

PRESIDENT'S MESSAGE

Find an Opportunity to Make Connections

By Grace Royalty, U.S. District Court – Southern District of Ohio



On June 25th, the Ohio Women's Bar Association (OWBA) hosted the sixth annual Leading with Style event in Cincinnati.

The event was a terrific success. Nearly 125 guests—both female and male—enjoyed food, drinks, a fashion show, and a little pampering.

The event got me thinking about making connections. What I mean is real networking. Not just exchanging business cards, but making real and lasting connections. There were at least three groups of women who drove down from Columbus to attend the Leading with Style event. That is powerful. Involvement like that makes us more than just members of an organization. It turns us into a force.

I see the same power in the newly-formed Government Subcommittee. At the kick off event in Columbus on May 20th it was clear that there is a need for women working in government to connect with one another. The speakers at the event—Betty Montgomery and Justice Judith French—demonstrated how important it is to share stories and support one another. The next day we came together for the Annual Meeting. This

event is always a great opportunity to connect with one another in person. This year Jim Thomas of Vorys presented our CLE program, and our keynote speaker was Deborah Platt Majoras, chief legal officer and secretary for The Procter & Gamble Company.

Another connection was made on June 11. The OWBA co-hosted a CLE program with the Cleveland Metro Bar Association entitled, "Avoid Hanging in the Balance: Effective Practices for Work-Life Integration." Connecting with other bar associations is a great way to expand our resources.

The opportunity to connect with one another continues to grow. We are forming an Energy Subcommittee, which will hold its own kick-off event this fall. This subcommittee will give women in the expanding field of oil and gas energy a chance to do some groundbreaking work. While I always encourage membership in the OWBA, I also encourage getting involved within the organization. Contact your District Trustee to see if you can help plan an event. The Mentor Program will also begin looking for mentors soon.

There's no shortage of opportunities to make a connection!

Grace Royalty is with the U.S. District Court, Southern District of Ohio.

Please Join Us for these Upcoming Events

OWBF Leadership Luncheon

September 10, 2015
The Bluestone (583 East Broad Street, Columbus 43215)
12:00 p.m. – 1:30 p.m.

Dayton Golf and Networking Event

September 17, 2015
Yankee Trace Golf Course (10000 Yankee Street, Centerville 45458)
5:30 p.m. – 8:00 p.m.
Sponsored by: Faruki, Ireland & Cox P.L.L. and LexisNexis

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Raising the Stakes of Litigation: Lawyers Sued for Representing Their Clients

By Amanda Martinsek, Thacker Martinsek LPA and OWBA Eighth District Trustee



Lawyers do not expect to be vulnerable to suit by third parties for their representation of clients. Increasingly, however,

strangers to the attorney-client relationship are naming counsel as defendants in suits. The potential strategic benefits of this gambit are obvious: 1) Driving a wedge between client and counsel; 2) Obtaining discovery of privileged documents under the crime/fraud exception; and 3) Another potentially lucrative pocket to pick for settlement or after judgment.

Attorney Immunity Under Ohio Law

Jurisdictions vary in their handling of such claims. Characteristically, Ohio law bars claims against attorneys brought by disgruntled third parties to the attorney-client relationship, absent privity or a showing of malice. *Scholler v. Scholler*, 10 Ohio St.3d 98, 103, 462 N.E.2d 158 (1984), paragraph one of the syllabus (“[A]n attorney is immune from liability to third persons arising from his performance as an attorney in good faith on behalf of, and with the knowledge of his client, unless such third person is in privity with the client or the attorney acts maliciously.”) (citation omitted).

The rationale for this posture is clear:... “Some immunity from being sued by third persons must

be afforded an attorney so that he may properly represent his client. To allow indiscriminate third-party actions against attorneys of necessity would create a conflict of interest at all times, so that the attorney might well be reluctant to offer proper representation to his client in fear of some third-party action against the attorney himself.”

Simon v. Zipperstein, 32 Ohio St.3d 74, 76, 512 N.E.2d 636 (1987) (citation omitted).

Ohio courts have defined the privity and malice exceptions tightly. To be in privity, a third party’s interests must align with the client’s interests “such that representing the client is equivalent to representing the party alleging privity with the client.” *Solomon v. Harwood*, 8th Dist. Cuyahoga No. 96256, 2011-Ohio-5268, ¶ 27, citing *Scholler*, at 103-04. Additionally, an attorney acts maliciously only “when he acts with an ulterior motive separate and apart from his client’s interests,” *Kimble Mixer Co. v. Hall*, 5th Dist. Tuscarawas No. 2003 AP 01 0003, 2005-Ohio-794, ¶¶ 85-87, or when “special circumstances ‘such [as] fraud, bad faith, [or] collusion’ are present.” *Id.* (quoting *Simon*, at 76-77). Obviously, courts intend the privity and malice exceptions to represent the high hurdle that they should be.

Nor will creative pleading change the result. A plaintiff’s bald allegations of fraud, collusion, or bad faith are mere legal conclusions and inadequate as a matter of law to

support a third party claim against counsel. See *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 192-93, 532 N.E.2d 753 (1988) (disregarding conclusory assertions of intent under Civ.R. 12(B)(6) because “[v]irtually every injury . . . can be made the basis for a claim of intentional tort if the unsupported conclusion that the [defendant] intended to injure the [plaintiff] is allowed to prevail over factual allegations which preclude the possibility of intentional tort”); see also *Limbacher v. Owens*, 5th Dist. Stark No. 2002CA00348, 2003 Ohio App. LEXIS 1655, 6 (finding no malice, under Civ.R. 12(B)(6), despite allegations of “knowing, and reckless conduct, [m]isrepresentations . . . and/or false conduct”).

Can a Lawyer Conspire With a Client?

