THE OHIO STATE BAR ASSOCIATION MEMBER MAGAZINE

Ohio Lawyer

March/April 2018

VOL. 32, NO. 2
www.ohiobar.org



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Table of Contents

4 **President's Perspective**
by OSBA President Randall Comer
Changing the Narrative about Our Profession.

6 **Meet the Candidates**
Get to know the candidates for OSBA president-elect.

10 **Foundation News**
OSBF welcomes new board leaders.

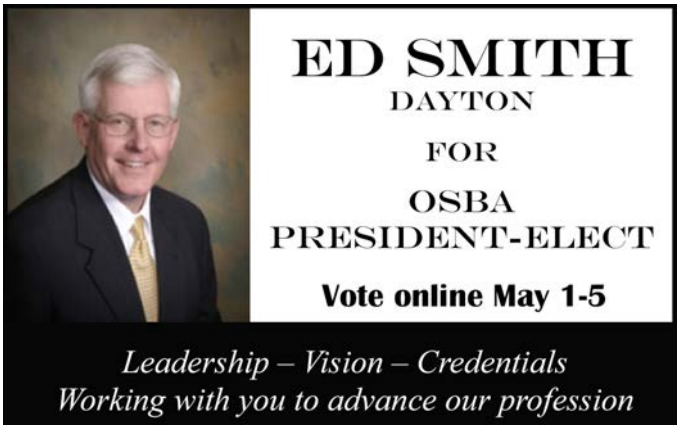


12 **"Me Too": Sexual Misconduct in the Legal Profession**
by Philip Bogdanoff
The Ohio Supreme Court has confronted numerous cases of sexual harrasment and inappropriate conduct by attorneys.



16 **Training Must Be A Part of Every Employer's Action Plan To Stop Sexual Harassment In Their Workplaces**
by Peter K. Newman, Esq.
Practical advice and training tips to help ensure a safe and inclusive work environment.

20 **Legal Leaders**
In memoriam, awards and community involvement of OSBA members.



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Printing: Hopkins Printing

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Table of Contents



22 **Dreamland: The Signs, the Crisis, and the Way Out of the Opioid Epidemic**

By Annie Yamson

In *Dreamland: The True Tale of America's Opiate Epidemic,* author Sam Quinones investigates the roots of the opiate epidemic and the path that led to today's lawsuits against pharmaceutical industry giants.

25 **CLE Calendar**
Browse our upcoming Live CLE courses.

26 **Statehouse Connection**
by Todd Book
Winds in the East.

28 **Law & Media**
Websites, books and apps for the legal profession.

30 **The Movement**
Here's how the OSBA helps improve and advance the legal profession.

32 **Member Profile**
Meet OSBA member Chanda L Brown.

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Ohio Lawyer (issn 1097-6493) is published bimonthly by the Ohio State Bar Association, P.O. Box 16562, Columbus, Ohio 43216-6562. Phone: (800) 282-6556 or (614) 487-2050. Periodicals postage paid at Columbus, Ohio and additional offices. Ten dollars of dues pays your required subscription to Ohio Lawyer.

Ohio Lawyer is published as a service to members of the Ohio State Bar Association through their dues and is not available to nonmember attorneys. Governmental agencies and educational and legal research organizations may subscribe annually for $35. Single copies to members and qualified subscribers are $7.

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Ohio Lawyer is published bimonthly by the Ohio State Bar Association.

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LiveCLE

Waking from Dreamland:

The Opiate Crisis and Where Ohio Stands in the Fight

May 7th, 2018
5.5 Credit Hours
ohiobar.org/CLE18-305



Meet acclaimed journalist and author Sam Quinones, author of *Dreamland*, who will discuss the rise of the opioid epidemic in the U.S. and the possible policy solutions for states, communities and medical boards. Each pre-registered attendee will receive a copy of Sam Quinones' book, *Dreamland*. There will be a meet and greet with the author (in Columbus only), including a book-signing opportunity.

Pre-register by April 20th and receive a complimentary copy of the book, *Dreamland*.

PRESIDENT'S PERSPECTIVE

Randall M. Comer

President, Ohio State Bar Association



Changing the Narrative about Our Profession

As I am rounding out my ninth month as OSBA President, I can say without equivocation that the best part of the position is the opportunity I have had to travel the state and to meet with fellow attorneys and members of the bar in their communities and at pivotal moments in their careers. For example, at the annual district meetings, I have the privilege of honoring those who have practiced for 50 and 65 years. On the other end of the career spectrum, I'm greatly encouraged to see the 40 and Under Community Service honorees being recognized by the Ohio State Bar Foundation for the good work they are doing, often outside the practice of law. In November, I had the honor of addressing the more than 600 new admittees to the bar at their swearing in ceremonies. And, this past January, I met new University of Akron School of Law students who, should all go as planned, will be in those same shoes three years from now.

When speaking to the incoming Akron class as part of their orientation programming, I was struck by an oath they take. As one might expect, the oath calls for a commitment to uphold the highest standards in academic honesty, ethical practice and the responsibilities entrusted to them by the bench, the bar and the public. It calls for the students to be persons of principle, strength and courage, and to conduct themselves with dignity and civility. However, what really impressed me was the oath's requirement that the students be persons of "compassion" and treat others with "kindness" – two words, unfortunately, that are not often associated with lawyers and the legal profession.

I wish the general public could see what I have seen and meet the lawyers I've gotten to know. If they did, I don't think there would be quite as many lawyer jokes, and perhaps public opinion surveys would not rank us at roughly the same level as prostitutes on a scale of warmth/compassion as one Princeton University Study found. (Seriously – that was not a joke.) In that study, lawyers received high marks (on par with doctors, scientists and professors) for competence, but when it came to compassion (i.e., caring for and willingness to help others) we were below nearly every other profession including truck drivers, construction workers, garbage collectors and politicians.[1]

Unfortunately, that study isn't an outlier. A 2002 ABA study found that 74 percent of those surveyed believed lawyers to be more interested in winning than in seeing justice served. Sixty-nine percent believe we are more interested in money than serving clients. And 57 percent believe that lawyers are more concerned with their own self-promotion than their client's best interests.[2] It's hard for me to reconcile those numbers with the fact that if you ask a room full of lawyers why they became lawyers, the vast majority of them will tell you it was so they can help people. These perceptions aren't us. So why do people feel this way?

I've given this significant thought and here's what I've come up with. For one, we trade in time and advice. It's a relatively costly product a client can't see or touch, they likely don't fully understand it (or else they wouldn't be coming to us) and oftentimes, they don't want to hear what we are obligated to tell them. Secondly, we are typically offering our services at the most stressful, difficult or tying time in a person's life – when they are facing criminal charges; they've been injured; they're going bankrupt; there's been a death in the family; they are considering or are filing for divorce; or in the case of a will or a prenup, they are reflecting on their own death or potential future divorce. Not to mention that we do our work in an inherently adversarial system – there are nearly always winners and losers. When a doctor heals a patient, no one else has to suffer, but when a lawyer wraps up a trial, half of all involved typically are leaving the courtroom disappointed in the outcome. For the most part, it's not the lawyers themselves that give rise to these misperceptions, rather it's the nature of our business. Our work is oftentimes difficult and unpleasant and, unfortunately, people seem to develop a negative paired association between us and it.

So, I submit to you that the deck is somewhat stacked against us and there are gross misperceptions about us and our profession. Thus, we must do all that we can to combat these misperceptions, because reputation matters. "A good name is more valuable than riches; to be esteemed is better than silver or gold," says Proverbs. But much more than our own reputations are at stake here. As legal professionals, we are the keepers and protectors of the Rule of Law – the sacred foundation upon which our democracy is built. If the public lacks confidence or trust in us, they certainly will lack confidence in the Rule of Law. That makes it incumbent upon us as a



profession and as individuals to go above and beyond. To be not only be good at what we do, but to be good ambassadors for our profession and all the good that it represents.

There are many ways we can do this, starting with giving more of our time, talent and treasure. I'm not just talking about pro bono work (thought that's certainly a positive way to boost the image of the profession and help with the access to justice gap). We must also support civics education. In my estimation, if we want to change the perception of attorneys, let's start with the young and impressionable minds of coming generations. We have ready-made opportunities through programs like Mock Trial, Moot Court and We the People to get into local schools and help students, teachers and administrators understand what lawyers do and why they are important. The Ohio Center for Law Related Education (OCLRE) – just one of our outstanding OSBA affiliates – is always looking for volunteers. Even if you can't make that level of time commitment, just finding one hour to speak to a class about the Constitution or to participate in a career day can really make a difference.

Just as OCLRE makes it easy for us to get involved in civics education, the Ohio State Bar Foundation (OSBF) makes it easy for us to be charitable and to pool our resources for the greatest impact. Our combined charitable giving makes a huge statement that we care about our fellow man and will put our money where our mouths are when it comes to advancing the law and building a better justice system. In 2017 alone, the Foundation granted more than $750,800 to charitable organizations and programs and since 1992, has granted more than $12 million. If you are not already, I encourage you to apply and become an OSBF fellow or to nominate a fellow attorney for the honor. The deadline for the next class is mid-December.

Other ways we can show our best selves is to get more involved in our local communities, maybe even run for office. Lawyers are often called upon to serve on boards, commissions and in advisory roles. Embrace those opportunities if you are able. But I also urge you to get directly involved in the good work being done by the boards on which you serve. I am convinced that if people get the opportunity to work elbow-to-elbow with lawyers on projects for the greater good, they would come to see that attorneys are truly kind and compassionate.

Finally, we must remain mindful of these misperceptions and prejudices and always strive to conduct ourselves in an honorable way that challenges and undermines them. I don't mean we should be defensive or dogmatic (in fact that works against us), I think the best way to defy public opinion is with positive personal interactions, kind words and good deeds. This goes for interacting with our clients and everyone we encounter. In our business dealings, we should always endeavor to be transparent, humble and, as the Akron Law School oath requires… compassionate.

My travels as OSBA President have shown me that so many lawyers are already doing this and the OSBA loves to tell those stories to anyone who will listen – via good press coverage, member profiles in *Ohio Lawyer* (see pg. 32) and on our website and social media accounts. It's one small way we are working to change the narrative of our profession. If each of us does this in our own small way, I truly believe that over time, more of the public will come to see us for who we truly are – good people doing good work that is vital to our democracy and our way of life.

Endnotes

[1]Fiske, Susan and Cydney Dupree "Gaining trust as well as respect in communicating to motivated audiences about science topics" *Proceedings of the National Academy of Sciences* Volume 111 (Supplement 4) (2014): 13593-13597 PRINT.

[2]American Bar Association Litigation Section. *Public Perceptions of Lawyers Consumer Research Findings (2002).*

Meet the Candidates for OSBA President-Elect



Edward Smith

Firm: Nolan Sprowl & Smith
City: Dayton
Date of Admission: 1973
Law School: University of Notre Dame Law School



Eleana Drakatos

Firm: Yacobozzi Drakatos, LLC
City: Columbus
Date of Admission: 2003
Law School: Capital University Law School

This year, there is a contested election for president-elect between Ed Smith and Eleana Drakatos, and the election will be held via electronic or mail ballot in May. All OSBA members will receive an electronic ballot in May. If the OSBA does not have your email address on file, you will receive a ballot through regular mail. Look for more information on ohiobar.org, which will include more information on the candidates and voting instructions.

What made you want to become President of the OSBA?

ED SMITH: I'm determined to lead the OSBA because it has benefitted me tremendously. It has afforded me the honor of chairing the Grievance Committee; representing the OSBA in the Supreme Court; becoming a certified specialist in Estate Planning, Trust & Probate Law; learning complexities of the practice through great lawyers on the Ethics Committee and Probate Section; and much more. My goal is to make the Association more useful and relevant by promoting the professional interests of our members (the OSBA's Core Purpose), and making sure members have ownership of the Association.

