Pekin Heights, IL 61554-5240, 606-447-4902.
Be Part of the Messenger

Please send your articles, editorials, or anecdotes to bwegner@milwbar.org or mail them to Editor, Milwaukee Bar Association, 424 East Wells Street, Milwaukee, WI 53202. We look forward to hearing from you!

If you would like to participate, we have seats available on the Messenger Committee. Please contact Katy Borowski, kborowski@milwbar.org. The MBA Messenger is published quarterly by the Milwaukee Bar Association, Inc., 424 East Wells Street, Milwaukee, Wisconsin 53202. Telephone: 414-274-6760 E-mail: marketing@milwbar.org

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Clean Slate Milwaukee is currently seeking attorney and judge volunteers on October 1, 2016, for its Community and Expungement Summit at the Abundant Faith Church of Integrity. The church is located at 7700 West Good Hope Road from 8 a.m. to 5 p.m. The goal of the event is to provide reentry resources (employment, financial literacy, credit repair, driver’s license recovery, and criminal record expungement) for those who have made mistakes and want to be productive members of society.
Letter From the Editor

If you’re old enough to shave, you might remember when the Messenger was nothing more than a four-page insert in the Wisconsin Law Journal, downwind from lists of tax liens and construction bid awards. At this season in the Year of Our Lord 2008, that primitive newsprint lifeform dramatically morphed into a free-standing, slick, 8 ½ by 11 magazine. The Glossy Era was born. This is the Mess you’ve come to know and throw.

Well, folks, the Glossy Era is kaput. Now dawns the Digital Era. You’re reading the Messenger’s first all-digital edition, boldly going where innumerable periodicals (Newsweek, for example) have gone before.

We think the digital format offers distinct advantages over print. Reduced production time. More color. Indeed, all the photographs can be in color. (Not the one that goes with this column, though. Trust me, that one is better in B&W.) Hyperlinks in articles and ads. If we need to add pages, we can just do it. In fact, we have done it—right out of the gate! (You might have implicitly assumed we could do this before, but we couldn’t.) And a digital publication is friendlier to the environment.

Our back-of-the-envelope calculation suggests that by going all-digital we’ll retard global warming by a billionth of a degree (Fahrenheit). Every little bit helps, no?

Now, if you’re old enough to shave, you might be thinking (if not audibly whining): “I like to hold the magazine in my hands when I read it.” So do I. But that’s, like, so twentieth century. Let’s just get over it, shall we?

It’s a brave new world for the Messenger, and we would be grateful for your input on how to make the best of our digital presentation. Send your suggestions to bwegner@milwbar.org.

We entreat you to send something else, too: your contribution to the MBA Foundation’s 2016 Milwaukee Justice Center Campaign, which runs from April 4 through April 15. The MJC continues to innovate, expand its services, and rack up awards—the latest being Archbishop Listecki’s 2016 “Treasures of the Church” Award for the Mobile Legal Clinic, the MJC program that brings free legal assistance directly to the Milwaukee neighborhoods that most need it. (See page 18.) The MJC is a trailblazing community resource that has put Milwaukee on the pro bono map and has become a vital cog in the efficient operation of the Milwaukee County Circuit Court. It surely deserves our continued support. You can get more information, and pitch in, by visiting www.milwbar.org and clicking on Milwaukee Justice Center.

There’s more than enough cyber-content in this issue to energize the quantum state of your electrons. We have timely coverage of the MBA’s Judicial Forums, which brought incumbent Rebecca Bradley and challenger JoAnne Kloppenburg together for spirited debates in the too-close-to-call Wisconsin Supreme Court race (see page 20), and also gave us a look at the candidates for contested circuit court seats (see page 21). Scott Hansen offers a thoughtful perspective on Making a Murderer, the documentary on Steven Avery that captivated the nation and generated some unwelcome attention to our neighbors in Manitowoc. (See page 16.) Amy Lindner of Meta House provides valuable tips on dealing with a client who may have a substance abuse problem. (See page 8.) Ili Subhan explains the need for immigration reform to foster entrepreneurship and economic growth. (See page 14.) From the trenches of criminal law practice, Odalo Ohiku calls for reform, as well, in sentencing practices and alternatives. (See page 19.)

We spotlight noteworthy individuals in the legal community. Judge Kitty Brennan laments the departure of talented jurist Mel Flanagan, who is teaching and working with judges and prosecutors in Bosnia-Herzegovina to establish effective domestic and sexual violence courts. (See page 9.) In the first of our “View From the Bench” series, Greg Hildebrandt portrays Judge Joe Donald. (See page 11.) Dean Zemel helps us get to know Ana Berrios-Schroeder, Milwaukee’s new family court commissioner. (See page 17.) We include an appreciation of Jim Temmer, who has moved on to head the Better Business Bureau of Wisconsin after ten years of distinguished service. (See page 7.) We have a poignant and (unusual for the Messenger) anonymous remembrance of the late Kurt Frauen. (See page 23.)

The Milwaukee Justice Center favors us with its spring update. (See page 18.) The Pro Bono Corner announces Wisconsin Legal Advice Online, the latest innovation in delivery of pro bono service. (See page 22.) And film critic Fran Deisinger reviews Tom Hanks in Bridge of Spies. (See page 15.)

We hope you enjoy this edition of the Messenger, and that our new format and expanded options encourage you to make a journalistic contribution. As for me, it’s time to polish the cleats, tape the bat handles, and start poppin’ the Tylenols. Some things never change.

—C.B.
Welcome New MBA Members!

Beth T. Aldana, Wauwatosa City Attorney's Office
Michael R. Anderson, Reinhart Boerner Van Deuren
William M. Anderson
Hillary Annin, Ron Harmeley Law Office
Angeline Rose Babel, Quares & Brady
Eric A. Berg, Foley & Lardner
Danielle M. Bergner, Michael Best & Friedrich
Heather McKinnon Bessinger, Cadle Law Group
Shannon B. Braun, Godfrey & Kahn
Chelsea M. BreneGAN, Zelley Law Offices
Joshua J. Bryant, Meissner Tierney Fisher & Nichols
Matthew V. Burkett, Sorrentino Burkert Risch Kalter
Monica L. Call, Jacobs Injury Law
Eileen Miller Carter, City of Wauwatosa
Stuart James Check, Kravitz, Hovel & Krawczyk
Ellen Christopoulous
Emily L.M. Clubb, Reinhart Boerner Van Deuren
Leah Cry, Godfrey & Kahn
James W. DeCleene, Meissner Tierney Fisher & Nichols
Steven M. DeVougas, Quares & Brady
Thomas R. Dreiblow, Foley & Lardner
Julie A. D'Angelo, Godfrey & Kahn
Emily M. Ertel, Godfrey & Kahn
Malinda J. Eskra, Reinhart Boerner Van Deuren
Mary C. Flanner, Cross Law Firm
Thomas L. Frenn
Kerry L. Gabrielson, Godfrey & Kahn
Carolyn E. Gascki
Tony Guan
Samuel L. Gurney, Deloitte Tax
Christine V. Hamiel, von Briesen & Roper
Cynthia Herbert, La Fleur Law Office
Caitlin E. Herbert, Beck, Chaet, Bamberger & Polsky
Patrick J. Hessling, Hessling Law Office
Amy Hetzner, Schmidt, Rupke, Tess-Mattner & Fox
Teresa Marie Hoistad, Deloitte Tax
Alexander Izzo, Michael Best & Friedrich
Adam F. Jardine, Reinhart Boerner Van Deuren
David E. Jones, U.S. District Court, Eastern District of Wisconsin
Theodore Katkas, J Peterman Legal Group
Tamar Beth Kelber, Gass Weber Mullins
Thomas R. Knight, Andrus Intellectual Property Law
Michael Knoeller
Pamela M. Krill, Godfrey & Kahn
Thomas W. Kyte, Hypl and Abraham
Kristin K. Langhoff, Reinhart Boerner Van Deuren
Bailey Larsen, Fox, O'Neil & Shannon
Andrea Laiu, D'Angelo & Jones
Conor Leedom, SBRK Law Group
Jacob P. Lichten, Quares & Brady
Helen M. Ludwig, Ludwig Law
Rachel E. Mather, Quares & Brady
Sarah C. Matt, Littleer Mendelson
Naomi M. Michel, Quares & Brady
Geoffrey Misfeldt, Kohler Hart Powell
Kristian R. Mukoski, Foley & Lardner
Andrea L. Murdock, Halloin | Murdock
Anthony K. Murdock, Halloin | Murdock
Katherine M. O'Malley, Reinhart Boerner Van Deuren
S. L. Owens, Quarles & Brady
Prateek Peereddy, Michael Best & Friedrich
Michael D. Phillips, Phillips & Phillips Law
Anne Morgan Plchta, Wagner Law Group
Jennifer V. Powers, Quarles & Brady
Paul Reyes
Michael L. Roshar, Quares & Brady
Kelsey J. Schmidt, Ogletree, Deakins, Nash, Smoak & Stewar
Andrea Kim Schneiker
William P. Schultz, Quares & Brady
Joseph P. Serge, Michael Best & Friedrich
Amanda E. Sippel
Frank Gilbert Slinkard, Slinkard Law Offices
Billie Jean Smith, Michael Best & Friedrich
Sarah C. Smith, Quares & Brady
Mara C. Spring, Wissel, Harvey & Schuk
Russell Steinbrenner, Michael Best & Friedrich
Ili J. Subhan, Subhan Law Office
Derek J. Taylor, Michael Best & Friedrich
Thomas P. Trier, Godfrey & Kahn
Stephen T. Trigg, Gass Weber Mullins
Timothy M. Van de Kamp, O'Neil, Cannon, Hollman, De Jong & Laing
Larry A. Whiteley
Catherine N. Witzczak, Reinhart Boerner Van Deuren
Edward B. Witte, Godfrey & Kahn
Nicholas W. Zauker, Reinhart Boerner Van Deuren

Andrus Intellectual Property Law announced that **Ryan H. Beck** has become a non-equity partner in the firm. She focuses her practice on domestic and international patent and trademark prosecution and enforcement.

**Jacob A. Manian** has been promoted to shareholder with Fox, O’Neill & Shannon. His practice focuses on civil and criminal litigation.

Grzea Law Group welcomed **Paul Messenger** to assist clients with employment-based immigration matters.

**Samantha M. Amore** has joined O’Neil, Cannon, Hollman, De Jong & Laing. She assists individuals, professionals, and business owners with estate and business planning, as well as probate and guardianship.

Reinhart Boerner Van Deuren welcomed **Malinda J. Eskra** to the firm’s Litigation Practice in its Milwaukee office.

von Briesen & Roper announced the addition of nine lawyers. Six of the new lawyers are joining the firm as shareholders: **Megan K. Heinzelman**, **Josh C. Kopp**, **Stephen R. Lundeen**, **Ann E. Rabe**, **Benjamin S. Stern**, and **Steven M. Szymbanski**. Joining the firm as associates are **Austin G. Dieter**, **Sarah A. Erdmann**, and **Derek J. Waterstreet**.