Efforts to get around dismissal through allegations of conspiracy between lawyer and client are typically also unavailing under Ohio law. An attorney cannot “conspire with his client when acting within the bounds of the attorney-client relationship.” *Lincoln Elec. Co. v. Manahan*, N.D. Ohio No. 1:10 CV 00724, 2011 U.S. Dist. LEXIS 89169, 17 (Aug. 11, 2011) (citing *Doherty v. Am. Motors Corp.*, 728 F.2d 334, 340 (6th Cir.1984)); *Upton v. City of Royal Oak*, 6th Cir. No. 10-2304, 2012 U.S. App. LEXIS 9724, 33-34 (May 11, 2012). This rule flows inexorably from the fact that a conspiracy requires at least two actors. *Williams v. Aetna Fin. Co.*,

(Continued on next page)

Lawyers Sued (*Cont'd from page 2*) 83 Ohio St.3d 464, 475, 700 N.E.2d 859 (1998) (defining civil conspiracy as “a malicious combination of two or more persons to injure another in person or property, in a way not competent for one alone, resulting in actual damages”) (citation omitted, emphasis added); see also Doherty, at 339 (“It is basic in the law of conspiracy that you must have two persons or entities to have a conspiracy.”) (quoting *Nelson Radio & Supply Co. v. Motorola, Inc.*, 200 F.2d 911, 914 (5th Cir. 1952), cert. denied, 345 U.S. 925, 97 L.Ed. 1356, 73 S.Ct. 783 (1953)).

Attorneys Acting Within the Scope of Their Engagement Cannot Conspire With Their Client.

The attorney-client relationship is a long-recognized agent-principal relationship. Upton at 33-34. The rule that “an attorney cannot ... conspire with his client” is therefore a necessary corollary of the intracorporate conspiracy doctrine. *Lincoln Elec.*, at 17-18. The same rule applies to corporate clients. Indeed, “the policy reasons for applying the intracorporate conspiracy ban are ‘even more compelling’ in the attorney-client context than in the ‘corporate field,’ given that ‘[c]ounsel’s conduct within the scope of representation is regulated and enforced by disciplinary bodies established by the courts.’” *Gen. Refractories Co. v. Fireman’s Fund Ins. Co.*, 337 F.3d 297, 313 (3d Cir.2003) (citing *Heffernan v. Hunter*, 189 F.3d 405, 413 (3d Cir.1999)). Applying the intracorporate conspiracy ban to attorneys also “maintain[s] the integrity of the adversary system, central to which is the freedom of counsel to advocate

their client’s interests, without fear of reprisals from a disgruntled opposing litigant.” *Williams v. Grossman*, Neb. App. No. A-93-570, 1995 Neb. App. LEXIS 135, 20-21 (Apr. 18, 1995). Attorneys are even protected from having to defend civil suits alleging that they conspired with their clients when their alleged conduct “may violate the canons of ethics.” *Gen. Refractories* at 314; see also *Lincoln Elec. N.D. Ohio No. 1:10 cv 00724*, 2011 U.S. Dist. LEXIS 89169, at 17 (dismissing a conspiracy claim based on allegations that attorney conspired with his client to fraudulently shield assets from recovery); *Burch*, at 601 (dismissing lawsuit alleging attorney conspired with client to deter witness from testifying in another action).

Attorneys Must Still Exercise Care.

Attorney immunity is not limitless, however. It will not extend to shield acts that are outside the scope of the attorney-client relationship. Thus, just as not every communication between an attorney and their client is privileged, an attorney’s interactions with her client can exceed the bounds of the attorney-client relationship.

Courts have found that attorney immunity “does not prevent a civil-conspiracy action from going forward that is predicated upon acts that extend beyond the attorney-client relationship. Were the rule otherwise, an attorney would receive immunity from civil-conspiracy actions; certainly, such is not the case.” *Deutsche Bank Nat’l Trust v. Gillium*, 151 Ohio Misc. 2d 36, 41 (Ohio C.P. 2009). An example of such allegations is the claim that attorney and client “participated in a common scheme that included not only the provision of nominal legal services...

but also conduct by the other third-party defendants that included violations of the Consumer Sales Practices Act, breach of fiduciary duty, and common-law fraud.” *Deutsch Bank Nat’l Trust*, 151 Ohio Misc. 2d at 41. See, also, *Lincoln Elec. Co. v. Manahan*, 2011 U.S. Dist. LEXIS 89169, 17-18 (N.D. Ohio Aug. 11, 2011) (“A civil-conspiracy action may go forward that is predicated upon acts that extend beyond the attorney-client relationship”). Thus, business dealings between attorney and client that do not involve an attorney acting as an attorney will not be protected by immunity or privilege.

Conclusion

Attorneys are increasingly under attack by third parties for actions, which they would characterize as simply doing their job as counsel. While Ohio courts usually embrace summary disposition of such matters, attorneys need to exercise care to ensure that it is clear that their actions are all clearly within the scope of and in furtherance of a true attorney-client relationship. Outside that relationship, there is no protection. ■

Amanda Martinsek is the founding president and a shareholder of Thacker Martinsek LPA, a women-owned, WBENC-certified litigation firm, formed in 2010. Amanda has extensive corporate advocacy experience including all aspects of commercial disputes, shareholder derivative claims and class action litigation. Amanda also frequently represents attorneys in professional liability and other matters. She has recently been listed as one of the Top 25 Women Super Lawyers in Cleveland.

Event Recap

Avoid Hanging in the Balance: Effective Practices for Work-Life Integration

On June 11th the OWBA co-hosted a CLE program with the Cleveland Metro Bar Association entitled Avoid Hanging in the Balance: Effective Practices for Work-Life Integration. The event provided attendees with 2.5 hours of Professional Conduct CLE hours and featured great speakers and topics.

Attendees were able to learn practical pointers on work-life integration to avoid “hanging in the balance” and were given perspective and experiences of work-life integration in the legal profession.

