

PRESIDENT'S MESSAGE

OWBA Current Sustaining Dues Members

By Claudia Herrington



It has been a fantastic first few months as president of the Ohio Women's Bar Association. I have so much wonderful news to share with everyone.

First, we are in the midst of our annual membership renewal, and the renewal rate for the first month is 70 percent of our membership. Typically, our renewal rate for the year is 70 percent, so to achieve that rate in the first month is quite impressive. Please encourage your colleagues who have not renewed or joined the OWBA to do so.

Second on June 4, I attended "From Visible Invisibility to Visibly Successful: Women of Color Research and Strategies for the Workplace," a webinar presented by the American Bar Association's ("ABA") Commission on Women in the Profession, Commission on Racial and Ethnic Diversity in the Profession and the Center for Professional Development. It was a very insightful discourse. The ABA also has available on its website for free Diversity Conference Toolkit in case anyone (hint...hint...District Trustees) would like to host a panel discussion on this critical topic. The panel also gave the following eight practice tips for women of color; However I believe these tips have a broader application to the entire OWBA membership:

1. Have confidence.
2. Give Excellence.

3. Seek Mentors.
4. It takes a village to raise a lawyer.
5. Network! Network! Network!
6. Have a book of business.
7. Take care of yourself.
8. Show up and speak up.

Third, Phyllis Horn Epstein, a partner at Epstein, Shapiro & Epstein, P.C. and the author of "Women-at-Law" published in 2004, has been asked by the ABA Law Practice Management Section to write a second edition for publication in 2015. Her earlier book addressed work-life issues for women lawyers including such topics as: family balancing, choice of career, appearances, pay equity, mentors and supporters, attrition, and redefining "success." She has crafted a new survey of women lawyers for the next edition and has asked me to circulate the survey to our membership. She is looking for broader national input from women lawyers. If you would take a few minutes to fill out the survey, I would appreciate it. It would be great if the women lawyers of Ohio are included in her publication and can give a voice to the challenges we face in the practice of law.

Finally, on June 12 I spoke on a panel to Orrick Herrington & Sutcliffe's Diversity Initiative Committee in Wheeling, West Virginia on what the OWBA is doing for women in our organization. They seemed quite impressed by the various programs we offer based on our size. It was a great event. The panel consisted of three others from the Allegany County Bar Association (ACBA). Alysia Keating, the director of diversity and gender equality, and I have decided to connect for a longer discussion to share ideas and to understand

if synergetically there is anything our bar associations can do to help each other. She was taking notes when I was sharing our programs, and I did the exact same thing when she spoke. I like the reach outside of Ohio that the OWBA is getting. It moves our organization forward and is an avenue for new ideas.

As it relates to summer events, the OWBA hosted Leading With Style in Cincinnati on June 19 (hope you made it!), and the Golfing Outing in Cleveland on July 28. As an organization, we host fewer events in the summer so we can focus on what really matters – spending time and making memories with our loved ones.

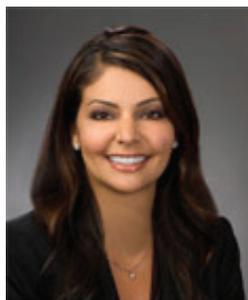
I wish you and yours a joyous, safe and relaxing summer. ■

Claudia Herrington is Director of Compliance with Jobs Ohio.

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Member Spotlight: Stephanie Hanna



How long have you been an attorney?

Almost six years.

Where are you employed, and what is your focus/specialty?

I am part of the litigation practice group at Carlile Patchen & Murphy LLP, focusing on commercial litigation, business conflict mediation, and administrative proceedings.

Graduate of?

Michigan State University –
Business Administration
University of Toledo College of Law

Have you done anything else? Was being a lawyer your first career passion?

I worked for a production company throughout college, producing various large-scale events across the country. It was a great experience and fit my personality well. Law school was always something in the back of my mind and the challenge was intriguing. I learned in law school that I enjoyed trial work, and wanted to start my career in the courtroom. Since graduating, I've had a solo practice, been a prosecutor, and worked as a staff attorney for two incredible judges. The transitions, challenges, and opportunities have been the best part of the ride so far.

When did you join the OWBA?

I joined the OWBA about four years ago.

How did you find out about the organization?

I was somewhat familiar with the OWBA throughout law school, and met some fabulous women when I moved to Columbus that encouraged me to join. Having been active with the Toledo Women's Bar Association during law school, it was easy to recognize the benefit of joining the OWBA.

Tell me about how you have been involved? (Committees, positions, member events, etc.)

I have been involved with the OWBA through the Mentor-to Mentor program, informal mentoring opportunities, attending various events throughout Ohio, and participating in the Leadership Institute.

Why is it important for your peers to be involved in his organization?

Being involved in the OWBA (or any organization you feel passionate about) is critical to a rewarding career. It allows you to give back to the profession and our community, you are able to meet other women from across the state, and it provides a forum to share ideas.

What is your advice to others just getting involved in the OWBA?

Show up. It's pretty simple – show up, introduce yourself and let it be known that you'd like to volunteer. Nearly every leadership position I have held has been the product of showing up to a meeting and volunteering for something simple (taking notes, serving on a sub-committee, planning an event). If you show up, honor your commitments, and don't screw it up too badly, you will likely get asked to do something else and the possibilities are endless.

What are some of the things you feel are important for the organization to focus on?

I would like to see the OWBA focus on statewide programming. It's important for the OWBA to focus on how powerful a group of women collaborating to advance a defined mission can be, and use that to advance our mission. Realizing that we are our own best resource, the OWBA needs to leverage the skills of its membership to increase awareness, diversity, and professionalism.

Personally, what are your other interests, involvements outside of law?

I love working out, lifting weights, running stairs, practicing yoga, creating new recipes, and helping others discover that leading a healthy lifestyle can blend seamlessly into your life. I am also involved with the Children's Hunger Alliance and YWCA Columbus.