ELEANA DRAKATOS: Past President John D, Holschuh, Jr. appointed me to the Board of Governors in December, 2014, as a Trustee-At-Large to fill a recent vacancy and serve an additional 3-year term. At that time, I had served on other professional boards and also as President of the Women Lawyers of Franklin County, but the honor of being asked to serve the OSBA was like no other. After a couple of months on the Board, I realized how much the OSBA does for Ohio lawyers, and how little Ohio lawyers know about it. My goal became to spread the word! As President of the OSBA I will engage and listen to members. I will create strong positive relationships in hopes that Ohio lawyers feel connected and engaged with the OSBA.

The OSBA is made up of many demographics—younger attorneys and those more experienced, and from different backgrounds. How do you plan to ensure the OSBA stays relevant to the many attorneys the bar serves?

ELEANA DRAKATOS: The most important role of the President is to be connected and engaged with the members of the association. My goal will be to listen and engage with members, so that everyone feels connected with the OSBA and with each other. My hope is that technology will assist us in this effort. Let's not forget, however, that people still matter. Technology marches relentlessly forward, but some things like people-to-people communication remain fundamental.

ED SMITH: The OSBA must always be lawyer-friendly and ahead of the curve with changes in technology to address the "Do-It-Yourself" culture. The Young Lawyers, SSF&GP and Senior Lawyers Sections need to collaborate to bring younger lawyers into the practices of retiring lawyers. The Women in the Profession Section has explored flexible practice models. To remain relevant, we need to further explore options and communicate them, so firms can make informed choices and retain fine lawyers.

What new innovations or benefits to the association—including non-dues income—would you promote?

ED SMITH: Members who attend section and committee meetings should be able to obtain voluntary CLE credit for a nominal price. I've attended many committee and section meetings. They are the life-blood of the Association. Many of their agendas involve heavy-duty discussions about current law and practices. There is no reason that this should not be eligible for CLE credit at the option of the member. Optional CLE would raise meeting attendance, a win-win for members and the Association. Second, greater collaboration with law schools, corporate sponsorships, and national speakers would increase CLE revenue as well as Forum attendance. Finally, what we do for lawyers and their clients at the Statehouse is priceless. I would visit law firms to explain why we need everyone "on-board."

ELEANA DRAKATOS: The OSBA should be a hub where attorneys' needs are met and it should be "easy to do business with". We have already presented the benefit of purchasing health insurance through the OSBA's insurance agency. We will work to provide technology solutions for our members, such as cloud-based storage, a new website that will provide better connectivity, and more conference space at OSBA headquarters.

Tell us something interesting about you that isn't law-related.

ELEANA DRAKATOS: I was born in Cleveland, Ohio. When I was 5 years old, my parents decided we should move to Greece to be near family. I spent my entire childhood in Thessaloniki, Greece, and returned to Ohio when I was 18. Even though adapting to such a large move was difficult, I think that the experience of growing up in Greece has shaped the person that I am today.

ED SMITH: I'm Chair of Catholic Social Services of the Miami Valley. There are many people who need help. The big picture is important. I could not be involved helping people without the support and sacrifice of my wife, Kathie. We married just as I started service in the Air Force JAG. I've never met a more caring person. We knew we had done things right when our son became a lawyer and our daughter a teacher, both with wonderful families. That made our life's work even more satisfying.

Introducing Eleana Drakatos, Candidate for OSBA President-Elect



Eleana announced her candidacy for the office of President-Elect in June, 2017. She is from Columbus and practices with her husband, Dennis Yacobozzi, in the law firm of Yacobozzi Drakatos, LLC.

Eleana graduated from the Ohio Wesleyan University in 2000, with a BA in Psychology and Neuroscience. She obtained her law degree in 2003 from Capital University Law School.

Eleana has been an active member of the OSBA since law school and currently serves on the OSBA Board of Governors as a Trustee-At-Large. She is the chair of the Budget and Headquarters Committee and the chair of the CLE Content Advisory Committee. She is on the Section Council of the Women in the Profession Section, an OSBA Sustaining Member, and a Life Fellow of the Ohio State Bar Foundation. She served on the Futures Commission as chair of the New Model for CLE & Professional Development subcommittee. She also served on the Evaluation of Judicial Candidate Rating Commission, the Board of Editors, the Enterprise Risk Management Committee, and the Voting and Election Task Force.

In addition to being active in the OSBA, Eleana has been very active in the Columbus legal community. She served on the Board of the Women Lawyers of Franklin County for ten years and as President in 2013-2014. She served on the Boards of both the Ohio Association for Justice and the Central Ohio Association for Justice. She is a contributor for the OJI (Ohio Jury Instructions) Committee, and adjunct faculty at the Columbus State Community College.

Eleana focuses her practice in the areas of personal injury and medical negligence, and has successfully prosecuted cases to verdict. She is rated AV by Martindale-Hubbell's Peer Review Rating, has been named an *Ohio Super Lawyer* since 2015, and a *Rising Star* from 2011-2014. She was recently named by *Ohio Super Lawyers* as one of the Top 25 Women Attorneys in the Columbus area.

Eleana and Dennis live in Columbus with their 5-year old daughter, Mika. Eleana's greatest blessing is her family. Her husband's unwavering love and support inspires her to be the best lawyer she can be. Eleana attributes her work ethic and career choices to her parents whose life choices have shaped the person that she is today.

The election will take place May 1st through the 7th, electronically. Members of the OSBA will receive an email with a link to the electronic ballot, where they can cast their vote.

Introducing Ed Smith, Candidate for OSBA President-Elect



Fighting for Lawyers by Promoting the OSBA's Core Purpose

I am Ed Smith, a candidate for President-Elect of the OSBA. I want to take this opportunity to tell you briefly why I am asking you to vote for me.

Since starting my career as an Air Force JAG, I have enjoyed being a lawyer and being with lawyers. An invitation from a prominent Dayton lawyer led to my lengthy service on the Grievance Committee, which I chaired in 2014. That service afforded me the honor to represent the OSBA in the Ohio Supreme Court. In 2003, I became a certified specialist in Estate Planning, Trust and Probate Law, and I've been a long-time member of that Section. Currently, I'm also a member of the Ethics and Taxation Committees and the SSF&GP Section. I'm a sustaining member and Foundation Fellow.

I'm also Chair of the DBA Probate Law Committee and participate in the DBA Volunteer Lawyers Project.

I have been endorsed by the Dayton Bar Association as *"a proven and trusted leader"* and by numerous lawyers throughout the state.

As board Chair of a social services agency covering a significant portion of southwest Ohio, I have extensive experience leading a large organization that serves many people.

In short, I have provided recognized leadership, service and vision to both the profession and the community.

As your President, I will strive to – ensure the OSBA is providing value to its members and helping new lawyers succeed; promote integrity, diversity and inclusion in the profession; promote access to justice using lawyers; and work to make the practice of law more enjoyable and rewarding for all lawyers.

Each time we elect a new President-Elect, we rededicate our Association to its *Core Purpose,* engraved on a plaque in the lobby of our professional home: *"To advance the professional interests of members of the Ohio State Bar Association."* Everything we do as an organized bar association should benefit our members and advance our profession, while honoring our responsibilities to the citizens of Ohio.

We are under attack by those who want to do what we do, but without the knowledge, the responsibilities and the standards of accountability to which we adhere. We must protect the public from the harm inherently created by those who sell the shortcuts of drive-through law.

More importantly, we must be pro-active in promoting the benefits of our profession and educating those who need our services. We need to inform the public of all the good things lawyers do every day, and the value of our counseling, expertise, duty of loyalty, and confidentiality. Our services are crucial to the preservation of a free society, its commerce and the "pursuit of happiness."

The election will be held by electronic ballot *May 1 – 7, 2018*. I ask for your vote.

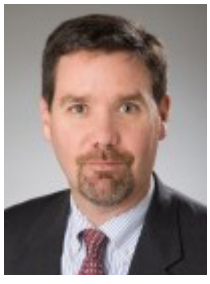
If you entrust me to be your leader, I will fight for our profession with the goal that the practice of law in Ohio will remain the thriving profession we all envision.

Ohio State Bar Foundation Welcomes New Board Leaders



Carol Seubert Marx
Carol Seubert Marx began her presidency on January 1st at the Ohio State Bar Foundation. Marx, a Distinguished Life Fellow Associate and sole practitioner in Lancaster with more than 35 years of experience, has a law practice that emphasizes the areas of workers' compensation, Social Security disability and SSI; estate planning; and probate. Serving on the OSBF Board of Trustees since 2012, Marx has a long history of giving back to her community. She served as a member and past chair of the Fairfield Medical Center Board of Trustees, a trustee and past president of Meals on Wheels Older Adult Alternatives of Fairfield County Inc. and trustee and past president of a local mental health agency. Marx is a former member of the Ohio State Bar Association Board of Governors and past president.

Marx received her B.A. from The University of Toledo and her J.D. from The Ohio State University Moritz College of Law.



Robert F. Ware
Robert F. Ware, a Distinguished Life Fellow Associate and 2018 president-elect, serves as chair of the Grants and Strategic Grantmaking Committees and as a member of the Executive Committee.

Ware, a partner at Thompson Hine, has more than 25 years of experience litigating contract, trade secret, unfair competition, copyright infringement, civil antitrust, false advertising and other complex business cases throughout the United States. While much of his litigation experience involves supply chain and distribution issues, he also has represented financial institutions, construction companies, nonprofits and design professionals in a variety of competition-related matters. Ware served on Thompson Hine's executive committee since 2012, was president of the OSBA and has contributed to many other professional and charitable activities.

Ware received his B.A. from the University of Virginia and his J.D. from the University of Michigan Law School.

Trustees new to the board this year include:

Kevin Wm. Donovan, Elyria
Fauver Keyse-Walker & Donovan

Janet L. Green Marbley, Columbus
Supreme Court of Ohio's Lawyers' Fund for Client Protection

Tabitha D. Justice, Dayton
Subashi & Wildermuth

Robin G. Weaver, Cleveland
Squire Patton Boggs

To read more about our new board members, please visit: www.osbf.org/news-events/news/.

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Honor the exceptional, celebrate an occasion or recognize the significant people in your life with a charitable gift to OSBF. Tribute gifts are an easy way for you to support OSBF grantmaking initiatives and to ensure special colleagues, friends and family receive the statewide recognition they deserve.

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Gifts made between November 19, 2017 and January 13, 2018

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Sen. George V. Voinovich
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Help us recognize excellence

We believe lawyers, judges, community members and organizations who work to improve the law and build a better justice system deserve to be recognized for their efforts. Our award winners lead their communities through volunteer service both in and outside of the legal profession.

Do you know a civic-minded attorney, committed to serving the community and deserves to be recognized? Tell us how amazing they are – nominations are due by June 1.

The Ritter Award is given to an attorney for a lifetime of service. This award recognizes the accomplishments of the honoree in attaining and promoting the highest level of professionalism, integrity and ethics in the practice of law while assisting other attorneys, the courts and the public to envision and cause changes that improve the justice system in Ohio.

2017 Recipient
Retired Honorable Evelyn Lundberg Stratton, Columbus

The Ramey Award for Distinguished Community Service is awarded to an attorney whose career exemplifies dedication to the goals and values sought to be furthered by the Foundation and to a lifetime of service to the public and the community. Service must be outside the recipients' practice of law and must be given without compensation.

2017 Recipient
Stephen F. Tilson, Galion

The Community Service Award for Attorneys 40 and Under is chosen from OSBF's district award recipients who contribute substantial time and effort in service to local social, civic, artistic or cultural organizations outside the recipients' practice of law and given without compensation.