Topics included:

- Individual professional perspectives and experiences of work-life integration in the legal profession
- Work-life integration perspectives from managing attorneys
- Ethical implications for attorneys when lack of work-life integration results in risk to their practices
- Mental health and wellness concerns relating to attorneys who may not be achieving work-life integration
- Perspectives of attorneys and work-life integration from the bench

Presenters were:

Sherril L. Dahl
Partner, Roetzel & Andress

Meena Morey Chandra
Director, U.S. Department of Education, Office of Civil Rights

Linda Erkkila
General Counsel, Safeguard Properties

Ian N. Friedman
Principal, McCarthy Lebit Crystal & Liffman Co., LPA

Lisa P. Gaynier
Director, Diversity Management Program, Cleveland State University

Michelle Todd Hackim
Associate, Jackson Lewis LLP

Sonali B. Wilson
General Counsel, Cleveland State University

Robert M. Wolff
Partner, Littler Mendelson, P.C.

Cathleen M. Bolek
Principal, Bolek Besser Glesius, LLC

Mary Cibella
Of Counsel, McGinty Hilow & Spellacy Co. L.P.A.

The Honorable Pat E. Morgenstern-Clarren, *Chief Judge, United States Bankruptcy Court, Northern District of Ohio*

Francoise Adan MD, ABIHM,
Medical Director of UH Connor Integrative Medicine Network

Thank you to everyone who participated in this event. ■

THACKER MARTINSEK LPA

BREAKING DOWN THE WALL.

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The National Association of Minority & Women Owned Law Firms
Legal excellence knows no color or gender

Thacker Martinsek LPA salutes the contributions of all women in the practice of law.

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Work Smarter, Not Harder: Implement Lean and Six Sigma Process Methodologies in Your Legal Departments

By Jennifer N. Elleman, director and senior corporate counsel, LexisNexis, Lean Six Sigma Certified Yellow Belt and OWBA Second District Trustee



The recession of the late 2000s left a lasting impact on the U.S. legal market. Though economists tell us that the U.S. technically

emerged from the recession in June 2009, the labor market remains slack. Many Americans are unable to find work or report no appreciable increase in their salaries. From a corporate legal department perspective, the spending trajectory has been significantly slowing. According to HBR Consulting's 2014 HBR Law Department Survey, the U.S. legal spend increased a mere 1% during the period of 2012-2013. This is compared with an overall 3% increase reported from 2011-2012 and a 5% increase for 2010-2011.

This slowing trend has had a ripple effect throughout U.S. law firms. Of the moderate increase in legal spend, many corporations report spending these dollars on their own departments while decreasing their spend with outside counsel. All of this has resulted in a new legal environment. Gone are the days when an attorney's worth (whether as in-house counsel or private practitioner) was unquestioned. Today, there is an increased focus upon metrics and ROIs. Corporate legal departments are being compared to legal departments in other similarly sized companies. Where spending is out of line, adjustments are being made. So is there any good news?

How can an attorney demonstrate his or her value-add in today's environment?

The good news is that our clients still need us. During a tough economy, there is a greater emphasis on minimizing risk and helping businesses achieve their strategic objectives. Furthermore, attorneys can survive and thrive in this tough economic period by finding new and innovative ways to meet client expectations. We can no longer continue to deliver services in the same old ways we've done in the past. We must be able to tell a compelling story of the value we are delivering.

Two sets of tools we have utilized to improve operational performance at LexisNexis are Lean and Six Sigma. Six Sigma is a problem-solving methodology that centers on reducing variation in process output in order to increase the quality of a product and improve the customer experience. Stated another way, Six Sigma looks for the causes of variation and then eliminates them or mitigates their impact so that tasks are performed in a reliable and consistent manner every time. A complementary school of thought is "Lean" thinking which traces its roots to Henry Ford. Lean thinking emphasizes the elimination of non-value-added or wasteful activities. It is often called 'Lean Manufacturing' because its roots are in the assembly of components, but the principles apply in many settings including service, design, contract drafting, and more. When combined together, Lean and

Lean Six Sigma



Six Sigma ("Lean Six Sigma") is a system that requires the examination of all processes to ensure the right and best resources are used, that there are no unnecessary resources or steps, and that the process is performed in a consistent manner to minimize errors and variances in output.

It's easy to see how Henry Ford could increase the output of his assembly line with Lean processes but can we increase the efficiency of legal services through Lean Six Sigma? The answer is yes! We can increase the output of high value legal services by eliminating wasteful activities that distract us and slow us down from delivering high value, high stakes legal services that our clients really value.

The Global Legal Department at LexisNexis underwent a significant reorganization in 2012. Specifically, we migrated from a practice-based structure analogous to a law firm with specific areas of specialization (commercial transactions, employment, litigation, etc.) to a general counsel model where each
(Continued on next page)

Work Smarter (Cont'd from page 5) attorney supported all legal needs of assigned business units. Some positions were eliminated and virtually every attorney's day-to-day focus shifted dramatically. This change proved to be the perfect breeding ground for the implementation of Lean Six Sigma as each attorney adjusted to his or her new role. Processes that had been in place for years were examined carefully to determine if they were still relevant for the current organization at its current staffing levels. A huge number of tasks were eliminated by either redirecting them to more appropriate resources within the company, by reengineering overall workflow processes to combine or eliminate steps, or by automating processes such as the adoption of matter management tools. This work was done cross-organizationally meaning that the processes were overhauled in combination with departments and resources outside of the Legal Department to shift and redesign how we interacted with these departments. Three years out from this reorganization, the Legal Department has settled into its new model including the adoption of the continuous improvement mindset. We look to continually institute what is known as "Kaizan," or rapid improvement events, to examine the most efficient manner to deliver high quality legal services.

