

# THE BALTIMORE Barrister

WINTER 2024

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## The Baltimore Barrister

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The Bar Association of Baltimore City Presents

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A Women's History Month Event

**Guest Speakers:**



**Margaret Johnson**  
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University of Baltimore  
School of Law



**Melodie Hengerer**  
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**Katie O'Malley**  
Executive Director,  
Women's Law Center

Katie O'Malley, Melodie Hengerer and Professor Margaret Johnson will be discussing the impact that *Dobbs v. Jackson Women's Health Organization* has had on narrowing the privacy, liberty, and equality rights of women and other pregnancy-capable people in areas outside of abortion, including organ donations and women's menstruation.



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# Courthouse Security

## The President's Report

*Jim Motsay, Esq., President, Bar Association of Baltimore City, Motsay and Lay*



Your trial is set for 9:30 a.m. You arrive at the courthouse about 9:10 a.m., go directly to the courtroom and have a seat. You are on time and ready to go. However, this scenario took place long before we had to go through security with metal detectors in all the courthouses. Without going through the long history of metal detectors in Baltimore City and the other jurisdictions, suffice it to say that metal detectors are everywhere, and are a big part of our life.

Now, if you have a 9:30 a.m. trial, you need to arrive well before 9:00 a.m. to make sure that you are able to pass through the metal detectors. Entry now involves removing your belt, emptying the contents of your pockets, having everything scanned, raising your hands up, gathering your belongings, moving to another table, then putting everything back on your person, and then running to catch the next elevator so that you are on time. Most of us nowadays know that we need to arrive well in advance of the start of our court time, whether it be in the district or circuit court. The security personnel overall do a good job getting you through the metal detectors in a relatively quick but efficient process.

Recently, there has been a lot more discussion about security overall in the courthouse, and especially as it relates to our judges. I agree that we need to reevaluate the situation and see what can be improved. The most recent incident of Judge Wilkerson in Frederick County being killed in front of his home causes pause for I am sure many of the judiciary, as it should.

I know that there are some courthouses that keep the public neatly away from the judges and the judges do not have to walk the same hallways as the public. It is best that we have those private hallways for our judges. Take for instance, the District Court in Baltimore City, Civil Division, where the Judges are escorted by Bailiffs, from the time they enter the building, until they enter their chambers. This is not an ideal situation. I understand that in the new District Court building, open access and judges required to walk amongst the public is being remedied.

Maryland is not the only state having these issues. Most recently north of us in Adams County, Pennsylvania, the judges called for better security for themselves in what is already a secure screening process.

I am a great believer that courthouse security does not just stop with the judges. The issues of security also extend to the clerks, courthouse staff, private attorneys, public defenders, state's attorneys, pro bono attorneys, etc. We also should consider protecting the members of the public entering the courthouse.

I advocate for full security at our courthouses. By this I mean the following:

1. All persons entering the courthouse must go through metal detectors. Yes, this includes judges, prosecutors, and public defenders. I am

sure that some judges would disagree with having to go through the metal detectors because they have private entrances to the building. If we are going to take security in the courthouse seriously, we need to have everyone checked. I recently had an opportunity to fly out of BWI. I noticed just ahead of me there were pilots and flight attendants. Every one of them had to show their identification and go through the scanning process and all went through the metal detector. This is a good example and rationale for everyone to be screened.

2. Jurors go through the metal detectors when they arrive, and then wait until they are called to a courtroom for trial. If they are in the Mitchell Courthouse and have to report to the Cummings Courthouse, they must leave one courthouse and reenter the other in order to arrive at the designated place. While they are walking outside, in the semblance of a long line, anything could happen out on the street. I think if you are going to take security seriously, the jurors must go back through security when they go from one building to another, just as everyone else does. I know this sounds like an inconvenience, but an inconvenience is well worth avoiding someone being injured or killed. This is not to say that all jurors have that kind of mindset, but you never know.

3. I believe that an additional protection for judges should be that their home addresses be removed from the public domain. Anyone can search for a judge's home address online, and [mdlandrec.com](http://mdlandrec.com).

4. We need to have some clear and uniform processes so that no matter what courthouse you are entering, you know what to expect.

5. I know in some courthouses it can be commonplace for litigants or parties or people involved in criminal cases to get into shouting matches and sometimes even fistfights. Thinking about that uniform process, this must be addressed by additional security in the courthouse.

6. It would be good for the public to know how many incidents arise at a courthouse in a given calendar year. There should be a report given on items such as how many guns and knives were seized, how many fights, and/or altercations, took place in the courthouse. A report of this nature allows everyone to know what takes place in the courthouse in terms of security, and especially that they can feel safe in the courthouse.

These are but a few points that I raise at this time. I am happy that Judge Carrión has appointed a committee to review the security procedures and to make recommendations. Having the stakeholders at the table can produce better results. I suggest that the committee meet at least quarterly, and an annual report is given to the Bar Association so that we can include it in our publications for members of the bar and for distribution to the public.

# Howdy, Partner!

## Young Lawyers' Division Update

*Rachel Samakow, Esq., Chair, Young Lawyers' Division, Bar Association of Baltimore City*



I recently had a conversation about the YLD with a partner at a “big law” law firm, and through that chat I realized that my colleague wasn’t aware of several benefits to a BABC membership that not only impact an individual, but the firm as a whole. So, to my law firm friends, I’d like to highlight some of these benefits that as a firm you may not have known about.

In a post-Covid world, firm culture and training for a new attorney now looks different. With more offices working remotely, there are less opportunities for “knock and ask” learning moments and casual knowledge sharing. YLD events provide that informal learning environment, and more. Young attorneys discussing cases and memos with contemporaries, exploring legal opinions with more experienced attorneys, or debating courtroom strategies with the opposition, these are the kinds of conversations you’ll see happening around the room at a YLD event. As a young attorney, networking at one of our events is invaluable for honing your lawyering skills, resulting in making you more valuable to your firm.

Want a great firm hack? Let a YLD event be your next outing and attend the program as a group! This is the most often overlooked benefit of a BABC membership, the opportunity for bonding with attorneys from your firm. You get to enjoy a well-curated program without worrying about any of the logistics. The best part is that there is a variety; from virtual cooking classes (coming up in February), CLEs, panel discussions, community service events, to family friendly programs, there are options for your office to choose from.

Building your professional network seems obvious on the surface, but in reality, it is much deeper than that. The YLD is a very inclusive and diverse group that is constantly expanding. Young attorneys are given an opportunity to participate more meaningfully through determining how we as lawyers can best help the city of Baltimore, and then put those programs into action. Other opportunities include learning about your practice area during a CLE, or sitting on a panel, which

is something generally reserved for more seasoned attorneys. Allowing younger attorneys to hold these roles ultimately brings more notoriety to your practice.

I could go on about all the benefits, but here’s a great way to find out more. Attend a YLD event, come meet our members, and learn about all of our great programs for yourself!

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# Preventing the Unauthorized Practice of Law in Post-Pandemic Times

*Jessica Kweon is law student at the University of Baltimore School of Law and staff editor for the University of Baltimore Law Forum.*



The COVID-19 pandemic has significantly transformed the practice of law in Maryland.<sup>1</sup> In 2021, the Daily Record-Maryland State Bar Association online survey reported results of over 290 practicing attorney-members of the Maryland State Bar Association and assessed the impacts of the pandemic on the practice of law in Maryland.<sup>2</sup> According to the survey, thirty-eight percent of Maryland law firms physically closed at the start of the pandemic.