2017 Recipient
Michael W. Kelley, Columbus

Honorees receiving the **Outstanding Program or Organization Award** promote the dissemination of information about, increase access to and/or generate improvements to the Ohio justice system.

2017 Recipient
Sisters In Law, Toledo

Read more about our award criteria for each of the four categories and submit your nomination online at OSBF.org.

Annual Awards Dinner and Awards Ceremony

Friday, October 5, 2018

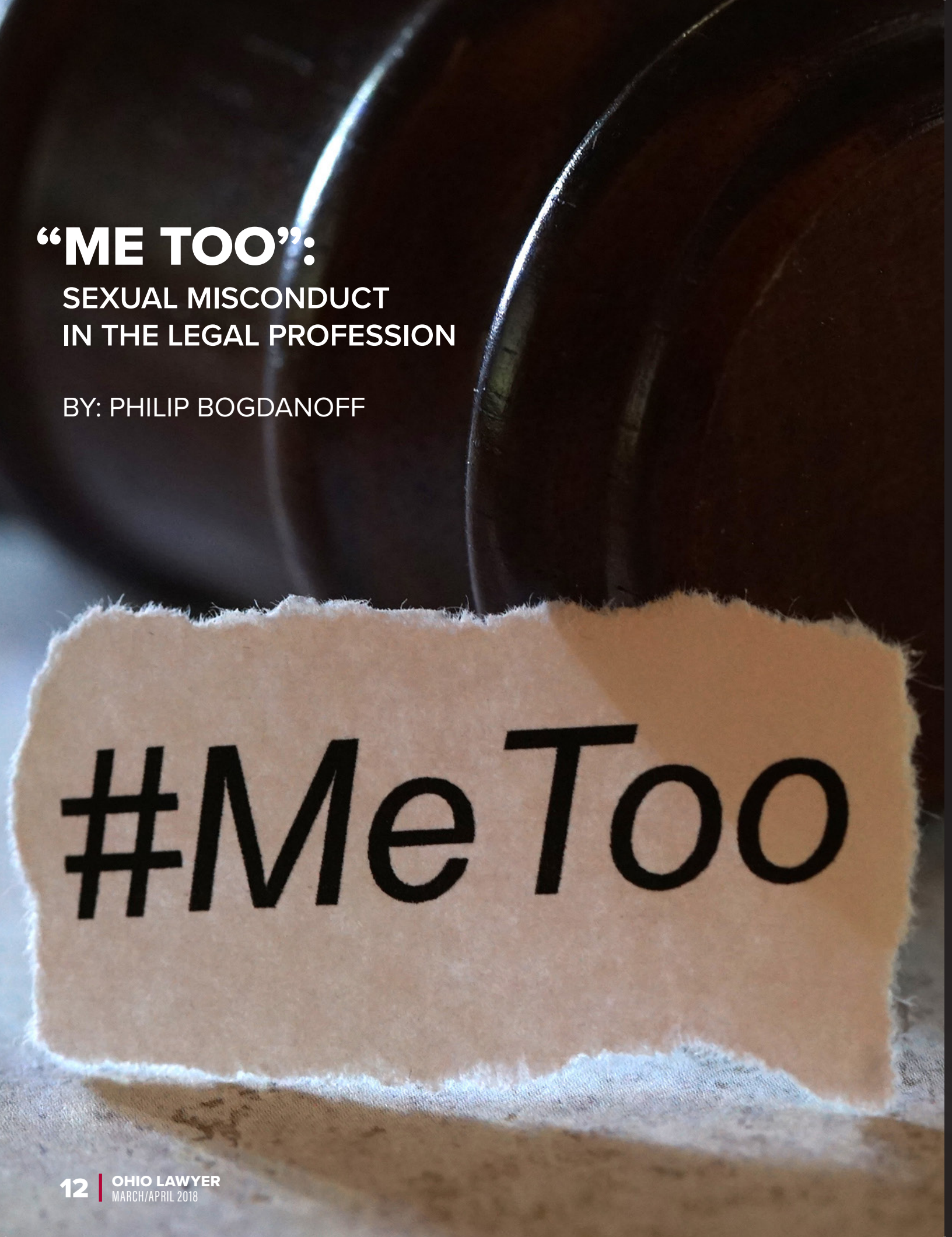
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"ME TOO":
SEXUAL MISCONDUCT IN THE LEGAL PROFESSION

BY: PHILIP BOGDANOFF

The "me too" movement has focused attention on inappropriate sexual misconduct in the workplace. This movement was highlighted when dozens of women made allegations against movie mogul Harvey Weinstein, including allegations of rape, sexual harassment and assault. In the world of politics, Minnesota Senator Al Franken was forced to resign based on numerous allegations of inappropriate sexual misconduct before he entered the Senate. The "me too" movement has brought to light very serious allegations of sexual harassment and misconduct in various industries and professional settings, including the legal profession. Judge Kozinski, a judge on the U.S. Court of Appeals for the 9th Circuit, resigned after numerous female law clerks stated that he made inappropriate sexual remarks to them and one clerk indicated that the judge had showed her pornography several times while in his chambers. The Ohio Supreme Court has confronted numerous cases of sexual harassment and inappropriate sexual misconduct by attorneys in its disciplinary docket.

Should sexual misconduct require an actual suspension from the practice of law?

In 2015, the Cleveland Bar Association filed disciplinary charges against Tasso Paris alleging that he violated Prof. Cond. R. 1.3 (requiring a lawyer to act with reasonable diligence in representing a client) and 1.8(j) (prohibiting a lawyer from soliciting or engaging in sexual activity with a client unless a consensual sexual relationship existed prior to the lawyer-client relationship) when he made unwelcome sexual advances towards a female client.[1] The client had been charged with driving under the influence of alcohol and driving under suspension, and she paid Paris $1,000 to represent her. Paris admitted that during the course of his representation, he asked his client to go out with him several times and invited her to his house to join him in his hot tub on more than one occasion. The client testified that as the case dragged on she would have done "whatever he wanted" to get it resolved.[2]

After pleading guilty, Paris did not appear for the client's sentencing. When the judge asked whether Paris was going to appear, the client stated that she did not expect him to because "[h]e's been doing nothing but trying to get in my pants."[3]

After stipulating to many of the facts, Disciplinary Counsel and Paris agreed to a recommended sanction of a six-month stayed suspension. However, the Board of Professional Conduct, noting the increasing frequency of cases involving inappropriate sexual misconduct, argued that there should be a presumption of an actual suspension. The Court declined to adopt this presumption and ordered a six-month stayed suspension, finding that Paris's conduct was similar to other sexual misconduct cases where the Court had ordered six-month stayed suspensions. The Court also noted that Paris cooperated with the investigation and had no other disciplinary violations. Justice Lanzinger dissented, stating that a presumption of actual suspension should apply, "especially because it appears that cases of this type are increasing."[4]

Attorneys that victimize their clients

In one of the more egregious sexual misconduct cases to reach the Ohio Supreme Court, Disciplinary Counsel alleged that then-attorney Edward Sturgeon committed sexual misconduct with three of his clients.[5] When a woman sought legal representation for a child custody matter, Sturgeon sought a $2,500 retainer. When she could only pay $50, Sturgeon indicated that would not even cover the filing fee and solicited oral sex. The client submitted to these advances. She then sought treatment at a local medical center, reported the incident to the police, and stopped payment on her $50 check.

In Count 2 of the disciplinary complaint, another woman sought legal assistance for a child custody matter and offered to pay $1,000 for legal assistance. Sturgeon arranged a meeting at the client's home where, after discussing her case for two hours, he closed the blinds, laid down on a bed and motioned for the client to lay next to him. When she refused, Sturgeon "stood up, touched her buttocks and breasts, and tried to force her to kiss him."[6] Sturgeon stated "that he did this kind of thing all the time and had helped many women with their legal troubles in exchange for their having sex with him."[7] When Sturgeon told this client that no other attorney would take her case, she paid him $1,000.

In Count 3 of the complaint, another woman sought legal assistance in a wage garnishment matter, Sturgeon charged the woman $300 and she paid a $100 down payment. During a meeting in his office, Sturgeon solicited oral sex from this client. When she refused, Sturgeon exposed his penis to her.

The Disciplinary Board and Ohio Supreme Court found that Sturgeon had violated numerous disciplinary rules, and the Disciplinary Board recommended an indefinite suspension. However, the Ohio Supreme Court imposed permanent disbarment based upon three standards of egregious professional misconduct. First, he used the attorney-client relationship to satisfy his own selfish sexual interest instead of concentrating on the needs of his client. He preyed on woman that were vulnerable and "tried to seduce them for his own selfish gratification."

Second, a lawyer must always exercise independent professional judgment and a lawyer who attempts to engage in an unwelcome sexual relationship with a client is putting his own personal feelings ahead of the objectivity that is the hallmark of any successful attorney client relationship. Third, not only did Sturgeon commit sexual misconduct, he lied about it during the disciplinary process and engaged in a pattern of deception.[8]

The Ohio Supreme Court has emphasized that the primary purpose of the disciplinary process is not to punish the offender but to protect the public from lawyers who are unworthy of the trust and confidence essential to the attorney-client relationship. When

attorneys victimize their clients to satisfy their own sexual interest, clients become trapped in the attorney-client relationship because of their desperate need for legal assistance.

In *Disciplinary Counsel v. Detweiler*, then-attorney Detweiler was retained by a former client to represent her in a divorce. She paid him a $3,500 retainer. Detweiler texted this client about her clothing, how it made him feel sexually, how he wanted to have sex with her, and then sent her a nude picture of his lower body in a state of sexual arousal. When Detweiler sent her a text message requesting oral sex, she declined his request. Although she was put in this incredibly uncomfortable position, she felt she was unable to fire her attorney because she had already spent $10,000 in fees and expenses and could not afford to retain new counsel. So, she continued this attorney-client relationship while fending off her attorney's sexual advances.[9]

Attorneys who victimize their office staff

This sexual misconduct does not stop at the attorney-client relationship. It also pervades the workplace, creating hostile environments for both male and female attorneys.

In *Cincinnati Bar Assn. v. Young*, then-attorney Young made sexual advances on a female law student who was applying for a position in his office. During her second interview, Young made inappropriate comments, including asking whether the law student was a virgin. The student worked in Young's office for a period of time, and the sexual advances and inappropriate comments continued. Young asked the law student to be his mistress and encouraged her to "sleep[] around." She was put in a difficult position because although she felt uncomfortable, ashamed and degraded, she also needed the job. The student eventually quit her job after Young lost his temper on one occasion. In response, Young threatened to ruin her career.

The Disciplinary Board found that Young had created a hostile work environment in violation of DR 1-102(B) (engaging, in a professional capacity, in conduct involving discrimination prohibited by law because gender) and 1-102(A)(6) (engaging in conduct that adversely reflects on the lawyer's fitness to practice law). The Ohio Supreme Court agreed with the Board's findings and ordered a two-year suspension with one year stayed, finding that Young's conduct was "appalling."[10]

Preventing sexual misconduct in the legal profession

The "me too" movement has unmasked sexual abuse that occurs in the shadows of the workplace. The legal profession is ripe for this type of abuse because of the confidential and personal nature of the attorney-client relationship. And as Justice Lanzinger noted in her dissenting opinion in *Paris,* cases of sexual misconduct by attorneys are becoming more frequent. This is especially alarming since we know from the "me too" movement that most cases of sexual abuse go unreported. There must be zero tolerance of sexual misconduct in the legal profession.

