JOURNAL OF THE
MISSOURI BAR
VOLUME 78
NUMBER 1

JANUARY-FEBRUARY
2022

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DATA ANALYTICS AND ARTIFICIAL INTELLIGENCE IN LITIGATION

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JOURNAL OF THE
MISSOURI BAR

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The JOURNAL OF THE MISSOURI BAR helps Missouri Bar members keep abreast of changes in legal developments as they meet their professional obligations. The JOURNAL welcomes submissions of articles concerning legal topics of interest to Missouri lawyers. Criteria for publication include the article's quality, its substantive value, its interest to Missouri lawyers, and the originality of its subject matter. Submissions that relate to cases pending before any court or agency, and submissions previously published wholly or substantially in another publication will not be accepted. Consistent with the JOURNAL'S format, the language of submissions should be gender-neutral.

The JOURNAL OF THE MISSOURI BAR encourages all Missouri Bar members to contribute articles for publication.

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The Journal of The Missouri Bar (ISSN 0026-6485) is published bimonthly (Jan.-Feb., March-April, May-June, July-Aug., Sep.-Oct., Nov.-Dec.) by The Missouri Bar, 326 Monroe Street, Jefferson City, Missouri 65101 (telephone 573-635-4128, fax 573-635-2811). Editor, Hannah Kiddoo Frevert. Subscription price is $24 per year ($6 for members, paid as a part of enrollment fee). Single copies $6. Office of publication, 326 Monroe Street, Jefferson City, Missouri 65101, periodicals postage paid at Jefferson City, Missouri. POSTMASTER: Send address changes to: Journal of The Missouri Bar, P.O. Box 119, Jefferson City, Missouri 65102.

WHAT'S IT LIKE TO BE A LAWYER?

JOHN GRIMM[1]

LIKE MANY OF YOU, I HAVE OCCASIONALLY BEEN ASKED TO SPEAK WITH VARIOUS GROUPS ABOUT OUR LEGAL SYSTEM. ALTHOUGH IT'S ALWAYS AN HONOR TO BE ASKED TO SPEAK TO ANY GROUP, I REALLY ENJOY TALKING WITH STUDENTS, ESPECIALLY THOSE IN GRADE SCHOOL AND MIDDLE SCHOOL.

John Grimm

Sometimes, though, kids ask seemingly simple questions that can be fairly difficult to answer. One such question: "What's it like to be a lawyer?"

Those reading this column probably have a lot of different ways to answer that question, and I am interested in your thoughts. Here are some of mine:

First, being a good lawyer is about helping people. Prosecuting attorneys seek to help victims of crime achieve justice and hold those who commit crimes accountable for their actions. Real estate lawyers work to help their clients buy or sell property. Lawyers who are involved in public finance help advance economic development opportunities around the state or help schools finance building projects. Personal injury lawyers help those hurt through the fault of others seek compensation for their losses. Whatever their area of practice, lawyers have the common goal of helping their clients.

Second, I believe the best lawyers are good listeners. Sometimes I hear parents say their child will make a great lawyer because the child "loves to argue." Although I understand why a parent might have that idea, I have to restrain myself from disputing that a child who "loves to argue" will make a great lawyer. Some say that God gave us two ears and one mouth for a reason. I think that's true. Really good lawyers, in my view, listen first and speak second. (Apologies to my wife and children who think I need to follow this advice more often at home.)

Third, I believe good lawyers are empathetic. In many cases, we are seeing people when they are going through difficult, stressful situations. We should always try to keep in mind that, although the situation may be commonplace for the lawyers in the room, the clients may be having their first encounter with the legal system. Lawyers and judges should strive to ensure that the clients (whether our own or those represented by opposing counsel) walk away believing that the legal system works for *all* parties, even if the outcome of a particular matter is not perfect.

Finally, being a good lawyer takes hard work. There are many jobs that require long hours and dealing with challenging situations, and this is true for most lawyers I know. We prepare for that somewhat in law school. But while many of us believed the hard work would lessen somewhat after obtaining a Juris Doctorate, I believe most lawyers would agree that is not generally true.