What are some of the things you learned at the Leadership Institute?

We explored topics such as relationship building, public speaking, effective communication, social media, and other various skills necessary to be an effective leader. The best part about the Leadership Institute was learning from the different perspectives of our presenters and my classmates.

How will some of the concepts you learned inform your leadership going forward?

For me, the biggest take away from the Institute was that there is not one single path to success. Our presenters and my classmates have each taken different roads to their version of success. It is all relative, and it is all ok. There is no right way. Going forward, I hope my message to others is one of encouragement and support. I will also remember the value in being self-confident, thinking on your toes, and believing in yourself.

Why would you recommend the Institute to other women attorneys?

The Institute really forces you to stop your everyday routine for a short period of time to focus on the vitally important things we typically push to the back burner – improving our public speaking skills, brainstorming, setting defined goals, taking the time for personal reflection. While it may seem inconvenient at the time, truly exploring these topics will serve you for a lifetime. ■

How to Lean In When You Are In House

By Natalie Iturralde

On March 27, Nationwide hosted and cosponsored “How To Lean In When You Are In-House,” with the Ohio Women’s Bar Association (OWBA), Central Ohio Association of Corporate Counsel (CO-ACC), American Electric Power, and Alliance Data. Marilyn McClure-Demers, who sits on the Board of Trustees for the OWBA and is a member of OCLO’s Nationwide Diversity and Inclusion Council, chaired the event.

The event was based on “Lean In: Women, Work, and the Will to Lead,” by Sheryl Sandberg, chief operating officer of Facebook. As many of you know, and for those who do not, “Lean In” is a book that explores gender biases in the workplace and how women can surmount those biases and challenges. Sandberg suggests women can do so by putting self-doubt and insecurities aside and “lean in” to the workplace, into difficult conversations and not being afraid to raise your hand to ask a question, challenge an issue, or provide feedback. Sandberg advocates for women to sit at the table and be a participant, instead of on the sidelines as a spectator. No matter your view of the book, we can all agree that it has ignited a firestorm across the country and fueled a national dialogue among men and women.

This Nationwide-hosted event used these principles and applied them towards in-house environments. The attendees varied in professional backgrounds and, while the event focused on in-house attorneys, professionals that were not in-house also attended. The event served as a recruiting opportunity for new OWBA and CO-ACC members, and was held in Nationwide’s Heritage room. The networking reception that followed the event was also well received.

During the first hour of the event, four astute panelists who each shared their personal experiences with bias in the profession, taking risks when making career moves, and the paths each took to surpass each barrier, engaged the audience. The panelists included Sandy Neely, SVP,

deputy general counsel, Nationwide; Marchelle Moore, VP government and legal affairs/general counsel, Central Ohio Transit Authority; Karen Morauski, VP and assistant general counsel, Alliance Data Retail Services; and Miranda Stephani, senior attorney, Limited Brands. Claudia Herrington, President of OWBA and director of compliance at JobsOhio, moderated the panel discussion. While the panel answered questions posed from Claudia, they also entertained questions from the audience, which prompted attendees to also share their personal accounts on the topics. The experiences these women leaders shared and the interaction with the audience set the tone for the rest of the event – with openness, honesty, and understanding.

After the panel discussion, the group dialogue continued with table break-out sessions. Each table considered a specific, assigned question related to concepts from the book. Each group then shared critical points and themes discussed with the entire audience. Pat Hatler, chief legal and governance officer, joined for a portion of the breakout session and entertained questions from the audience. This facilitated even more commentary and inquiry from others, continuing the open dialogue and sharing among all.

Sheryl Sandberg’s book covers a lot of ground as it relates to gender bias, stereotypes and other related issues. The focus of this event honed in on the following topics:

- The Myth of Doing It All
- Are You My Mentor?
- It’s a Jungle Gym, Not a Ladder
- Success and Likeability
- Sit at the Table
- Seek and Speak Your Truth

While these topics created a foundation for the discussion, the robust sharing and substantive conversations were unique and resulted from the candor and diverse experiences of all in the room—panelists

and audience included. The topic, “It’s a Jungle Gym, Not a Ladder,” in particular, touched a lot of those in attendance. The panelists and audience discussed how in-house opportunities and career paths often look different than those in the private sector.

Nationwide’s own Sandy Neely, spoke in depth about this topic and shared the following:

“I asked if I could address this topic on the panel because Sandberg’s observations in this chapter really resonated with me. I talk to people all the time who are focused on upward progression only. They want to know what the next career “rung” on the ladder is. Unfortunately for in-house lawyers the career ladder is not always so clear. There are very limited opportunities at the top. So what I always tell women is to stop looking at the person ahead of you on the ladder and instead, look at yourself. What skills do you need to develop? Then look for opportunities, either as part of your current role, or in another role, that will build those skills. Those opportunities might be lateral, or they could even be a step down. Just like a jungle gym—there is not just one way to the top. But you can see things from a different and valuable perspective when you stop looking only upward.”

The book and audience also discussed the self-doubt and insecurities that come along when making those transitions while navigating the jungle gym. The panelists and various audience members shared moments of self-doubt and times when they asked, “Do I really have what it takes?” The answer wasn’t always clear to them when they were wading through those periods of transitions.

But the message that day was clear to all of us: we as women do have what it takes to climb the jungle gym, take professional leaps, and pursue new and different goals. To do so, we must dispel of the myth that we can do it all, we must find mentors for guidance, and we must always sit at the table, not on the sidelines.