The question remains how to prevent sexual misconduct from occurring in the future. First, the Bar must do a better job of making the public aware that sexual misconduct is specifically prohibited by the Disciplinary Rules and that a lawyer can be suspended from the practice of law for this activity. Second, the "me too" movement should now have placed every attorney and judge on notice that they have an ethical responsibility to report sexual misconduct to disciplinary counsel. Third, the "me too" movement has demonstrated that sexual misconduct rarely occurs in isolation. After a substantiated allegation of sexual misconduct by an attorney, Disciplinary Counsel must investigate whether it is indicative of a pattern of activity. Finally, the Ohio Supreme Court must lead by example. The Court must emphasize the damage done to our profession when an attorney commits sexual misconduct and impose actual suspensions from the practice of law in these cases.

Endnotes

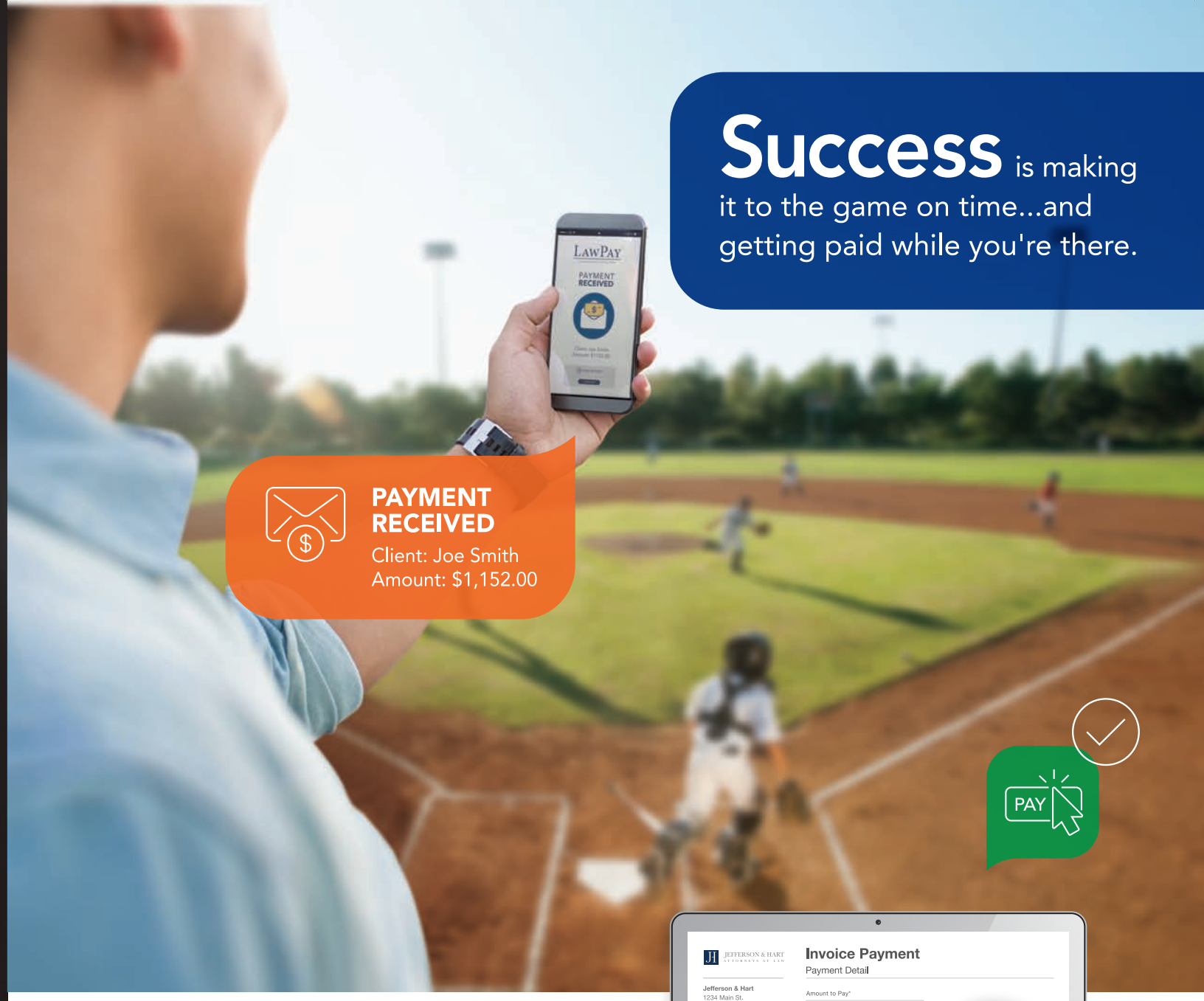
[1]*Cleveland Metropolitan Bar Association v. Paris*, 148 Ohio St.3d 55, ___ N.E.2d ___, 2016-Ohio-5581 (2016).
[2]Id at ¶ 6.
[3]Id at ¶ 7.
[4]Id at ¶ 29.
[5]*Disciplinary Counsel v. Sturgeon*, 111 Ohio St.3d 285, 855 N.E.2d 1221, 2006-Ohio-5708 (2006).
[6]Id at ¶ 12.
[7]Id at ¶ 13.
[8]Id at ¶ 24-27.
[9]*Disciplinary Counsel v. Detweiler*, 135 Ohio St.3d 447, 989 N.E.2d 41, 2013-Ohio-1747 (2013).
[10]Id at 320.

Author Bio



Philip Bogdanoff is a frequent continuing legal education speaker on the topics of ethics, professionalism and other topics. Previously, as an attorney, he served as assistant prosecutor in the Summit County, Ohio Prosecutor's Office for more than 25 years, beginning in 1981. Mr. Bogdanoff argued cases before the Ohio 9th District Court of Appeals and 20 cases before the Ohio Supreme Court, including six death penalty cases, before retiring as a senior assistant prosecutor.

He is the author of numerous articles on ethics, professionalism and other legal topics and has taught the members of numerous organizations including the National Association of Legal Administrators, as well as numerous state and local Bar associations and Prosecuting Attorney's Associations. More information about Mr. Bogdanoff is available on his Web site at http://www.philipbogdanoff.com/.



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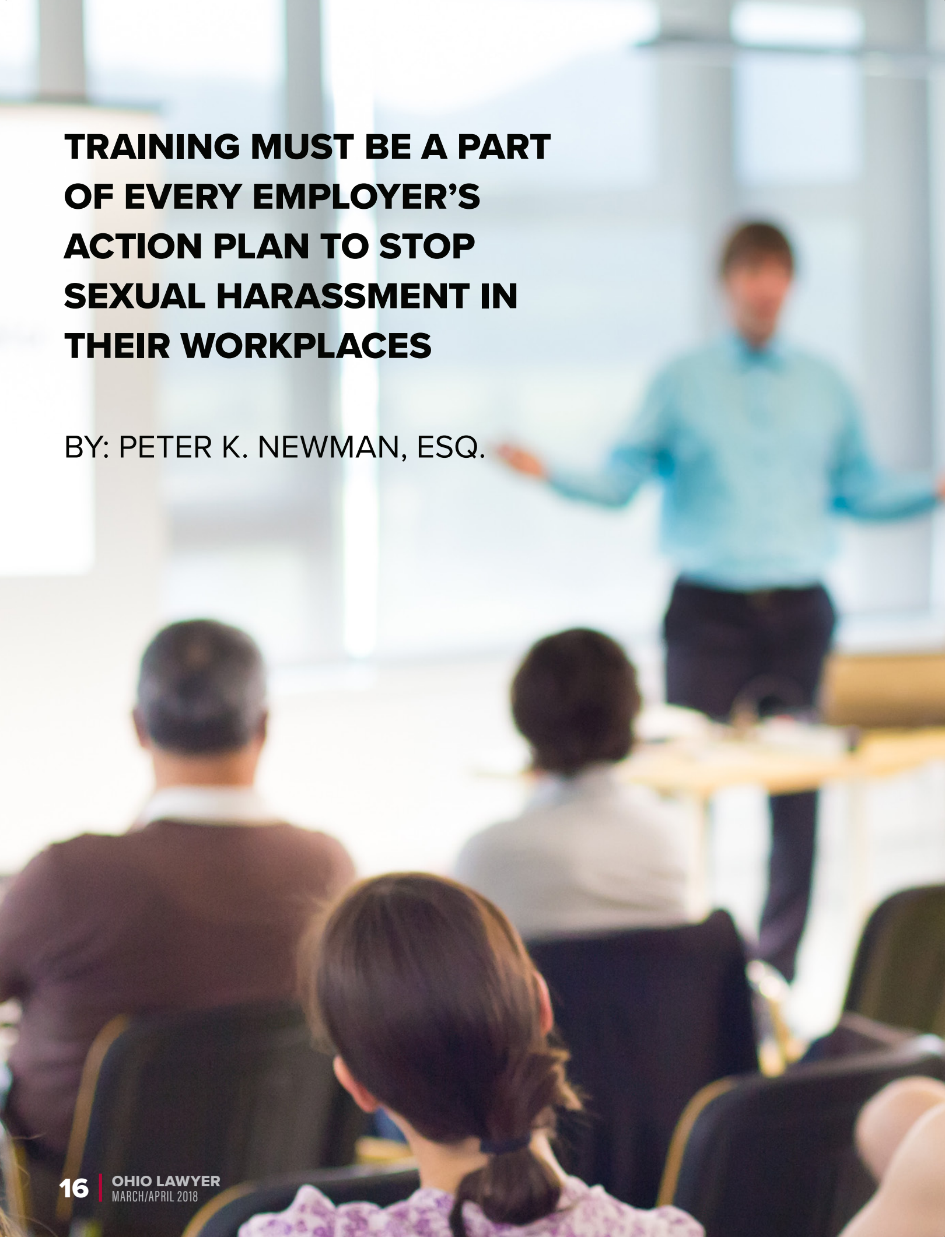
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TRAINING MUST BE A PART OF EVERY EMPLOYER'S ACTION PLAN TO STOP SEXUAL HARASSMENT IN THEIR WORKPLACES

BY: PETER K. NEWMAN, ESQ.

As a result of the publicity over high profile sexual harassment cases in Hollywood, Silicon Valley, the media and politics, America has once again been put through what Maureen Dowd describes as "a searing seminar on sexual harassment."[1]

Take a moment and consider what we have all witnessed: the awfulness of Ted Kennedy at Chappaquiddick (1969), the Clarence Thomas/Anita Hill confirmation hearings (1991), the Bill Clinton impeachment trial and the possibility that he was just not an adulterer but also a rapist (1998), and the sins of Woody Allen (1992). Now fast forward to 2017: the Bill Cosby trial, the downfalls of Roger Ailes, Bill O'Reilly, Matt Lauer, Charlie Rose, Garrison Keillor, Mark Halperin, Kevin Spacey, Louie C.K., and the resignations of Congressman John Conyers, and Senator Al Franken.

In the face of this persistent pattern of powerful men sexually harassing and abusing women, strong women across this country have risen up to speak truth to power in many different forums including the #MeToo Movement and the #TimesUp Initiative against sexual harassment in the entertainment industry. Time Magazine marked this cultural change and time of reckoning by naming "The Silence Breakers: The Voices That Launched A Movement" as its 2017 Person of the Year.

Even though we employment lawyers have always seen a steady stream of sexual harassment cases, this time something is different: *It feels like people are finally prepared to hold the harassers responsible.*

The big takeaway for employers is that sexual harassment affects all businesses because it involves men in power who believe that they are entitled to live by their own rules, which includes treating women as sex objects rather than fellow human beings. As Lord Acton observed, "power corrupts, and absolute power corrupts absolutely."

Unfortunately, this moment of reckoning has left many employers afraid and confused about what they can do to stop sexual harassment in their own workplaces. Here is some is practical advice on how to proceed.

13 step action plan for employers

Every employer should adopt an action plan that includes the following 12 steps:

1. Your senior management must set the "right tone at the top" by endorsing your zero tolerance sexual harassment policy and make it clear that they will vigorously enforce this policy.