Jonathan Safran has practiced with Samster, Konkel & Safran in downtown Milwaukee for more than 30 years, focusing on personal injury litigation, civil rights law (including police misconduct claims), and constitutional tort claims against government agencies. Jon has been a member of the MBA Lawyer Referral & Information Service Committee, as well as an LRIS panel member, for many years. He has volunteered for the MBA’s Law Day activities, providing free legal advice both in person and by phone.

In June 2014, Jon was appointed to a three-year term as a member of the American Bar Association’s Standing Committee on Lawyer Referral and Information Service. This committee supports and assists ABA-affiliated lawyer referral programs around the country, including the MBAs program. The committee hosts workshops for LRIS directors and staff, provides technical support and guidance on best practices, and acts as a conduit between local programs and the ABA.

Finding ways to connect people, especially those who have limited means or are confused about how to find someone to assist them, is important to Jon. He is often surprised at calls received at his office from people who have no idea where to get help with matters attorneys might consider routine, or who have sought legal assistance without success. Jon spends a significant amount of time providing free advice and referring the callers to others who can help them.
Laet fall, in preparation for an MBA board retreat and planning session, the MBA conducted a survey of all the lawyers in Milwaukee County—just over 5,000 people. As we prepared to think deeply about the future of the MBA and discuss the MBA’s value proposition and relevance in the legal community, a short survey seemed the best way to find out how the MBA might attract new members and understand where our members find the most value. We requested demographic information and asked the following questions:

1. What aspects of your MBA membership provide the most benefit?
2. For non-members: why are you not a member of the MBA?
3. What could the MBA offer that would be most helpful to you as a lawyer?
4. What needs in our legal community should be the highest priority for the MBA?

728 people responded to the survey and interestingly, we heard from more non-members than MBA members. The results were very informative and provided a helpful resource for the board retreat and planning session. I’d like to share some of the themes from the survey.

In response to Question # 1, new lawyers and seasoned lawyers alike find the MBA’s CLE programming and networking events to be the most beneficial aspects of their membership. A significant number of respondents appreciate the low cost of the CLE programs, and they find convenience in the timing of CLE programs presented over the lunch hour. At the MBA’s major events—the State of the Court Luncheon, Judges Night, and Annual Meeting—members value the opportunity to interact with lawyers and judges, see old friends they might not otherwise see, and meet lawyers from other practice areas. It is noteworthy, however, that apart from attending CLE programs, lawyers aren’t using and don’t seem to find value in the MBA facilities.

The responses to Question # 2 revealed that cost and relevance are the leading reasons why lawyers do not join the MBA. With competing priorities, lawyers tend to be too busy and the value of the MBA is not readily apparent to some. In attracting new members and retaining all members, there is a real opportunity here for the MBA board and staff to better articulate the MBA value proposition.

While the majority of seasoned lawyers responded that the MBA is helpful to them, a significant number of new lawyers would like to see cheaper or free CLE, based on responses to Question # 3. Notably, almost 25% of all respondents had no suggestions and thought that the MBA should continue with its current programs and services. On the other hand, there may be opportunities to better engage government lawyers and in-house counsel, and to provide more resources, mentoring, and career support for younger lawyers.

In response to Question # 4, nearly 64% of all respondents specifically stated that access to justice and pro bono service should be the community need of the highest priority for the MBA. This is consistent with the MBA’s mission. CLE and career support for all lawyers, especially young lawyers, were next on the list of priorities.

In fulfilling the MBA’s mission to “improve access to justice for those living and working in Milwaukee County,” we continue to partner with Milwaukee County and Marquette University Law School to improve and sustain the Milwaukee Justice Center (MJC) as it addresses the unmet legal needs of Milwaukee County’s low-income, unrepresented litigants through court-based programs and legal resources. With each passing year, the number of Milwaukee County residents served and the number of volunteers continue to grow. The fourth annual MJC campaign will begin April 4. Please consider making a donation to the MJC.

The survey results affirm that in the opinion of MBA members and non-members, the MBA is fulfilling its mission and providing value to its members and the community. Additionally, the results reveal a number of opportunities to further engage members and attract new members. To address specific action items and priorities resulting from the MBA board retreat and planning session, the MBA staff and board have created various subcommittees to explore ideas that will advance the mission and work of the MBA. These initiatives, along with the ongoing search for a new MBA executive director, are going to shape a bright future for the MBA. Stay tuned; the best is yet to come.
Jim Temmer, the MBA’s accomplished, affable, and can-do executive director for the past ten years, departed February 12 to become president and CEO of the Better Business Bureau of Wisconsin. The MBA Executive Committee appointed Katy Borowski, the MBA’s director of projects, as interim executive director pending its search for Jim’s replacement.

Jim grew up on Milwaukee’s far south side and graduated from UW-Madison with a degree in international relations. He earned a master’s degree in American history at Marquette, and went on to Penn State for doctoral work in that subject. But a career in non-profit service organizations, and a return to Wisconsin, ultimately won out over academia for Jim. He worked for the Wisconsin Historical Society and the Charles Allis & Villa Terrace Art Museums before applying to be executive director of the Polish Center of Wisconsin. In that process he met Judge Michael Skwierawski—a fortunate meeting for the MBA, because Mike encouraged Jim to apply for the executive director position at the MBA instead.

Establishment of the Milwaukee Justice Center, conceived in honor of the MBA’s Sesquicentennial in 2008, is the organization’s most significant accomplishment during his tenure, according to Jim. The MJC dispenses basic, practical guidance to Milwaukee County residents who must navigate the civil legal system without an attorney because they cannot afford one and cannot obtain publicly-funded legal aid. Under Jim’s leadership, the MJC has grown from borrowed cubicles in vacant jury management rooms when it opened its doors in April 2009 to become an indispensable component of the local civil justice system, serving over 10,000 clients a year at permanent quarters in Room G-9 of the courthouse and via the Mobile Legal Clinic in economically depressed Milwaukee neighborhoods.

When asked about the MBA’s greatest challenge during his tenure, Jim points to social media as a challenge not only to the MBA but to all service organizations. In one sense, he explains, social media devalues face-to-face communication and networking. But in Jim’s view, “face time” remains crucial to law practice: he asks whether you are more likely to refer a case to someone you met in person or someone you met only online. Jim sees social media as a tool to drive people to a deeper community—a means, not an end. The digital revolution, he says, is just getting started at the MBA, but is now front and center in the organization’s strategic plan.

Jim sees the MBA at a crossroads. Not only must it adapt its programs to the world of social media, but it must also work more closely with other county bar associations and specialty bars in southeastern Wisconsin, with the goals of offering a wide variety of content and economizing the time commitments of its busy membership. Jim points out that many who have graduated from law school in the past five years are not practicing law. It is critically important, therefore, for the MBA to prove its relevance to recent graduates who are in practice in order to ensure a vibrant membership going forward.

In Jim’s view, the MBA’s greatest strength is its membership. In many ways, he adds, it is an untapped strength. The MBA must continue to find ways to reach out to its members and get them involved in the organization’s numerous committees and sections. And in doing so, it must balance the interests of members in large firms, small and solo firms, public service firms, corporate legal departments, and government agencies.

When asked what he will miss most at the MBA, Jim mentions the people with whom he worked—the Board of Directors, the staff, and the members. The MBA has been a rewarding place to work, he says, because Milwaukee-area lawyers have a vested interest in their local bar association as a vehicle for expression and advancement of their professional aspirations. Jim will also miss the great view of Cathedral Square from his corner office.

At the Better Business Bureau, Jim will supervise about 38 employees in three offices, and work with a diverse board of directors that represents all walks of life. He considers the transition a natural one, since the BBB promotes ethical business practices, and the ethical codes for attorneys and judges are so integral to operation of the legal system.

Jim continues to live in Cedarburg with his wife and sons, ages 18 and 16. He is a robust guy with a full beard who loves the outdoors and looks the part. He leaves big shoes to fill at the MBA, but not for that reason. His combination of intelligence, education, organization, responsiveness, optimism, and easygoing personality will be difficult to replace. We’ll miss him.

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**Thanks at 30!**

Wisconsin Lawyers Mutual Insurance Company marks 30 rock-solid years in business this year. Our success is thanks to many people—especially the policyholders who, year-after-year, put their trust in a good idea. Solo and small firm lawyers around the state count on us to help them finish what they start. Learn more about Wisconsin Lawyers Mutual coverage and reliability at wilmic.com.

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So You Think Your Client Has a Substance-Abuse Problem

Attorney Amy Lindner, President and CEO, Meta House, Inc.

You’re a lawyer, not a social worker, right? But clients don’t come to you with an isolated legal problem. They come to you as full and flawed human beings. And what is going on for your client outside of the facts of your case can have an enormous impact on your ability to provide good representation.

It is not mere rhetoric to say that drug and alcohol addiction is an epidemic in Wisconsin. In 2013, more Wisconsinites died of drug overdoses than of motor vehicle crashes, suicide, breast cancer, colon cancer, firearms, the flu, or HIV. Wisconsin has the shameful distinction of leading the nation in rates of women drinking while pregnant (at almost twice the national rate) and, in many years, drunk driving (2010 figures: Wisconsin—22.4% of those surveyed admitted driving drunk vs. national average of 13.2%).

I mention these sad facts because regardless of your area of practice, you’ve almost certainly encountered a client whose substance use is having a substantial negative impact on her life. The obvious clients are those who rack up drunk driving charges or charges for possession of narcotics without a prescription. But how about the client who misses big deadlines or disappears at odd times? The client whose financial situation is spiraling out of control? The client whose health is so affected that the employer is about to terminate her? The client who may be a danger to herself and others? The client who is often bleary-eyed and unfocused in important meetings? The client who misses important deadlines or appears at odd times? The client whose financial accounting seems somewhere between haphazard and suspicious? When faced with these warning signs, too often we as lawyers do nothing. We are not as smart as we think we are.  We’re smart and resourceful. If we can also be a little brave—to risk having a tough conversation—we may also be able to help someone permanently change the trajectory of her life and the life of those who love her. Please call if we can help.

The good news is that you don’t have to be an expert to be helpful to your client. Here is some basic advice:

1 Avoid Judgment. Accusing people puts them on the defensive. You can’t force anyone to admit she has a problem, so what you’re hoping to do is start a dialogue that may change or even save her life. People get to their addictions on many different paths but for many, trauma, genetics, mental health problems, or other enormous life problems contributed to where they are today. Have some compassion and an appreciation that you probably don’t know the whole story.

2 Open the Conversation Gently. In the excellent book Fierce Conversations, author Susan Scott shares the story of an individual whom she suspected of a drinking problem. For months, she had seen signs that his drinking was out of control, but she worried he would think it was none of her business, would be mad at her for asking, or would deny it outright. Maybe all three! When she finally worked up the courage to start the conversation, here is how it went:

“Phillip, it’s going to be difficult for me to focus on business issues today unless I share with you a growing concern of mine.”

Phillip: “Okay, shoot.”

[...] I spoke as gently as I knew how. “I may be way off base, and I know you’ll tell me if I am. It’s just that I find myself wondering if the way you look on Monday mornings is about more than good times with your friends. I worry that perhaps you have a drinking problem, that perhaps you are an alcoholic.”