<sup>3</sup> Over one year later, nearly half of those firms remained closed and forty percent of all Maryland law firms still had employees working remotely.<sup>4</sup>

While nationally, more firms have transitioned from fully remote to hybrid work schedules,<sup>5</sup> many firms have normalized working from home and the use of real-time virtual communication technology.<sup>6</sup> The Daily Record-Maryland State Bar Association survey also reported that respondents expected that aspects of remote work—such as flexible hours and virtual meetings, document signing, and depositions—would remain in place post-pandemic.<sup>7</sup> Thus, attorneys should remain watchful for the ethical risks of legal practice in virtual work. For example, attorneys can now practice remotely in a jurisdiction where they are licensed and provide legal services to residents of that jurisdiction, all while physically present in another jurisdiction where they are not licensed.<sup>8</sup> Because attorneys can live and work from any jurisdiction in which they are not admitted, these changes create a potential risk for the unauthorized practice of the law.<sup>9</sup>

The American Bar Association (“ABA”) defines the unauthorized practice of law as “the violation of the regulation of the legal profession in that jurisdiction, or assist[ing] another in doing so” unless permitted by other laws or rules.<sup>10</sup> Generally, both Rule 5.5 of the ABA’s Model Rules of Professional Conduct and Rule 5.5 of the Maryland Attorneys’ Rules of Professional Conduct (“MARPC”) provide that attorneys must not engage in the authorized practice of the law unless otherwise permitted in the rules.<sup>11</sup> In Maryland, the unauthorized practice of law is also prohibited by statute.<sup>12</sup> Attorneys licensed to practice before federal courts and agencies who limit their practice to federal matters may be exempt from state rules addressing unauthorized practice of law.<sup>13</sup>

ABA Model Rule 5.5(b) specifies that attorneys engage in the unauthorized practice of law when they establish an office or continuous presence in a jurisdiction where they are not licensed to practice law.<sup>14</sup> MARPC Rule 5.5(b) mirrors this rule.<sup>15</sup> Direct legal services and the display of information on websites, letterheads, business cards, or other forms of advertising can establish an attorney’s principal office or create sufficient presence in a jurisdiction.<sup>16</sup>

Under *In re Carlton*, the United States District Court for the District of Maryland ruled that a telecommuting attorney licensed to practice in Washington D.C. could work remotely from a home office in Massachusetts, even if she was not admitted in the jurisdiction of her home office.<sup>17</sup> The attorney had “some physical presence sufficient to assure accountability” in the jurisdiction of licensure because she had a work office in that jurisdiction and her correspondences and filings listed that office’s address.<sup>18</sup> The attorney also kept her client files and re-

cords in her work office and did not advertise nor meet clients in her home office.<sup>19</sup>

In contrast, an attorney admitted in another jurisdiction may not establish a principal primary office in Maryland.<sup>20</sup> Under *Ramirez v. England*, the United States District Court for the District of Maryland held that an attorney licensed in Mississippi engaged in the unauthorized practice of law in Maryland because the attorney practiced from a Maryland-based home office when she used her Maryland address in a letterhead set.<sup>21</sup> Similarly, an attorney who limits their practice to only federal matters cannot establish a principal office in a state jurisdiction where they are not admitted to practice.<sup>22</sup>

Under *Attorney Grievance Commission of Maryland v. Dawn R. Jackson*, the Supreme Court of Maryland found that an attorney licensed in Washington, D.C. engaged in the unauthorized practice of law when she moved the firm’s office to Maryland.<sup>23</sup> The court did not impose sanctions due to the six-year delay in the investigation, the advice by the Office of Bar Counsel, and other “considerable mitigating factors” including the attorney’s overall lack of involvement in Maryland matters and multiple disclaimers regarding her Washington D.C. license.<sup>24</sup> However, the court here highlighted the benefits of remote work amidst the pandemic and questioned the limitations of the rule in the modern day.<sup>25</sup> The Supreme Court of Maryland has since referred the MARPC rule to the Maryland’s Standing Committee on Rules of Practice and Procedure for a recommendation on a potential amendment.<sup>26</sup>

The ABA recommends all attorneys to make reasonable efforts to comply with the Rules of Professional Conduct, including virtual practice policies.<sup>27</sup> While the recent *Jackson* decision calls for the relaxation of physical presence restrictions and greater flexibility in the Maryland legal profession,<sup>28</sup> attorneys should remain cautious of their presence in jurisdictions where they are not licensed or otherwise permitted to practice law. Attorneys must also not aid others engaging in the unauthorized practice of the law.<sup>29</sup> Finally, attorneys maintain a duty to report the unauthorized practice of law.<sup>30</sup>

<sup>1</sup>Samantha J. Subin, Survey: *COVID-19 Has Had Complicated Impact on Maryland’s Legal Profession*, DAILY REC. (Sept. 9, 2021), <https://thedailyrecord.com/2021/09/09/survey-covid-19-has-had-complicated-impact-on-marylands-legal-profession/>.

<sup>2</sup>The Daily Record/MSBA, *COVID-19’s Impact on the Maryland Legal Profession in 2020*, at 3 (Aug. 2021), <https://thedailyrecord.com/wp-content/blogs.dir/1/files/2021/09/TDR-MSBA-State-of-the-Industry-Post-Covid.pdf>.

<sup>3</sup>*Id.* at 5.

<sup>4</sup>*Id.*

<sup>5</sup>David Thomas, *More US Law Firms Make Four-Day Office Work Week Mandatory*, REUTERS (Aug. 10, 2023, 9:59 A.M.), <https://www.reuters.com/legal/legalindustry/more-us-law-firms-make-four-day-office-work-week-mandatory-2023-08-09/>.

<sup>6</sup>Victor Li, *What Is the Future of Remote Working in the Law Firm World?* ABA (Sept. 13, 2023), <https://www.americanbar.org/groups/journal/podcast/what-is-the-future-of-remote-working-in-the-law-firm-world/>.

<sup>7</sup>Subin, *supra* note 1.

<sup>8</sup>ABA COMM. ON ETHICS & PRO. RESP., FORMAL OP. 495 (2020).

<sup>9</sup>Laurie Web Daniel & Philip George, *Twin ABA Ethics Opinions Covers What You Need to Know About Remotely Practicing Law*, ABA (May 15, 2021), <https://www.americanbar.org/groups/litigation/resources/newsletters/ethics-professionalism/twin-aba-ethics-opinions-cover-what-you-need-know-about-remotely-practicing-law/>.

<sup>10</sup>*Id.*

# Beyond the Vows: Engagement Rings and Other Gifts in Contemplation for Marriage

Derek M. Van De Walle, Esq.,<sup>1</sup> Baltimore City Law Department



If we liked it, Beyoncé encouraged us to “put a ring on it.”<sup>2</sup> However, her sage advice stopped short, as Queen Bey never instructed us what to do if we changed our minds. This article delves into Maryland law concerning conditional gifts given in contemplation of a marriage that never occurs.<sup>3</sup>

## 1. Gifts given in Contemplation of Marriage are Conditional Gifts.

In Maryland, as in a majority of jurisdictions, an engagement ring and other gifts given in contemplation of marriage are considered conditional gifts.<sup>4</sup> A conditional gift is one in which the donor limits the gift for a particular purpose, and so renders it “conditioned and dependent upon an expected state of facts that, failing that state of facts, the gift should fail with it.”<sup>5</sup> In turn, a condition is a “future and uncertain event on which the existence or extent of an obligation or liability depends; an uncertain act or event that triggers or negates a duty to render a promised performance.”<sup>6</sup> Thus, a plaintiff seeking possession of an engagement ring must prove that the ring was a gift in contemplation of marriage (the condition), and that the marriage was never accomplished.<sup>7</sup> The statute of limitations for an action for the return of a conditional gift is three years<sup>8</sup> and “begins to run when the donor knew or should have known the condition failed.”<sup>9</sup>