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How to Lean In *(Cont'd from previous page)*

However, conquering insecurities, being assertive, working hard and sitting at the table brings about another question for women, and a topic well discussed at the event: do women have to be likeable to garner success? Sometimes the same behaviors that men exhibit in the professional workplace do not result in similar, “likable” responses for women. For instance, when a woman excels, dreams big, and/or pushes to learn the skills necessary for her job and advancement, she is termed as “too aggressive” or “difficult.” Yet men are often respected and yielded as a more “appealing” colleague. But no matter the path one takes, the attendees agreed, as Sandburg summarized, that, “[a] desire to be liked by everyone [can hold people] back...when you want to change things, you can’t please everyone. If you do please everyone, you aren’t making enough progress.” This realization does not just affect men, but women also need to change their perspectives and views. With an open dialogue we can address these biases, realizing we may not always be liked but we do deserve the same respect as our male counterparts. By leaning in

and supporting one another, we can change these ever-lingering perspectives that still exist in the work place.

The topic of sponsorship and mentorship – what they are, how they differ, and their importance was also a topic of great discussion during both sessions of this event. Attendees were encouraged to consider who has served in these roles for them, as well as how they can serve in these roles for others. Marilyn McClure-Demers’ input that day was imperative to the depth of discussion that resulted. She shared:

“Regardless of whether you have read the book or agree with Sandburg’s opinions, all of us have unique experiences and pathways to share. Developing and strengthening our in-house network enables us to do so. We can learn from one another and support each other both in and outside of our respective organizations. We need to remember that each of us possesses the ability to lead and influence others in any role regardless of title. By always being willing to offer others a hand up or around we can more effectively navigate the jungle gym together.”

These topics are all entwined, and the discussions that day did not just graze the

surface of gender disparity, but created an environment for sharing, which is the first step for change. This event was one of the largest attended by in-house counsel, with well over 60 men and women attending from across the state of Ohio. In addition to the number of those in attendance and our distinguished guests and panelists, this event was not like any other. While each sponsor supports events such as these, to have all of these sponsors unite and bring together this diverse group was truly incredible. Further, to have each individual participate and share their perspective on difficult topics such as gender biases and share personal experiences, demonstrates the openness that was achieved. When I spoke with Marilyn McClure-Demers about the event, she concluded by saying, “We are grateful that Nationwide permitted us to host this event. We also greatly appreciate the support of all the sponsor organizations, panelists, and attendees. Events such as this are an important part of making change, moving forward in a positive environment, with positive outcomes.”

If you have any questions about this event, OWBA, or CO-ACC feel free to contact Marilyn McClure-Demers. ■

McCarthy, Lebit, Crystal & Liffman Co., L.P.A., Continues to Contribute in the Local Community

On May 31, Leslie E. Wargo, Esq. of McCarthy Lebit, in conjunction with the Ohio Women’s Bar Association, hosted an Adopt-a-Beach™ beach cleanup event at Edgewater Park in Cleveland on behalf of the Alliance for the Great Lakes. The Alliance for the Great Lakes is the oldest Great Lakes organization devoted 100 percent to the lakes, and they started the Adopt-a-Beach program in 1991. It involves more than 10,000 volunteers annually in all eight Great Lakes States on all five Great Lakes. Their staff works with scientists, policymakers, businesses,

community groups and everyday citizens to protect and restore the world’s largest surface freshwater resource. The Alliance for the Great Lakes has been working to educate and help to improve thousands of miles of the Great Lakes shoreline since 1970.

Leslie Wargo, an at-large Trustee for the Ohio Women’s Bar Foundation (OWBF) chaired this event, which was sponsored by McCarthy, Lebit, Crystal & Liffman Co., L.P.A. Many of the McCarthy Lebit team participated in the event, along with OWBA members and other community

participants. On behalf of the Alliance for the Great Lakes, Ms. Hyle Lowry, directed the beach cleanup and other activities to support the cause for the Alliance. Due to the team efforts, 20 pounds of trash was removed from the beachfront at Edgewater Park and numerous testing was performed regarding water quality and other lakefront issues. Participants were able to analyze the water temperature, notate wave and wind directions, assess climate change, and much more. For more information on The Alliance for the Great Lakes, please visit this link: <https://www.greatlakes.org/> ■

Racism and Sexism: Is the Battle being Won or Lost?

By Judge Marie Hoover



After practicing law for almost 20 years, I ponder on whether the battle against racism and sexism has been won or lost.

I learned the concept of “survival of the fittest” at a

young age. My parents were immigrants from the Philippines during the 1960s. My father was a physician and my mother was a nurse. My two older brothers and I were born in the United States – the land of the free, home of the brave. I felt like I was just like everyone else – but I was made painfully aware that I looked different. As a young girl growing up in southern Ohio where I was the only Filipina-American in my class, I dealt with being called “flat nose,” “chink” and “slant eyes” among other things.

It wasn’t all bad, though. Some stereotypes had positive spins for me. For example, many children would not bother me physically because they assumed I had a black belt. After all, all Asians know karate, isn’t that right? Also, I was often given the benefit of the doubt by teachers and other students because all Asians are brains. Luckily, I was blessed with great parents who taught me the basic core value that hard work does pay off. I learned at a young age to ignore the stares, the jeers, and the racial slurs. I also learned to take advantage of the stereotypes.

Affirmative action programs were still in full force at the time I graduated from high school. I never had to worry about being admitted into universities because of my race, especially since I received high scores on entrance tests anyway. It was also fairly easy for me to find employment while I was obtaining my education.

By the time I graduated from college and entered law school, it seemed as if the racial issues had taken a backseat to the gender issues. I may have just become desensitized to the racial issues.

When I was in law school in 1993, I was doing my externship at the Franklin County court system. The coordinator

of the externship program informed us about the policy that employees could not comment on a co-worker’s pregnancy or could not call a fellow male employee “sport.” Employees also could not tell a fellow employee that she looked “pretty,” or make any other comment on the way that she looked. The system was trying its best to fight against sexual harassment in Franklin County.

Although I was reared in southern Ohio, I had lived in Columbus for the time during which I was in law school. For three years, I had been inundated with the strict policies against sexual harassment. I went back to southern Ohio after I had passed the bar exam to work and to live. As a young lawyer, I was called “babe,” “sweetie,” and “honey,” not only by clients, but other lawyers and judges. Clearly, in southern Ohio they didn’t receive the memo. All I could do was marvel at the differences that traveling 100 miles south could make.