Phillip was not happy, to say the least. As she anticipated, he both denied it and seemed quite mad. In response, she said, “Okay, let’s move on [to business].”

That wasn’t, however, the end of the discussion. Six months later, at the top of a meeting, Phillip opened the conversation by saying they needed to talk about his drinking problem.

3 Know Where to Point People. You’re an expert in your field; you can’t hope to know everything about substance abuse treatment. But one of your superpowers as a lawyer is the ability to find the answer. If you can remember just three numbers, remember 2-1-1. The kind experts at 2-1-1 (just dial 211) can answer questions about substance abuse treatment options in our community and how someone can get started. You can also call me at Meta House, or turn to the power of Google. You’ll find that virtually everyone who works in the substance abuse treatment field is very generous with her time—particularly when it comes to connecting people with treatment.

4 Have Hope. Whether the person you are worried about is a client, a colleague, or a loved one, there is always a reason to hope that someone will get well. Long-lasting recovery starts with the hope that a better life is possible. Even if the sufferer loses hope along the way, knowing that those who care have faith in her ability to achieve the life she envisions can make the difference.

As lawyers, we have a lot of power to influence the lives of people we touch. We’re smart and resourceful. If we can also be a little brave—to risk having a tough conversation—we may also be able to help someone permanently change the trajectory of her life and the life of those who love her. Please call if we can help.

Amy Lindner is an attorney who serves as president and CEO of Meta House, Inc., a substance abuse treatment center that has been treating women and families in Milwaukee since 1963. Learn more about Meta House at www.metahouse.org and its new program, Shorewood House, at www.shorewoodhouse.org.

MBA Seeks Candidates for Office and Award Nominations

The MBA invites you to consider running for one of the three seats on the board of directors that are up for election this spring. We also seek candidates for the office of vice president, which succeeds to the offices of president-elect and president over a three-year period. Serving on the MBA board or as an officer is a professionally enriching and rewarding experience, and the MBA has an experienced and talented staff with which it is a pleasure to work.

The MBA is also calling for nominations for its Distinguished Service, Lawyer of the Year, Lifetime Achievement, and Public Service Awards. These awards are bestowed at our annual meeting in June. Please contact MBA Interim Executive Director Katy Borowski (414-276-5933, kborowski@milwbar.org) as soon as possible if you would like to throw your hat into the ring, to make award nominations, or with questions about either.
Milwaukee’s Loss Is Bosnia's Gain
Honorable Kitty K. Brennan, Wisconsin Court of Appeals, District I

The Milwaukee County Circuit Court lost a terrific judge this January, but at least the loss had a good cause. Judge Mel Flanagan retired in order to bring domestic and sexual violence court models to judges and lawyers in Bosnia-Herzegovina. Judge Flanagan was awarded a six-month Fulbright scholarship to teach and work with judges and prosecutors in Sarajevo and other parts of Bosnia-Herzegovina, and to set up courts based on those highly effective models. She will be involved in various projects: assisting the national courts in creation of policies and procedures for domestic and sexual violence cases, working with UNICEF to train prosecutors in child abuse cases, working with five national law schools to develop courses on child abuse and domestic violence, and teaching at the University of Sarajevo Law School.

Judge Flanagan has served for 23 years as a circuit court judge in Milwaukee County, presiding in the civil, children's, felony, and domestic violence courts. She has distinguished herself as a compassionate and independent judge. She enjoys a strong reputation in the legal community for being smart, even-handed, and hard working.

Mel Flanagan has been my colleague, friend, and noon running buddy for 20 years. While I am very sorry to see her go, I admire her courage and commitment to bring needed and effective justice strategies to a country that does not yet have them. It is a bold move, but I've come to expect the unexpected from Mel.

Mel's career trajectory has been as unique as her Bosnia “retirement” choice. Unlike most judges I know, Mel did not go to college until many years after high school. Instead, she studied art in New York and abroad. She became interested in aikido, the defensive martial art, and this led her to Japan, where she studied with an aikido master. For years she has run her own dojo in Milwaukee. She has earned a quadruple black belt in aikido. From Japan, she traveled to Hawaii, where she went to college. Her brother, Dane County Judge David Flanagan, persuaded her to move to Madison, where she went to law school.

After law school Mel worked as a Milwaukee County assistant district attorney and a Dane County deputy district attorney. She was appointed in 1993, then elected ever since, to the bench. She has taught domestic and sexual violence court strategies in Wisconsin and nationally since 1999. She has been on the faculty of the Wisconsin Judicial College for over ten years, teaching trial practice and evidence, and is now a dean of the college. She has taught at numerous state and Milwaukee bar programs through the years. Teaching and travel are her great loves.

Mel's interest in international law has led her to observe and volunteer with judges in Ghana, Bangladesh, and Bosnia. She has participated in the International Judicial Academy's Richard May seminar at The Hague, Netherlands, and its human rights law seminar in Strasbourg, France. In 2012 and 2013 she was an invited guest of the Human Rights Day Panel at the Women & Justice Conference, held at the United Nations in New York.

So it is no surprise that Mel was awarded a Fulbright or that she is retiring early to enhance justice in the world. I hope we will be able to lure her back to Milwaukee from time to time for some reserve judging or teaching.


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**Upcoming Events**

**April 30, 2016**  Law Day free walk-in legal clinics

**May 6, 2016**  Memorial Service

**June 14, 2016**  158th Annual Meeting

**June 22, 2016**  6th Annual MJC 5K Run/Walk for Justice

**August 3, 2016**  MBA Foundation Golf Outing
March 21, 2016
Real Property Section
Nonrecourse Carve-Outs in Loan Documentation: Tips for Negotiating
Nonrecourse carve-out provisions in loan documentation must be carefully negotiated, especially in light of case law imposing liability on guarantors. This seminar will give you the information to effectively negotiate such provisions on behalf of your clients.
Presenter: Anne Wal, von Briesen & Roper
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

March 22, 2016
Elder Law Section
Attorney Fee Agreements and Ethics in Elder Law Cases
The program will review the Rules of Professional Conduct related to attorney fees and discuss the different fee arrangements and claims commonly found in elder law cases: social security, veterans, and EAJA fees.
Presenter: Hannah C. Dugan, Law Offices of Hannah C. Dugan
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

March 23, 2016
Labor & Employment Section
Creating Corporate Policies and Procedures for a National and International Platform
Working in a national or international, multifaceted, publically traded corporation presents unique challenges in implementing labor and employment policies. Consideration must be given to federal, state, county, and city laws and regulations when implementing new policies or changing existing ones. Additionally, laws in this field are ever-evolving and there are challenges in keeping up with and addressing these changes as they occur. This presentation will focus on practical, hands-on experience and tips to conquer these challenges.
Presenter: Nicole M. Cowell, Labor and Employment Counsel, Quad/Graphics, Inc.
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

March 24, 2016
Corporate Counsel Section
Red Flags When Buying or Selling a Business
The presentation will cover issues and approaches to consider from both the buy side and sell side, how a transaction typically progresses, and how to spot and address problem areas along the way. Due to the broad nature of the topic, the program will provide an overview (rather than an in-depth discussion) of various components, such as confidentiality agreements, letters of intent, financing considerations, due diligence, escrows, indemnification, opinion letters, and related matters.
Presenter: Dan Welytok, von Briesen & Roper
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

April 8, 2016
Employee Benefits Section
Annual ERISA Litigation Update
Attorney Charlie Stevens will provide his annual roundup of court decisions issued in the past year concerning ERISA and other employee benefits-related litigation.
Presenter: Charlie Stevens, Michael Best & Friedrich
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

April 19, 2016
Intellectual Property Section
Understanding and Utilizing Inter Partes Review (IPR)
An Inter Parties Review (IPR) is a relatively new USPTO post-grant trial procedure that has become a powerful tool when challenging the validity of a patent. The presenter will describe IPR basics, advantages and challenges of IPRs, and other considerations.
Presenter: Aaron T. Olejnizczak, Andrus Intellectual Property Law
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

April 20, 2016
Environmental Section
Contaminated Soil and Material Management Under the Wisconsin Department of Natural Resources Regulations
The Wisconsin Department of Natural Resources (WDNR) is working with an external advisory group to develop guidance for managing soil and other solid wastes. Considerations for conducting a waste determination, as well as a definition for clean soil, have been proposed and will be discussed in this presentation. In addition, options for managing soil and other solid waste material to meet the requirements of NR 500 or NR 718 will be discussed.
Presenter: Judy Fassbender, Section Chief, Division of Environmental Management, Remediation & Redevelopment, Wisconsin Department of Natural Resources
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

April 21, 2016
Taxation Section
Federal Income Tax Aspects of Property Distributions in the Liquidation of Family Limited Partnerships
Every family limited partnership must come to an end. Partnership properties are often distributed in kind (pro-rata or not). Since interests were probably valued on a discounted basis for gift or estate taxes, the provisions of Subchapter K require careful analysis and planning to ensure optimal outcomes for federal income tax.
Presenter: Joe Tierney, Davis & Kuelthau
Noon – 12:30 (Lunch/Registration)
12:30 – 1:30 (Presentation)
1.0 CLE credit

continued page 24
Wauwatosa West Students Win Wisconsin “We the People” Competition for Ninth Straight Year

Wauwatosa West High School students have won Wisconsin’s “We the People” competition for the ninth straight year, and will head to Washington, D.C., for the national competition featuring winners from all 50 states April 22 to 27.

Chad Mateske, a Wauwatosa West history teacher who oversees the 29-student group, remarked, “I’m extremely proud of these students. They have been working hard since the end of last school year to attain this goal.”

The Center for Civic Education started the “We the People: the Citizen and the Constitution” program in 1987. Over 28 million students and 75,000 teachers throughout the country have participated. Students study the Constitution, including its philosophical underpinnings and creation, its amendments, seminal case law, and modern-day applications. They then divide into units specializing in particular constitutional areas. Each unit delivers an “opening statement” to a panel of judges who work in law, history, education, or government. As in oral arguments, the students then must answer questions the panel poses, ranging from historical and philosophical interpretations to current events.

Mateske said, “Many people are worried about the youth of tomorrow. If they could hear what these kids are able to discuss better than most adults, they would have as much faith in our future as I do.

“Since June, our students have spent countless hours in our classroom, as well as meeting with our group mentors, attorneys Mark Young, Tom Schneck, and Rebecca Salawdeh, during their free time to gain a firm grasp of the foundation of our government and its modern applications, including major case law (historical and present).

“The understanding these students have about our Constitution and government is beyond impressive. They are certain to be leaders in their occupations and their communities.”

The state competition, held January 9, 2016 at Marquette University Law School, simulated a congressional hearing, with students testifying before panels of judges, answering questions, and demonstrating their understanding of the constitutional principles of our democratic government.
MBA President Marcia Drame greets Judge Joe Donald.

Michael Hanrahan (center) receives congratulations on his appointment as a circuit court judge.

Judge Ellen Brostrom and Judge Jennifer Dorow

John Thulin and Jeff Hamann provide music for Judges Night.