These techniques can be adopted and applied to the administrative processes in any law firm or corporate legal department to ensure consistency for each output and for every customer experience. There are a number of organizations that offer Six Sigma certification. Even if your organization does not adopt these techniques systematically, you may want to consider seeking out certification as Lean Six Sigma may

help you stand out in your department as an innovative thinker. Finally, even without formal certification, there are a number of changes that you can make to improve the efficiency of your work:

1. Look at each task you perform with a fresh and critical eye. View the following phrase with disdain: "But I've always done it that way." Map the process in its current state with each touch and decision point. A process map could look roughly something like the photo below with decision points typically represented by the triangles:
 - When laid out in this manner, can you identify steps that are redundant? Can steps be combined or re-ordered in a more efficient manner?
2. Is each task best handled by you? Are there other more appropriate resources in your company that can perform this task? Does this need to be handled by the Legal Department or by an attorney? Can a paralegal or legal assistant be utilized for any portion of this task?
3. Is this process repeated in the exact same way every time? By each attorney so the business knows what to expect?
4. Is it possible to utilize technology to streamline this process?
5. Do your clients benefit from you doing this work?

When done properly, Lean Six

Sigma can help your department gain efficiencies, which can free time for high value, high profile work. On a personal level, you will likely benefit from the reduction of inefficient processes and enjoy a better work-life balance. If you are interested in reading more on this topic, here are some additional resources:

"Legal Project Management," by Steven Levy

"Six Sigma Green Belt, Round 2," by Tracy Owens (Chapter 10 focuses on law firms) ■

Jennifer Elleman is director and senior corporate counsel in the LexisNexis Legal & Professional division of Reed Elsevier. Jennifer joined LexisNexis in 2003 and has devoted her career to complex commercial transactions. Currently, she serves as general counsel of three business units within LexisNexis that have combined annual revenue of \$300M. Jennifer also serves as lead M & A counsel in the Legal & Professional division. Jennifer enjoys implementing process improvements in her department and was the first attorney within LexisNexis to receive a Lean Six Sigma certification.

Prior to joining LexisNexis, Jennifer was an associate in the Corporate Transactions & Securities group of Thompson Hine. In this role, she represented a broad range of corporate clients with an emphasis on mergers and acquisitions. She received her Law Degree from The Ohio State University of Law, with Honors.



Process map

Sorry, But I'm Just Not Sorry...

By Magistrate Ann Schooley, Butler County Court of Common Pleas and OWBA First District Trustee



I've worked as a magistrate judge for a little over a year now, and in that time I've seen lots of attorneys, both male and female

in the courtroom and in chambers. While I'm not so bold as to think that experience makes me qualified to comment on some of the articles recently about women and their supposed need to apologize, I will say that some of the recent articles I've seen resonated with me. Primarily because I seem to be guilty of many of the behaviors the articles point out.

The focus of most of the articles is that women are constantly apologizing for essentially no reason. This sentiment was summed up in a Pantene ad that features women apologizing for various things, like asking a question, walking into someone's office, or for handing off their child to their spouse, none of which should require an apology.

A recent sketch from *Inside Amy Schumer*, titled "I'm Sorry," accomplishes the same thing, but in a much more dramatic and ridiculous way. It features a panel of very accomplished women who spend more time apologizing than actually discussing their accomplishments. As one commentator indicated, watching the sketch is uncomfortable, in part because in many ways it rings true.

The Pantene ad resonated with me as I've apologized in just about every scenario featured in the ad. And I've watched quite a few attorneys, almost all women, apologize for things like

not being available on a certain date, needing an extension of time or for asking for some water before an oral argument. None of which require an apology, and rarely if ever does a man apologize for such things.

More recent articles highlight some of the nuances. For instance, *Business Insider* just published an article from a former Google executive, Ellen Petry Leanse, about using the word "just." To put it in context:

I'm just checking in...

I was just wondering if you had a minute...

I just wanted to follow up...

Her point is that just like "sorry," it signals deference, subordination, and a way to ask permission before continuing with your thought. She notes, correctly in my view, that just like "sorry," women use "just" far more than men. Her experience was that removing the word "just" made communication better and clearer.

A recent *New York Times* article, "Why Women Apologize and Should Stop," by Sloane Crosley, puts a slightly different spin on the apologies of women. She states: "these sorrys are actually assertive. Unfortunately, for both addresser and addressee alike, the 'assertive apology' is too indirect, obscuring the point. It comes off as passive-aggressive — the easiest of the aggressions to dismiss." Yes, I'm guilty of this one, too.

There are lots of studies about why women apologize more than men, and what it says about women and society, but equally or more important is the impact it can have on how you are viewed by those around you. I've

seen juries, judges and clients looking befuddled as women attorneys bend over backwards to apologize for things that require no apology. While I hope that alone doesn't sway the ultimate decision in a case, there are times where I wonder how much of a role it plays.

The videos and articles I've mentioned are worth watching. And it's worth taking some of their advice to stop apologizing and to stop using words like "just." If nothing else, being more conscious of what you are trying to say and saying it directly and without apology is a good start.

Pantene Ad: - <https://www.youtube.com/watch?v=rzL-vdQ3ObA>

Amy Schumer Sketch - <http://videos.nymag.com/video/Inside-Amy-Schumer-I-m-Sorry#c=8680372DVZQXJ0MY&t='Inside%20Amy%20Schumer':%20I'm%20Sorry>

http://www.huffingtonpost.com/2015/05/14/amy-schumer-im-sorry-not-sorry_n_7276504.html

New York Times Article: <http://www.nytimes.com/2015/06/23/opinion/when-an-apology-is-anything-but.html>

Business Insider Article: http://www.businessinsider.com/former-google-exec-says-this-word-can-damage-your-credibility-2015-6?xid=soc_socialflow_facebook_realsimple ■

Ann Schooley is magistrate of the Butler County Court of Common Pleas.

This article first appeared in Forbes.com on June 17, 2015, and is reprinted with permission from author Lauren Rikleen.

Is Gender Bias a Reason to Quit Your Job?

Staying in a job where success is limited could be harmful to your career.