2. Consider adding more women to your senior management. As Sheryl Sandberg, Facebook's Chief Operating Officer, has suggested, "ultimately, the thing that will bring the most change to our culture is having more women with more power." Employers need a stronger, more equitable workplace culture that treats women with more respect and affords them more opportunities. "And employers need to do more than just hire women – they need to mentor, advise and promote them."[2]

3. You need to have the right policies in place that explain – *in plain English* – what is unlawful sexual harassment, your complaint procedure, your investigation process, and the prompt corrective action your company will take, *up to and including termination*, if an employee is found guilty of engaging in sexual harassment.

4. Regularly train everyone in your company from the CEO to your newest entry level employee. You need to set the standard for respectful behavior at work so people understand right from the start what is expected of them.

5. Take every complaint seriously but do not rush to judgment until you have all of the facts including the accused harasser's side of the story.

6. To instill trust in your employees and to reaffirm how seriously your company or organization takes sexual harassment, use an outside lawyer to investigate your sexual harassment complaints. *Only an outside lawyer can conduct a thorough investigation, determine the strength of a sexual harassment claim and your defenses, and, most importantly, have the blunt conversation with company key executives and employees who are found guilty of sexual harassment.*

7. Adopt a balanced a balanced approach to investigating sexual harassment complaints which includes showing compassion for the accuser, respect for the rights of the accused, and a collaborative effort to find out the truth.

8. Warn everyone involved in your investigation against taking any retaliatory action.

9. Keep both the accuser and the accused up to date regarding the process of your investigation.

10. Complete your investigation as promptly as possible and make a decision on how to respond based on an objective evaluation of the evidence.

11. If you find that an employee has engaged in sexual harassment, remember that there are different levels of culpability and ensure that the *penalty fits the crime.*

12. To avoid potential disparate treatment claims, check on what you have done in similar circumstances in the past and act consistently.

13. Finally, document the reasons for your final decision and then take prompt corrective action.



Training tips to prevent sexual harassment in the workplace

This article focuses on Step 4 – Training. Since the U.S. Equal Employment Opportunity Commission (EEOC) issued its 1980 Guidelines on Discrimination Because Of Sex declaring sexual harassment a violation of Title VII of the Civil Rights Act, I have trained hundreds of executives, managers, supervisors and employees on how to avoid sexual harassment. Based on my experience, your training must do the following.

- Every employer should conduct companywide sexual harassment and sexual abuse avoidance training.
- Your training should focus on stopping sexual harassment, not simply protecting your company or organization from liability.
- *Your training should be in-person.* In-person training is more effective than online training because your employees will encounter less distractions and will actually complete the training. Most significantly, your employees will be more engaged with an effective live human trainer than with a computer screen.
- Send a strong message that your senior management is "all in" when it comes to enforcing your zero tolerance sexual harassment policy.
- Explain what is unlawful sexual harassment and the two theories used to prove harassment claims: (1) *quid pro quo*; and (2) hostile work environment.
- State that your company's policies reflect your company's legal obligations under the applicable federal, state and local laws.
- Make it clear that everyone who is involved in an incident of sexual harassment must correctly analyze the cost-benefit analysis for their actions: the harasser, the victim and the bystander witnesses. Every employee is responsible for maintaining a safe and harassment-free workplace and that enablers and failed gatekeepers are complicit when they stay silent or look the other way.
- Present a step-by-step explanation of your investigation process.
- Use role playing case studies that are ideally based on your company's own experience with sexual harassment claims or based on recent applicable cases.
- Give your trainees some key takeaways on how each of them can make stopping sexual harassment in your workplace a true team effort.

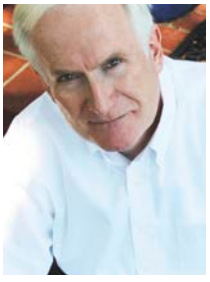
The key to stopping sexual harassment in your workplace is to convince everyone to take personal responsibility for their own conduct and to follow the Golden Rule when interacting with others at work. To achieve this goal, you must train everyone now and on a regular basis going forward. If you fail to effectively train your employees, a plaintiff employment lawyer will almost certainly use this against you.

Endnotes

[1]Dowd, M., "Harvey Weinstein, Hollywood's Oldest Horror Story," New York Times Sunday Review, October 14, 2017.

[2]Sheryl Sandberg's extensive post which she published on Facebook on December 3, 2017. See Leah Fessler, "Read Sheryl Sandberg's full Facebook post on ending sexual harassment," Quartz at Work, December 4, 2017.

Author Bio



Peter Newman practices in the areas of employment law and litigation, traditional labor law, business litigation, HR consulting, corporate compliance, risk management and business ethics. He is also an experienced workplace investigator and a well-received workplace trainer. You can contact Peter at either (937) 475-6282 or newmanlawgroup@gmail.com.

SEXUAL HARASSMENT LAW: CHRONOLOGY OF WATERSHED EVENTS

1964
Title VII of the Civil Rights Act of 1964 is passed prohibiting employment discrimination based on race, color, sex, religion or national origin. The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title VII.

1975
The term "sexual harassment" arose from a consciousness-raising session that **Cornell Professor Lin Farley** held with a group of students.

1980
The EEOC issues its Guidelines on Discrimination Because of Sex, declaring sexual harassment a violation of Section 703 of Title VII, establishing criteria for determining what constitutes sexual harassment, defining the circumstances under which an employer may be held liable, and suggesting affirmative steps an employer should take to prevent sexual harassment.

1984
Jenson v. Eveleth Taconite Co., 824 F. Supp. 847 (D. Minn. 1993) establishes criteria for determining when unwelcome conduct of a sexual nature constitutes sexual harassment, defining the circumstances under which an employer may be held liable, and suggesting affirmative steps an employer should take to prevent sexual harassment.

1986
In *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986), the Supreme Court recognizes that sexual harassment is a violation of Title VII. In formulating its opinion, the Court favorably cited the EEOC's 1980 Guidelines.

1990
The EEOC's Policy Guidance on Employer Liability under Title VII for Sexual Favoritism discusses potential employer liability when an employment opportunity or benefit denied to one employee is given to a supervisor's paramour or to an employee who submits to sexual advances or requests.

The EEOC's Policy Guidance on Current Issues of Sexual Harassment defines when sexual conduct is unlawful harassment.

1991
The Civil Rights Act of 1991 modifies Title VII to add more protection against discrimination in the workplace, allowing harassment and discrimination plaintiffs the right to a jury trial in federal court and giving plaintiffs the right to collect compensatory and punitive damages for the first time.

1993
In *Harris v. Forklift Systems, Inc.*, 510 U.S. 17 (1993), the Supreme Court ruled that in a sexual harassment case, the plaintiff does not have to prove concrete psychological harm to establish a Title VII violation.

1994
The Violence Against Women Act is passed, placing limits on the acceptability of evidence of the past sexual history of the plaintiff in sexual harassment cases. However, it permits such evidence to be used against sexual harassers accused of assault.

1995
Congress passes the Government Accountability Act, making Congress's own members subject to the same employment laws as the rest of the country.

1998
The Supreme Court, in *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998) and *Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998), spells out the circumstances in which employers are held liable for acts of sexual harassment carried out by their supervisory personnel. The Court rules that employers are liable when the sexual harassment has culminated in a tangible employment action directed against the harassed employee. The Court further rules that employers are permitted to establish an affirmative defense to the claim if it can show no tangible action was taken against the harassed employee and two additional elements: (1) the employer had communicated and established an effective procedure for employees to seek redress from sexual harassment; and (2) the harassed employee failed to take advantage of this procedure.

1999
The EEOC's Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors (6/19/99) updates the 1990 Guidance as it pertains to employer liability for harassment by supervisors and makes clear that the same principles apply to unlawful harassment on any bases protected under the federal employment discrimination statutes.

2016
In June, 2016, the EEOC releases its Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic on the Select Task On Force on the Study of Harassment in the Workplace noting that nearly one-third of the 90,000 charges the EEOC received in 2015 included an allegation of workplace harassment, and that 75 percent of harassment victims faced retaliation when they came forward.

2017
Following its 2016 Report from the EEOC's Select Task Force on the Study of Harassment in the Workplace, the Commission issues its Proposed Enforcement Guidance on Unlawful Harassment emphasizing that employers should take a proactive role in preventing harassment, as well as in effectively identifying and eradicating harassment if and when it occurs.

Akron

Magistrate Thomas Freeman, Summit County Juvenile Court, was elected president of the Ohio Association of Magistrates for the upcoming year.

Jaime U. Kolligian, Kastner Westman & Wilkins, LLC, was named to serve on the Board for United Disability Services in Akron and the Cleveland Advisory Board for the Ohio Diversity Council.

Beachwood

Sheldon Berns, Berns, Ockner & Greenberger, LLC, was the recipient of the Albert Nelson Marquis Lifetime Achievement Award.

Canton

Hon. Taryn Heath, Stark County Common Pleas Court, was elected to Ohio Common Pleas Judges Association Board of Trustees.

Toledo

Hon. Denise Cubbon, Lucas County Juvenile Court, was named a YWCA of Northwest Ohio 2018 Milestone Honoree.

Renisa Dorner, Spengler Nathanson PLL, was elected Chair of the Ohio Supreme Court Unauthorized Practice of Law Board, becoming the first woman to be elected in that role.

Sarah Skow, Spengler Nathanson PLL, was named a YWCA of Northwest Ohio 2018 Milestone Honoree.

In Memoriam

2016

Robert A. Toepfer;
96, Bay Village, Jan. 18, 2016

Marion B. Amato;
79, South Euclid, June 7, 2016

Daniel T. Lehigh;
90, Dover, June 22, 2016

Frederick W. Mebs;
89, Crestview Hills, KY, Sept. 18, 2016

Jerome S. Teller;
86, Cincinnati, Nov. 13, 2016

Peter John Donahue;
88, Kettering, Dec. 1, 2016

Irving H. Rosen;
88, Cincinnati, Dec. 8, 2016

2017

John Thomas Larimer;
83, Cincinnati, Jan. 12, 2017

Conrad Jack Morgenstern;
92, Beachwood, Jan. 14, 2017

Hon. Judge Raymond L. Pianka;
65, Cleveland, Jan. 21, 2017

Thomas A. McCormack;
67, Cleveland, March 13, 2017

Randall K. Gibson;
56, San Diego, CA, March 21, 2017

Martin Dennis Carrigan;
57, Mansfield, April 3, 2017

Thomas H. Crush;
82, Loveland, April 23, 2017

Kenneth M. Barnes;
87, Lancaster, May 20, 2017

John Doak Noble;
80, Arlington, May 20, 2017

Larry L. Wymor;
81, Chagrin Falls, May 23, 2017

Donald P. Mull;
90, Brecksville, June 10, 2017

William W. Owens;
73, Norwalk, June 13, 2017

Joseph Pearson Buchanan;
88, Dayton, June 27, 2017

Richard Heer Oman;
91, Columbus, June 28, 2017

James G. Nichols;
77, Batavia, Aug. 16, 2017

John Walter Solomon;
73, Wadsworth, Aug. 28, 2017

Samuel Richard Petry, II;
74, Pepper Pike, Sept. 5, 2017

Ronald L. Swonger;
95, Hillsboro, Sept. 15, 2017

F. Rush McKnight;
88, Cleveland, Sept. 16, 2017

Kimberly L. Vernekar;
39, Huber Heights, Sept. 22, 2017

Gary W. Melsher;
78, Pepper Pike, Sept. 27, 2017

Joseph P. Valore;
80, Urbana, Oct. 3, 2017

Donald M. Compton;
95, Centerville, Oct. 5, 2017

Paul Jonathan Tuffin;
90, Beachwood, Oct. 13, 2017

Judge Robert M. Lawther;
90, Rocky River, Nov. 4, 2017

Hon. James M. Porter;
86, Willoughby, Nov. 11, 2017

Hon. Richard W. Knepper;
70, Perrysburg, Nov. 15, 2017

Ronald C. Allen;
80, Akron, Nov. 26, 2017

James Michael Mackey;
67, Lyndhurst, Nov. 29, 2017

Bruce Petrie;
91, Cincinnati, Dec. 6, 2017

2018

Anthony A. Groeber;
77, Columbus, Jan. 21, 2018

Kenneth G. Rush;
87, Springfield, Jan. 28, 2018

This column is limited to awards and civic duties. The news listed is edited from press releases that are sent to the OSBA. Other submitted member news updates, such as promotions and new positions, are featured on the OSBA website.