Maryland state courts have not specifically addressed engagement rings, but the United States Bankruptcy Court for the District of Maryland has. In *In re Stoltz*, the debtor filed for Chapter 7 bankruptcy, and at the time of filing, owned a diamond ring.<sup>10</sup> When the trustee sought to sell the ring, the debtor’s ex-boyfriend objected, alleging that the ring was an engagement ring given in contemplation of marriage, and that the marriage never took place.<sup>11</sup> After a hearing in which the parties provided testimony about the nature of the ring, the Court found that the ring was a conditional gift given by the ex-boyfriend to the debtor in contemplation of marriage and that the debtor was obligated to return the ring.<sup>12</sup> In doing so, the Court observed that “Maryland recognizes the right of a donor to recover a conditional gift” and that “[i]f the ring was given as a gift in contemplation of marriage, then it was a conditional gift, presented on the condition of the agreement of the parties to marry, which did not occur.”<sup>13</sup>

## 2. Causes of action to recover a gift given in contemplation of marriage.

At common law, there existed an action for breach of promise to marry.<sup>14</sup> However, in 1945 due to “public resentment began to grow against . . . ‘amatory’ actions” and “citing problems of blackmail, extortion, and fraud often encountered when such claims were brought[,]” the Maryland General Assembly abolished the cause of action for breach of promise to marry.<sup>15</sup> This “heart balm” statute<sup>17</sup> is presently codified in Title 3 of the Family Law Article.<sup>18</sup> As it presently stands in Maryland, there is no cause of action for alienation of affections, regardless of where the cause of action arose.<sup>19</sup> Further, an action for breach of promise to marry will not lie “unless the individual is pregnant[.]”<sup>20</sup>

Despite the heart balm statute, parties can “certainly be subject to suit for promises made independent of promises to marry so long as the actions are not shams intended to circumvent the actions prohibited by statute.”<sup>21</sup> These suits often involve actions to recover gifts given in contemplation of marriage, including engagement rings.<sup>22</sup>

A party seeking to recover a gift given in contemplation of marriage, in the form of personal property or its value, may do so through a re-

plevin or detinue action.<sup>23</sup> Through replevin, a party can recover possession of personal property prior to judgment.<sup>24</sup> A replevin action must be filed in the District Court of Maryland,<sup>25</sup> and in addition to complying with Maryland Rules 3-303 through 3-305, a complaint for replevin must contain:

- (1) a description of the property claimed and an allegation of its value;
- (2) an allegation that the defendant unjustly detains the property;
- (3) a claim for return of the property, and
- (4) any claim for damages to the property or for its detention.<sup>26</sup>

After the defendant is served with the complaint, a hearing will then be held; if the defendant fails to appear at the hearing, then the Court must proceed *ex parte*.<sup>27</sup> If the court finds that the plaintiff is entitled to possession before judgment, the court will issue a writ directing the sheriff to recover the property for the plaintiff’s possession once the plaintiff files a bond for the satisfaction of all costs and potential damages that may arise from the plaintiff’s possession.<sup>28</sup> Thereafter, the case shall proceed as a detinue action.<sup>29</sup>

In a detinue action, a plaintiff may seek possession of the property or damages for its value, and it can be filed independent of a replevin action or proceed from a replevin action.<sup>30</sup> An action in detinue may be brought in either the District Court or a circuit court depending on the amount of damages being sought and must contain all of the requirements for a complaint for replevin, except a complaint for detinue may contain a claim for return of the property *or* payment of its value.<sup>31</sup> Thus, if judgment is entered for the plaintiff, the plaintiff may be awarded possession of the property or payment of the property’s value.<sup>32</sup> If judgment is entered for the defendant, and if the plaintiff has obtained possession of the property through replevin, then the property must be returned to the defendant.<sup>33</sup>

A conversion action may also be brought to recover a gift or its value, although Maryland Courts have not addressed this possibility.<sup>34</sup> Conversion is an intentional tort requiring a (i) physical act, and (ii) a certain state of mind.<sup>35</sup> “The physical act can be summarized as any distinct act of ownership or dominion exerted by one person over the personal property of another in denial of his right or inconsistent with it. This act of ownership for conversion can occur either by initially acquiring the property or by retaining it longer than the rightful possessor permits[.]”<sup>36</sup>

To recover damages for non-personal property as well as personal property given in contemplation of marriage, an action for unjust enrichment or promissory estoppel may be brought.<sup>37</sup> Unjust enrichment consists of three elements: “(1) a benefit conferred upon the defendant by the plaintiff; (2) an appreciation or knowledge by the defendant of the benefit; and (3) the acceptance or retention by the defendant of the benefit under such circumstances as to make it inequitable for the defendant to retain the benefit without the payment of its value.”<sup>38</sup> Because a claim for unjust enrichment “is not aimed at compensating the plaintiff, but at forcing the defendant to disgorge benefits that it would be unjust for him to keep[.]”<sup>39</sup> damages are measured by the gain to the defendant and not by the loss to the plaintiff.<sup>40</sup> A promissory estoppel claim, otherwise referred to as “detrimental reliance,” requires the satisfaction of four elements: “(1) a clear and definite promise; (2) where the promisor has a reasonable expectation that the offer will induce

action or forbearance on the part of the promisee; (3) which does induce actual and reasonable action or forbearance by the promisee; and (4) causes a detriment which can only be avoided by the enforcement of the promise.<sup>741</sup>

### 3. Third Parties may seek repossession of gifts given in contemplation of a marriage.

Actions to recover gifts given in contemplation of a marriage are not limited to the betrothed. As shown in *Grossman v. Greenstein*, after the complainant's daughter was engaged to be married, the complainant deposited \$1,000 into a trust account to be held on behalf of the couple.<sup>42</sup> The would-be groom then broke off the engagement and refused to consent to the return of the \$1,000 to Complainant.<sup>43</sup> In ordering the gift to be returned, the Court of Appeals determined that the \$1,000 was a gift conditioned on the marriage of the complainant's daughter and fiancé and observed that “[s]uch an arrangement would ordinarily be so little consistent with a gift to a daughter and a man not joined in matrimony that it would of itself seem to afford some indication that the gift was contemplated as dependent and conditioned upon their marriage.”<sup>44</sup>

### 4. Defenses to actions for repossession of a gift given in contemplation of marriage.

Not every gift given in contemplation of marriage may be recovered when the marriage is not fulfilled. For example, if a party can prove that: (1) the gift was not given in contemplation of marriage; (2) one of the parties was under an impediment to a lawful marriage (e.g., bigamy); (3) the donor and donee were later married; (4) the donee was a minor; (5) the donee died; (6) the donee did not terminate the agreement; (7) the donor unjustifiably terminated the engagement; or that (8) the donor committed civil fraud in inducing the engagement,<sup>45</sup> then the court may order that the gift not be returned.<sup>46</sup>

### Conclusion

While Maryland has abolished the cause of action for breach of promise to marry, parties can still seek recovery of gifts given in contemplation of marriage through replevin, detinue, and/or other actions. Maryland law treats gifts given in contemplation of marriage as conditional gifts, with the condition being the actual occurrence of the marriage. If the marriage does not occur, the donor may have the right to reclaim the gift. Additionally, third parties, such as parents, may also seek repossession of gifts given in contemplation of marriage. However, certain defenses exist that may prevent the return of the gift, and a party seeking to repossession of a gift should look at all aspects of the relationship and determine if the gift was intended to be condition on a marriage and that the parties had a right to marry in the first place.

<sup>1</sup>William & Mary Law School, J.D. (2017); University of Michigan, B.A. (2014). Mr. Van De Walle is an Assistant City Solicitor in the Baltimore City Law Department.

<sup>2</sup>Knowles-Carter, Beyoncé. “Single Ladies (Put a Ring on It).” *I Am... Sasha Fierce*, Columbia Records (2008).

<sup>3</sup>This article does not cover the law as to property after a couple marries and later divorces.