Lawyers provide extremely valuable services to the public, and it is important to help people know and understand what lawyers do**. If you are asked to speak to your child's class, your Rotary Club, or some other organization, please consider doing so.** The Missouri Bar has sample presentations to help guide you if desired. And if you're willing to take it a step further, you can sign up for The Missouri Bar's Speakers' Bureau at MoBar.org.

If you're interested in sharing with me your thoughts on this or any other issue, please feel free to contact me at MoBarPresident@MoBar.org. Thanks for all you do to improve our profession.

Endnote

1 John Grimm, 2021-22 Missouri Bar president, practices with The Limbaugh Firm in Cape Girardeau.

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EXECUTIVE SUMMARY

PRESSING FORWARD

MISCHA BUFORD EPPS[1]

I HOPE YOUR 2022 IS OFF TO A PRODUCTIVE AND HEALTHY START. IT IS HARD TO BELIEVE THAT WE ARE QUICKLY APPROACHING TWO YEARS SINCE THE START OF THE GLOBAL PANDEMIC THAT HAS SEISMICALLY SHIFTED OUR LIFESTYLES AND LIVELIHOODS.

As we press forward in a new year of the new normal, we are over a quarter of the way through this year's regular session of the Missouri General Assembly. As you might imagine, this is a busy time for our Government Relations staff.

As lawyers, we know how important the legislative process is to our state, Missouri residents, and our democracy as a whole. By working with elected officials, The Missouri Bar constantly seeks to improve the law, the administration of justice, and the quality of legal services available to the public. **We actively track bills of interest to the legal profession and justice system, and lawyers can access regular updates on these matters through our Legislative Engagement Center under the Government Relations tab at MoBar.org.** There, lawyers can use the Bills of Interest feed to locate bills related to specific practice areas. In the weekly ESQ. newsletter, lawyers will find a link to a Legislative Update, published each week the General Assembly is in session, and all legislative updates are published at News.MoBar.org. A yearly Legislative Digest is available at the end of each summer, providing comprehensive summaries for all legislation enacted during the year, as well as tools to aid in navigating the new laws and access to other online resources.

We also make it a point to routinely connect with elected officials in the executive branch, the House, and Senate to ensure they are aware of our public resources for those they represent, including Missouri.FreeLegalAnswers.org; LawyerSearch; a variety of helpful resource guides and handbooks related to common legal matters; and other tools. Beyond that, your Board of Governors approves law improvement measures, drafted by committees of The Missouri Bar, for introduction in the Missouri General Assembly. The board and executive committee regularly review legislative proposals filed each session, which are limited to matters concerning the administration of justice, the integrity of the judiciary, improvement of the law, or the dignity of the profession of law.

If you have questions about pending legislation, you are welcome to contact our Government Relations staff at 573-659-2280 or govrel@mobar.org. We also encourage Missouri lawyers to directly reach out to their elected officials or connect with their Missouri Bar Board of Governors representatives on legislation within the scope previously outlined.

Mischa Buford Epps

It's also important that we take time to recognize the 26 Missouri lawyers – including one admitted to the bar just this past fall while serving – who are currently in the House and Senate, traveling to Jefferson City for weeks on end, sometimes while maintaining a law practice back at home. The work they do on behalf of the citizens they represent makes an impact in our communities and beyond, and their background in the law is an invaluable resource to both constituents and fellow lawmakers.

Of course, understanding the importance of our legislature and its decisions shouldn't stop with us lawyers. Our Citizenship Education and Public Information staff are hard at work to help teachers, students, and everyday citizens even better understand government processes. Our learning resources range from fun coloring books explaining how laws are made to advanced training workshops for educators from across the state. You can find out more about these efforts on page 22.

As professionals who are officers of the Court, it's essential that we stay connected to and informed of the work being done in the other two branches of state government. **I encourage you to get involved by sharing your thoughts or joining a Missouri Bar committee.** Your ideas and contributions help improve the lives of Missouri citizens and help us better understand your professional priorities.

Best regards,
Mischa

Endnote

1 Mischa Buford Epps is executive director of The Missouri Bar.

MAKE THE MOST OF THE ECONOMIC SURVEY

The Missouri Bar recently released the 2021 version of its "Economic Survey," which provides economic information collected from Missouri lawyers. Lawyers who want to compare their firms' performances to other law firms can find valuable information about the Missouri legal profession — including impacts the COVID-19 pandemic has had on the industry, income, student loans, payment options, marketing, and more. See highlights from the survey on page 27 and access the full survey at MoBar.org/economicsurvey.

