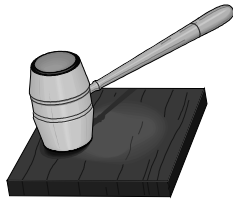


Hear Me!
Hear Me!



DOCKET CALL

THE CLAY COUNTY BAR ASSOCIATION

February 2004

CALENDAR

of Upcoming Events

- Feb. 27 - CLE: Family Law
12:00 Lunch
Finnigan's - NKC
- Mar. 26 - Luncheon Meeting
11:30 - 1:00
Cascone's Restaurant
Cost: \$18.00
Program:
The Hon. Wm. R. Price, Jr.
Justice of the Missouri
Supreme Court
- Apr. 29 - May 1
KCMBA Bench Bar
Conference
- Sept. 17 - Clay County Bar Assn.
golf Tournament
11:30 Lunch
1:00 Tee Time

Watch your mail for details
and other events.

This newsletter is a publication of The Clay County Bar Association. The contents are intended for general purposes only, and should not be construed as legal advice or legal opinion on any specific facts or circumstances.

Douglass F. Noland, Editor

From the President. . .

Like many of you I started out my New Year by making a list of goals, resolutions if you will, for the New Year. This year instead of my usual lose weight, eat healthy, work out resolution, I went a different route. I pledged to make more time for my friends. It sounds simple enough, but a month into the New Year I am finding it not so easy to do. As we all know, the practice of law can become all-consuming if we let it. No matter how early I get in the office or how late I work there is always more to do. Then, like most of you, I throw my family into the mix and there is simply not enough time in the day to take care of my work and family let alone enjoy time with friends. Having said this, I am going to ask you to make a similar pledge, one that involves spending time with other lawyers.

Once a month your Clay County Bar Association has a luncheon board meeting. In that hour we plan upcoming events and deal with issues as they arise. I have been a member of the Board of The Clay County Bar Association for ten years now and I have come to enjoy these luncheons. At first I, like many of the others, would hurry to the luncheon then rush back to the office. At one such meeting in 1998, I met S. Preston Williams. This particular meeting was held in the back room of Chappell's. Everyone was in the process of arriving and people were already hurrying up to order so we could all eat and rush back to the office or to court when Preston, in his deep, calming voice, started talking to us about the "old" days when a group of lawyers would meet for lunch at least once a week, share a drink or two, swap stories, and a couple of hours later they would return to their office feeling good about who they were and what they did for a living. He encouraged us all to just slow down and enjoy the company of others in our profession. Since that time I have tried to do just that. I am not always able—there are times that I must rush to court or back to the office—but, for the most part, I have slowed down and come to enjoy this time spent with friends and partners in the profession.

As we move into 2004, I would ask each of you to take time out of your busy schedule to spend time with your friends in The Clay County Bar Association. In this coming year there will be four general membership luncheon meetings, several Friday afternoon CLE seminars, and a golf tournament in September. I would like to encourage all of you to attend these events. It will give you the opportunity to talk with familiar adversaries and at the same time you will meet the "new faces" in the bar association. I realize that it means taking time away from your busy office but you may be surprised by how enjoyable and refreshing it can be to spend time in a nonadversarial arena with other lawyers. I ask you each to slow down and take the time to experience the camaraderie the Clay County Bar Association has to offer.

Susan Long

Report from the Missouri Bar

by Vincent F. "Mike" Igoe, Board of Governors, Missouri Bar

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❖ **FUNDING FOR THE JUDICIAL SYSTEM.** Apparently, the legislature feels that the judiciary is a "department" as opposed to a co-equal branch of government. The state judiciary budget has been cut over the last three years. The legislature is scrutinizing the judicial branch of government to see if there aren't more cuts and changes which can take place. I believe it is important for the practicing bar to educate and advise itself regarding the importance of this threat and to look at the effect of cutting and reducing the judicial branch elsewhere. You may want to note Bill Corrigan's most recent article in the next issue of the *Journal of the Missouri Bar*. As expected, the Bar is supporting a strong, independent judiciary