<sup>4</sup>*Accord Beberman v. Segal*, 6 N.J. Super. 472, 473 (1949) (“An engagement ring is a symbol or pledge of the coming marriage and signifies that the one who wears it is engaged to marry the man who gave it to her. If the engagement is broken the ring should be returned since it is a conditional gift.”); *Gikas v. Nicholas*, 96 N.H. 177, 179 (1950) (permitting “the recovery of an engagement ring where the engagement is terminated by the donee.”); *Pavlicic v. Vogtsberger*, 390 Pa. 502, 510 (1957) (“a gift to a person to whom the donor is engaged to be married, made in contemplation of marriage, although absolute in form, is conditional; and upon breach of the marriage engagement by the donee the property may be recovered by the donor.”); *McGrath v. Dockendorf*, 292 Va. 834, 842 (2016) (concluded that an engagement ring “was a conditional gift ... given in contemplation of marriage,” and so when the anticipated marriage did not occur, the donor could bring an action to recover the ring).

<sup>5</sup>*Ver Brycke v. Ver Brycke*, 379 Md. 669, 691 (2004) (quoting *Grossman v. Greenstein*, 161 Md. 71, 73 (1931)).

<sup>6</sup>*Ver Brycke v. Ver Brycke*, 379 Md. 669, 700 (2004) (quoting Black’s Law Dictionary, 288 (7th ed. 1999)).

<sup>7</sup>*See, supra, In re Stoltz*, 283 B.R. 842, 844 (2002).

<sup>8</sup>Md. Code Ann., Cts. & Jud. Proc., § 5-101.

<sup>9</sup>*Ver Brycke v. Ver Brycke*, 379 Md. 669, 699 (2004).

<sup>10</sup>283 B.R. 842, 843 (2002).

<sup>11</sup>*Stoltz*, 283 B.R. 842, 843 (2002).

<sup>12</sup>*Id.* at 846.

<sup>13</sup>*Id.* at 844 (citing *In re Wilson*, 210 B.R. 544 (Bankr. N.D. Ohio 1997); *Heiman v. Parrish*, 262 Kan. 926, 942 P.2d 631 (1997)).

<sup>14</sup>*See Sauer v. Schulenberg*, 33 Md. 288, 290 (1870) (“The action is to recover damages for breach of a promise of marriage. The declaration alleges the parties agreed to marry one another; that a reasonable time for such marriage has elapsed; that the plaintiff has always been ready and willing to marry the defendant, yet the defendant has neglected and refused to marry her.”); *Lewis v. Tapman*, 90 Md. 294 (1900).

<sup>15</sup>*See Miller v. Ratner*, 114 Md. App. 18, 21 (1997).

<sup>16</sup>*Doe v. Doe*, 358 Md. 113, 123-124 (2000) (citing Ch. 1010 of the Acts of 1945).

<sup>17</sup>*See Miller*, 114 Md. App. at 28 n. 2.

<sup>18</sup>Md. Code Ann., Cts. & Jud. Proc. § 5-801 (“The provisions governing actions for breach of promise to marry and for alienation of affections are found in Title 3 of the Family Law Article.”).

<sup>19</sup>Md. Code Ann., Family Law, § 3-103.

<sup>20</sup>Md. Code Ann., Family Law, § 3-102(a). Such an action requires more than the uncorroborated testimony of the plaintiff. Md. Code Ann., Family Law, § 3-102(b).

<sup>21</sup>*Miller*, 114 Md. App. at 48.

<sup>22</sup>*Id.* at 48 n. 10 (1997) (citing to multiple jurisdictions for the principle that by abolishing breach of promise to marry suits, “the Legislature had not intended ‘to permit unjust enrichment of party’” particularly in the context of engagement rings).

<sup>23</sup>Md. Rule 12-601 (replevin), 12-602 (detinue). The Court in *Wallander v. Barnes* explained the difference between the two:

Modern replevin in Maryland is a pre-judgment, but post-probable cause determination, seizure. If probable cause is not established, so that replevin is denied, the action is no longer replevin, it is detinue. If probable cause is established and the writ issues, but the property cannot be seized before trial on the merits, the action is no longer replevin. Under those circumstances, if the plaintiff still desires at least the option of obtaining return of property, the value of which is within the monetary jurisdiction of the District Court, after a District Court judgment on the merits, the plaintiff properly should amend to detinue. If successful on the merits, the plaintiff may then recover the property by a District Court judgment for return of the property.

341 Md. 553, 572 (1996) (internal citations omitted).

<sup>24</sup>Md. Rule 12-601(a); *Dehn Motor Sales, LLC v. Schultz*, 439 Md. 460, 486 (2014).

<sup>25</sup>Md. Rule 12-601(a); The District Court has exclusive jurisdiction over replevin actions, regardless of the amount in controversy. Md. Code Ann., Cts. & Jud. Proc., § 4-401(2).

<sup>26</sup>Md. Rule 12-601(c).

<sup>27</sup>Md. Rule 12-601(f).

<sup>28</sup>Md. Rule 12-601(g).

<sup>29</sup>Md. Rule 12-601(g), (h).

<sup>30</sup>Md. Rule 12-602; 12-601(h).

<sup>31</sup>Md. Rule 12-602(c)(3).

<sup>32</sup>Md. Rule 12-602(d)(1).

<sup>33</sup>Md. Rule 12-602(d)(2).

<sup>34</sup>*See Waage v. Bower*, 188 Wis.2d 324, 525 N.W.2d 96 (1994) (successful conversion claim for return of engagement ring).

<sup>35</sup>*Yuan v. Johns Hopkins University*, 227 Md. App. 554, 578 (2016).

<sup>36</sup>*Yuan*, 227 Md. App. at 578 (quoting *Darcars Motors of Silver Spring, Inc. v. Borzym*, 379 Md. 249, 261-62 (2004)).

<sup>37</sup>*See Ver Brycke*, 379 Md. at 693.

<sup>38</sup>*Eastland Food Corp. v. Mekhaya*, 486 Md. 1, 40 (2023) (quoting *Berry & Gould, P.A. v. Berry*, 360 Md. 142, 151 (2000) (cleaned up)).

<sup>39</sup>*Hill v. Cross Country Settlements, LLC*, 402 Md. 281, 296 (2007).

<sup>40</sup>*Eastland Food Corp. v. Mekhaya*, 486 Md. 1, 40 (2023) (citing *Mogavero v. Silverstein*, 142 Md. App. 259, 276 (2002)).

<sup>41</sup>*Oliveira v. Sugarman*, 226 Md. App. 524, 553-554 (2016).

<sup>42</sup>161 Md. 71, 155 A. 190 (1931).

<sup>43</sup>*Id.*

<sup>44</sup>161 Md. 71, 155 A. 190, 191 (1931).

<sup>45</sup>63 Causes of Action 2d 587 (originally published in 2014).

<sup>46</sup>*See, e.g., Campbell v. Tang*, 2023 PA Super 124, 298 A.3d 1164 (2023) (where party was already married, engagement ring was not recoverable because an agreement to marry while one is already married is void against public policy); *Hooven v. Quintana*, 44 Colo App 395, 618 P.2d 702 (1980), *Morgan v. Wright* (1963) 219 Ga 385, 133 SE2d 341 (1963).

## BABC SUSTAINING MEMBERS

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The generous support of Sustaining Members of the Bar Association of Baltimore City greatly assists this bar association in fulfilling its mission and achieving further growth and success. The unwavering dedication of these members ensures the BABC will continue its long and distinguished tradition of service to our legal community and the public. If you are interested in becoming a Sustaining Member, please contact Karen Fast at [kfast@baltimorebar.org](mailto:kfast@baltimorebar.org).

## The Bar Association of Baltimore City Welcomes New Members who have joined from October 1, 2023 through December 31, 2023.

Shantni Amin	Andrew J. Maschas
Christina Araviakis	Lindsey N. McCulley
Cole Baker	Jeremiah J. Meadows
David D. Bennett	Amber Miller
Kristin Blumer	Rianna Mukherjee
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THE BAR ASSOCIATION OF BALTIMORE CITY  
YOUNG LAWYERS' DIVISION PRESENTS

**DIFFICULT CLIENTS:  
HOW TO SPOT THEM,  
HOW TO MANAGE THEM,  
AND HOW TO PART WITH THEM**

This presentation navigates the complexities of client relationships. Participants will explore strategies for effective communication, conflict resolution and maintaining professional boundaries.