Judge Pamela Pepper, Judge David Jones, and Susan Lovern

Conviviality reigns at Judges Night 2016.

Judges Mary Kuhnmuench, Maxine White, and Kitty Brennan
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Immigration reform is one of the most debated topics in this year’s presidential race. Numerous studies have found that immigration reform—specifically, legislation allowing more H-1B specialized-knowledge, employment-based visas and creating start-up visas for entrepreneurs—will spur entrepreneurship, innovation, and economic growth and development.

Under current U.S. immigration law, there are two primary ways to immigrate: through close familial relationships (family-based immigration), and through a sponsoring employer (employment-based immigration). In the U.S., there are two types of visas: immigrant visas for permanent residents (green card holders); and nonimmigrant visas, which are temporary. Permanent visas allow a foreign national to live and work permanently in the U.S., whereas a temporary visa allows a foreign national to temporarily visit, live, or work in the U.S., typically from one to seven years. One of the most debated issues in the presidential race is whether to expand the number of temporary visas allowed under the H-1B program, and whether Congress should also create a new start-up visa category for entrepreneurs.

Immigrant-founded companies have contributed mightily to job creation, innovation, and economic growth in the United States. Such companies today have a market capitalization of more than 900 billion. Companies with immigrant founders, such as Google, Intel, eBay, Facebook, LinkedIn, SanDisk, Altera, and Tesla Motors, employ over 600,000 workers, most of whom are in the United States. The initial public offers by these companies from 2006 to 2012 exceeded $167 billion.

What effects would immigration reform have on U.S. citizens and their businesses? First, studies have proven that immigrant-founded companies create jobs, and job creation increases purchasing power, which leads to increased consumption of goods and services. This brings economies of scale into play and drives prices down. Increased consumption leads to increased production because people are buying more goods and services, and this leads to more jobs to keep up with demand. Increased consumption also leads to increased profitability for companies, which can lead to increased wages, and the cycle repeats due to economic growth. Therefore, immigration reform can spur economic growth and directly affect U.S. wages, keep the cost of goods and services down so U.S. residents have more disposable income, and ensure U.S. job security.

The correlation between immigration, entrepreneurship, innovation, and economic development has been proven by numerous studies. Why, then, does Congress not pass immigration reform to make it easier for entrepreneurial immigrants to stay in the U.S.? We do not have a start-up visa category yet, although there have been numerous proposals in Congress to allow immigrant entrepreneurs to create and build start-up companies in the U.S. The U.K., Australia, Singapore, and other countries have entrepreneur visas for that specific purpose. A research study by Duke University, UC Berkeley, and the Kauffman Foundation found: 75 percent … of all immigrant entrepreneurs involved in engineering and technology in our study [hold] their highest degrees in science, technology, engineering, and mathematics-related fields … Our research confirms that advanced education in science, technology, engineering, and mathematics is correlated with high rates of entrepreneurship and innovation. The U.S. economy depends upon these high rates of entrepreneurship and innovation to maintain its global edge.

Another research study by the same institutions found that “the number of skilled workers and entrepreneurs waiting for visas is significantly larger than the number that can be admitted to the United States. This imbalance creates the potential for a sizeable reverse brain-drain from the United States to the skilled workers’ and entrepreneurs’ home countries.”

Companies in the U.S. want Congress to act on immigration reform in order to keep highly skilled and talented workers in the U.S.

The National Venture Capital Association (NVCA) has stated that “our outdated immigration system is a drag on U.S. competitiveness and puts us at risk of losing access to the best and brightest talent from around the world. In a competitive global economy, the U.S. must create a pathway to citizenship for entrepreneurs who want to start, build and grow companies in the U.S.”

The NVCA also stated in a recent study that “fifty-seven percent of the companies interviewed replied that projects had been delayed because of the lack of specialized employee H-1B visas. Forty-three percent of the companies said the lack of H-1B visas influenced the company’s decisions to place or hire more personnel in facilities located outside the United States.” A study by the George W. Bush Institute found that the “U.S. faces global competition for immigrants and it would be wise to remove some of the barriers that encourage immigrants to go elsewhere. If America’s immigration laws were reformed, our growth would come faster.” According to economist Richard Vedder, adoption of a pro-immigration policy would grow America’s GDP by more than two trillion dollars.

U.S. companies need the ability to hire more highly skilled immigrant workers, and the U.S. needs to create start-up visas in order to foster a more robust, innovative, and competitive global economic marketplace. Research illustrates that immigration reform, especially for highly skilled workers and entrepreneurs, is necessary for the U.S. to remain competitive in the global economy, to prevent reverse brain-drain on the U.S. economy, and to foster economic growth and development.

The author practices immigration law, with a focus on helping talented foreign entrepreneurs and other highly skilled immigrants to obtain U.S. visas. He can be reached at 414-223-5718, or visit his firm’s website at www.subhanlaw.com.

2Id.
5www.nvca.org/issues/immigration (viewed March 14, 2016).
6Stuart Anderson, supra n.1, p.7.
8Id., pp.7-8.
Bridge of Spies
Directed by Steven Spielberg
2015; 142 minutes

Two of my favorite movies in this series of essays, The Man Who Shot Liberty Valance and Anatomy of a Murder, feature Jimmy Stewart as the attorney protagonist. Another, Young Mr. Lincoln, features Henry Fonda. Stewart and Fonda had an everyman quality that enabled them to play almost any part, yet with charisma and even a touch of heroism. Moreover, while both were reasonably handsome men, they lacked the “movie star” looks of a Cary Grant or George Clooney. Their counterpart in modern Hollywood is surely Tom Hanks. From playing frothy comedic parts as a young man, he has aged well into serious roles. He evinces accessibility, intelligence, and reasonableness, and his presence is unintimidating. That sounds like a pretty good set of qualities for a lawyer, and it works well for Hanks in Bridge of Spies, his latest collaboration with Steven Spielberg.

Bridge of Spies is, with some cinematic modification and compression, the story of the trial and conviction of Russian spy Rudolph Abel, and his subsequent exchange for captured American U2 pilot Francis Gary Powers. The events of the film occur in the late 1950s and early 1960s. The Cold War had never been hotter. The Soviet Union had become a frighteningly powerful nuclear state, at least in part due to its espionage in the United States. It was the age of “duck and cover” drills in American grammar schools; fear gripped the nation.

Against this background, the movie begins with FBI agents arresting Abel in a Brooklyn hotel room. Abel was a classic Cold War “illegal” sent undercover by the KGB to operate a spy ring with the apparent purpose of obtaining advanced technological information, including nuclear information if possible. (Curiously, even though Abel was prosecuted under that name and has always been known by it in the U.S., it was actually a name of a deceased Russian agent that he gave to the FBI after his arrest in order to send Moscow a signal. His original name was William Fisher; he was the British-born son of Russian émigrés who returned to Moscow after the revolution.)

Enter the lawyer; the Brooklyn Bar Association has been asked to find someone to defend Abel. (Clearly this occurred before the days of the Federal Public Defender.) This is not an easy task. Cold War passions are running high, and defending Abel will be unpopular. But the bar association finds its man in James Donovan, a former military lawyer. (In real life he assisted at the Nuremberg trial.) But he is that no longer; as he quickly points out, now he is “just an insurance lawyer.”

Spielberg cleverly introduces us to Donovan before he is asked to defend Abel by showing him negotiating over drinks with a plaintiff’s lawyer on a point many practicing trial lawyers can appreciate: was the insured’s unfortunate accident with two motorcycles one incident—with one coverage amount available—or two? Donovan holds there are not two cases, there is only one. This quotidian negotiation resonates smartly later in the film, a credit to the pros who made it. In addition to Spielberg’s direction, Joel and Ethan Coen worked over the script, and the results are as you would expect.

Soon Donovan meets with Abel, played by the British actor Mark Rylance, who spent his high school years in Milwaukee. Rylance imbues the Soviet agent with a wry, quiet dignity, and gets the best laughs in the film with his simple, arch question, “Would it help?” every time Donovan asks him whether his situation upsets him. (As I write this, Rylance has just won the Supporting Actor Oscar for his performance.)

The trial scenes in Bridge of Spies are quite brief. We see Donovan more in pretrial and post-verdict settings—not surprising as the verdict is a fait accompli. Federal Judge Mortimer Byers is dismissive of the defense, if not of Donovan, and has no patience for what appear to be significant evidentiary issues. But all this sets up well to bring the film back to its main theme: Donovan’s negotiating skills. In a colorful (and I hope fanciful) ex parte visit to the judge’s home, Donovan lobbies Byers to spare Abel the death penalty, arguing that one day the Soviets might capture an American, and the precedent would be dangerous. It works; Abel is sentenced to prison, not the gas chamber.

Donovan’s high-minded efforts on behalf of Abel are juxtaposed with the reactions of others to his work. Like Atticus Finch and other cinematic lawyers before him, his ethical defense of an unpopular client is not appreciated. He endures evil stares on the subway, his law partner’s increasing exasperation, and most ominously, gunshots through the window of his family home. But he won’t back down. Donovan appeals Abel’s case all the way to the Supreme Court, but loses, 5-4.

And that would have been the end of the story, but for the ill-fated flight of Francis Gary Powers. (Ironically, the detonator that brought Powers’ plane down was based in part on technology that may have been stolen by Soviet agents like Abel.) Once again, Donovan gets an unexpected request, this time from the government. Because of his defense of Abel, he is asked to try to negotiate a swap for Powers. But he can do so only as a private citizen with no official status, a legal fiction both the U.S. and Soviets require.

Donovan arrives in Berlin at a bleak moment; it is just as the wall is being erected. As in Saving Private Ryan and Schindler’s List, Spielberg creates a frightening mid-century, middle-European landscape of chaos, violence, and paranoia. Because Donovan has no official portfolio, his trips in and out of East Berlin to meet with a Soviet spymaster and a sinister private attorney working for the East German Stasi are fraught with both perilous incident and privation. And then, as if the negotiation of Abel for Powers isn’t complicated enough, a new crisis occurs: an American student, Frederick Pryor, is arrested by the East Germans, who chafe under their Soviet sponsors and need a chip to buy a place at the table. Donovan learns of this and quickly insists that Pryor must be part of the deal, even as his CIA handlers make it clear they only care about Powers, whom they wish to debrief.

As the film accelerates to its climax on the snowy Glienicke Bridge connecting the separated city, Donovan finds himself in a four-way negotiation: the Soviets, the East Germans, and the CIA all want something different. Donovan just wants to go home, and he wants to take both Powers and Pryor with him. As far as Donovan is concerned, there are not two cases, there is only one. Standing under the gaze of Soviet and American snipers at the center point of the bridge of spies, the insurance lawyer and the Russian agent, now respectful accomplices, quite literally hold their ground in the negotiation until the other parties finally send both Americans to freedom.

Bridge of Spies is an excellent historical drama, expertly crafted and acted, which depicts and celebrates a principled lawyer engaged in one of our profession’s most important skills: effective deal-making.