One of the worst experiences with sexual harassment occurred during my first year of practicing law. One of the bailiffs told me to “come over here and sit on his lap.” I looked around to see if anyone had even noticed what this male chauvinist pig had just said to me. No one even batted an eye as if it was normal protocol for this type of behavior. I responded, “no way,” and went about my business trying to not be distracted by the nonsense. It was such a flagrant violation of any type of sexual harassment policy that I felt like Allen Funt was going to jump out any minute and announce, “Smile, you’re on Candid Camera!”

Over the years, a few lawyers would tell crude jokes that would make me cringe inside and make me feel sorry for their wives and daughters. Other lawyers would try to use bullying tactics and would say idiotic things to try to intimidate me and make me lose my focus on the case.

In the mid 2000s, I began training to obtain my black belt in Shotokan Karate. Through the martial arts, along with day in, day out litigation, I learned to ignore the silly mind games of the people who

utilize racism and sexism as a means of gaining an advantage. I trained myself to almost reach a type of Zen while I was litigating.

When I became a magistrate a few years ago I was called “sweetie” by a few people working in the building. I was even called “honey” by one litigant. However, I can’t ignore the cultural differences of living in southern Ohio. Many people in southern Ohio simply use “babe”, “honey” and “sweetie” as terms of endearment. They use the terms in a kind and welcoming way. It truly is the way that someone says the words or the context in which they say them that determines whether they are offensive or not.

As a sitting appellate judge, I am no longer in the courtroom daily where the racism and sexism is obvious. However, the racist attitudes and sexual harassment seem to be more insidious than ever before. I believe it is our reactions to these problems that are important in combating them. My main reaction to the racism and sexism is to adhere to the following rule of conduct: Do the best work I can do and respect will come—maybe not from all, but from all that matter. ■

Biography

Marie Hoover is a Judge of the Fourth District Court of Appeals. She is the first female to be elected to serve on the Fourth District Court of Appeals of Ohio.

Personal Information: J.D. from the Ohio State University College of Law; B.A. from Miami University; born in Lakewood, Ohio; graduated from Waverly High School; married to R. Tracy Hoover, Attorney at Law; two children, Nate Hoover (15) & Nick Hoover (14); former Magistrate of Portsmouth Municipal Court; former law director for Waverly; approximately 20 years of practicing law. Marie practiced law in state and federal courts in Ohio and Kentucky. Her areas of practice included domestic relations, state and federal civil & criminal litigation, juvenile cases, probate cases, etc. She was a trial attorney who also had an appellate practice.

Twenty Years Later...

By Magistrate Ann Schooley

Twenty years ago this June, Nicole Brown Simpson and Ron Goldman were stabbed to death in Los Angeles. Those were the days before smart phones, reality television, sexting and many of the things that have so dramatically changed the way we view entertainment and media as well as the way we interact. There have been numerous articles looking back on the murders and the O.J. Simpson trial. The majority of the articles have focused on how they changed our notion of entertainment, and ushered in a new era of “Reality TV.” What’s been less publicized is the impact those events had not only on the way domestic violence was viewed by our society, but on the way that the legal system handles domestic violence cases.

Back then, the mindset was that domestic violence calls were more of a civil matter, not a criminal one. It was typical for police departments to simply try to keep the peace when responding to a domestic violence call. Often times, the victim would recant the story once the police arrived and the police would leave. Sometimes the police would simply break up the fight and tell the abuser to leave for the night to cool off. If the victim did not recant, the police might arrest the abuser, and then the victim would post bail for the abuser, decline to prosecute and the prosecutor would dismiss the case. It was this practice that coined the phrase “pressing charges.” If the victim refused to press charges, the case would be dropped.

In 1994, the term ‘domestic violence’ was not well understood, and most



people did not associate or connect domestic violence and murder. Domestic violence was not talked about. As the details emerged of the multiple phone calls Nicole Brown Simpson made to police about Simpson, the public was forced to rethink their attitude and response to domestic violence and to face the fact that leaving an abusive relationship can often be as or more dangerous than staying.

In response to the murders and subsequent trial, victims now have legal remedies that did not exist in 1994. The growing awareness of domestic violence played a significant role in Congress passing the Violence Against Women Act in 1994. The Act provided for \$1.6 billion in funding and for mandatory arrests of abusers. The majority of states passed similar laws to protect victims of domestic violence. Police departments created special units to deal exclusively with domestic violence and police policies were changed to deal with domestic violence issues.

In most states today, when police respond to a domestic violence call, someone is going to be arrested. Even if the victim recants at the scene, the abuser will be taken to jail. Often, the

abuser will be booked on felony charges, making it harder for the abuser to post bail. Prosecutors often have discretion to prosecute the case even without the support of the victim, so that abusers can be prosecuted even if the victim recants.

If the case does go to trial, procedural rules have also changed to address domestic violence situations. In some states, prior acts of domestic violence that have occurred within a certain

time period are presumed admissible. In Ohio, Rule 702 has been revised to allow a witness to testify as an expert if the testimony “dispels a misconception common among lay persons.” This allows for testimony regarding some of the seemingly inconsistent behavior of victims such as repeatedly taking back the abuser, bailing the abuser out of prison, and recanting their story.

Once convicted, an abuser faces additional penalties, such as stricter penalties for repeat offenders, mandatory counseling, and prohibitions on the ability to purchase guns. There are now victims’ advocates to help guide victims through the court system. And there are many more programs and shelters that can provide assistance to victims. Regardless of your position on O.J.’s guilt or innocence, it’s hard to deny that his case set into motion significant reforms and dramatically changed the way we view and handle domestic violence cases. I only wish that two people hadn’t had to die to get there. ■

Ann K. Schooley is Magistrate at the Butler County Court of Common Pleas.