Additionally, attendees will gain insights into handling challenging situations ethically and professionally, ensuring a harmonious attorney-client dynamic. You are sure to elevate your practice with these valuable client management skills.

**GUEST SPEAKER**



Joyvan Malbon-Griffin, Esq.  
Regional Director and Claims Attorney,  
Minnesota Lawyers Mutual Insurance Company



Wednesday, March 27, 2024  
12:00 - 1:00 PM  
ZOOM PROGRAM

MEMBERS: FREE, NON-MEMBERS: \$40

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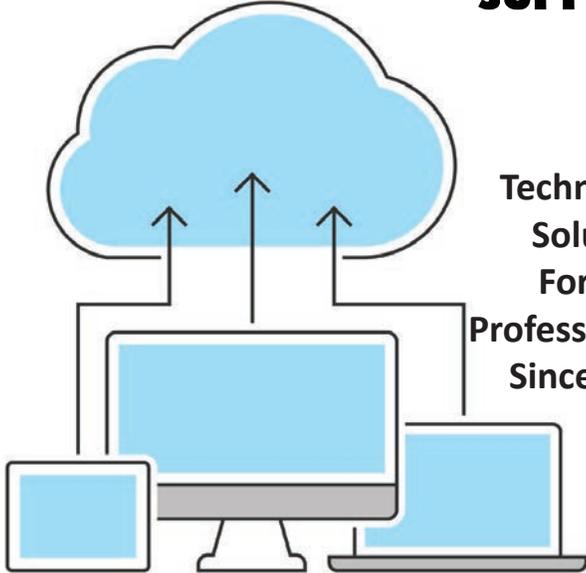
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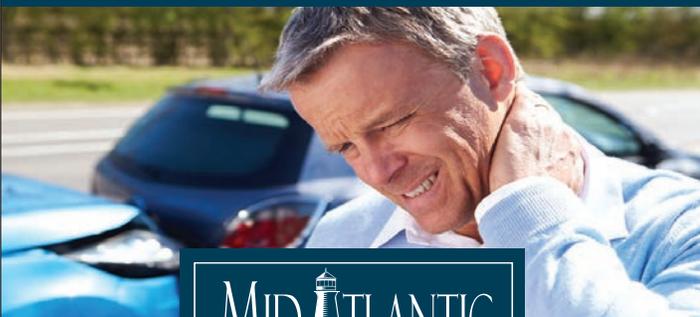
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BAR ASSOCIATION OF BALTIMORE CITY  
PROFESSIONAL ETHICS COMMITTEE PRESENTS



## HOW BEST TO MEET THE PRESS

In today's media-saturated world, lawyers must not only contend with courts of law, but must also consider the client's need to win in the "Court of Public Opinion." To represent our clients', we must interacting with the press effectively as well.

This seminar will provide attorneys with valuable insights into whether, when, and how to engage with the media, addressing the ethical considerations surrounding "trying your case in the press" while also exploring strategies for achieving favorable media coverage.

- Weigh the pros and cons of speaking with the media in high-profile cases.
- Explore the ethical pitfalls of engaging with the press.
- Discuss the delicate balance between protecting a client's interests and respecting the right to a fair trial.
- Learn practical techniques for ensuring that your message is accurately conveyed.
- Explore ways to stay on message and handle tough questions during interviews.
- Discuss crisis communication strategies to mitigate damage to your client's reputation and maintain credibility.

Sharing practical guidance on how best to meet the press, our panel features lawyers who started their careers as journalists, as well as an investigative journalist who has covered numerous high-profile court cases.

Thursday, April 11, 2023  
12:30 - 2:00 PM  
Clarence M. Mitchell, Jr. Courthouse,  
Room 504  
Lunch will be served

**MODERATOR:**  
Irwin R. Kramer, Firm

**GUEST SPEAKERS:**  
Robert D. Anbinder, Esquire  
Chief Solicitor, Baltimore City Law Department

Judge John J. Kuchno,  
General Counsel, Columbia Association

Jayne Miller  
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Members: Free attendance; Non-members: \$40

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THE BAR ASSOCIATION OF BALTIMORE CITY  
YOUNG LAWYERS' DIVISION PRESENTS

# FAMILY FRIENDLY SKATE DATE

**COMPLIMENTARY SKATE RENTAL, ADMISSION, AND HOT COCOA!**

**SATURDAY, APRIL 6, 2024 AT 3:00 PM**



**FREE  
ATTENDANCE**

JOIN THE YOUNG LAWYERS' DIVISION FOR AN AFTERNOON  
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## BABC Memorial Service

November 1, 2023

On November 1, 2023 the BABC honored those we lost in 2021 & 2022. Thank you to The Memorial Committee Chair, Hon. Mark Scurti and the entire committee for making this a memorable event.



IN MEMORIAM

- Robert W. Baker
- R. Roland Brockmeyer
- Christopher C. Brown
- Herbert Burgunder, III
- Patrick Cullen
- John Sinclair Denholm
- Seymour Goldstein
- Frank Goldstein
- Francis Gray
- Samuel Jett
- Kathryn Kelley Hoskins
- Howard Klein
- James Marshall Kramon
- Michael Libowitz
- Francis Meagher
- Jacob Miliman
- James Moskos, Jr.
- Hon. Richard O. Motsay, Sr.
- Pat McCormally
- Joseph Vincent Rohr, Jr.
- David Rudow
- Stephen Sachs
- Hon. John Sause
- William Smith
- Bobbie Steyer
- Theodore C. Denick
- Byron Warnken



## Sustaining Member Cooking Class

November 6, 2023

The Sustaining Members got together on November 6, 2023, for their Fall outing and had some laughs at a cooking class.

Members made spanakopita and baklava. Thanks to the Bar Association Insurance Agency for sponsoring Sustaining Member events. It's never too late to join this exclusive group. Our next outing is an Orioles game.

Sustaining Member events are always complimentary.



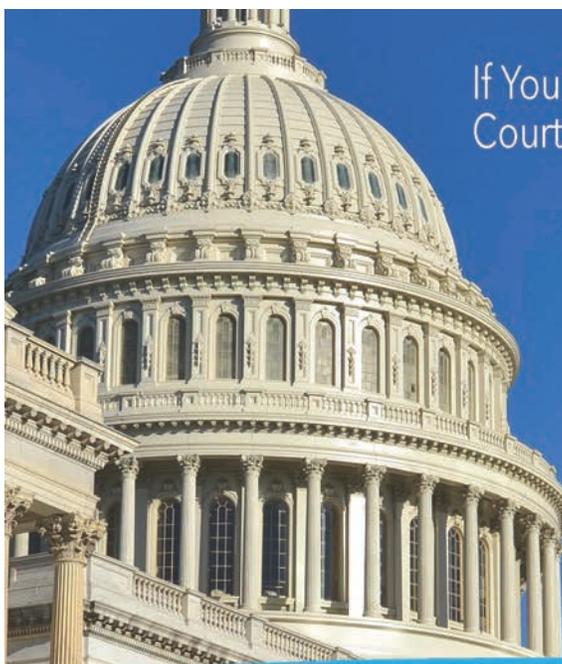




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## Supreme Court Admissions

November 7, 2023

President James Motsay was proud to present to the Supreme Court on November 7, 2023, Jeremy Brian Brooks, Ashley Lynn Ensor, Tresa Lucille Fitch Drakeford, Dominique Ajuleigh Flowers, Aaron David Fray, Rashida Anise Jeremie, James Nelson Lewis, Yoseph Velvel Orshan, Jane Patricia Santoni, and Ronika Janene Sumlin to be admitted to the Supreme Court. Friends and family celebrated afterwards with lunch in Washington, DC.