Message 15
The Netflix documentary *Making a Murderer* focuses relentlessly on serious flaws in the investigation and prosecution of Steven Avery and his 16-year-old nephew, Brendan Dassey—flaws that raise doubts about whether their convictions were fair. The outrage provoked by *Making a Murderer* is understandable, as is the conclusion of many viewers that Avery and Dassey—particularly Dassey—were wrongfully convicted. Focus on the flaws rather than on the evidence of guilt makes it hard to judge the convictions based on the documentary alone, but that is not the main point of *Making a Murderer*. After watching the ten episodes, reading Michael Griesbach’s book about the first Avery trial, and attending the October Eastern District of Wisconsin Bar Association seminar that featured several participants in that trial and its aftermath, I came to share the concern expressed by so many viewers about the many flaws in our criminal justice system exposed by *Making a Murderer*.

The Avery and Dassey trials and the Netflix account of them raise important questions. Does our criminal justice system work fairly for those most often accused of crime: people who are poor, intellectually challenged, or otherwise impaired? What can we do to prevent wrongful convictions? If we lawyers and judges don’t find answers, who will?

**How Big Is the Problem?**

In 1996 Ronald Huff wrote *Convicted but Innocent: Wrongful Conviction and Public Policy* (Sage Publications). Huff was the director of the Criminal Justice Research Center and the School of Public Policy and Management at Ohio State University. He surveyed 188 judges, prosecutors, public defenders, sheriffs, and police officers in Ohio and 41 state attorneys general, asking them to estimate the frequency of wrongful convictions. Based on the answers, he estimated there are nearly 10,000 wrongful convictions in the United States each year.

University of Michigan law professor Samuel Gross edits the National Registry of Exonerations, and in a July 24, 2015 interview with the *Washington Post* stated that there have been 1,625 exonerations listed in the registry so far. The average period of incarceration before exoneration was nine years. Most wrongly convicted individuals are not so “lucky.” They serve their full sentences, which have grown longer as the lucky ones serve an average of nine years in prison before they’re exonerated.

**Law Enforcement Too Bent on Conviction.** The Manitowoc sheriff disliked Avery and singled him out at the very beginning of the Beernsten sexual assault investigation. The Manitowoc Police Department had ample reason to believe (correctly, as it turned out) that another man assaulted Beernsten on the beach and told the sheriff about him. But the sheriff ignored the police department’s lead, as well as other evidence that pointed away from Avery. After Avery’s eventual exoneration, and despite a $36 million wrongful conviction lawsuit against the sheriff and others in his department, it was—at the least—terrible judgment (if not an obsession to get even) for the Manitowoc sheriff’s department to insert itself into the Teresa Halbach murder investigation after ostensibly turning it over to the sheriff of a neighboring county “to avoid any appearance of impropriety.” Maybe Manitowoc deputy sheriffs didn’t plant evidence, but when they found Halbach’s car keys in plain sight on the floor of Avery’s trailer after it had been searched three times by the assigned investigating team, millions who watched the discovery on television believed they were watching law enforcement officers frame Avery. It’s a stain the sheriff’s office may never be able to wash off.

**False Confessions and Bad Lawyering.** There are good liars and there are bad truth tellers. The young, the intellectually impaired, and the malleable are easily manipulated by interrogators sometimes too intent on getting a conviction. It doesn’t help if defense counsel is complicit or inadequate. Who knows whether Brendan Dassey helped Steven Avery rape and murder Teresa Halbach and then burn her body? But Dassey was doomed from the start. This 16-year-old with a sub-70 I.Q. and learning disabilities was left alone for hours with experienced investigators who presumed he was guilty and used irresistible psychological pressures to extract a confession. Because Dassey was poor, the court appointed counsel. But before ever speaking with his client, “defense” counsel told the press that Uncle Avery was the heinous influence that led his client to participate in the crime. He told the world his client was guilty. Then he paid a private investigator to coerce an even more damning confession from his unwitting client and arranged for state investigators to use it in a second interview where the child was alone with them again. Defendants like Brendan Dassey begin with substantial class and personal disabilities, and in the “good hands” of bad counsel, they are no match for the criminal justice system.

**Prosecutorial Misconduct.** The state has enormous power: investigators, prosecutors, money to hire experts, and even its own crime lab. On top of these advantages, when the pressure to convict is strongest, prosecutors sometimes use the press to improve their odds. In *Making a Murderer*, we see an example. *Breaking News. Mothers and fathers, don’t let your children hear the horror we’re about to describe. Investigators found Halbach’s car on the Avery property. They found her keys in Avery’s trailer. They found her burnt bones just outside. His nephew confessed*. Of course, the audience is all ears. Who could resist? Who could forget? Where could Avery or Dassey get a fair trial after that? It’s not hard to imagine jurors deciding to convict if there was any possibility that Avery or Dassey did it; the thought of releasing (or being accused of releasing) two people who might be capable of perpetrating such horror must be overwhelming in a small community, especially with so much attention focused on the jurors.

These features of the Avery and Dassey investigations and trials recur throughout the United States, often less publicly. Thousands of innocent people are convicted as a result, their lives and reputations left in tatters. The lucky ones serve an average of nine years in prison before they’re exonerated.

**What Causes Wrongful Convictions?**

Why do so many wrongful convictions happen? The primary reasons are on display in the Avery and Dassey investigations and trials.

**Mistaken Identifications.** Victim Penny Beernsten’s mistaken identification of Steven Avery led to his original conviction for a sexual assault he did not commit. She now knows Avery didn’t assault her on the beach. She knows who did. DNA eventually proved both points beyond any doubt. The assailant she described was 5’10” with brown eyes and wore white underwear; Avery is 5’4” (about Penny’s own height), has blue eyes, and did not own underwear. Yet even today, when she recalls the assault, the face she sees is the one a sketch artist drew for her in the hospital: the face of Steven Avery. This is true even though she recalls making it a point to study her assailant during the attack so she could identify him if she were lucky enough to survive. Juries believe credible witnesses like Beernsten who, with ample opportunity to observe the assailant, and with sincere certainty, mistakenly identify the defendant. Shouldn’t juries be warned about the foibles of eyewitness identifications?
Ana Berrios-Schroeder Poised to Succeed as Family Court Commissioner

Dean B. Zemel, Assistant Family Court Commissioner, Milwaukee County Circuit Court

Ask Milwaukee circuit court judges in which rotation they dread most, and I’ll bet most would say the family division. Friends on the bench have told me they’d rather retire than be assigned to the family division. That division deals with paternity, divorce, and harassment and domestic violence temporary restraining orders and injunctions—disputes about money, property, and children; disputes with incredible animosity between neighbors, ex-partners, and rivals who claim the same boyfriend. It may seem a bit of a zoo, but the people who pass through family court are human beings looking for relief of some kind. It is the place for people who want to resolve a conflict that affects their lives.

The first door almost all family court litigants pass through is that of the family court commissioner. First hearings in divorces; virtually all motions to modify or enforce divorce or paternity orders; requests for harassment, domestic violence, and child abuse temporary restraining orders; contested hearings for turning harassment and domestic violence restraining orders into injunctions; and more happen every day in the courtrooms of the family court commissioner. Running that office to be effective and timely is an incredible challenge.

Enter Ana Berrios-Schroeder, appointed to succeed Sandy Grady as Milwaukee County Family Court Commissioner. She started running the entire shop February 29.

As cynics would say, “it’s not what you know, it’s who you know.” If that is true, however, Ana is a shining example of the exception. I’ve known her for over 20 years and I haven’t seen anyone hand her anything on a silver platter. She has truly worked hard to earn it all.

She began her legal career, after graduating from the University of Wisconsin Law School in 1995, by starting a three-attorney law firm. (Not the job that most new lawyers with college loans would choose!) And during her tenure as an assistant family court commissioner, she earned a master’s degree in sociology from the University of Wisconsin-Milwaukee. And during her tenure as an assistant family court commissioner, she earned a master’s degree in sociology from the University of Wisconsin-Milwaukee.

In 1999, Ana joined the Child Support Enforcement Office (now known as Child Support Services) and advocated for the entry and enforcement of child support orders, so parents would have the money to raise their children and reduce their dependence on state-funded benefits. That is a difficult position: payors usually want to pay far less than the amount asked for, and payees usually want to receive far more than the statutes and administrative rules dictate. Yet Ana navigated those waters like an admiral, always firm but with understanding and some flexibility.

In 2001, Ana joined our office as a fellow assistant family court commissioner. As a colleague, my admiration for Ana only increased. If you walk past any family court commissioner courtroom, you’re likely to hear bickering, interruptions, and accusations, not to mention the litigants talking on top of each other, not to mention an assistant commissioner trying to maintain control and conduct a fair and meaningful hearing. When I walked past Ana’s courtroom or heard her from an adjacent one, I heard her calmly but firmly, with a very personable tone, explain every detail about the situation before her—the law, the process, and finally, the conclusion she reached. And the litigants weren’t interrupting her; they were actually listening and even acted completely comfortable. I was amazed; I still don’t know how she does it!

In 2012, Ana was promoted to the position of deputy family court commissioner to replace Sandy Grady, who had been promoted to family court commissioner. Ana hit that ground running, too. I don’t know how deputy family court commissioners get all the things done that fall in their laps in a 40-hour week. The deputy directs and coordinates the work of the assistant commissioners and support staff, including scheduling, training, and discipline. (Scheduling alone—calendars, vacations, conferences, and coverage for absent colleagues on any given day—is a nightmare.) She represents our office at one of meetings, either in addition to or in the absence of the family court commissioner and, along with the commissioner, is the conduit between our office and the Family Division judges. The deputy, in addition to the commissioner, is the “go-to” person for questions and complaints from attorneys, litigants, and the general public. In addition to all of that, the deputy commissioner may have a calendar when hearing dates would otherwise be unduly delayed, and to cover the default divorce calendar when the commissioner is unavailable. Ana not only managed to handle everything thrown her way in that job, but she did so with confidence, style, and grace.

If anyone is still unimpressed, take into account that in the midst of her private practice years, Ana taught a course at Marquette University Law School on the principles of starting and managing a law practice. And during her tenure as an assistant family court commissioner, she earned a master’s degree in sociology from the University of Wisconsin-Milwaukee.

continued page 25
Mobile Legal Clinic Receives Archbishop Listecki’s “Treasures of the Church” Award
The MLC received an award from Archbishop Listecki at the annual Lenten Luncheon on Tuesday, February 23, 2016. Each year, the archbishop identifies an individual, an organization, and a religious community that reach out to the poor, and honors each with a “Treasures of the Church” award. The archbishop chose the Mobile Legal Clinic to receive the 2016 organization award for its outstanding work in the local community. Mike Gonring accepted the award on behalf of the Mobile Legal Clinic.

MJC Receives Grant to Support Parenting Conference Program
The MJC parenting conferences, a program developed in conjunction with Milwaukee County Child Support Services and Quarles & Brady, has received a $5,000 grant from the State Bar of Wisconsin Legal Access Commission to enhance and expand its services. The program, developed in the summer of 2015, offers parents in post-judgment family matters an opportunity to discuss issues related to custody and placement with an attorney facilitator, while also working with a Child Support Services attorney to agree on an amount of financial support. When all parties come to an agreement, a family forms assistance student volunteer assists them in completing the stipulation and order form to capture the details. Since its inception, the program has offered 44 conferences, with 34% of participants reaching a signed agreement.