Annual Meeting

Women attorneys from across the great state of Ohio gathered for the Annual Meeting of the Ohio Women’s Bar Association (OWBA) held at the Sheraton Columbus at Capitol Square on May 8, 2014.

We have all heard the statistics. We know that law school classes are nearly 50/50 in gender equity, yet women only account for about 15 percent of equity partners in private practice, 4 percent of managing partners in private practice, 22 percent of Fortune 500 general counsel, and 24 percent of federal district court judges. Lead by Jones Day the morning presentation, “Gender, Diversity, & Inclusion in the Legal Workplace: A Cross-Profession Perspective,” discussed ways to help keep women on track for

high level careers and included topics such as institutional practices that impact women, retention initiatives, mentorship programs, etc. The afternoon presentation was a judicial roundtable that offered participants the opportunity to meet with Ohio judges in a table to table rotation setting to explore jury trial procedures, mediation, professionalism, discovery disputes, federal case disposition guidelines, oral arguments and more.

The 2014 Annual Meeting was held during lunch. The Honorable Jeffrey S. Sutton administered the oath of office to the incoming officers of the OWBA and the Ohio Women’s Bar Foundation (OWBF) for the 2014-2015 year. Claudia Herrington was sworn in as the new

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Sheehan Featured in *Crain's Cleveland Business*

On June 22, Michelle Sheehan, partner at Reminger, was featured in *Crain's Cleveland Business*. Below is the article.

Michelle Sheehan was one of the first women at Reminger to be hired after serving as a law clerk. It's a notable recognition, indeed, but a parenthetical detail to Sheehan, who takes pride in the diversity of skills she's gleaned while serving in the law firm's various practice areas over the last 20 years.

"A lot of large firms have certain practice areas that you work in," said Sheehan, a partner in the firm. "I was lucky. I didn't get pigeonholed into one."

Sheehan, armed with a law degree from Cleveland State University's Cleveland-Marshall College of Law, climbed the firm's ranks, handling employment law, retail and hospitality, and general litigation. She found her true love about six years ago in insurance coverage, appellate advocacy and government liability, practice areas of which she focuses on today as a partner in one of Cleveland's largest law firms. She represents government entities, including several Northeast Ohio suburban municipalities, and elected officials.

As one of 24 certified appellate law specialists for the Ohio State Bar Association, Sheehan routinely argues cases before the state and federal appellate benches, and she assists in researching and writing about complex legal matters.

"There are some lawyers who love to argue, others who love to research and write, and I'm in the middle," said Sheehan, who also is chairwoman of the firm's judicial liaison and marketing groups.

And while she has flourished in her own career, Sheehan has spearheaded other initiatives aimed at advancing the potential of her peers.

She recently formed Mentor/Mentee Mondays, an internal networking program that helps female attorneys



grow their careers. Part of the program involves community outreach.

As a volunteer for El Barrio, Sheehan helps that work force development center's clients conduct mock job interviews and reviews their resumes on a monthly basis.

Many of these clients are unemployed women who are trying to improve their current life situation.

"I absolutely love this program, and it's just getting going," she said. "I love creating opportunities for women to help them grow."

Sheehan can relate in her own way. She was raised by her mom in industrial Niles, and then moved in eighth grade to posh Woodmere, with both places providing lessons in acclimating oneself in an unfamiliar environment. As the first member of her family to earn a college degree, the Miami University alumna appreciates the hard work involved in trying to achieve a life-altering goal.

"Expanding the Mentor/Mentee program beyond the firm was brilliant," said Stephen Walters, Reminger's president and managing partner. "This

program is an extension of who she is – she's thoughtful, generous and a wonderful example of a person who truly gives back to others."

While serving as president of the Ohio Women's Bar Association, a position she was sworn into two months after having her third child, Sheehan successfully advocated for women of that legal group to have a voice in selecting judicial candidates in Cuyahoga County.

She established a "food for thought" program in 2006 through the Cleveland Metropolitan Bar Association's Women in Law group, which allows the more than 100 female lawyers to get to know one another through various smaller gatherings.

Sheehan as a member of the Cleveland Metropolitan Bar Association organized legal education seminars in partnership with the YWCA aimed at helping women lawyers advance in their profession. Her "lunch with judges" program fostered additional opportunities.

She serves as a board of trustee member for Cleveland-Marshall College of Law Alumni Association, is a life member of the Eighth District Judicial Conference and serves on the Rocky River Civil Service Commission. Honors include recognition in 2014 as a super lawyer by *Ohio Super Lawyers Magazine*.

A political activist and enthusiast, she's assisting in state senator Nina Turner's bid for secretary of state and has managed the campaign of her husband, Brendan Sheehan, a Cuyahoga County Court of Common Pleas judge.

The Sheehans and their three children also regularly attend Irish dance competitions in the Midwest and abroad.

"My husband was a dancer in his childhood, and now our two daughters are active," she said. ■

Approach Ohio's Economic Loss Rule with Caution

By Nathan Oswald

The economic loss rule stands among the key doctrines of business and commercial litigation in Ohio and most other jurisdictions. The rule limits what claims are available to plaintiffs who suffer economic loss, but not physical injury or property damage. In a defendant's hands, the economic loss rule is an effective tool for narrowing claims in the early stages of litigation.

Unfortunately, Ohio's economic loss rule has proved susceptible to misapplication. Ohio courts are not alone in struggling with the rule. As one commentator said, "the economic loss rule is one of the most confusing doctrines in tort law." Plaintiffs' counsel needs to thoroughly understand the rule and its place in the law of Ohio to resist efforts by defendants to construe the rule beyond its proper boundaries.

The Rule

At its core, the economic loss rule marks the jagged boundary between contract and tort law. When the rule applies, it prohibits tort claims because the relief plaintiff seeks must be recovered in contract, if at all. Two rationales provide the foundation for understanding the rule.