# Life Insurance for Bar Members

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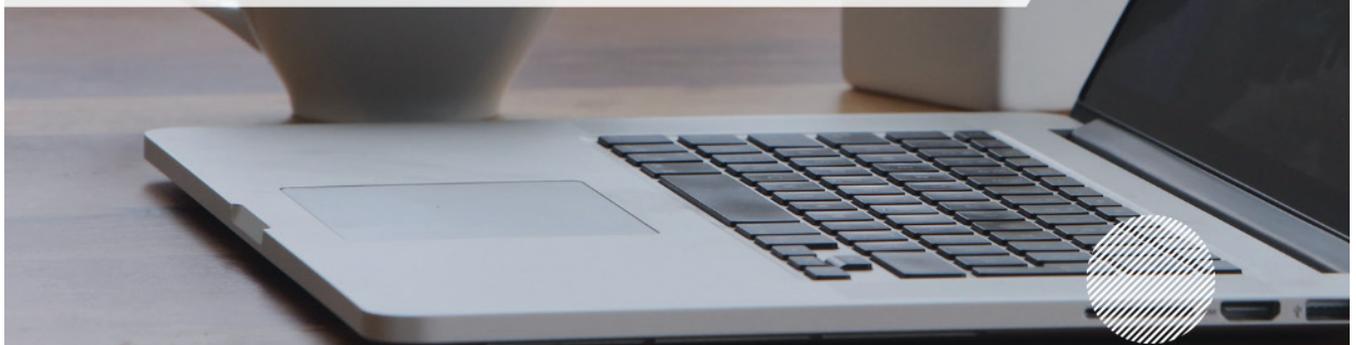
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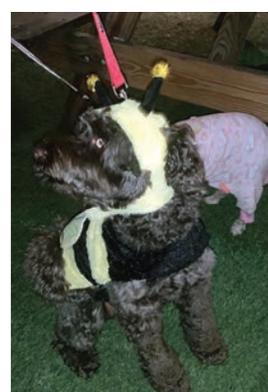
CyberLock Lawyer is a Cyber Risk Insurance policy. It protects firms and attorneys from the growing threat of cyber risks, such as confidentiality and privacy breaches, computer system disruptions, hackers, fraudulent funds transfers, malware, extortion and ransomware.



# YLD Yappy Hour

November 9, 2023

On November 9, 2023, the YLD hosted a Yappy Hour where members and their dogs received sweet treats and lots of licks. Thank you to Veritext Legal Solutions for sponsoring.



## National Adoption Day

November 18, 2023

Twenty-three children were adopted by 18 families during our National Adoption Day ceremony on November 18, 2023. Special thanks to Co-chairs Ashley Ward and Kerri Smith, the Department of Social Services, Chief Judge Carrión and the Circuit Court for Baltimore City and all the volunteers that made the day special!



THE BAR ASSOCIATION OF BALTIMORE CITY  
PERSONAL INJURY COMMITTEE PRESENTS



# Mastering the Art of Persuasion: Harnessing the Power of Demonstrative Evidence in Trial Advocacy

Moderators: Christopher D. Wright, Laura A. Simmons

## Guest Speakers



**Christina N. Billiet, Esq.**  
Waranch & Brown, LLC



**Justin A. Wallace, Esq.**  
Law Office of Justin A.  
Wallace



**Judge Erik S. Atas**  
The Circuit Court of  
Baltimore City

## WHAT WE WILL COVER

- Why demonstratives matter
- Preparation/costs
- Disclosure to the other side
- Foundation
- Admission into evidence
- Logistics of court/courtroom/judge

**Wednesday, April 24, 2024**

**12:00 - 1:30 PM**

**Clarence M. Mitchell, Jr. Courthouse  
Room 504**

***LUNCH WILL BE SERVED***

**MEMBERS: FREE, NON-MEMBERS: \$40**

**Register here**

**[www.baltimorebar.org/calendar/](http://www.baltimorebar.org/calendar/)**

## Past Presidents' Luncheon

November 21, 2023

On November 21, our Past Presidents gathered to present Presidential Awards to Paul Kramer & Sarah P. Belardi. The Margaret Brent/Juanita Jackson Mitchell Award was deservedly given to Cynthia Leppert and the Paul A. Dorf Memorial ADR Award went to Louise Phipps Senft. Congratulations to all!

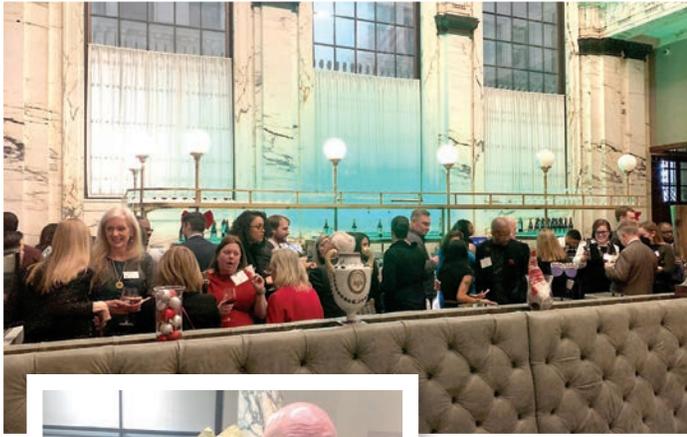




## BABC Holiday Party

December 6, 2023

The BABC Holiday Party had a great turnout on December 6, 2023. The party was at Zander's, the new restaurant at the Alexander Brown building. The food was fantastic, the venue was beautiful, the company was outstanding, but the best part was raising money through the wine pull and auction for the YLD Holiday Party for Kids Living in Shelters.





## Young Lawyers Holiday Party for Kids Living in Shelters

December 14, 2023

The YLD hosted over 60 children and their families at their Holiday Party for Kids Living in Shelters. Thank you to all the law firms who sponsored and gave us the resources to make this a memorable event for these families.



# Member Spotlight

## Letam Duson



### **Where do you currently work?**

I am a Senior Assistant State Prosecutor at the Office of the State Prosecutor and the Founder of Ley All Day, LLC.

### **What is your current involvement with the BABC and other Bar organizations?**

I serve as a liaison in the YLD for the Alliance of Black Women Attorneys, and serve on the YLD Nominating Committee and the BABC Diversity Committee. I also serve as co-chair of the MSBA Young Lawyers' Section Technology Committee, and I'm the Immediate Past President of Civil Justice, Inc., Board of Directors.

### **What is your favorite part of being involved with the YLD?**

My favorite parts of being involved in the YLD are all the friends I have made that I would not have met but for the BABC, the opportunities to give back to the community, and the opportunities to speak to young lawyers to share my experiences on topics I am passionate about. Being on the YLD Council for the past 5 years has allowed me to gain friends from all different practice areas. I had never planned

on being an entrepreneur, but when I decided to start my personal styling business, Ley All Day, at the end of 2022, my friends from the YLD were very supportive and not only gave advice on business formation, but provided me with helpful resources and connected me with individuals in various areas (such as business banking), took pictures/videos for me at events for my social media content, have become clients, and have referred clients to me. I had no clue that the people I had made genuine connections with over these years would cheer me on so strongly in a field unrelated to law, but I am so grateful to all of them. Also, were it not for being a member of the YLD, I would not have gotten to speak to students who participated in the mock trial program about a career in litigation when I was a member of the YLD Public Education Committee or volunteered at the Annual Holiday Party for Children Living in Shelters. Those are just two of the very rewarding experiences I've had as a member of the YLD. I've been a panelist for several BABC events including YLD panels on Why You Should Join A Bar Association and New Lawyers Mental Health & Wellness.

## Gary Norman



### **Where do you currently work?**

I am an Attorney-Advisor, Centers for Medicare and Medicaid Services.

### **What is your current involvement with the BABC and other Bar organizations?**

I serve as the Chair of the CLE Committee. I also represent the BABC as a Member of the Maryland State Bar Association Board of Governors.