The grant will allow the MJC to improve marketing materials, create additional training materials for new volunteers, and update technology to improve the quality of services and reach parties who may be living outside Milwaukee County.

2015 Annual Report Data
The Milwaukee Justice Center served 10,090 clients in 2015: 78% received family forms assistance, 22% received brief advice in the Marquette Volunteer Legal Clinic, and 0.5% participated in the Parenting Conference Program.

The Mobile Legal Clinic served 187 clients in 2015, conducting 23 clinics at 12 locations. MLC services were provided by 33 attorney volunteers, 35 student volunteers, and nine undergraduate intern volunteers.

Godfrey & Kahn to Staff Monthly Clinic at St. John’s Lutheran Church West
Godfrey & Kahn has agreed to provide attorney volunteers for the monthly Mobile Legal Clinics at St. John’s Lutheran Church West. The clinics are held on the fourth Thursday of the month from 8:30 to 10:30 during the church’s neighborhood breakfast.

The MJC and MLC also recognize Michael Best & Friedrich for its continued staffing of monthly Saturday clinics, and all of the attorneys and law students who volunteer their time at the Mobile Legal Clinic. Thank you for your service.

Upcoming Mobile Legal Clinic Dates and Locations
- Tuesday, April 12, 2016, 3:00 - 5:00 p.m., St. Benedict the Moor Parish, 924 West State Street, Milwaukee
- Thursday, April 28, 2016, 8:30 - 10:30 a.m., St. John’s Lutheran Church West, 5500 West Greenfield Avenue, Milwaukee
- Saturday, April 30, 2016, 10:00 a.m. - 2:00 p.m., Forest Home MPL, 1432 West Forest Home Avenue, Milwaukee
- Saturday, May 7, 2016, 9:00 - 12:00 noon, Dominican Center for Women, 2470 West Locust Street, Milwaukee
- Tuesday, May 10, 2016, 3:00 - 5:00 p.m., St. Benedict the Moor Parish, 924 West State Street, Milwaukee
- Thursday, May 26, 2016, 8:30 - 10:30 a.m., St. John’s Lutheran Church West, 5500 West Greenfield Avenue, Milwaukee
- Saturday, June 11, 2016, 10:00 a.m. - 2:00 p.m., Muslim Community Health Center, 801 West Layton Avenue, Milwaukee
- Tuesday, June 14, 2016, 3:00 - 5:00 p.m., St. Benedict the Moor Parish, 924 West State Street, Milwaukee
- Thursday, June 23, 2016, 8:30 - 10:30 a.m., St. John’s Lutheran Church West, 5500 West Greenfield Avenue, Milwaukee

Save the Date
6th Annual Run/Walk for Justice
Wednesday, June 22, 2016
7pm
Veterans Park

http://milwaukee.gov/MJC/MJC5K

Sponsorships Available

$250: Bronze Level
$500: Silver Level
$1000: Gold Level
$2500: Platinum Level
(includes up to 50 registrants for your organization)
As an African-American who is a practicing criminal defense attorney, with a beautiful wife who is in law enforcement and a brother who is incarcerated, I know first-hand the devastation that follows from high incarceration rates. Wisconsin has the highest incarceration rates of African-American men in the nation, with more than half of Milwaukee County’s African-American men in their thirties having served time in prison. It is a moral imperative that all stakeholders collaborate to eliminate racial disparities throughout our criminal court system from start to finish.

What Can Be Done?

1) Prevention
A critical component of sentencing reform starts with preventing individuals from traveling the road that leads to court appearances for sentencing in the first place. From my mother, a dedicated teacher with more than 30 years of service, I learned the value and long-term effects of a good, solid education. A good education brings opportunities and greater exposure to resources that individuals will be loath to squander. Moreover, education gives individuals a sense of self-worth and accomplishment.

For example, a program that helped me as a young teen was the Evans Scholars program. The Evans Scholars Foundation provides full academic scholarships to selected colleges and universities (including Marquette and UW-Madison) for individuals whom have at least a B average in high school through their junior year, outstanding character, and financial need, and who have worked as a golf caddy for at least two years. When I started, I did not have a clue about being a golf caddy, but I learned. I earned the Evans Scholarship to Marquette and saved a good deal of my golf caddy earnings along the way. A high quality education empowers individuals to seek out positive experiences.

2) Diversion
Once an individual has been brought under the jurisdiction of the criminal court system, we should continue to focus on prevention through diversion. Where appropriate, prosecutors and defense attorneys should work in tandem throughout the pre-charging phase to determine whether a person (excluding those charged with violent offenses) should be formally charged with a crime. For many, the sheer process of being arrested and spending several days in jail is a sufficient jolt to their systems to correct their behavior. Tenets of this approach are prevalent in the concept of dosage probation—namely, giving an individual the “dose” of probation needed to correct behavior.

When formally charging an individual with a crime cannot be avoided, prosecutors and defense attorneys should work together to determine whether diversionary programs, such as deferred prosecution agreements and first-time offender programs, are appropriate. Under these options, an individual enters into a contract with the prosecutor requiring him or her to fulfill certain conditions. Upon successfully completing the conditions, the case is either dismissed entirely or the charge is amended from a felony to a misdemeanor.

Furthermore, individuals with drug treatment or mental health needs should be screened and diverted to specialty courts such as drug treatment and mental health courts. Both of these specialty courts divert non-violent individuals from jail to treatment. Upon successful completion of the specialty court program, the case is either dismissed entirely or the charge amended from a felony to a misdemeanor.

3) Restoration
If an individual is ineligible for prevention or diversion, our focus should shift to restoration. We must institute mechanisms for restoring the individual's ability to overcome collateral consequences of a criminal conviction, such as expunging the court record. For certain offenses committed by individuals 25 or younger, a court may order at the time of sentencing that the individual's record be expunged upon successful completion of the sentence. Our legislature should look into widening the net of those eligible for expungement. Additionally, our legislature should give deep thought to determining whether our current expungement statute should apply retroactively to include individuals sentenced before July 1, 2009. Prior to that date, a court could only expunge the court record if it was for a misdemeanor offense and the individual was under 21.

These are but a few of my thoughts. Sometimes I ponder whether stakeholders should be required to spend a night in prison to get a “real feel” for what it is to serve a sentence—not to punish stakeholders but rather to provide keen insight into decisions in which they play an essential role.

In an election year with political pundits pushing propaganda plus promises, let us avoid the hype and hone in on what has proven to work. I am in our criminal courts system day in and day out. Prevention, diversion, and restoration work—each producing tangible, direct results. Last September, I hosted the Second Chance Expungement Clinic at the Milwaukee Bar Association. I am happy to report that we helped a number of people with either expunging court records or removing arrest records. Today, some of them are gainfully employed and serve as living proof that this process works.

Needed: Law Day Volunteers
Law Day 2016 is right around the corner, and the Milwaukee Bar Association is seeking volunteers for its free walk-in legal clinics. On Saturday, April 30, Milwaukee-area libraries will host the free clinics, which offer any interested member of the public a one-on-one meeting with an attorney. These meetings will provide information and referrals appropriate for each individual's legal situation. We are currently seeking volunteers to join us from 10:00 to 2:00 at various libraries in Milwaukee.

Please contact Britt Wegner at 414-276-5931 or bwegner@milwbar.org if you are interested in participating.
MBA Judicial Forum Features Contrasts and Jabs Between Supreme Court Candidates

Incumbent Wisconsin Supreme Court Justice Rebecca Bradley extolled the virtues of applying the law as written and setting aside personal political and policy inclinations, while Wisconsin Court of Appeals Judge JoAnne Kloppenburg, a second-time challenger, promised to stand up to partisan politics and special interests that threaten the integrity of the court.

The candidates for a seat on the Wisconsin Supreme Court displayed their contrasting judicial philosophies and campaign messages at the MBA Judicial Forum on January 27, along with Milwaukee County Circuit Judge Joe Donald, whose candidacy ended with the February 16 primary. The general election is April 5.

Both Bradley and Kloppenburg decried the influence of politics in the business of the court, but with markedly differing emphases. Bradley, who was appointed to the Supreme Court in 2015, claimed that as a judge, she has always discerned and applied the law as it is, not as she might wish it to be, thereby implying that her appointments to the bench by Governor Walker and support from conservative political groups are beside the point. Kloppenburg, the presiding judge in District IV of the Court of Appeals, characterized her professional background as non-partisan, thereby enabling her to bring independence and integrity to the court.

While these self-portrayals didn’t differ materially from those the candidates espoused at the first forum, the second had considerably more bite than the first. The March 9 forum followed by two days the media splash that revealed Bradley’s incendiary writings as a college student at Marquette.

In response to the inevitable question about her written comments denigrating AIDS victims, gays, and Bill Clinton supporters, and how she claims to have changed her worldview since that time, Bradley said she is sorry for the sentiments she expressed a quarter century ago as a young college student. She added that she was “embarrassed” and “mortified,” and sorry that people had to read those comments then and are reading them now. Bradley asserted that she is not the same person she was 24 years ago and, like many others, has grown since her college years. As she journeyed through life and interacted with more and more people, she said, she realized she had been wrong. She also realized that words are powerful and can hurt people. She pointed out that while presiding in children’s court, she counseled and comforted children whose families had cast them out because they were gay, and presided over adoptions by gay couples.

Kloppenburg rejoined that Bradley’s career doesn’t show much evidence of the change she claims to have undergone. Bradley continues to espouse very extreme and conservative views, said Kloppenburg, and to receive assistance from very extreme and conservative groups throughout the campaign. Kloppenburg claimed that Bradley has, within the past few years, written an article that appeared to equate contraception with murder.

Another question confronted Bradley with the recent newspaper report that she left the bench in the middle of a Supreme Court oral argument in order to attend a political event. Justices arrive late and they come and go, said Bradley. Though they try to avoid missing any argument, scheduling conflicts do exist. She pointed out that she asked all her questions before leaving, and later watched WisconsinEye’s recording of the portion of oral argument for which she was absent, so she “missed absolutely nothing.”

Kloppenburg, however, asserted that there is “nothing routine about leaving oral argument 23 minutes early” for a non-emergency purpose. In some of the strongest language of the forum, Kloppenburg termed that conduct a “dereliction of duty,” an “affront to the parties” in the case being argued, and “not appropriate service” from a Supreme Court justice. She added that Bradley left the argument to make a campaign presentation to Wisconsin Manufacturers and Commerce, a “big-money special interest group” supporting her candidacy.

Predictably, the attacks went both ways. It was Kloppenburg’s turn to be on the defensive when questioned about her statement, during her previous run for the high court, that “tough on crime” was “not her message.” Kloppenburg responded that the statement has been taken out of context, and that the largest law enforcement organization in the state has endorsed her candidacy. She claimed that a reader of her judicial decisions couldn’t fairly characterize her as liberal or conservative, or as tough or soft on crime. But Bradley countered that Kloppenburg clearly said that “tough on crime” is “not her message.”