❖ **TORT REFORM LEGISLATION.** As I am sure you recall, the Missouri Bar is an integrated bar and its membership is required for practicing lawyers in the State of Missouri. Because of that, the MISSOURI BAR has struggled with how to respond to proposed "tort reform" legislation. Since we are neither MATA or MODL, it is not appropriate for the Bar to go outside the scope of its function and take a political position. There are however pieces of proposed legislation which a careful review would cause a significant majority of members of the Missouri Bar to either support or oppose. I am the Chair of a committee of members of the Board of Governors which is

reviewing all of the proposed "tort reform" legislation with an eye toward making recommendations on certain pieces of legislation to the Board of Governors. I have suggested that the proposed legislation summaries on tort reform be included in upcoming issues of *ESQ* and would strongly urge that you review these. After that I would appreciate your sharing thoughts with me, members of the committee or directly with the Missouri Bar in Jefferson City. The individuals in Jefferson City handling and monitoring these legislative proceedings are: Steve Murrell and Catherine Barrie.

❖ **OCDC REQUEST.** I believe the office of the Chief Disciplinary Counsel is going to once again request a significant dues increase. The Board of Governors has opposed this with the Missouri Supreme Court. We previously held the last increase down and are reviewing the basis of the OCDC requests this spring. We will be meeting in May to discuss with the Supreme Court and the OCDC the request for additional funding to add offices and staff. A part of the OCDC proposal would include doing away with numerous volunteer attorneys who have been significantly involved in OCDC activities previously. Again, your thoughts are always greatly appreciated.

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Dispute Resolution In the Seventh Circuit

by Kathleen Bird, Office of Dispute Resolutions

Court services provide options for attorneys and litigants to use a variety of dispute resolution techniques. Both mediation and arbitration services are available. Some programs provide free services. Fees based on income eligibility apply to some programs. Dispute resolution services are provided in accordance with Supreme Court Rules 17 and 88 and Local Court Rule 68.8.

The custody and visitation mediation program for divorcing and never-married parents, established nine years ago, provides mediation to fifty families, on average, each year. Mediation is sought voluntarily in seventy-five percent of these cases. Experience indicates that a minimum of three hours of mediation is required for parents to reach the agreement stage. The settlement rate is extremely high when parents mediate early in the case, and extremely low when mediation occurs close to a trial setting. The involvement of attorneys in mediation is customary in many states, but few attorneys choose to participate in the mediation process in Clay County. The input of attorneys can be very particularly helpful to the parties in mediation prior to trial to guide clients in discussion of issues susceptible to stipulation. This is not just an issue of trial tactics. Social research shows there is a strong correlation between parents' amicable resolution of custody issues and a positive

environment for raising their children after divorce.

Dispute resolution is a normal feature in handling family access disputes filed in Clay County. Ninety percent of the parents involved in family access disputes

"The settlement rate is extremely high when parents mediate early in the case, and extremely low when mediation occurs close to a trial setting."

are pro se. A combination of mediation and arbitration is used to provide parents the opportunity to resolve their dispute by agreement or to obtain a ruling on the dispute from a neutral third party. Local attorneys trained in the mediation and arbitration processes serve as the neutrals for this service. Arbitration rulings may be advisory or binding at the election of the parties. Arbitration rulings are subject to de novo review by the court. The med-arb program diverts about seventy-five percent of the family access disputes from formal court proceedings.

Small claims litigants also have the option of mediating their dispute. Services are available prior to or on the hearing date. Mediation is provided by court services staff and

volunteer mediators. Settlement arrangements are usually completed by the parties in cases resolved in mediation without further involvement with the judicial system. Seventy-two small claim cases were mediated in 2003 with a settlement rate approaching seventy percent. Mediation has proved to be effective even in cases that do not settle. The process of discussing the dispute often enables litigants to focus on relevant facts and issues to make more concise and effective presentations before the court.

Mediation is also part of the process used in working with youth charged with delinquent conduct in the RESPECT program. Youth willing to admit culpability, either pre or post adjudication, can agree to participate in orientation and screening that can lead to a facilitated meeting with crime victims to address reparation issues. The program, established in 1997, mediates an average of 50 cases per year. Restitution is completed in full in ninety-five percent of these cases. The recidivism rate for youth who complete the RESPECT program is less than two percent.

Summary of Dispute Resolution Programs

Custody/visitation mediation is available in dissolution cases when

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Christmas Luncheon Recap

The Clay County Bar Association Christmas Luncheon was held on Friday, December 5, 2003, at Ameristar Casino in Kansas City.