By Lauren Rikleen, President, Rikleen Institute for Strategic Leadership



There is no shortage of advice about the importance of taking risks to succeed in business. Success – for men and

women – does not come without risk. Every job accepted, business started, and new assignment comes with the potential of failure. However, the one true axiom that emerges from those who choose to take risks is the ability to learn from failures and build on successes. Everyone can learn from these stories.

We seldom, however, hear about different kinds of risk-taking. That is, what about the risk that comes from making a decision that impacts the entire workplace, rather than an individual’s career? For women, this may be the biggest risk ahead, but the only one that will change the stalled metrics. For decades, women in the workplace have read about their slow rise to the C-suite and gender-based compensation disparities. A few break through and achieve extraordinary success, but they are the exceptions. However, we can now confirm what many of us stated years ago: The problem isn’t women, it’s the workplace. And the only way to fix the workplace is for women to take two huge risks. First and foremost, to work collectively with allies (women and like-minded men) to push for change, and second, in the absence of any progress, to leave and find a place

However, the one true axiom that emerges from those who choose to take risks is the ability to learn from failures and build on successes. Everyone can learn from these stories.



that recognizes their talents.

Most workplaces are used to hearing that continued loss of talent and the failure to provide equal opportunities can cost time and money, but they have yet to understand how their own unconscious biases and workplace structures hinder progress. The lack of gender parity is a challenge that, history has long made clear, cannot be solved by individual statements of commitment or false promises for change. Changing the gender parity metrics requires collaboration with others in your organization on a difficult topic, and trusting your colleagues to work towards an inclusive culture that offers equal opportunities for leadership roles and pay equity. And success will rely on focused training, the development of performance metrics, and the implementation of accountability structures.

Yet if the workplace is unresponsive, then sometimes success will require the scariest risk of all: recognizing that it’s time to leave. Career or job changes are one of life’s most difficult and seemingly risky transitions. However, many who have made the leap attest, it is a bigger risk to stay where you feel that your success is limited. Comfort with the familiar lulls you into complacency, but complacency doesn’t always mean a positive outcome.

Gender parity is not a zero-sum game. It is the ultimate team sport and requires men and women willing to come together to tackle the hard work of developing goals, rewarding success, and holding people accountable for failure. It requires the risk of saying that, after decades of false starts and slow progress, it is time to do the hard work of setting goals and measuring results. The rewards that will come from a changed workplace are well worth the risks.

See the original article online at <http://fortune.com/2015/06/17/lauren-rikleen-importance-of-risks/> ■

Lauren Stiller Rikleen is president, Rikleen Institute for Strategic Leadership - www.RikleenInstitute.com; (508) 259-3500. She is also executive-in-residence at Boston College Center for Work and Family, www.bc.edu/cwf; (617) 552-8931. She is author of “You Raised Us – Now Work With Us: Millennials, Career Success and Building Strong Workplace Teams.”

Event Recap: Honoring Women in Government

May 20th the newly reformed Government Subcommittee, co-chaired by Yukiko Yee, Office of the Ohio Attorney General and Elyse Akhbari, U.S. District Court Southern District of Ohio, kicked off with a great event honoring women in government. The event was sponsored by Bricker & Eckler and Mettler-Toledo and was held in the restaurant at The Renaissance Hotel in Columbus, OH. The event featured two incredible women, Hon. Betty Montgomery and Justice Judith French. These ladies are, without a doubt, the pinnacles of women who've led illustrious careers in government. And they are so respected – not only for their countless professional accomplishments, but also for how generously they have always given, and still continue to give, to all those around them. Both women shared their stories with the crowd and offered their advice and expertise on the importance of getting involved in the OWBA. We are very grateful for their continued support.



The purpose of the event was to introduce the Government Subcommittee and its purpose. The OWBA currently has very few members from the government sector and their needs



and interests are not being well represented. In an effort not only to increase member diversity within OWBA, but also address these real concerns, we created the Government Subcommittee, or “GS.”

GS is a mechanism designed to give women in government a voice within OWBA, and to promote leadership and advancement opportunities for women employed by federal, state, county, and municipal agencies located within Ohio.



We seek to do that by offering members meaningful networking opportunities such as this event, as well as CLE’s, community outreach and general

philanthropic efforts that we think would be of interest to our members.

GS also has a larger purpose. Our vision is to create a real and meaningful platform, whereby not only government attorneys – but also government attorneys and judges – can meet, connect, and support one another professionally. We gathered to honor and celebrate all Women in Government, for their tireless commitment to public service, and for giving back to our community . . . each and every day.

We thank those who were able to be there in person and hope that if you missed it you will join us at a future event. ■



Steps Your Court Reporter Takes to Prepare Your Transcript for Production

By Angie Starbuck



Do you ever wonder about how a court reporter gets such a great transcript to you after your deposition and the steps she takes to

accomplish this?

Imagine this: You've just completed an all-day deposition of the expert witness in your case and you've lightened the load in your briefcase by giving all your exhibits to the court reporter. You've told her that you need the transcript expedited. You've been watching the real-time screen all day, so you know how clean the transcript is. It can't be that difficult or take that long to get the transcript ready for delivery, right?

While your favorite court reporter is very good at her job – she must be, otherwise you wouldn't hire her, right? – producing a transcript isn't as easy as hitting the print button on her computer.

Here are some of the steps a good court reporter will go through once the deposition is over in order to produce a clean, accurate transcript that will help you and your client in their case:

- The court reporter will either read through the entire transcript herself or she will hire a person called a scopist that will read through the transcript. The purpose of this is to correct any untranslates (words that don't translate from steno into English on the court reporter's computer), adding punctuation, and to check spellings of proper names.
- The court reporter will also insert the descriptions and page locations

of each exhibit mentioned during the deposition in order to create the index page.