To keep up to date with the most recent member news, visit ohiobar.org/membernews. To submit an announcement for consideration in Member News, please email it to the editor at membernews@ohiobar.org.

IN MEMORIAM

TIMOTHY J. OCHSENHIRT
1946-2017



Roetzel & Andress mourns the loss of its dear friend and colleague, Tim Ochsenhirt.

Our Chairman and Chief Executive Officer for 27 years, Tim was a mentor, guiding light, and fierce champion of our firm and its people.

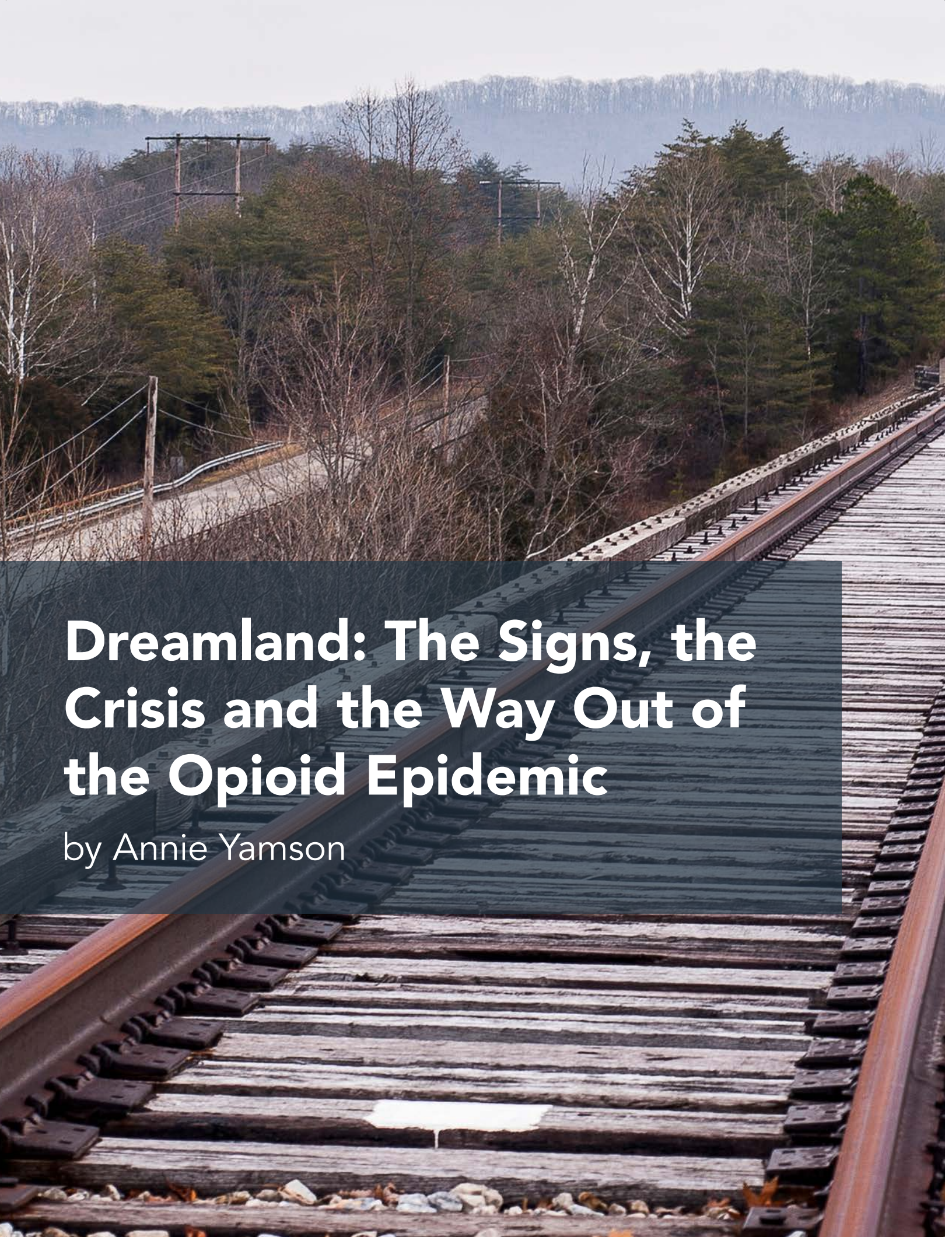
He was brilliant, gregarious, tough as nails, and without doubt, a visionary leader.

We extend our deepest condolences to Tim's children, grandchildren, and many beloved family and friends.

That man is a success who has lived well, laughed often and loved much.
Ralph Waldo Emerson

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Dreamland: The Signs, the Crisis and the Way Out of the Opioid Epidemic

by Annie Yamson

In "Dreamland: The True Tale of America's Opiate Epidemic," author Sam Quinones describes what is considered to be the first class-action wrongful death lawsuit filed against an opioid manufacturer, Purdue Pharma.

Scioto County attorney and Ohio State Bar Association member Joe Hale joined with a Cincinnati-based law firm in 2001 to file the suit on behalf of Jackie Burton who died after being injected with OxyContin, the opioid pain medication produced by Purdue. Reluctant to take on a pharmaceutical giant at first, Hale took the case when he saw opioid deaths in Scioto County soar.

"Purdue Pharma has unleashed a pharmaceutical atomic bomb into the free flow of commerce with absolutely disastrous consequences that they should have foreseen," Hale told the "Portsmouth Daily Times" in 2001.

The lawsuit failed after the Cincinnati firm removed itself from the case. Since then, lawsuits against "Big Pharma" have been quietly sparking and fizzling out at a steady pace. Purdue and other drug manufacturers and distributors have been subject to several lawsuits and Drug Enforcement Administration discipline, but they have typically chosen to pay millions in fines or settle lawsuits in lieu of litigation.

Today, more than 200 lawsuits accusing opioid manufacturers, distributors and even specific doctors are being consolidated in Ohio where Judge Dan Polster is overseeing the multidistrict litigation in the United States District court for the Northern District of Ohio.

Litigation from 19 counties, five cities and one children's services agency in Ohio are joined with cases out of California, West Virginia, Kentucky, Indiana, Mississippi and even Puerto Rico. As of this publication, the complaints are still accumulating and dozens more are playing out in state courts.

The current lawsuits accuse Purdue Pharma, Mckesson Corporation, Cardinal Health and Johnson & Johnson, to name a few, of corrupt and deceptive practices and they bring several racketeering charges under federal and state law.

In "Dreamland," Quinones calls the 2001 Scioto County class-action suit a "canary in a coalmine" but back then, he writes, "no one in the country listened much."

The City of Portsmouth, located in Scioto County and a pivot point in Quinones' book, is a study in the nationwide opiate epidemic. The city's narrative, from 1929 to present day, sharply illustrates the toll that addiction has taken on everyone from children to public agencies.

The book's eponymous Dreamland, a now paved-over community pool the size of a baseball field in Portsmouth, is an emblem of the town's past, before the opiate epidemic wreaked havoc on its population and, according to "Dreamland," made pill mills some of the few successful, independently owned businesses in town. Portsmouth is not the only city in the country crippled by the weight of the opioid crisis, but it is a perfect illustration of what Quinones set out to portray: the catastrophic consequences of a perfect storm.

Quinones tells a tale of capitalism run amok in two industries: the pharmaceutical business in America and the heroin black market of Mexico. For him, understanding one is essential to understanding the other.

"You cannot separate these two stories," Quinones told the Ohio State Bar Association. "It is a classic example of how we live in a connected world, that what we think may be a good idea may have unintended consequences and in this case they have been vast."

The U.S. Senate Health, Education, Labor & Pensions Committee has called the opiate epidemic "the nation's number one public health challenge."

> "It certainly is easier to just throw people in jail but it really does require a symphonic approach, all these different instruments playing together and aware of what the others are doing in order to create this beautiful sound."

Testifying before that committee in January, Quinones said: "This is the deadliest drug scourge we've known in this country, hitting areas of the country that have never seen this kind of drug problem. It is the first in modern America to be driven not by street dealers, but by doctors prescribing pain pills … ISIS could not have dreamed of inciting the kind of torment and death that we have visited upon ourselves through this overuse of opiates."

Toward the end of "Dreamland," Quinones describes visiting former Judge Scott VanDerKarr's drug court in Franklin County: "In a city that once



never had heroin, almost every seat in heroin court is filled."

"What it's taught me is that jail is actually a good thing" for those who relapse, Judge VanDerKarr told Quinones. "Give them a consequence of a couple weeks to 30 days, a lot of time it takes maybe two of those to motivate them."

Quinones too has publicly stated that he favors arrests, but only as part of a comprehensive approach to public health.

"I have said that in order to treat our way out of this we have to also arrest our way out of it," Quinones said. "You cannot expect addicts to get out of treatment and have any success at all if they're getting out and getting back to the streets that are awash in very potent, very cheap dope.

"The problem we face now is that so much of what we need to do has to happen like a big symphony orchestra; you have to have everybody playing together: cops, public health, housing, mental health services – all of these things need to work in concert and that is such a difficult thing for government to pull off," he said. "It certainly is easier to just throw people in jail but it really does require a symphonic approach, all these different instruments playing together and aware of what the others are doing in order to create this beautiful sound."

Though Quinones makes clear in "Dreamland" that drug manufacturers are not new to lawsuits, this time he said a few things are different. Since he submitted his manuscript in 2014, he notes that the opioid epidemic has evolved: The market has expanded drastically, fentanyl is commonplace and he credits several famous deaths with bringing public attention to the crisis.

The lawsuits, reminiscent of the big tobacco suits in the late 1990s, are yet another shift in the tide.

"First of all, I think there are a lot of bright legal minds applying their intellect to figuring out legal strategies to pursue these companies," he said. "I think these lawsuits are a reflection of the essential nature of this epidemic economically, which is that all profits have been private and all costs have been public, borne by public agencies, many of them the counties, jails, coroners, public health departments, even libraries."

He theorizes that the lawsuits could compel a pricing correction for pain pills by factoring in their collateral damage and forcing more responsible use by doctors and patients. Quinones said he is eager to see how the cases will play out and that the justice system has an important role to play.

"I think it's fascinating to watch, though I'm not saying how I think these cases should go, I deeply believe in hearing evidence in court," Quinones said. "What I find interesting is that this epidemic is forcing us to change a lot, it's forcing us to become more balanced and expansive in our approach to complicated things like addiction.

"It is calling on all people who work in it – public health, cops, jailers and, yes, attorneys – to think more broadly in a concerted way about how we are dealing with this. There is a substantial role for attorneys in this holistic and balanced approach that we need, in the symphony."

Author Bio



Annie Yamson is Public Outreach Coordinator and Editor with the Ohio State Bar Association.

Sam Quinones is the author of "Dreamland: The True Tale of America's Opiate Epidemic." He will be the keynote speaker at the Ohio Bar Association's opioid summit, "Waking from Dreamland: The Origins of the Opiate Crisis and Where Ohio Stands in the Fight" on May 7, 2018 in Columbus.