REMEMBERING WELLNESS

Take a brief mental vacation by picturing yourself somewhere you'd like to be, such as the beach, a lake, or the mountains. Set a timer for 10 minutes. Close your eyes and envision yourself there, experiencing the sights, sounds, smells, tastes, and sensations.

Affinity INSIGHT

MEMBER BENEFIT

Missouri Bar members can sign up for a no-cost standard membership with Affinity Insight, giving lawyers access to hundreds of practice management resources that can help them even better serve their clients. The membership features more than 150 hours of video content and downloadable documents covering various practice management skills and resources. For direction on claiming the no-cost membership, visit MoBar.org/LPM.

Save the Date

The **2022 Preparing Demonstrative Evidence: Persuasion & Use of Technology** webinar will be held March 2 and April 21.

The 2022 Annual Bankruptcy Institute will be held online March 11, March 18, April 8, and April 29.

The 2022 Business Technology & Cybersecurity programs include bundle pricing and will discuss growing your business over Zoom, ransomware, and corporate-level security while working from home. The three CLE programs will be held online and run March 22-May 26.

For more information, visit MoBarCLE.MoBar.org

MEET #MOLAWYERS – SANDRA DAVIDSON

Sandra Davidson is professor emerita at the University of Missouri. Prior to her retirement, she was a Curators' Distinguished Teaching Professor at the Missouri School of Journalism, where she taught media law for 30 years. Davidson joined The Missouri Bar in 1983.

What is your favorite aspect of being a lawyer? Knowledge of law gives me power to help individuals such as reporters who call me for legal guidance as they work on stories under deadline. It also lets me help the broader community when I aid journalists in making Sunshine Law requests to inform the public about how government is functioning.

What is the best advice someone gave you? "Don't be vulgar." That was the advice from my grandmother, who helped raise me. It was her universal rule for appropriate behavior, whether the subject was table manners, dress, how to treat others, or almost anything else. It is a good piece of advice for lawyers on how to treat each other, I believe.

If you could have dinner with one person (dead or alive), who would it be? Myra Bradwell. She passed the Illinois Bar exam in 1869 but was denied entry into the legal profession solely because she was a woman. She helped draft a bill to prohibit Illinois from excluding anyone from an occupation based on the person's sex, except military service. She was later admitted to the bar, but Bradwell never practiced law. Instead, she became a successful journalist. I'd like to present Myra (we'd be on a first-name basis) with a T-shirt like one my husband gave me. It says, "Underestimate me. That'll be fun."

What is your favorite legal movie? "Inherit the Wind."

What is your favorite word (any language and any reason)? "Arguably." It's a word that's simultaneously forceful and compromising. It shows that you're ready to argue your point but also displays your willingness to listen to others who disagree with you.

Editor's note: These responses have been edited for clarity and brevity. Do you know someone who should be featured in Meet #MOLawyers? Let us know by emailing nroberts@mobar.org.

MOBAR MEMORY

In 2006, Lloyd Gaines was licensed as an honorary member of The Missouri Bar. Gaines fought for and won the right to attend the University of Missouri School of Law, helping pave the way for the end of segregation in public education. Gaines disappeared before he could start classes.

TECH TIP

Posting photos on your social media accounts or even your company website can seem like an innocent task, but there are potential security risks. Did you know that most smartphones automatically embed the GPS coordinates of where the photo was taken into each image? This can be a very useful feature when used within your personal photo library, but it also has the potential to reveal private information. Did you share a family photo taken during the holidays onto social media? You may have just inadvertently revealed your home address to people you wouldn't have otherwise. This feature can be turned off on most smartphones. Additionally, it is also possible to strip this information out of the photo prior to posting it.

STAY INFORMED ON LEGISLATIVE MATTERS

The Missouri General Assembly's 2022 Regular Session is in full swing. Lawyers can keep up to date on legislative matters using The Missouri Bar's Legislative Engagement Center. Visit MoBar.org for reports on introduced bills of interest by subject or practice area, along with tools to navigate new laws.