### **Why did you become involved with the BABC, and what is your favorite part of being involved with the BABC?**

I'm a Baltimore City resident and I've dedicated a significant amount of my time to mentoring law students and young lawyers. Being an engaged member of the BABC offers me continued opportunities to uphold my commitment to mentoring law students and young attorneys.

## Preventing the Unauthorized Practice of Law... *Continued from page 7*

<sup>11</sup>MODEL RULES OF PROF. CONDUCT r. 5.5 (AM. BAR ASS'N 2019); Md. Rule 19-305.5 [MARPC 5.5].

<sup>12</sup>Md. CODE ANN., BUS. OCC. & PROF. § 10-601(a).

<sup>13</sup>Colleen M. Aracri, *Virtual Professionalism for Maryland Lawyers*, 3-4 (2021), <https://125.msba.org/wp-content/uploads/2022/05/Virtual-Professionalism-Whitepapers-MSBA.pdf>.

<sup>14</sup>MODEL RULES OF PROF. CONDUCT r. 5.5(b).

<sup>15</sup>Md. Rule 19-305.5(b) [MARPC 5.5(b)].

<sup>16</sup>ABA COMM. ON ETHICS & PRO. RESP., *supra* note 7.

<sup>17</sup>*In re Carlton*, 708 F. Supp. 2d 524, 527 (D. Md. 2010).

<sup>18</sup>*Id.* at 526.

<sup>19</sup>*Id.* at 526-27.

<sup>20</sup>Lauren Snyder & Amy Richardson, *Avoiding Unauthorized Practice of Law in Remote Work*, LAW360 (Aug. 4, 2021, 4:03 P.M.), <https://www.hwglaw.com/wp-content/uploads/2021/08/Avoiding-Unauthorized-Practice-Of-Law-In-Remote-Work.pdf>; see also *In re Zeno*, 850 F. Supp. 2d 546, 555 (D. Md. 2011) (finding that an attorney engaged in the unauthorized practice of the law by maintaining his principal office in Maryland, where he substantially devoted time to practice, and did not express limitations to federal matters or jurisdictions of licensure).

<sup>21</sup>*Ramirez v. England*, 320 F. Supp. 2d 368, 377-378 (D. Md. 2004).

<sup>22</sup>See *Kennedy v. Bar Ass'n.*, 316 Md. 646, 666, 561 A.2d 200, 210 (1989) (holding that an attorney not licensed in Maryland engaged in the unauthorized practice of law by establishing his federal practice in Maryland and publicly representing himself as an attorney practicing law in Maryland).

<sup>23</sup>*Atty. Griev. Comm'n v. Jackson*, 477 Md. 174, 209, 269 A.3d 252, 273 (2022).

<sup>24</sup>*Id.* at 224.

<sup>25</sup>*Id.* at 212-13.

<sup>26</sup>*Id.* at 213.

<sup>27</sup>ABA COMM. ON ETHICS & PRO. RESP., FORMAL OP. 498 (2021).

<sup>28</sup>Victoria Garner, Recent Development, *Attorney Grievance Commission of Maryland v. Dawn R. Jackson: A Non-Maryland Licensed Attorney Who Establishes a Physical Office in Maryland Engages in the Unauthorized Practice of Law. Additionally, the Federal Practice Exception Is Inapplicable to Such Attorneys Simply Licensed in the District of Columbia*, 53 U. BALT. L.F. 121, 124 (2022).

<sup>29</sup>MODEL RULES OF PROF. CONDUCT r. 5.5 cmt. 1 (AM. BAR ASS'N 2019); MODEL RULES OF PROF. CONDUCT r. 8.4 cmt. 1 (AM. BAR ASS'N 2018); see also Md. Rule 19-305.5(a) [MARPC 5.5(a)].

<sup>30</sup>MODEL RULES OF PROF. CONDUCT r. 8.3 (AM. BAR ASS'NS 2023); see also Md Rule 19-308.3(a) [MARPC 3.3(a)].

# Blast from the Past – Special Meeting of the Executive Committee – March 8, 1965

*John O. Herrmann, Acting Secretary*

A special meeting of the Executive Committee of The Bar Association of Baltimore City was held on March 8, 1965, at 12:00 noon in the Emerson Hotel, Baltimore, Maryland.

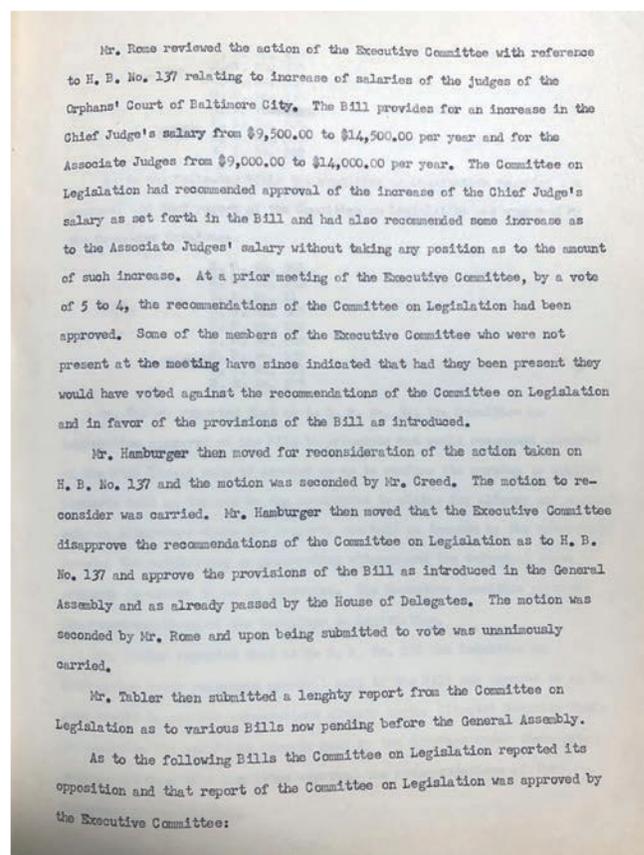
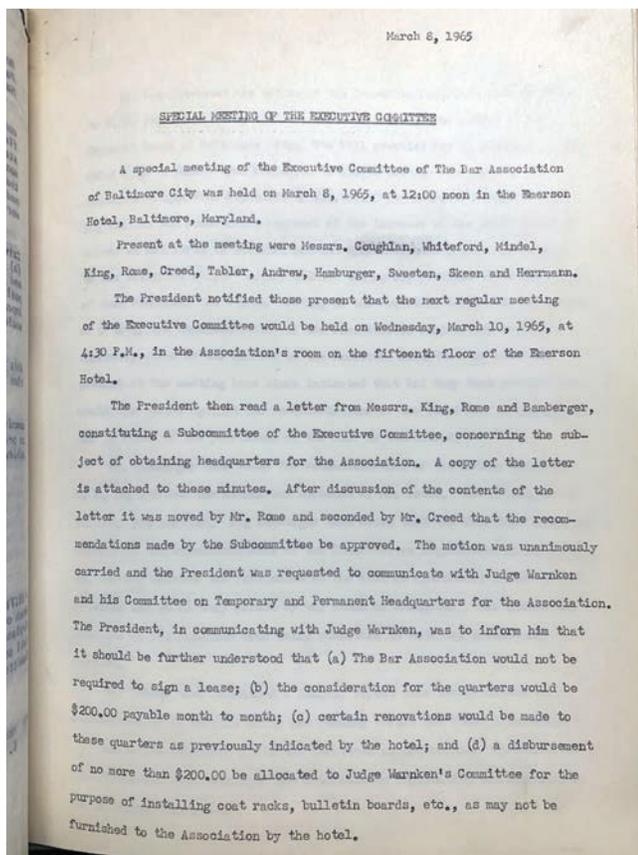
Present at the meeting were Messrs. Coughlan, Whiteford, Mindel, King, Rome, Creed, Tabler, Andrew, Hamburger, Sweeten, Skeen, and Herrmann. The President notified those present that the next regular meeting of the Executive Committee would be held on Wednesday, March 10, 1965, at 4:30 P.M., in the Association's room on the fifteenth floor of the Emerson Hotel.