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April 12
33rd Annual Environment, Energy and Resources Law Seminar
Nationwide Hotel and Conference Center

April 17
Basics of Employment Law
Columbus, Cleveland, Fairfield, Perrysburg, Webcast

April 19
Intro to Real Estate
Columbus, Cleveland, Fairfield, Webcast

April 20
How to Better Manage Your Workload and Your Time (And Escape Inefficiencies)
Columbus, Cleveland, Fairfield, Perrysburg, Webcast

April 25
Booze, Bullets and Bingo
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May 7
Waking from Dreamland: The Opiate Crisis and Where Ohio Stands in the Fight
Akron, Columbus, Cleveland, Fairfield, Perrysburg, Webcast



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Winds in the East

TODD BOOK



Todd Book is the OSBA's Assistant Executive Director for Policy and Public Affairs.

> "Winds in the east, mist coming in, like somethin' is brewin' and about to begin. Can't put me finger on what lies in store, but I fear what's to happen all happened before."
>
> -Chimney Sweep Bert – Mary Poppins

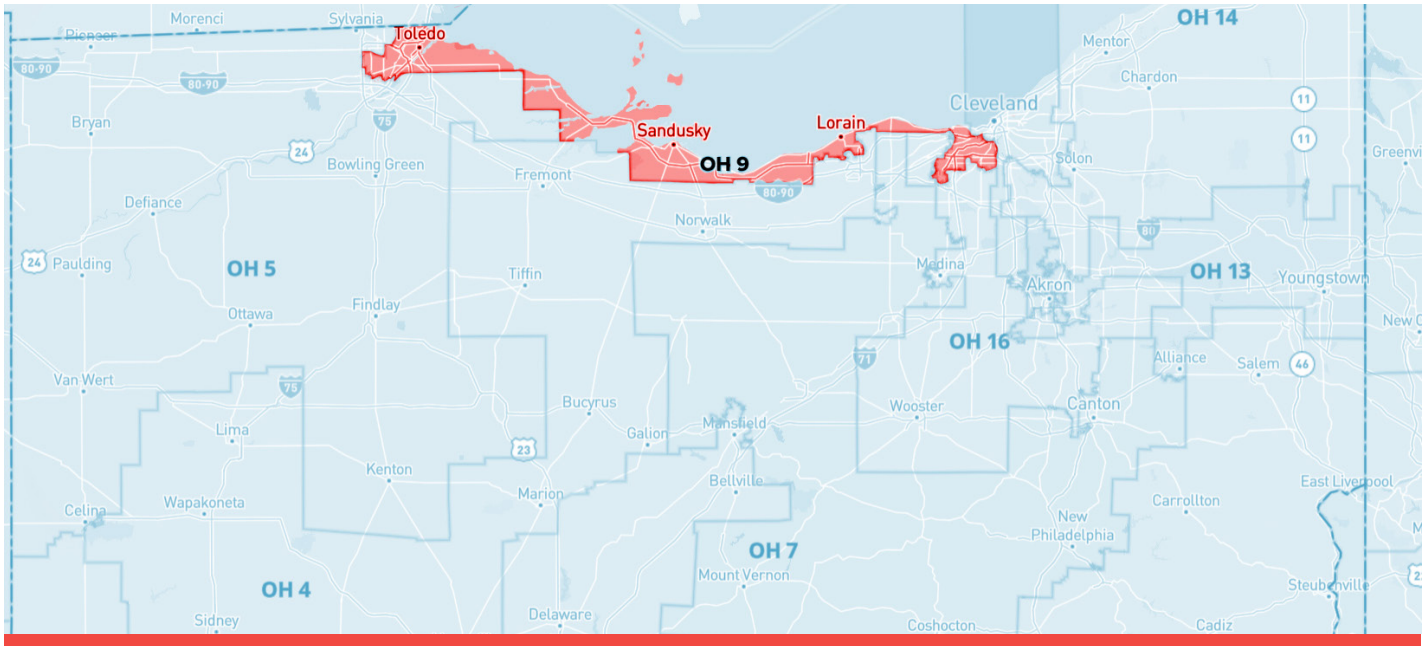
Bert's words anticipating the arrival of Mary Poppins have some relevancy in today's political world. There is a strong sense the age-old practice of gerrymandering is about to be thrown into a state of turmoil.

The U.S. Supreme Court recently heard the case of *Gill v. Whitford*, concerning whether Wisconsin's Republican-drawn district lines pass the Court's smell test. The high court has also scheduled arguments for the spring in the case of *Benisek v. Lamone*, dealing with Maryland's Democratic-drawn Congressional districts. Many court watchers anticipate the Supremes will strike down both of these highly gerrymandered maps. In addition, a case the Court did not take may also shed some light on the direction the Court may go. In February, the Supreme Court declined to hear the case of *League of Women Voters of PA, et al. v. The Commonwealth of PA, et al* and in doing so, is allowing to stand the new lines drawn by the Pennsylvania State Supreme Court after deeming state legislators' original map unconstitutional.

We'll see what happens in Wisconsin and Maryland, but perhaps more important than indicating a growing intolerance for partisanship, the Court's latest moves may be indicating that, after a long history of staying out of the gerrymandering debate, the winds have changed, and its involvement could usher in a whole new era and perspective for determining the appropriate way to draw political district lines.

Ohio is far from immune to these discussions. With the 2020 Census fast approaching, many have been debating if Ohio should change the way it draws Congressional districts, especially since Ohio is expected to lose yet another Congressional district through the census process. As you probably remember, a few years back, Ohio's voters overwhelmingly (71.5%) adopted a new way to draw state district lines (state representative/state senate). The OSBA was supportive of this proposal. In addition to adopting standards that maps must meet (keeping communities together etc.), that plan laid out a process where the political party in control of the Ohio Redistricting Commission (made up of the Governor, the Secretary of State, the Auditor of State and one person appointed by each of the four legislative caucuses) still has the ultimate decision-making authority. However, if that majority party wants the district lines to be controlling for 10 years, they need buy-in from the minority party. Otherwise the lines are only good for four years and will need to be redrawn at the end of the four years by the political party in control at that time. The fear is that control may switch and that new controlling power could mandate lines favorable to it for the six years until the next Census. Implicit in this new approach is the requirement that both the majority and minority parties use good faith in their line drawing negotiations. It is yet to be seen if such good faith will be exercised after the 2020 Census.

One area of line drawing that was left out of the previous voter approved redistricting plan was Ohio's Congressional districts. Many in the state legislature believed it was an integral power of the state legislature to draw federal Congressional lines. Additionally, more than once, I have heard the complaint "we need to draw the Congressional lines because it is the only way we can ensure seeing our members of Congress once a decade." The Congressional folks seem to have an increased and possibly unhealthy interest in the state legislative process about the time the Congressional lines are being developed. There were many



District 9—known as "the snake on the lake" —is considered one of Ohio's most gerrymandered congressional districts. The district is currently represented by Congresswoman Marcy Kaptur (D-Toledo).

unsatisfied, however, with leaving the method of drawing Congressional lines unchanged. In fact, a group calling itself Fair Districts = Fair Elections was gathering signatures to put a new plan on the November 2018 ballot to change the line drawing process for Congressional districts.

Ever since the redistricting plan for state legislative districts passed, many in the legislature had been pushing back on those seeking reform, saying the change was not needed. However, toward the end of last year, the worm turned. Whether it was in response to the concern over how Ohio is represented in Congress (54% of the statewide vote was for Republicans but 75% of Ohio's Congressional seats are held by Republicans) or the fear that the Fair Districts = Fair Elections Coalition may gather the necessary signatures to put its measure on the November ballot (driving up voter turnout and potentially blocking the state legislature from the process), the Republican-controlled legislature became highly motivated to get a potential solution to the issue on the 2018 May Primary ballot.

For a few weeks, the legislature had negotiators working around the clock to broker a deal. As the deadline to get something on the May ballot approached (February 7), many believed a deal was not going to get done. But with only hours to spare, a grand bargain was struck and come May 8, 2018, Ohio's voters will have their say concerning the brokered proposal via State Issue 1.

From 30,000 feet, the proposal concerning Congressional lines is similar to the proposal adopted for drawing state district lines, except the legislature will be the initial decider of Congressional lines so long as there is substantial buy-in from minority party members of the legislature. If the required bipartisan support cannot be obtained, then the Ohio Redistricting Commission will get a crack at drawing Congressional lines. For those lines to be accepted – once again, minority party acceptance is needed. If still "no sale," then the legislature can draw lines on a simple majority vote, but those lines would only be good for four years and subject to being redrawn after the four years expire. So yet again, implicit in this proposal is the idea that both the majority party and the minority party must play nice with each other and enter into these talks with an attitude of compromise.

Assuming the May 8, 2018, proposal is passed by a majority of Ohio voters, I think it will be incumbent upon the OSBA and other groups to remind the decision makers that Ohioans have spoken and they want a fairer approach to drawing district lines in Ohio. But be warned, the one thing I've learned during my time in politics is that power is a hard thing to give up, even if the voters have told you to be more balanced in your exercise of it.

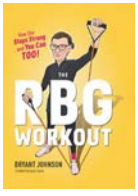
We will see how the vote goes in May and how the power players use their new marching orders from the voters of Ohio. In 2020, will they follow the voters' mandate for fairer districts or will it just be more of the same?



New Supreme Court cookbook shares recipes and more

Clare Cushman, director of publications for the Supreme Court Historical Society, has authored a new book – *Table for 9: Supreme Court Food Traditions & Recipes*. With a foreword by Ruth Bader Ginsburg, the book includes dozens of recipes from the wives of late Justice Antonin Scalia, former Chief Justice William Rehnquist, and Justice Neil M. Gorsuch, among others. *Table for 9* grants the reader insight into the culinary traditions of the Court with previously unpublished photos and stories of the Justices eating together, celebrating with each other and breaking bread with law clerks. Preorder it on the Supreme Court Historical Society's website today: supremecourtgifts.org/tablefor9.aspx.

Ruth Bader Ginsburg's Workout



Having trouble keeping your New Year's resolutions? Justice Ruth Bader Ginsburg might be the latest inspiration for your fitness goals. You can learn her daily routine in her personal trainer's new book, *The RBG Workout: How She Stays Strong... And You Can Too! by* Bryant Johnson. Justice Ginsburg credits her health and continued service to this routine, calling Johnson "the most important person" in her life. The 112 pages lead you from warm-up to cool down so you can get in shape. Each exercise features a colorful illustration, from one-legged squats and resistance bands to side-planks and standing cable rows.

Available on Amazon and local booksellers.

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INNOVATE.

Summit County Probate Court's New Day Court, the first of its kind in Ohio, gives individuals and families dealing with long-term mental illness the tools to take an active role in their recovery and avoid repeat hospitalizations.

"New Day Court is designed to provide support for people while they adjust to [their] medication and encourage them to talk frankly with their doctors and their family members about what they are experiencing," Probate Court Judge Elinore Marsh Stormer said. "It allows people to remain in the community while they get treatment and begin their recovery process."

The program was created through a partnership with the Probate Court and the Alcohol, Drug Addiction and Mental Health Services Board (ADM), Community Support Services and The National Alliance on Mental Illness of Summit County (NAMI).

LEAD.

David Roper, a second-year student at The Ohio State University Moritz College of Law, will be the Ohio State Law Journal's first African American editor-in-chief. The Ohio State Law Journal is the oldest of the college's five law journals.

Before he was accepted into law school, Roper spent three years as a legislative aide at the Ohio Statehouse. He has also worked as an intern at the Columbus office of a national law firm and in the Office of the Federal Public Defender.

This professional experience has helped develop the leadership approach he intends to bring to the law journal.