Gary B. Pillersdorf of the firm of Gary B. Pillersdorf & Associates, P.C., New York, New York, spoke on civility and professionalism in the law practice.

The Distinguished Attorney Award was presented to Jon M. Krebbs.

New officers were elected as follows:

Susan E. Long President
William E. Shull Vice President
Katharine Shepherd Porter Secretary
Andrea P. Bolstad Treasurer

... and the following new members of the Board of Directors were elected:

Kathryn L. Mills Michael S. Shipley

Judge Russell Plans Retirement

JUDGE DAVID W. RUSSELL, Division 2 of the Clay County Circuit Court, has announced his intention to retire from the Clay County Circuit Bench effective March 22, 2004.

A retirement ceremony honoring Judge Russell will be held March 18, 2004, at 3:30 p.m. in Division 1 of the Clay County Circuit Court, and a reception will be held immediately following at the Clayview Country Club, 1000 Blue Jay Drive, Liberty, Missouri, until 8:00 p.m. All Clay County Bar Association members are invited to attend.

2003 Distinguished Attorney Award

The Clay County Bar Association was honored to present the 2003 Distinguished Attorney Award to JON M. KREBBS at the Christmas Luncheon. Jon received his undergraduate degree from Ottawa University and his J.D. degree from the University of Missouri at Kansas City. He practices in Liberty, Missouri, and currently serves on the 7th Circuit Judicial Commission and as attorney for the Clay County Election Board.

New Lawyers

The Clay County Bar Association welcomes new lawyers who are recently admitted to the Bar and now practicing in Clay County, including:

- 1 Timothy Murphy practices with his father and brother at the Murphy Law Firm. He is a graduate of UMKC Law School and Rockhurst College for his undergraduate degree.
- 2 Michelle Rollins Dunn is with the Law Office of R. Gregory Harrison. She graduated from UMKC Law School and MU for her undergraduate degree.
- 3 Heather Martin who works with the Clay County Public Defender's Office. She graduated from UMKC Law School.
- 4 Christian Boggs who is with the Law Offices of James D. Boggs. He graduated from MU Law School and Truman State for his undergraduate degree.

Lawyer Relocations

STEVEN D. WOLCOTT is now practicing at 104 West Kansas, Liberty, Missouri 64068, phone: 816-792-4242.

KATHRYN L. MILLS, STEPHEN G. TAYLOR, M. ANDREW ROFFMAN, and LARRY V. SWALL have moved the location of their office and are now practicing at 105 East Mill, Liberty, Missouri 64068, phone: 816-792-8700.

Legislative News

There are many issues in the Missouri legislature that affects the legal profession:

- ❖ House Bill 1304 sponsored by Representative Richard Byrd relates to medical negligence, venue, and caps on non-economic damages.
- ❖ House Bill 1428 sponsored by Representative Jeff Harris also deals with medical negligence, venue and insurance reform issues.
- ❖ In areas of worker's compensation, Senate Bill 856 sponsored by Senator John Loudon and House Bill 1397 sponsored by Representative Kevin Wilson are bills that relates to changes in worker's compensation practice, including changes in the definition of accident, repetitive motion injuries, and attorneys fees.

KNOW YOUR LEGISLATOR

Name	District	Capitol Address	Capitol Phone	Capitol Fax	E-Mail
Sen. Ed Quick	17	State Capitol Building, Room 331A Jefferson City, MO 65101	(573) 751-4524	(573) 751-2745	
Rep. Annie Reinhart	34	Missouri House of Representatives 201 West Capitol Ave., Room 402 Jefferson City, MO 65101	(573) 751-1218	(573) 526-0539	Annie.Reinhart@house.mo.gov
Rep. Philip Willoughby	33	Missouri House of Representatives 201 West Capitol Avenue, Room 103BB Jefferson City, MO 65101	(573) 751-6600	(573) 526-7852	Philip.Willoughby@house.mo.gov
Rep. Dan Bishop	38	Missouri House of Representatives 201 West Capitol Avenue, Room 109G Jefferson City, MO65101	(573) 751-5282	(573) 526-9863	Dan.Bishop@house.mo.gov
Rep. Trent Skaggs	31	Missouri House of Representatives 201 West Capitol Ave., Room 101H Jefferson City, MO 65101	(573) 751-2199	(573) 751-4559	Trent.Skaggs@house.mo.gov

Two members of the Missouri legislature from Clay County, Dan Bishop and Phil Willoughby, are lawyers and members of the Clay County Bar Association.