- She will also add the title pages which requires her to enter the caption of the case and the addresses of all the parties present.
- Once the court reporter is finished with these steps, either she will proofread the entire transcript again or she will hire a proofreader to proofread it. This step allows the proofreader to catch any minor errors that the court reporter may have missed while reading through it the first time. The proofreader will also check to make sure the page numbers on the index match up with the transcript.
- The court reporter will then have to make any corrections that need to be made after the proofreading step and then either handle the production herself or send it to her court reporting agency to produce the transcript and send it to the attorneys. Depending on the type of deposition and the complexity of the case or the witness, it could take up to two times the length of the deposition for the court reporter to complete the transcript. So for a four-hour deposition, she could spend eight hours for editing and proofreading that transcript.

So remember, after your all-day deposition is over and you've expedited that transcript for overnight delivery, your favorite court reporter will be up for hours that night reading, editing, and proofreading in order to provide you with the great service and

While your favorite court reporter is very good at her job – she must be, otherwise you wouldn't hire her, right? – producing a transcript isn't as easy as hitting the print button on her computer.

||||| accurate transcript you've become accustomed to. ■

With more than 20 years of experience in court reporting, all at PRI, Angie specializes in real-time court reporting, captioning, and CART. She has extensive deposition and arbitration experience in various areas of litigation, including construction, EPA, employment, pharmaceutical, and medical malpractice, and has experience in providing daily copy transcripts in both depositions and trials. In addition, Angie provides CART and captioning services to many local companies and universities. Angie is a Registered Professional Reporter, Certified Real-time Reporter, Certified CART Provider, Notary Public, and meets continuing education requirements through the National Court Reporters Association. She holds an associate degree in court reporting from Bliss College and is a member of NCRA, OCRA, Ethics First (NCRA), National Association of Women Business Owners (NAWBO), and has transcribed for the Veterans History Project.

Annual Meeting Event Recap

Women attorneys from across the great state of Ohio gathered for the Annual Meeting of the Ohio Women’s Bar Association (OWBA) held once again at the Sheraton Columbus at Capitol Square on May 21, 2015.

We kicked the day off with breakfast and a short presentation by the Columbus Bar Association on the Supreme Court of Ohio’s Certification program. They provided details regarding the program and how to sign up as well as answered questions attendees had. Following that was our CLE program – “Investing in Women – Investing in Yourself”, presented by Jim Thomas, Partner with Vorys, Sater, Seymour and Pease LLP in Columbus. The program provided specific tools for managing professional and ethical obligations of lawyers in a world of increasing demand of one’s time. It included discussion of specific time management issues, including identification of time killers and practical tips to address the more common time killers, as well as a discussion that transitioned from the specific time management discussion to the broader, more difficult challenge of managing one’s available time with competing client demands and with an individual’s professional and personal goals. The program also highlighted lawyer’s specific ethical and professional obligations under the relevant provisions of the ethical code and professional concepts in the Ohio Rules of Professional Conduct.

The 2015 Annual Meeting was held during lunch. Magistrate Judge Stephanie K. Bowman administered the oath of office to the incoming officers of the OWBA and the Ohio Women’s Bar Foundation (OWBF)



for the 2015-2016 year. Grace Royalty was sworn in as the new OWBA president and Sasha Blaine was sworn in as the new OWBF president. Ice Miller was awarded the OWBA Family-Friendly Award. The OWBF Law Student Scholarship Award recipient was announced. The 2015 scholarship recipient is Rebecca Dussich, University of Cincinnati. Rebecca is an Associate Member of the Cincinnati Law Review, serves on the editorial staff of *Human Rights Quarterly*, is a Mentor Program Advisor of the Student Legal Education Committee and is currently working on founding a Law Students for Reproductive Justice Chapter. She also volunteers with the Youth Court diversion program as both a prosecutor and defense representative.

This year's President's Choice Award was awarded to Carrie Starts, Reminger, for exemplifying the spirit of leadership, dedication and passion for the profession and for the life-long friendships made through OWBA and OWBF.

We recognized the 2014-2015 graduates of the Leadership Institute – Amy Ahn-Roll, Jennifer Battle, Jennifer Borsky, Cheri Budzynski, Victoria Flinn, Mimi Geswein, Diane Godderre, Kim Hensley, Meghan Hill,



News

Kiala Krausz, Jessica Mayer, Beth Schneider Naylor and Anastasia Wade.

Thank you to this year's sponsors, Vorys, Sater, Seymour and Pease LLP, Thacker Martinsek LPA, Reminger, Barnes & Thornburg LLP, The Gnosis Group, Littler Mendelson, Thorman Prtrov Griffin, Nationwide, Ice Miller, Squire Patton Boggs, Mettler-Toledo, and Dinsmore & Shohl.

Our keynote speaker was Deborah Platt-Majoras of Procter & Gamble. Deborah leads a global legal department of nearly 600 lawyers and other professionals, responsible for the broad scope of legal and government relations functions for all of P&G, and is a member of the Company's Global Leadership Council. She continued on the theme of the morning CLE and inspired attendees with her story of her own journey. ■



Taft Names Chief Diversity Officer



Taft Stettinius & Hollister's Managing Partner Thomas T. Terp announced today that Taft partner Adrian D. Thompson has

been selected as the firm's first chief diversity officer.

"Taft places great importance on the collective strength derived from the differences and similarities of our legal team. Creating a diverse and inclusive work environment can only make us a better firm. Adrian is extremely respected within the legal community, and he will provide the strategic thinking necessary for continued and meaningful progress in this critical area," said Terp.

Diversity and inclusion are key components of the firm's strategic plan, which was adopted by the Taft partners in March 2015. The chief diversity officer position was created by the firm's executive committee to further develop and implement programs and policies to recruit, support and retain a diverse, inclusive workplace. Additionally, Thompson will develop and foster diversity-focused partnerships with like-minded organizations in communities served by Taft.