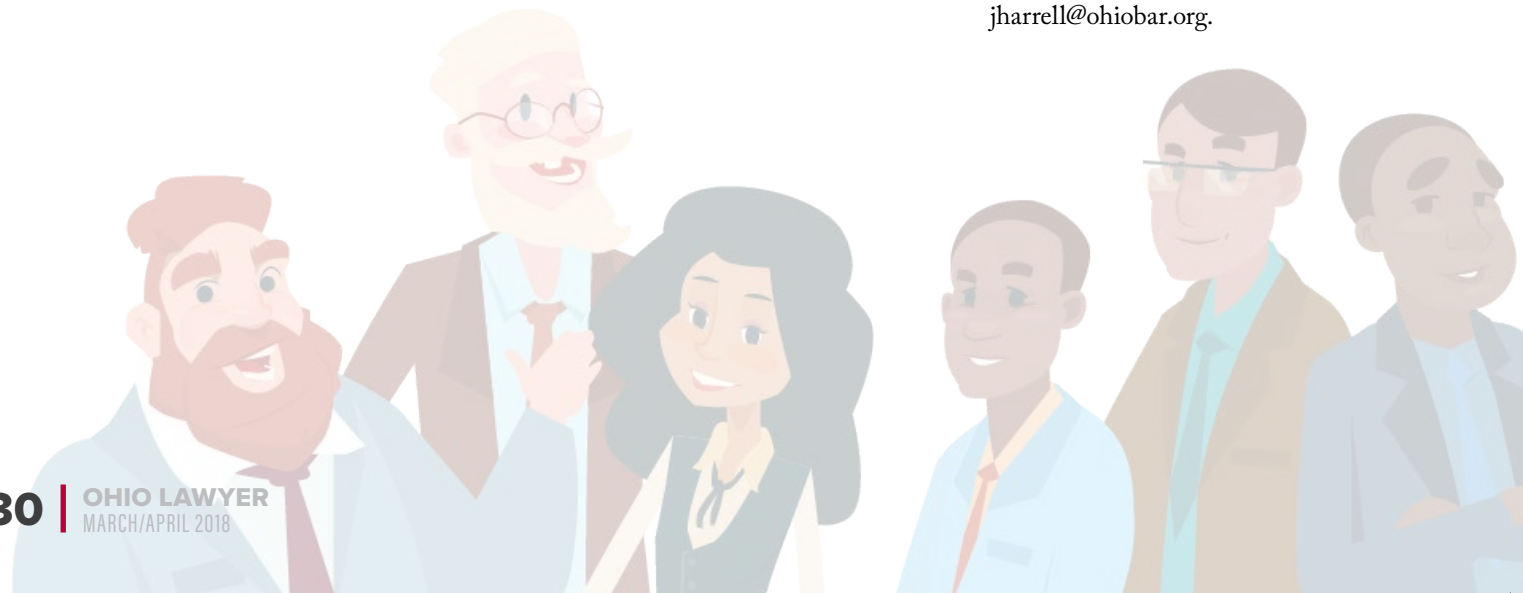
EDUCATE.

The OSBA Real Property Law Section Council is offering its annual law student scholarship to encourage students to pursue a career in real property law and become active in the OSBA.

Winning scholars receive:

- $2,500 scholarship;
- A non-voting seat on the Council; and
- The opportunity to work with Council to address issues related to real property law; draft and review legislative changes; plan and present seminars; and assist with publications.

Applications, transcripts and recommendation letters can be submitted online by July 1. For more information on the application process, contact Jennifer Harrell, Senior Manager of Committees and Sections, at (614) 487-4460 or jharrell@ohiobar.org.



Here's how the OSBA helps improve and advance the legal profession.

ADVOCATE.

Columbus Legal Aid attorney Tabitha Woodruff sat on an attorney panel at the 9th Annual Human Trafficking Awareness Day at the Ohio Statehouse on Jan. 11. Lawmakers, law enforcement officials, and hundreds of advocates and survivors from across the state gathered to raise awareness and discuss ways to further combat human trafficking in Ohio.

During a hearing of the Ohio Senate Government Oversight and Reform Committee, Chairman Bill Coley (R-Liberty Township) publicly thanked the OSBA Corporation Law Committee, saying legislators "benefit greatly" from the work they do. The latest example: Russ Rosler, a Corporation Law Committee member and corporate attorney at Vorys, Sater, Seymour and Pease, testified on Senate Bill 179 and outlined a constructive amendment that will ensure limited liability companies (LLCs) can stay in business and in compliance with state filing requirements.

COLLABORATE.

Ohio's nine law school deans and the OSBA have all voiced concerns about provisions of H.R. 4508 — the PROSPER Act — a higher education reform bill which recently passed House Committee. We're specifically concerned that proposals to cap the amount graduate students can borrow to $28,500, to increase payments required under the current Income-Driven Repayment Program, and to eliminate or reduce existing loan forgiveness programs could adversely impact the number and diversity of lawyers in our state and therefore, the availability of legal services for Ohioans who need them. In addition, a proposal that would eliminate the Public Service Loan Forgiveness Program — which provides loan forgiveness for those who work in the public sector after they have served and made payments on their loans for 10 years — would greatly hamper our ability to attract the best and brightest lawyers to legal aid programs and other key public service roles that serve low-income individuals.

VOLUNTEER.

The OSBA's "Law You Can Use" series aims to inform and engage the public by providing answers to commonly asked questions about different legal topics. Our member attorneys are subject-matter experts who author informative articles and appear as guests in our video series. Thank you to these recent contributors:

- Robert Ellis, partner at Hennis Rothstein & Ellis LLP, spoke on Bitcoin.
- Mark Weiker, partner at Albeit Weiker LLP, discussed Online Schools.
- Patrick Heery, attorney at Bluestone Law Group, reviewed Property Taxes.

If you would like to be a "Law You Can Use" contributor, contact Annie Yamson at Ayamson@ohiobar.org or (614) 487-4456.





CHANDA L. BROWN

Partner at Walton and Brown, LLP

YEARS IN PRACTICE:

10

MEMBER SINCE:

2009

CITY/COUNTY:

Columbus, OH

Compiled by Kylie Bennett, a sophomore at The Ohio State University and an intern in the Communications Department at the Ohio State Bar Association.

Want to nominate someone for the member profile checkout? Send an email to **editor@ohiobar.org**

Tell me about yourself.

I always identify as a mother first. That's something that started recently because my kids are pretty young and that kind of takes over your life. I would say I'm a mother before my career as a lawyer or as a wife. Not necessarily in that order, but I'm someone that's dedicated to whatever endeavors I begin. I chose the area of law that I'm working in now because of what interests me from being a mother and being a wife. Our areas of practice are employment law, personal injury, civil litigation, and a variety of civil rights issues that affect primarily people in our community.

What led you to a career as an attorney?

At a really young age, everyone told me I should be a lawyer because I talk and argue a lot. I never lose an argument. Those are the characteristics that people always think of with lawyers, someone that talks and someone that argues. That pushed me into attending undergraduate school and picking my major in business, thinking I was going to be a business lawyer. That's what I really wanted to do. Eventually, I went to law school and here I am, not doing business law at all. Your dreams of being a lawyer, or what you think a lawyer is, is a little bit different than what it really is when you enter the real world.

You have an undergraduate degree in computer information systems?

My undergrad degree is in computer information systems from the college of business at my undergrad. I got an internship at a company doing computer programming and it drove me crazy. I think I was more concerned with working in the field and pursuing a career in what my major was in than doing what my passion was, which was law. My brother and my father are both actually computer programmers so I know a lot more about computers than probably the average lawyer. Our office is very technologically based and advanced. We usually use the latest technology, even for our front office. I'm the person who troubleshoots, orders the computers, and fixes the computers. We have an IT person but I always hate to call him because I have that "fix-it" personality that a lot of lawyers have. We think we can figure it out.

How do you keep a work-life balance?

I am a mother. I have two children: a four-year-old and a two-year-old. I still have a work-life balance because of my awesome husband. Juggling everything is just a matter of staying organized and making sure that when you come to work there's not a lot of down time. So, I have a plan. Every day I start by making a list of 10 things I need to get done and then set a time limit for each one. I write it down and I put it into my calendar. I keep a schedule for myself and that helps me know that I can get things done and still schedule family time. I'll say from 6:30-9:30 is nothing but family time. You need to have a good plan or system in order. If you don't, you can easily be overwhelmed. I'm not only a lawyer but also a business owner, a wife and a mother. It could be overwhelming but it helps for me to have a system to stay on top of what needs to be done.

> "I'm not only a lawyer but also a business owner, a wife and a mother. It could be overwhelming but it helps for me to have a system to stay on top of what needs to be done."

Do you have any advice for other moms who are practicing law?

My advice would be to make sure that you have a plan at all times. It's difficult to get a good grasp on what to do in that moment if you don't know when it all needs to be done. My advice is order. Try to stay organized and make sure that you have time for your family. Don't let work overwhelm that time with your kids because at some point they're going to be grown. You will miss time you could have had with them that you spent doing interrogatories or preparing for a deposition. You won't remember that case but you will remember things your kids did. That's a problem that I've struggled with but having a plan and a schedule really helps me.

What is the best advice you received throughout your career?

When I was in law school, I worked for another female attorney who was running her own personal injury practice. She told me that I was always going to have to work twice as hard to prove myself, not only being a woman but also being a minority where most of my colleagues are male and not minorities. It's a matter of always working twice as hard to prove yourself because you don't want them to think you're there because of your minority status or because you're a woman or anything like that. I always come in and want to outdo them and out-prepare them. I want them to think "wow, that was a great lawyer," not "she did well for a woman" or "she did well for a minority." I put a lot of work into making sure that I'm always over-prepared for everything. That was the best advice that she gave me: You're going to have to work extra hard.

What legal resource do you use the most?

I usually use the OSBA chatrooms and emails and listservs. That's where I go for everything. I don't talk on them often but there are a lot of people giving out resources there. Just yesterday, my law partner and I had an issue and we checked the listserv. You can search on it and there's always someone else who has talked about an issue. Even if their post is not right or not something you agree with, it's a good resource to use that information and build on it. You realize that you're not the only one having these issues.

What committees and sections are you involved in?

I am primarily involved in the Employment Section and the Women in the Profession Section. One of the main things I like about the Women in the Profession Section is that we're not all in the same area of law and we discuss issues that are facing women in general. One of the topics recently was about giving gratitude every day and I've implemented that into my planning. I use my notebook and write two sentences about things I'm grateful and thankful for. When I end my day on those two sentences, it helps set me up for the next day. Whatever negative things happen, I can still find something I'm grateful for.

> "I use my notebook and write two sentences about things I'm grateful and thankful for. When I end my day on those two sentences, it helps set me up for the next day."

What was your proudest moment as a lawyer?

My proudest moment in my career has been helping people who are affected by similar things as I am. You can see based on what point I'm at in my life what I'm focused on. When I was pregnant with my son, we had a client come in who had a severe pregnancy discrimination issue with her employer. He would make comments about her pregnancy and then terminated her while she was on maternity leave. She came in and was distraught; she had a newborn baby and no job. With those types of cases, I think "this could be me." One of my proudest moments was helping her get a resolution to her claim. I look back and realize I helped someone who needed me. That's what I love about my law degree. I can do so many different things with it. For me, it's primarily about fighting for people that need a voice.

Fun fact

I'm a do-it-yourself person. I like to make crafts and do a lot of painting and drawing at home. I also decorated my office myself. I'm a Pinterest fanatic, which is a part of my process where I can see what other people have done. Owning our own practice means my crafts also have a business purpose. We make logos, business cards and things like that for the office to showcase our uniqueness, but also to make things with my hands. I call myself a DIY queen! Most of the things in my office, if I didn't make it, are from small-business owners here in Columbus. I try to support local people and companies with most of the things I do.

For more on Chanda L. Brown, watch her OSBA Member Profile video on www.ohiobar.org/cbrown.

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