One explanation of the economic loss rule states that purely economic expectations are private interests and not the kind of interests that the law imposes a societal duty to protect. Therefore, contract law, not tort, is the proper vehicle to protect against economic harm. Negligence and strict liability claims that cause only economic harm typically fall to the rule. Plaintiffs in these cases cannot prove that the defendant had a duty at law to protect against the economic loss the plaintiff suffered.

There is another distinct but closely related rationale that informs the economic loss rule. It has long been the law in Ohio that a party cannot contort a breach of contract claim to fit a tort theory. If a claim involves a contract, the

defendant's breach thereof, and damages that are the lost benefit-of-the-bargain, the claim is for breach of contract.

A plaintiff's efforts to give the claim another label are futile. This rule predates the economic loss doctrine, which is generally regarded to have emerged in the 1960s. Because it also marks the boundary between contract and tort law, however, some courts treat it as part of the economic loss rule. When trying to apply the rule, it is often helpful to keep both rationales in mind.

In practice the economic loss rule can be confusing to apply. Numerous exceptions to the rule explain at least some of the confusion. The exceptions themselves can be difficult to harmonize conceptually. Some of them exist because the nature of a claim simply puts it on one side of the rule or the other. Other exceptions depend on the nature of damages sought.

Claims-Based Exceptions

As a general rule, intentional torts survive the economic loss rule. Intentional torts do not require a plaintiff to prove a duty on the part of the defendant to refrain from committing them. Everyone has a general duty not to commit intentional torts. One intentional tort in particular that survives the economic loss rule is fraudulent inducement. The cause of action lies when a plaintiff seeks to remedy "wrongful conduct that induces a party to enter into a contract." By its very nature, the claim precedes the contract and stands apart from the contract. In fraudulent inducement cases, the contract is the product of the wrongful conduct; it cannot be the source of a duty to refrain from the wrongful conduct.

Even though intentional torts generally survive under the first rationale for the economic loss rule, they may be prohibited by the second. Where fraud, for instance, is based on a contractual duty to disclose information, and where

the plaintiff seeks to recover the benefit of its bargain as a result of the fraud, the claim is essentially one for breach of contract.

Other exceptions are not as easy to predict, given the rationales for the rule. Whereas the rule precludes negligence claims that result in only economic loss, plaintiffs may still bring claims for professional negligence against suitable defendants. Substantial authority also suggests that negligent misrepresentation survives the rule. The very elements of the claim make a person who supplies false information to another liable for "pecuniary loss" caused thereby. Bad faith claims against insurers also survive even though such claims are analogous to willful and malicious breaches of contract, the latter of which being simply a breach of contract claim in Ohio. All of these causes of action serve important interests even though the economic loss rule seems to suggest they should be prohibited.

Damaged-Based Exceptions

Perhaps the most obvious characteristic of the economic loss rule is that it applies when damages are only economic. The rule does prohibit torts that result in physical injury or property damage.

Another damage-based exception derives from the second rationale underlying the economic loss rule. When a plaintiff seeks to recover damages separate from the benefit-of-the-bargain of whatever contract exists between the parties, the claim cannot be the alter ego of a breach of contract claim. "In other words, the economic loss doctrine bars only those tort claims in which a party seeks to recover the benefit of his bargain."

What The Rule is Not

The economic loss rule is not a blanket prohibition against tort claims when the subject matter of a dispute

involves economic loss and a contract. Unfortunately, snippets of Ohio court decisions taken out of context permit incorrect conclusions regarding the scope of the rule. Some decisions can be read to simply characterize the rule as prohibiting “torts.” In *Floor Craft Floor Covering, Inc. v. Parma Comm. Gen’l Hosp. Ass’n*, even the Supreme Court of Ohio said that “[i]n the absence of privity of contract no cause of action exists in tort to recover economic damages against design professionals involved in drafting plans and specifications.” If the rule really did prohibit all torts that result in only economic loss, fraudulent inducement and the intentional interference torts would virtually cease to exist in Ohio law, and many plaintiffs would find themselves without any remedy for economic harm they suffer.

Take-away

The economic loss rule occupies a position in the foreground of business and commercial litigation. Yet for such an important doctrine it has proved difficult to apply consistently. Attorneys on both sides of the aisle need to approach the rule with due regard for its practical complexity to avoid exacerbating the confusion surrounding it and stretching the rule beyond its proper place in Ohio law.

Nathan Oswald is an associate with Thacker Martinsek LPA, joining the firm in 2013. Nathan received a Bachelor of Science degree summa cum laude in 2003 from St. Norbert College in De Pere, Wisconsin. He received a law degree summa cum laude from The University of Toledo College of Law in 2010. In addition to specializing in business litigation, Nathan also has experience practicing in the areas of criminal defense, prison litigation, and appellate practice. Over the past year, Nathan has developed particular expertise in litigating issues related technology including SAP implementations. ■

OWBA Board Member Participates in the Law360 Powerbroker Q&A Series



Recently, Amanda Martinsek, the founding president of Thacker Martinsek LPA, was asked to participate in the Law360 Female Powerbroker Q&A Series. The series features managing partners, founding partners, heads of practice groups and offices, and chief legal officers sharing the challenges of being a woman at a senior level in the legal profession, guidance to younger women in the profession and advice for law firms looking to increase the number of women in their partner ranks. This was reprinted with permission.

Amanda Martinsek is founding president of Thacker Martinsek LPA in Cleveland. She founded the corporate governance practice group and is a business litigator with more than 20 years of experience managing complex cases including class actions, shareholder derivative claims, products liability suits and other corporate disputes. Martinsek has represented national and regional law firms against professional liability and other business tort claims. She has directed investigations into various issues including alleged Foreign Corrupt Practices Act violations and potential qui tam claims. Most recently, Martinsek led an investigation into a Fortune 500 company’s handling of transactions in synthetic securities totaling \$1.1 billion.