"My expanded role demonstrates the importance that Taft places on diversity and inclusion. By embracing and celebrating diversity, we offer more creative solutions to our clients and more rewarding careers for our attorneys and staff. Different perspectives and life experiences make us stronger at all

levels within Taft. We understand the importance of ensuring that our team reflects the diversity of the communities where we live and work," said Thompson, who is based out of Taft's office in Cleveland, Ohio.

Thompson is also a member of Taft's diversity committee, which consists of 14 individuals from many areas of the firm including partners, associates and staff. The diversity committee will play an important role in supporting Thompson and helping him to accomplish key aspects of the firm's strategic plan.

"Individual differences are valued at Taft, and we recognize that these differences help us excel in accomplishing both our daily work and long-term goals. Every aspect of our environment should contribute to creating an inclusive culture," Thompson continued.

Key responsibilities of the chief diversity officer include:

- Serve as a resource, mentor, and advisor to Taft leaders and diverse attorneys and staff members.
- Identify best practices regarding diversity and inclusion in the profession and implement those practices at Taft.
- Articulate, promote, and reinforce the Taft business case for diversity.
- Identify and lead diversity initiatives in Taft offices and the communities that the firm serves.
- Advise, educate and support Taft's attorneys and staff regarding diversity and inclusion.

The chief diversity officer position was created by the firm's executive committee to further develop and implement programs and policies to recruit, support and retain a diverse, inclusive workplace

Thompson will continue practicing law in addition to his responsibilities as the firm's chief diversity officer. ■

Adrian D. Thompson, a partner in Taft's Educational Institutions and Labor and Employment groups, represents school districts in contract negotiations, grievance arbitration, litigation, education of the disabled and employment discrimination matters. He provides counsel for private sector clients on issues such as equal employment opportunity litigation, wage-hour problems, employment of the disabled, federal housing and other labor matters. He served as the chief legal counsel for Cleveland Metropolitan School District for eight years. He graduated from The Ohio State University College of Law and Bowling Green State University.

Event Recap: Sixth Annual Leading with Style Cincinnati

On June 25th, the Ohio Women’s Bar Association hosted the sixth annual Leading with Style event in Cincinnati. The event was a terrific success. Close to 125 guests—female and male—enjoyed food, drinks, a fashion show, and a little pampering.

Upon arrival attendees could immediately visit all of our stylish vendors such as: Arbonne, Artfully Disheveled, Chanel Makeup, Cincy Style Bar, doTERRA Essential Oils, Healthy Human, Kate Spade, Kurtzman Plastic Surgery, Norwood Chiropractic, Silpada Designs and Dillard’s. Attendees could nibble on appetizers, have a drink and do a little networking while perusing the many raffle items that were available to win.

Once the vendors beautified everyone the attendees sat down for the fashion show portion of the event featuring clothes from Dillard’s as well as accessories from Artfully Disheveled and Silpada Designs. Outfits featured ranged from work wear and eveningwear to weekend and playwear. Shortly after the fashion show the raffle was held where the proceeds benefitted both the OWBF and Talbert House – Camp Possible.

Thank you to all who donated raffle items and participated in the raffle.

The Leading with Style Cincinnati planning committee includes the following people –

Kristyn J. Huening
Leading with Style Co-Chair
OWBA Trustee
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Carrie Masters Starts
Leading with Style Co-Chair
OWBA/OWBF Board Liaison
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Grace M. Royalty
OWBA President
U.S. District Court, Southern
District of Ohio

Tiffany Zerby
Children's Hospital

Thank you to all for your hard work!





Law is the Least Diverse Profession in the Nation. And Lawyers Aren't Doing Enough to Change That

By Deborah L. Rhode

Reprinted from the Washington Post on May 27

From the outside, the legal profession seems to be growing ever more diverse. Three women are now on the Supreme Court. Loretta Lynch is the second African American to hold the position of attorney general. The president and first lady are lawyers of color. Yet according to Bureau of Labor statistics, law is one of the least racially diverse professions in the nation. Eighty-eight percent of lawyers are white. Other careers do better — 81 percent of architects and engineers are white; 78 percent of accountants are white; and 72 percent of physicians and surgeons are white.

The legal profession supplies presidents, governors, lawmakers, judges, prosecutors, general counsels, and heads of corporate, government, nonprofit and legal organizations. Its membership needs to be as inclusive as the populations it serves.

Part of the problem is a lack of consensus that there is a significant problem. Many lawyers believe that barriers have come down, women and minorities have moved up, and any lingering inequality is a function of different capabilities, commitment and choices.

The facts suggest otherwise.

Women constitute more than a third of the profession, but only about a fifth of law firm partners, general counsels of Fortune 500 corporations and law school deans. The situation is bleakest at the highest levels. Women account for only 17 percent

Although blacks, Latinos, Asian Americans and Native Americans now constitute about a third of the population and a fifth of law school graduates, they make up fewer than 7 percent of law firm partners and 9 percent of general counsels of large corporations.

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of equity partners, and only seven of the nation's 100 largest firms have a woman as chairman or managing partner. Women are less likely to make partner even controlling for other factors, including law school grades and time spent out of the workforce or on part-time schedules. Studies find that men are two to five times more likely to make partner than women.

Although blacks, Latinos, Asian Americans and Native Americans now constitute about a third of the population and a fifth of law school graduates, they make up fewer than 7 percent of law firm partners and 9 percent of general counsels of large corporations. In major law firms,

only 3 percent of associates and less than 2 percent of partners are African Americans.

The problem is not lack of concern. I recently surveyed managing partners of the 100 largest law firms and general counsel of Fortune 100 companies. Virtually all of the 53 participants in the study said diversity was a high priority. But they attributed the under-representation of minorities to the lack of candidates in the pool. And they explained the "woman problem" by citing women's different choices and disproportionate family responsibilities in the context of a 24/7 workplace. As one managing partner put it, "You have to be realistic. It's a demanding profession ... I don't claim we've figured it out."