The President then read a letter from Messrs. King, Rome, and Bamberger, constituting a Subcommittee of the Executive Committee, concerning the subject of obtaining headquarters for the Association. A copy of the letter is attached to these minutes. After discussion of the contents of the letter, it was moved by Mr. Rome and seconded by Mr. Creed that the recommendations made by the Subcommittee be approved. The motion was unanimously carried and the President was requested to communicate with Judge Warnken and his Committee on Temporary and Permanent Headquarters for the Association. The President, in communicating with Judge Warnken, was to inform him that it should be further understood that (a) The Bar Association would not be required to sign a lease; (b) the consideration for the quarters would be \$200.00 payable month to month; (c) certain renovations would be made to these quarters as previously indicated by

the hotel; and (d) a disbursement of no more than \$200.00 be allocated to Judge Warnken's Committee for the purpose of installing coat racks, bulletin boards, etc., as may not be furnished to the Association by the hotel.

Mr. Rome reviewed the action of the Executive Committee with reference to H.B. No. 137 relating to the increase of salaries of the judges of the Orphan's Court of Baltimore City. The Bill provides for an increase in the Chief Judge's salary from \$9,500.00 to \$14,500.00 per year and for the Associate Judges from \$9,000.00 to \$14,000.00 per year. The Committee on Legislation had recommended approval of the increase of the Chief Judge's salary as set forth in the Bill and had also recommended some increase of as to the Associate Judges' salary without taking any position as to the amount of such increase. At a prior meeting of the Executive Committee, by a vote of 5 to 4, the recommendations of the Committee on Legislation had been approved. Some of the members of the Executive Committee who were not present at the meeting have since indicated that had they been present they would have voted against the recommendations of the Committee on Legislation and in favor of the provisions of the Bill as introduced.

Mr. Hamburger then moved for reconsideration of the action taken on H.B. No. 137 and the motion was seconded by Mr. Creed. The motion to reconsider was carried. Mr. Hamburger then moved that the



Executive Committee disapprove the recommendations of the Committee on Legislation at to H.B. No. 137 and approve the provisions of the Bill as introduced in the General Assembly and as already passed by the House of Delegates. The motion was seconded by Mr. Rome and upon being submitted to the vote was unanimously carried.

Mr. Tabler then submitted a lengthy report from the Committee on Legislation as to various Bills now pending before the General Assembly.

As to the following Bills the Committee on Legislation reported its opposition and that report of the Committee on Legislation was approved by the Executive Committee:

H.B. No. 459  
H.B. No. 520  
H.B. No. 525  
H.B. No. 531  
H.B. No. 651  
H.B. No. 608  
H.B. No. 231  
H.B. No. 588

As the following Bills the Committee on Legislation reported its approval and that report of the Committee on Legislation was approved by the Executive Committee:

H.B. No. 561  
H.B. No. 243  
S.B. No. 11  
H.B. No. 687  
H.B. No. 218  
H.B. No. 569

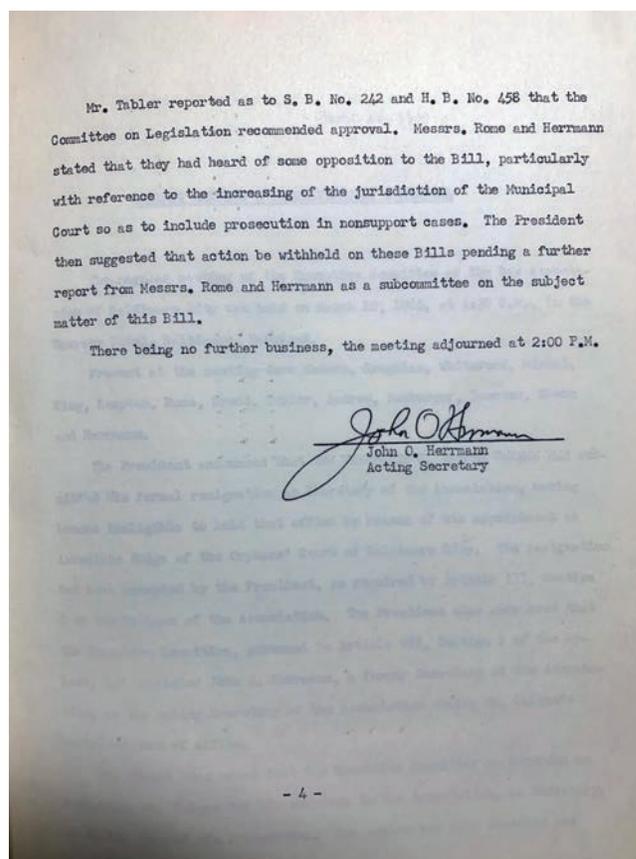
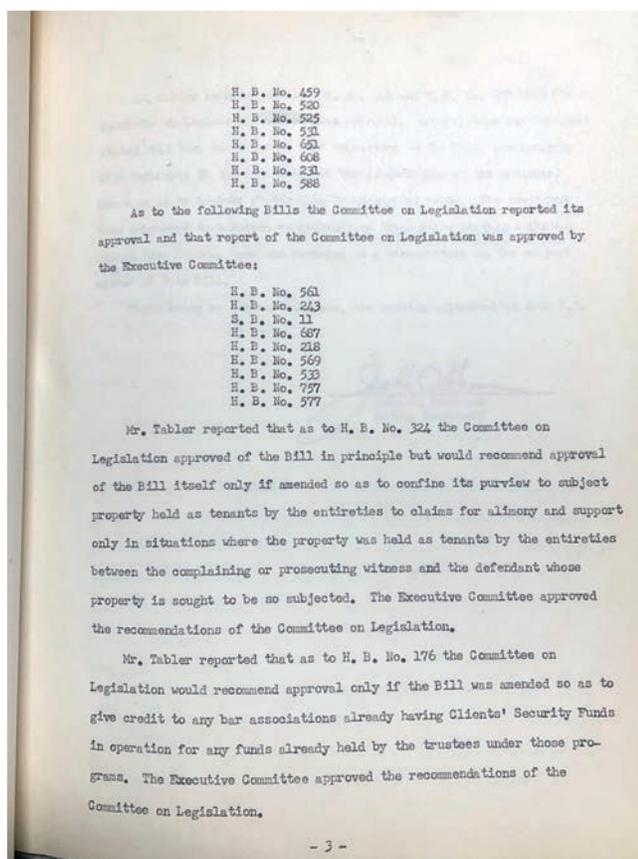
H.B. No. 533  
H.B. No. 757  
H.B. No. 577

Mr. Tabler reported that as to H.B. No. 324 the Committee on Legislation approved of the Bill in principle but would recommend approval of the Bill itself only if amended so as to confine its purview to subject property held as tenants by the entireties to claims for alimony and support only in situations where the property was held as tenants by the entireties between the complaining or prosecuting witness and the defendant whose property is sought to be so subjected. The Executive Committee approved the recommendations of the Committee on Legislation.

Mr. Tabler reported that as to H.B. No. 176 the Committee on Legislation would recommend approval only if the Bill was amended so as to give credit to any bar associations already having Clients' Security Funds in operation for any funds already held by the trustees under those programs. The Executive Committee approved the recommendations of the Committee on Legislation.

Mr. Tabler reported as to S.B. No. 242 and H.B. No. 458 that the Committee on Legislation recommended approval. Messrs. Rome and Herrmann stated that they had heard some opposition to the Bill, particularly with reference to the increasing of the jurisdiction of the Municipal Court so as to include prosecution in nonsupport cases. The President then suggested that action be withheld on these Bills pending a further report from Messrs. Rome and Herrmann as a subcommittee on the subject matter of this Bill.

There being no further business, the meeting adjourned at 2:00 P.M.





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