She was previously a partner with Vorys Sater Seymour and Pease LLP. She left the firm to open and manage the Cleveland office of Cooper & Walinski LPA, once the largest majority women-

owned law firm in the country. Thacker Martinsek LPA is also majority women-owned.

Martinsek has been active in the Ohio Women’s Bar Association since 2009, also serving on the boards of the Murtis H. Taylor Human Services System and the Cleveland Rape Crisis Center.

Q: How did you break into what many consider to be an old boys’ network?

A: There are multiple networks in the law and a number of them could be characterized as “old boys’ networks.” I cracked my first significant network when I became an equity partner at a firm with more than 350 lawyers. I earned membership in that group through hard work, strong legal skills, initiative, and by genuinely being comfortable with being “one of the guys.” Having good mentors (male and female) was also essential.

I entered the next network – rainmaker and management – by taking personal chances that give other lawyers sweaty palms. As a young associate, I would speak up with strong and strongly voiced opinions about case strategy. (I recall as a second-year associate, telling the national chair of litigation at my firm that his venue arguments “had Article III problems.” Ultimately, he agreed). Later in my career, I chose career moves that appeared too risky to most contemporaries. The greatest rewards come from taking calculated risks and, to win, you must bet on yourself. When others, including “old boys,” see you betting on yourself and succeeding, you will find no doors are closed to you.

Q: What are the challenges of being a woman at a senior level within a law firm?

A: Challenges are many and they range from the mundane – being the only one

in a group of people walking to court in heels – to the troubling – handling the reality that a woman attorney’s voice and perspective can be perceived very differently from that of a similarly situated male attorney by judges, juries, clients and colleagues.

Unlike many female attorneys, I do not believe that it is hard to be “heard;” rather, the challenge is getting your audience to listen and agree. As a female trial lawyer, I know what it means to persuade a diverse jury to trust me. I understand that I can be perceived as shrill or bossy because I am a woman. The art lies in owning your power and authority in a manner that persuades and compels rather than alienates your audience. Spend time thinking about strategies for persuasion that are natural to you. You have to both believe yourself and believe in yourself before others will.

Q: Describe a time you encountered sexism in your career and tell us how you handled it.

A: I came back to work from a maternity leave with my second son as a fifth year associate. To my dismay, a number of the partners that I had worked with now gave me extra scrutiny to determine whether the “old Amanda” had come back to the job. Things that had not bothered anyone for five years were now cause for concern. These concerns were hard for me to understand as I had begun my career with a five month-old son. To me, nothing had changed.

I wish that I could say that I responded by proving the doubts about me to be wrong and by triumphantly changing perceptions for future generations. In fact, disappointed, I lateraled to another firm before the year was out.

I look back on that episode as a lose-lose. I lost an investment in a firm that I cared about and that firm lost its substantial investment in me. At Thacker Martinsek LPA, I am delighted that two

of my colleagues – including the current firm president – were on leave with their third children in the past 12 months.

Sometimes the answer is to attain a position where you can create change.

Q: What advice would you give to an aspiring female attorney?

A: Develop a reputation for integrity both inside and outside your firm and be worthy of the trust that follows.

Care more than the next lawyer. It shows.

When you make a mistake, which you will, own it. Then never make that mistake again.

Work with as many different attorneys as you can and watch what they do. Find your own style by picking and choosing what fits you as a person. Lawyers are best when they are authentic to themselves. I have learned tricks and strategies from many other attorneys over the years, but I always make them my own.

Recognize that when a client gives you a matter they are taking a chance. Make them happy they took that chance. Listen carefully to what your client’s goals are and do what you can to achieve them. Be honest with your clients at every step. If there is going to be bad news, be its bearer. To me, if my client is surprised by a bad outcome, I have failed.

Remember that no one will give you work if they do not know who you are and what you can do. Find a comfortable way to market yourself and your colleagues. As in everything else, you need to stay true to yourself in selling. Fake always fails.

This is a tough profession. Make certain you have a strong support network.

Finally, remember to be kind to yourself.

Q: What advice would you give to a law firm looking to increase the number of women in its partner ranks?

A: Take women attorneys on their own

terms and trust them. Demonstrate that trust regularly.

Women are hired at law firms because they have spent years building a track record of drive and excellence. But, when life events like marriage and children happen, firms look for signs of change. Do not lose your investment in strong female attorneys by creating trust issues before they exist. Listen to concerns and do not simply hear complaints. Look for win-win solutions that inure to the firm’s long-term benefit.

Make certain that women attorneys are mentored and that they are given real business development opportunities. That includes authorizing seemingly unconventional business development charges. I had a client marketing expense for pedicures disallowed at a firm. Last year, my current firm earned more than \$1 million from business directed to us by the same female client.

Explain how business is handed down from partner to partner and make certain that women have an equal opportunity to earn the right to inherit a client. Do not assume that women can only be marketed to women.

Get to know your talented and ambitious attorneys well. A law firm’s biggest asset is its human capital.

Q: Outside your firm, name an attorney you admire and tell us why.

A: I admire Frances Floriano Goins of Ulmer & Berne LLP. I met her in my first year of practice when she was a partner and I was a loud mouth, baby associate.

Fran trusted me with opportunities that make my heart stop. Over the years, I have realized that Fran is a true believer in intellectual meritocracy. She understands that if you have a brain, you can contribute.

Fran is a formidable litigator with an infectious laugh. Her fierce devotion to winning is legendary.

I am proud to tell people that Fran was my first mentor and that she is now a friend. ■

OWBF Leadership Luncheon and Leading the Way Award

On May 22, the Ohio Women's Bar Foundation (OWBF) held its annual Leadership Luncheon in Columbus at the Boathouse in Confluence Park. The Leadership Luncheon is an opportunity to celebrate women and leadership. The Leadership Luncheon does this in three ways – the Leading the Way Award, the graduation of the Leadership Institute class of 2013-2014 and the introduction to the new incoming 2014-2015 Leadership Institute class. The Leading the Way Award honors leaders and highlights the achievements of women who have led the way.