Such explanations capture only a partial truth. Minorities' under-representation in law school does not explain their disproportionate attrition in law firms. And even women who work long hours and never take time out of the labor force have a lower chance of partnership than similarly situated men. Moreover, although data on women's desires for partnership is lacking, what the research on women's leadership preferences generally does not show is substantial gender disparities. In law, women experience greater dissatisfaction than men with key dimensions of practice such as level of responsibility, recognition for work and chances for advancement.

Moreover, substantial evidence suggests that unconscious bias and

exclusion from informal networks of support and client development remain common. Minorities still lack the presumption of competence granted to white male counterparts, as illustrated in a recent study by a consulting firm. It gave a legal memo to law firm partners for “writing analysis” and told half the partners that the author was African American. The other half were told that the writer was white. The partners gave the white man’s memo a rating of 4.1 on a scale of 5, while the African American’s memo got a 3.2. The white man received praise for his potential and analytical skills; the African American was said to be average at best and in need of “lots of work.”

Women are subject to a double standard and a double bind. A cottage industry of research suggests that what is assertive in a man seems abrasive in a woman, and female leaders risk seeming too feminine or not feminine enough. They may appear too “soft” or too “strident – either unable to make tough decisions or too pushy and arrogant to command respect. Mothers, even those working full-time, are assumed to be less available and committed, an assumption not made about fathers.

So, too, women and minorities are often left out of the networks of mentoring and sponsorship that are critical to career development. In American Bar Association research, 62 percent of women of color and 60 percent of white women, but only 4 percent of white men, felt excluded from formal and informal networking opportunities. Such networking is often crucial to building client and collegial relationships that are essential to advancement.

To address these issues, legal organizations need a stronger commitment to equal opportunity, which is reflected in policies, priorities and reward structures. Leaders must not simply acknowledge the importance of diversity, but also hold individuals accountable for the results. The most successful approaches generally involve task forces or committees with diverse members who have credibility with their colleagues and a stake in the outcome. The mission of those groups should be to identify problems, develop responses and monitor their effectiveness. Mentoring programs and training in unconscious bias are equally important.

As an ABA Presidential Commission on Diversity recognized, assessment should be a critical part of all diversity initiatives. Leaders need to know how policies that affect inclusiveness play out in practice. That requires collecting both quantitative and qualitative data on matters such as advancement, retention, assignments, satisfaction, mentoring and work/family conflicts. For example, although more than 90 percent of American law firms report policies permitting part-time work, only about 6 percent of lawyers actually use them. Many women believe, with good reason, that any reduction in hours or availability will jeopardize their careers. Those who take reduced schedules often find that their hours creep up, the quality of their assignments goes down, and they are stigmatized as “slackers.” That needs to change.

Although bar leaders generally acknowledge the problem of work/life balance, they often place responsibility for addressing it

anywhere and everywhere else. Clients get much of the blame. Law is a service business, and expectations of instant accessibility reportedly make reduced schedules difficult to accommodate. Yet the problems are not insurmountable. The evidence available does not indicate substantial resistance among clients to reduced schedules. They care about responsiveness, and part-time lawyers generally appear able to provide it. In one recent survey of part-time partners, most reported that they did not even inform clients of their status and that they adapted their schedules to fit client concerns.

Most important, lawyers need to assume personal responsibility for professional changes. They can support workplace initiatives and expanded efforts to increase the pool of qualified minorities through scholarships and mentoring. To make all these reforms possible, they must not be seen as “women” or “minority” issues, but as organizational priorities in which everyone has a stake. The challenge is to create that sense of unity and to translate rhetorical commitments into daily practices.

To see the article online go to <http://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that/> ■

*Deborah L. Rhode is the Ernest W. McFarland Professor of Law, the director of the Center on the Legal Profession, and the director of the Program in Law and Social Entrepreneurship at Stanford University. Her new book, *The Trouble with Lawyers*, will be released in June 2015 from Oxford University Press.*

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Michelle J. Sheehan Honored as a YWCA of Greater Cleveland “Woman of Professional Excellence”



Reminger Co., LPA is pleased to announce that attorney Michelle J. Sheehan has been honored as a YWCA of Greater Cleveland “Woman of Professional Excellence.” Michelle was recognized at a luncheon hosted by the YWCA on Monday, April 27 at the 2015 Women of Achievement Awards, which celebrates the extraordinary accomplishments of women in Northeast Ohio.

Michelle concentrates her legal practice on litigation including insurance coverage matters, appellate advocacy, government liability and retail and hospitality issues. In addition to handling civil jury trials in state and federal court, she is certified as an ‘Appellate Law Specialist’ by the Ohio State Bar Association and routinely argues cases before the state and federal appellate benches.

Administratively, Michelle is a chairperson of the firm’s judicial liaison and marketing/public relations groups. She is also a frequent lecturer for professional associations and continuing legal education seminars dealing with appellate, insurance coverage and risk management issues. In support of the firm’s community and charitable commitments, Michelle has served as President of the Ohio Women’s Bar Association, and the Visiting Committee to the Dean of Cleveland-Marshall College of Law. She is currently a Board of Trustee for Cleveland-Marshall College of Law Alumni Association, a Life Member of the Eighth District Judicial Conference and serves on the Rocky River Civil Service Commission.

Michelle has been recognized as a Super Lawyer, and also named Top 100 Ohio, Top 50 Female Ohio, Top 50 Cleveland and Top 25 Female Cleveland by *Ohio Super Lawyers Magazine*. In addition, she is rated “AV® Preeminent™: Very Highly Rated in Both Legal Ability and Ethical Standards” by *Martindale Hubbell Peer Review*.

Michelle can be reached by email at msheehan@reminger.com or by calling (216) 430-2165. ■

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The Ohio Women’s Bar Association can be found on Facebook, Twitter and LinkedIn. Join our groups, like us and connect to us to share information and connect with women attorneys across Ohio.



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