Bradley also claimed that the majority of sheriffs in Wisconsin have endorsed her, and that she has the overwhelming support of law enforcement in Milwaukee County, where she has been on the bench.

Kloppenburg also responded to a television ad concerning her ruling in the case of a convicted sexual predator of a child who moved to Wisconsin after being sentenced in another state. The defendant moved to withdraw his plea, and that the defendant remains in prison. According to Kloppenburg, “the system worked.”

Bradley countered that Kloppenburg clearly said that “tough on crime” was “not her message.”

In response to a question about the millions of dollars that special interest groups pour into judicial elections, Bradley took Kloppenburg to task over an ad she ran five years ago against Justice Prosser, at a cost of $1 million.
MBA Circuit Court Judicial Forum Produces Fireworks at the Final Bell

Incumbent Judge Michelle Havas and challenger Jean Kies came out swinging in their closing statements at the MBA’s March 15 Judicial Forum, in marked contrast to the non-combative tone that had prevailed up to that point. The two candidates are vying for election to Milwaukee County Circuit Court Branch 45. Incumbent Judge Paul Rifelj and challenger Hannah Dugan—the candidates in the only other contested circuit court race (Branch 31)—also participated in the forum. The general election is April 5.

After all four candidates gave opening statements and answers to questions that avoided express comparison with their respective opponents or any hint of partisanship, Havas in her closing statement took Kies to task for characterizing her as “hyper-partisan.” Havas retorted that “I am who I am,” that she came to the forum without notes (in apparent contrast to Kies), and that her courtroom door is open for anyone to observe her performance as a judge. Havas added that Kies had applied for the appointment to Branch 45 that Havas won last August, but didn’t get past the first round; that Kies had also unsuccessfully applied to Governor Doyle for a judicial appointment; and that no one has had an opportunity to see Kies on the bench.

Havas concluded by citing endorsements from Governor Walker and Milwaukee County District Attorney John Chisolm, who “agree on nothing else.”

Kies, who had just made her closing statement, asked moderator Janine Geske for an opportunity to respond, and Geske gave her 30 seconds at the end. Kies said that she had stayed away from partisanship in her campaign, but although Havas was Governor Walker’s choice, numerous elected representatives and labor unions in Milwaukee County don’t agree with him and instead support Kies’ candidacy. She asserted that “judgeships don’t belong to the governor; they belong to the people.”

Havas was born and raised in a “blue collar home” in Oak Creek. She started out as a secretary and went to school at night. She graduated from Concordia College and Marquette University Law School. She served as a probation and parole officer, and worked in the DA’s office. She currently presides in a domestic violence branch of the criminal division.

Kies was born in Platteville and raised on a farm there. She graduated from the University of Wisconsin-Madison with a journalism degree, then attended law school at Marquette. She has had her own firm in Milwaukee since 1993.

Rifelj was appointed to preside in Branch 31 last December. He served in the Milwaukee and Racine offices of the State Public Defender for more than ten years. He took both his undergraduate and law degrees from UW-Madison. He stated that his career has been dedicated to trial work for the most vulnerable in the justice system. He cited endorsement of his candidacy from 35 circuit court judges, as well as the police, firefighters, sheriff, and Labor Council in Milwaukee County.

Dugan graduated from UW Law School in 1987, and worked for both Legal Action of Wisconsin and the Legal Aid Society of Milwaukee. She served as president of the MBA in 1999-2000, and founded her own firm in 2010. She asserted that as a lawyer, decision maker, and civic leader, she has been working for justice for three decades. She pointed to her experience as an attorney discipline referee for the Wisconsin Supreme Court, as chair of the Judicial Commission, and on the county and city ethics boards as evidence of her ability to make “tough decisions about powerful people without partisanship.”

Asked what was the hardest decision she ever had to make as a professional, Kies identified a work-life balance decision—to delay running for judge so she could be the best parent she could be. Havas recalled children’s court cases for termination of parental rights, explaining that most parents do not want their rights terminated but some are simply unequipped to raise their children. She said she was never happy to terminate parental rights but when that was necessary, she tried to be kind and respectful.

Rifelj recounted that his most difficult professional decision arose from the fact that his dream job was to work in DA Michael McCann’s office, but...
Joseph Donald continued from p. 11

D.C., and Dottie Donald moved with him to continue her care of the Cudahy children.

With his mother out of town, Judge Donald moved again—within Shorewood so as to finish his senior year there. He had the benefit of living with the Thomas Herz family. Herz was a partner at Michael, Best & Friedrich, and his son also attended Shorewood High School.

While in high school and living with surrogate families, Judge Donald realized college was attainable. He applied to Marquette University and was accepted into its Equal Opportunity Program, which helps first-generation college students find success.

Dr. Howard Fuller, an advisor to Marquette EOP students, helped Judge Donald find his focus by emphasizing that opportunities were clearly not to be wasted and expectations were high: “Because he was there, someone else wasn’t.”

During his college years, Judge Donald’s mother worked for the family of Allen Taylor. Taylor was a managing partner at Foley & Lardner and encouraged Judge Donald to consider law school.

After earning his undergraduate degree, Judge Donald moved to Boston to work in the financial industry and, after a few years, realized law school was the better option. He returned to Milwaukee to attend Marquette University Law School. Once again, his world continued to be shaped by those around him, particularly Phoebe Williams, his faculty advisor; Ullice Payne, for whom he interned; and Judge Victor Manian, for whom he clerked.

After law school, Judge Donald spent seven years in the Milwaukee City Attorney’s Office. In 1996 Governor Tommy Thompson appointed him to the Milwaukee County Circuit Court.

Judge Donald attributes his views from the bench, his expectations of lawyers, and the role of the courts in society to Judge Cudahy, who taught him that the courts are not simply referees but have a larger responsibility to acknowledge the impact of rulings on the litigants. Lawyers’ roles should be that of counselors and advisors, not simply advocates, and they should be accountable to clients and society.

Judge Donald, currently serving in the felony division, understands the court’s impact on both the victims and the accused, and the dissatisfaction each party can have with the criminal justice system. He reads every victim impact statement knowing that each victim will be forever changed. He also knows that incarcerated defendants, as well as society itself, will be changed when those defendants return to the community, frequently more marginalized and disconnected. The key, Judge Donald believes, is determining which defendants are truly dangerous and which can be “corrected.”

Not surprisingly, drugs and addiction are common problems among criminal defendants. As a new judge, Judge Donald’s first response to drug and addiction-related crimes was the knee-jerk reaction of locking up offenders. As the crack epidemic grew in the 1990s, the court became a revolving door for “frequent flyers.” Judge Donald recognized that incarceration alone was an insufficient deterrent; it was necessary to address the underlying problem of addiction.

Judge Donald also realized that many young defendants who appear before him have no positive expectations placed on them—by their families, schools, communities, or themselves. Instead, they often expect to end up in prison or die at an early age.

As he searched for an alternative to incarceration, Judge Donald realized that making drugs illegal was not enough to solve the underlying problems of hopelessness or addiction. Similarly, adding more police and prisons would not solve the problem. The key to addressing the drug epidemic, Judge Donald believed, was to treat addictions and adjust expectations.

What evolved from this new perspective was Milwaukee’s first drug treatment court, which Judge Donald helped create with the District Attorney’s Office and the Public Defender’s Office. The court uses empathy, rewards, and sanctions to help defendants address their addictions and understand the damage they inflict on themselves, their families, and society. The drug treatment court holds defendants accountable to a clear set of expectations. For many participants, this is the first time they see themselves as having a positive purpose within their families and community.

Over the years, the drug treatment court has evolved to address the community’s current heroin epidemic. Judge Donald cites his work with this court as one of his most satisfying roles.

Despite his recent loss in the state Supreme Court race, Donald is proud that he was able to elevate the discourse of the campaign and make voters aware that Wisconsin needs a truly nonpartisan Supreme Court to ensure that all citizens are treated fairly. He plans to continue to speak out about various forms of injustice and advocate for an independent and effective court system. His personal goal is to give back to the community and show his children that anything is possible.

Volunteer Spotlight continued from p. 5

Over a career of representing individuals, and as an active LRIS Committee member, Jon has come to realize the importance of a program, such as the LRIS, which makes referrals to community resources and competent pre-screened attorneys.

In addition to his MBA work, Jon has served as co-chair of the Mequon-Thiensville School District Ad-Hoc Community Engagement Committee, and as a member of the Mequon-Thiensville Community Conversation Task Force and the Mequon-Thiensville Business Advisory Committee. He was president of the Mequon-Thiensville Chamber of Commerce last year, and remains on its executive committee. Jon’s other community activities include the YMCA’s Camp Matawa and a local and national Arthritis Foundation committee.

Jon lives in Mequon with his wife, Dawn, their dog, and a 10-year old goldfish. The Safrans have two kids, the younger of whom graduated from UW-Madison last spring and works as a journalist with a Wisconsin newspaper.

Making a Murderer continued from p. 16

Healthy Skepticism as the Beginning of a Solution

However you may feel about Avery or Dassey’s guilt or innocence, shouldn’t we, as lawyers and judges, be asking harder questions, listening more skeptically to the responses, and doing more to help make our criminal justice system fairer to the most vulnerable of its defendants?

Making a Murderer can be a first step in the right direction. Long after viewers cease to debate the guilt or innocence of Avery and Dassey, hopefully they will remember the serious threats to justice on display in their cases. When they hear about a high-profile trial in the media, or sit as a juror in a criminal case, maybe they’ll appreciate the need for skepticism when confronted with a confession that might be false, an identification that might be mistaken, a prosecutor who might be overzealous, a defense attorney who might be ineffective, or a news report that might be sensationalized. As long as these problems remain, that skepticism will be necessary to achieve fairness for defendants in our criminal justice system.
Legal Advice Online

The Wisconsin Access to Justice Commission is pleased to announce the launch of Wisconsin Legal Advice Online (WLAO), a free online service that allows eligible Wisconsin residents to post legal questions for response by volunteer Wisconsin lawyers. WLAO, created by the commission and sponsored by the State Bar’s pro bono program, is one way to make brief legal advice available to more Wisconsin residents. WLAO is seeking volunteer attorneys to participate in this exciting and convenient way for lawyers to give back. Interested attorneys should visit the sign-up page (www.wilegaladvice.org/Account/UseAgreement) to learn more about the program and to find answers to frequently asked questions.

Bridging the justice gap

Wisconsin has an ongoing challenge to bridge the vast gap between the legal help its residents need and the resources available to them. For low-income residents, the need is particularly acute because legal aid offices are stretched thin with chronically inadequate funding. Various groups are working diligently to address the lack-of-funding issue. In the meantime, smaller steps can make the justice system more accessible. That's where WLAO comes in.