This year's Leading the Way Award recipient was The Honorable Justice Judith Lanzinger, Supreme Court of Ohio. Justice Judith Lanzinger has demonstrated exemplary leadership in the legal profession and in her community. In 2004, Justice Lanzinger became the only person in Ohio ever elected to all four levels of the state judiciary. She was re-elected in 2010 to the Supreme Court for a second six-year term. Over the last 28 years, she has also served on the 6th District Court of Appeals, the Lucas County Court of Common Pleas, and the Toledo Municipal Court. Justice Lanzinger was introduced by The Honorable Yvette McGee Brown, who acted as master of ceremonies for the event.

Valoria Hoover gave the history and vision behind the OWBF and the Leadership Institute. A tribute to the 2013-2014 Leadership Institute graduating class was given by the 2013-2014 Leadership Institute Chair Denise Platfoot Lacy. The 2014-2015 Leadership Institute co-chairs, Marilena DiSilvio and Sommer Sheely, announced the new incoming 2014-2015 Leadership Institute class. The Leading the Way award was presented to Justice Lanzinger by Patricia Gajda, the OWBF president.

Thank you to this year's Leadership Luncheon Sponsors Dinsmore & Shohl LLP, Faruki Ireland and Cox, Jones Day, Nationwide Mutual Insurance, and Reminger Co., LPA (Gold Sponsors); Barnes & Thornburg LLP, Bricker and Eckler LLP, LexisNexis, The Orlando Baking Company (Silver Sponsors); Judge Stephanie Bowman, Gallagher Sharp, Denise Platfoot Lacey, Littler Mendelson PC, WilmerHale (Bronze Sponsors); and Carpernter Lipps & Leland LLP, Squire Sanders (US) LLP, Thacker Martinsek LPA (Table Sponsors), Profile Discovery (Table Sponsor – 2014-2015 Class Members).

The Leadership Institute will kick off in September. ■



2013-2014 Leadership Institute Class: Kate Wexler, Micheline Kidwell, Kimberly Jones, Sabrina Riggs, Christine Li, Vanessa Nichols, Tara Aschenbrand, Shelby McMillan, Pramila Kamuth, Ann Hunt, Catherine Peters, Adrienne Pietropaolo, Rachel Steinlage, Denise Pleska. (Not pictured: Stephanie Hanna, Christina Grassesschi and Melinda Nenning.)

Leading with Style Cincinnati

Leading with Style – Cincinnati was held at the Horseshoe Casino in Cincinnati on June 19. Now in its fourth year, Leading with Style is an occasion focused on providing local attorneys and businesswomen the opportunity to evaluate and refresh their professional image while unwinding with colleagues and meeting new friends.

The event was kicked off with a reception where attendees could enjoy drinks and signature cocktails. Throughout the evening, local vendors were stationed around the area, selling a wide variety of fun crafts, beauty supplies, jewelry and home décor. Vendors included Alligator Purse, Artfully Disheveled, Bob Roncker's Running Spot, Chanel Cosmetics, Cincy Style Bar, Inner Peace Holistic Center, Kate Spade, M. Hopple, and Silpada Sterling Silver Jewelry.

A fashion show was styled by our fashion vendors: Alligator Purse, Artfully Disheveled, CABi, and Dillard's.

Each year, the Ohio Women's Bar Association organizes this event to raise funds for the Ohio Women's Bar Foundation (OWBF) and a charitable organization. This year's raffle donations benefited the OWBF and Cincinnati Union Bethel, Off the Streets program, which helps women involved in prostitution move towards safety, recovery, empowerment, and community reintegration.

Thank you to our generous sponsors who helped make this year's Leading with Style event a huge success: Reminger Co., LPA (Emerald Sponsor); Dinsmore & Shohl LLP, Network Data Solutions (Ruby Sponsors) and Bricker & Eckler, Thompson Hine, and Keating, Muething, Klekamp (Sapphire Sponsors) ■

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Women in History

Women in History

August 3, 1984 – Mary Lou Retton became the first US woman to win an Olympic gold medal in women's gymnastics all-around event

August 4, 1920 – Journalist Helen Thomas born

August 10, 1993 – Ruth Bader Ginsburg, second woman to serve on the Supreme Court, sworn in

August 13, 1860 – Annie Oakley born (markswoman, entertainer)

August 15, 1912 – Cooking writer Julia Child born

August 19, 1883 – Fashion designer Coco Chanel born

August 23, 1850 – First national women's rights convention in the U.S. convened in Worcester, Massachusetts

August 26, 1971 – Congress recognized August 26 as Women's Equality Day

August 31, 1870 – Maria Montessori born (educator)

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Annual Meeting (*Cont'd from page 7*)
OWBA president and Patricia Gajda was sworn in as the new OWBF president. Thompson and Hine was awarded the OWBA Family-Friendly Award. The OWBF Law Student Scholarship Awards were presented during the luncheon to Nadia Klarr, University of Dayton, and Malea Hetrick, Case Western Reserve University. Klarr does community outreach through Big Brothers and Big Sisters of America, is a member of Lambda Pi Eta, and a member of Pi Kappa Delta. Hetrick, a short-term volunteer for the Rose of Sharon Orphanage in San Juan de la Maguana, has worked for Brethren Volunteer Service in Guatemala,

and has interned at Centro Bono in Santa Domingo, Dominican Republic.

This year's President's Choice Award was awarded to Lisa Kathumbi, Littler Mendelson, for her contribution of Support, Energy, Talent, Time and Vision.

Thank you to this year's sponsors, Armstrong & Okey, Nationwide Mutual Insurance Company, Squire Sanders, Barnes & Thornburg, Thompson Hine, Reminger Co., LPA, Bricker and Eckler, Dinsmore & Shohl, The Gnoesis Group, Roetzel, Ice Miller LLP, Littler Mendelson, and Jones Day.

The event ended with a cocktail and networking reception. ■