Medical Malpractice Cap

The Missouri Department of Insurance has released the new limitation for non-economic damages in medical malpractice awards.

The 2004 medical malpractice cap is \$565,000.00.

Docket Call Submissions

If you have an interesting article or information you would like to share with the Docket Call, please submit articles to Douglass F. Noland, Editor. You can mail to me at 6000 North Oak Trafficway, Suite 201, Kansas City, Missouri 64118, or feel free to email me at: dnoland@nnnlaw.com.

Check out the Clay County Bar Association website at: www.claycountybar.org

Report from the Missouri Bar . . .

(continued from p. 2)

❖ PRESIDENT BILL CORRIGAN IS STILL PUSHING THE LAWYERS FOR THE LEGISLATURE CAMPAIGN ATTEMPTING TO ENCOURAGE ATTORNEYS TO BECOME MEMBERS OF THE LEGISLATURE. I would strongly concur and urge that those who have an interest in participating in this program contact President Corrigan or some members of the legislature who are attorneys. We have two such members who are members of the Clay County Bar, they are: Daniel Bishop and Philip Willoughby.

❖ THE BOARD OF GOVERNORS HAVE BEEN WORKING ON A PROPOSAL TO TRY TO ASSIST THE SUPREME COURT IN MODIFYING RULE 4.15 ALLOWING A RATIONAL BASIS FOR THE DESTRUCTION OF FILES AT SOME POINT IN TIME. I am certain that all of us are confronted with the same problems of maintaining clients' files in perpetuity. It is conceivable that if we have a rational rule that allows us to get rid of the bulk of paperwork from ten years past or beyond, many garages, basements, cellars, old bomb shelters, and attics will be freed up. We will keep you advised as soon as the Missouri Supreme Court has taken action on the proposed changed rule.

❖ LAWYER ADVERTISING COMMITTEE. There is an active lawyer advertising committee which is reviewing some predatory advertising practices and the effect of lawyer advertising and its effect on the profession. Anyone who has comment on that should contact Chris Janku at the Missouri Bar.

❖ Finally, my E-mail address is: vigoe@withersbrant.com and my fax number is: (816) 792-2807.

I appreciate the opportunity of representing you on the Board of Governors and appreciate any comments. I will try to be responsive or provide a conduit to get information to the Bar in Jefferson City. It seems that our profession is under greater attack in these times than we have been in the last thirty years. We should be proud of who we are and what we do to serve the needs of society. Your thoughts are greatly appreciated. ☺

Dispute Resolution . . .

(continued from p. 3)

either parent has gross annual income of \$30,000 or less. The scale of fees runs from \$0 to \$150 per parent.

Mediation of paternity establishment cases is available through court services or the MARCH mediation program free of charge.

Mediation in modifications is available through court services when either parent has gross annual income of \$30,000 or less. The scale of fees runs from \$0 to \$150 per parent. Free mediation may be available through the MARCH program in some cases.

Small claims mediations are free of charge. Interested litigants can contact the Office of Dispute Resolution Services to request mediation.

RESPECT is a program operated in cooperation with the Clay County Juvenile Office. Youth are referred by their deputy juvenile officer. Victim services are also available.

For more information, contact Kathleen Bird, Director of the Seventh Circuit Office of Dispute Resolution Services at (816) 792-7681. Also see Family Court Services at www.circuit7.net and www.marchmediation.org. ☺

Interesting Reading

Four Trials by John Edwards. Simon and Schuster. For twenty years John Edwards (now a United States Senator) practiced law in North Carolina. In this book Edwards writes of four trials with four clients during that period of time. He writes movingly of people for whom he helped seek some measure of justice through the legal system in times of tragedy, great loss, and sometimes joy. It is a moving account of the life of a lawyer and the effect a lawyer can have on people and their lives through the judicial system. Regardless of your political beliefs, it is a great example of what lawyers can do for their clients.