How it works

WLAO merges key features of a traditional telephone hotline and a brief legal advice clinic into a website that is available anytime, anywhere, to both volunteer lawyers and clients. Clients go through the online screening process to establish their financial eligibility to use the site and agree to the limited scope of the assistance provided, and are then able to post a legal question for participating volunteers. After you register with WLAO as a volunteer, you can log in to the site any time, review pending questions in the queue, select one you want to answer, and then respond at your convenience. We ask that you respond within three days of taking the question. You are able to ask the client for more information through the system and have a back-and-forth exchange until you decide that the question should be closed.

WLAO accepts any civil (non-criminal) law question, including questions on such high-demand topics as family, consumer debt, and housing. Questions may also be asked on topics such as tax, nonprofits, employment, estate planning, and education. Lawyers who sign up to participate can select the questions that they want to answer, and can subscribe to be notified when new questions are posted in categories that they select.

What about conflicts?

Because WLAO is an online, short-term, limited legal services program created by the Wisconsin Access to Justice Commission with support and sponsorship from the State Bar of Wisconsin’s pro bono program, SCR 20:6.5 conflict-of-interest provisions apply. Under Rule 6.5, the only conflicts of interest that would preclude you as a lawyer from answering a question through this website are conflicts of which you actually know at the time you receive or answer the question. Any conflict that might arise from your brief service through WLAO is not imputed to other lawyers in your office.

We've got you covered

Since WLAO is sponsored by the State Bar of Wisconsin’s pro bono program, you are automatically covered by the professional liability insurance the State Bar has in place for your volunteer service in this project.

Pro bono on your schedule

The entire exchange takes place through the website; there is no expectation of any ongoing representation outside of the messages exchanged on the system. The site helps attorneys keep track of their pro bono time so that they can qualify for the Wisconsin Pro Bono Honor Society.

WLAO is pro bono service on your schedule. You can even volunteer in your pajamas.

Judicial Forum continued from p. 20

of $1.6 million. In strong language of her own, Bradley described that ad as “one of the most vile political attack ads in state history,” and claimed that “this sleazy ad” was so misleading that Kloppenburg was asked to disavow it, which she declined to do.

Each candidate repeatedly drew attention to the fundamental difference between her judicial philosophy and that of her opponent. For example, in response to the question of what each candidate would say or do to address the perception that partisan politics governs the Supreme Court, Kloppenburg recommended election of a non-partisan justice. She pointed to her 23 years as an assistant attorney general in the administrations of both political parties. In contrast, she said, Governor Walker appointed Bradley to three judgeships in three years, Bradley is a member of the Federalist Society and the Republican National Lawyers Association, and the Republican Party is contributing to her campaign. Kloppenburg claimed that Bradley’s judicial philosophy “follows almost verbatim the words on the Federalist Society website.” For her part, Bradley maintained that she has never inserted her personal views into her decisions. In contrast, Bradley continued, Kloppenburg may choose her words carefully but she nonetheless believes it appropriate to insert her policy preferences and politics into her decisions. Bradley claimed that Kloppenburg believes the Constitution is a “living document,” the meaning of which should change with social and political conditions—which the people of Wisconsin don’t want.

In closing, Bradley proclaimed that the race features “stark differences” in judicial philosophies. Wisconsin voters should elect Kloppenburg, she said, if they want to be dictated to and ruled by a majority of justices who happen to be sitting on the Supreme Court. On the other hand, Bradley asserted that she should be the choice if the people of Wisconsin want to govern themselves through their elected representatives.

In her closing, Kloppenburg asserted that her judicial qualifications and experience are superior to Bradley’s. She asked rhetorically which of them will deliver on the promise to be independent. Voters can tell, she said, by how each of them got where they are.
Organizational Ombuds 101

“Ombuds” is a shortened form of the name “ombudsman,” which comes from Swedish and means “representative.” At a fundamental level, an ombuds is one who independently assists individuals and groups in the resolution of conflicts or concerns within an organization, and helps the organization make changes to prevent the issues from recurring. Ombuds work in all types of organizations, including governments, colleges and universities, corporations, non-profits, hospitals, and news organizations. Learn more about how the core principles of ombuds practice could benefit your clients or organizations.

Presenter: Natalie C. Fleury, Marquette University Law School

The Rules Limiting Mediator Drafting in Family Cases Should Be Changed

This talk will outline the current rules that prohibit mediators who assist parties in family court matters from drafting documents beyond a memorandum of understanding. It will also describe the problems caused by this prohibition, and describe a proposal being developed by the Limited Scope Representation - Mediation Subcommittee of the Planning and Policy Advisory Committee to the Supreme Court to permit such drafting.

Presenter: Honorable Michael J. Dwyer, Milwaukee County Circuit Court

12:30 – 1:00 (Registration)
1:00 – 4:00 (Presentation)
4:00 – 5:00 (Reception - hors doceuvres & wine)
3.0 CLE credits

FREE Ethics CLE Event Provided by LexisNexis to MBA Members

From a Different Perspective: The Ethical Challenge Presented by Social Media

“The overarching problem is that everyone sees and uses social media from a different perspective,” Social Media Consultant Neil Schaffer once explained.

Each person’s activity is dependent on his or her perspective, making the collection of relevant data all the more difficult. Add to that the complexity associated with ever-changing technology, and what’s left is an ethical minefield. Attorneys must then carefully balance their zealous advocacy on behalf of their clients, given the increased information available through social media, with the restrictions and guidelines imposed by both the Federal Rules of Civil Procedure and the Model Rules of Professional Conduct.

To help you with that balancing act, this CLE will focus on how the courts define social media and metadata; identify the emerging issues that social media present when they intertwine with litigation, specifically regarding discovery and metadata; impart how to recognize and avoid the ethical pitfalls associated with the collection of social media data and metadata; and describe sound strategies and best practices to obtain and preserve relevant social media posts and metadata.

During our session we will cover:
• What Is Social Media?
• What Is Metadata?
• Requesting Metadata
• Responding to Requests for Metadata
• Ethical Considerations
• Misconduct During Discovery
• Misconduct Related to Social Media
• Ethical Implications

When

Wednesday, March 30, 2016
12:30 PM to 1:30 PM

Cost

$0.00 MBA member

Where

Milwaukee Bar Association
424 East Wells Street
Milwaukee, WI 53202

REGISTER NOW! @ WWW.MILWBAR.ORG/CLE
Thinking of Going Solo or Starting a Practice?
Solo practitioner planning to retire at end of 2016. Contact lawrencegpolzin@sbcglobal.net for more details.

Ana Berrios-Schroeder continued from p. 17
Still not impressed? Ana has also been active in the community by serving on the board of directors of La Causa, Inc., Community Action, Inc. (of which she was vice-chair), the Latino Community Center, Inc., and the Puerto Rican Foundation of Wisconsin. She has received awards from the Latino Peace Officer’s Association as Latina of the Year, and from Milwaukee Magazine as one of the “Faces of the Future,” to mention a few. (At the ceremony where she received the Latina of the Year award, it was standing room only!) Ana belongs to a number of associations, including the Wisconsin Hispanic Lawyers Association (which she served as president), and the State Bar’s Gender Equality Committee.

Ana is a family woman who is close to her parents, siblings, and extended family. She is married to Glenn Berrios-Schroeder, a really cool guy who is an officer in the Marquette University Police Department, and they have a likewise incredibly cool son, Jai. (The only fault I can find in Ana is her inability to bring Jai over from the “dark side” to the “force” — that is, from being a Chicago Bears fan to being a Green Bay Packers fan! In that regard, Ana and Glenn have a mixed marriage.)

Now Ana is our family court commissioner, managing, overseeing, and problem-solving everything that comes to our offices and courts. And in addition to that (as if that weren’t enough), she oversees family court mediation services, including recruitment and training of mediators. It may just be one of the most difficult jobs in the courthouse. But no one should be concerned. I guarantee, from all my years of knowing Ana Berrios-Schroeder, she will handle it like the pro she has been throughout her career. In case you haven’t been able to tell, as an assistant family court commissioner working for her, I couldn’t be more pleased.

Mission Statement
Established in 1858, the mission of the Milwaukee Bar Association is to serve the interests of the lawyers, judges and the people of Milwaukee County by working to: promote the professional interests of the local bench and bar; encourage collegiality, public service and professionalism on the part of the lawyers of Southeastern Wisconsin; improve access to justice for those living and working in Milwaukee County; support the courts of Milwaukee County in the administration of justice; and increase public awareness of the crucial role that the law plays in the lives of the people of Milwaukee County.

Annual Milwaukee Justice Center Campaign to Kick Off in April
This year the MBA Foundation Annual Milwaukee Justice Center Campaign will run from April 4 to 15. Your donations help sustain the MBAs signature public service project, which strives to address the substantive and procedural barriers facing unrepresented litigants so they can better navigate the legal system.

The need is real. In 2015 the MJC assisted more than 10,000 clients due to the generosity of our donors. And already this year, the MJC has helped nearly 1,700 clients. Please help us continue our commitment to improve access to justice in Milwaukee and address a growing need in our community.

To learn more and to donate, please visit the MBAs website, www.milwbar.org, and click on Milwaukee Justice Center. And you don’t need to wait until the campaign—you can donate any time.
In Memory of Kurt Frauen

Anonymous

Kurt Frauen, a partner in Borgelt, Powell, Peterson & Frauen, died in 2014. This brief remembrance by one of his children isn't about his life as a lawyer. Then again, from a broader perspective, maybe it is ….

We had a dad who took his kids hiking, swimming, canoeing, and exploring in all kinds of weather. Lying on the hill at Klode Park, gazing in awe at the Milky Way and feeling the warm summer breeze on our skin … running around in the Milwaukee River on Sunday mornings with sticks and stones and stirring up mud to brew “coffee” for Dad … climbing down the rocky bluff to Lake Michigan where we walked barefoot, skipping beach stones in the summer … or exploring “glaciers” there when everything froze over—with Dad, we never knew what adventure would come next. We often came home wet, muddy, and cold, but it felt good and Dad would rub my feet, or sit on them, until they were warm again.

Sometimes he would give us a challenge, like swimming across a lake; he always rowed alongside, offering encouragement and cheer. And there was the longstanding tradition of jumping into the lake early in spring and in the fall. Standing on the edge of the pier, knowing the water is really cold, hurting cold, you feel some dread and nervousness, but then you jump and learn that you can do it. And that attitude spills over into life. That was something we never thought about. We did it because, with Dad, it was just pure fun.

Many Milwaukee city kids have never even been to Lake Michigan. Just as we need healthy food and sleep, a deep connection with the natural world is not just something that is nice, but a vital part of our well-being. True stewards of the Earth can only come from that love and deep connection. “Passion is lifted from the earth itself by the muddy hands of the young; it travels along grass-stained sleeves to the heart. If we are going to save environmentalism and the environment, we must also save an endangered indicator species: the child in nature.” Richard Louv, Last Child in the Woods: Saving Our Children from Nature-Deficit Disorder (Workman Publishing Company, 2005).

Increased self-esteem, enhanced brain development, creativity, reduced stress, and improved social relationships are a few of the many reasons to get kids (and adults, too) outside. But the real reason is that dancing through the woods and rivers with mud between your toes is pure magic.

To learn how Kurt’s family is honoring his memory, go to www.kurtfrauen.com.
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