SHARE YOUR WISDOM

The 2022 February Bar Exam is set for Feb 22-23. If you have tips or words of encouragement for those taking it, share them with us on social media using #NewMOLawyers. Select messages will be gathered and distributed to examinees during the week of the exam.

OUT OF THE OFFICE

St. Louis lawyer Amy Rebecca Johnson has been practicing yoga for 25 years and teaching it for seven. On a recent hike in North Carolina's Blue Ridge Parkway, Johnson took a moment to pause and take in the scenery around her. "I loved this hike," says Johnson. "It was crisp, and you could get a great feel of the Blue Ridge."

Share your "Out of the Office" photo with us for a chance to be featured in In Brief. Email hkiddoo@mobar.org or tag us on social media using #MOLawyersLivingWell.

#MOLAWYERSHELP

Missouri lawyers know the importance of giving back and do so in a variety of ways. If you know of any lawyers doing good works in their communities, we want to hear about it. Share those moments of service on social media using #MOLawyersHelp, or send the details to nroberts@mobar.org.

MISSOURI BAR STAFF SPREADS HOLIDAY CHEER

In December, Missouri Bar employees worked together to create and distribute 70 care packages and holiday greeting cards to the residents of Jefferson City-area care centers. The team also collected a variety of gifts for Toys for Tots, which were shared with area youth.

THE FLAG

W. Dudley McCarter[1]

FOR RETALIATION CLAIM, IT IS SUFFICIENT FOR PLAINTIFF TO HAVE GOOD FAITH BELIEF THAT THERE WERE GROUNDS FOR THE CLAIM OF DISCRIMINATION

***Gray v. Missouri Dept. of Corrections*, 2021 WL 4057199 (Mo App. W.D. 2021).**

The Missouri Department of Corrections (DOC) appealed the circuit court's judgment, entered on a jury verdict, in favor of Shelley Gray's claim of retaliation under the Missouri Human Rights Act (MHRA).[2] The Missouri Court of Appeals-Western District affirmed the circuit court's judgment in *Gray v. Missouri Department Of Corrections*.[3]

The DOC argued a jury instruction improperly equated a Family and Medical Leave Act (FMLA) claim with a disability discrimination claim under the MHRA, but FMLA issues are not covered under the MHRA's definition of disability. Even presuming that is true, the court ruled, Gray did not have to report or complain about disability discrimination as defined by the MHRA to maintain her retaliation action.[4]

To present a prima facie case of retaliation under the MHRA, a plaintiff must show 1) the plaintiff complained of discrimination, 2) the employer took adverse action against the plaintiff, and 3) a casual relationship existed between the complaint of discrimination and the adverse employment action.[5] However, "it is irrelevant to a claim of retaliation that the act complained of was not legally actionable. The only issue is whether the person making the complaint has a reasonable good faith belief that there were grounds for the claim of discrimination or harassment."[6]

"Whether attempting to keep employees from taking FMLA leave is actually an unlawful discriminatory practice on the basis of disability under the MHRA is irrelevant to Gray's MHRA retaliation claim that, she was retaliated against after expressing opposition to what she reasonably and in good faith believed to be an unlawful discriminatory practice on the basis of disability," the Missouri Court of Appeals-Western District wrote.[7]

PROPER SERVICE IS REQUIRED TO ENTER A DEFAULT JUDGMENT

***Marti v. Concrete Coring Company of North America*, 630 S.W.3d 920 (Mo. App. E.D. 2021).**

Samuel Marti filed a petition for negligence against Concrete Coring Company of North America (CCC) in 2018 after a CCC employee dropped a piece of concrete on Marti's hand, which led to permanent injuries. CCC did not answer the petition, so the trial court entered a default judgment in favor of Marti. CCC filed a motion to set aside the default judgment, claiming the person who accepted service on behalf of CCC was not a person in charge of the office and that the individual did not forward the summons to a qualified person with the company. CCC also argued the sheriff's return was "insufficient on its face because it stated the summons and petition were delivered to an individual defendant, rather than a person qualified to accept service on behalf of a corporation."[8] Following a hearing, the trial court found it did not have jurisdiction to enter the default judgment due to lack of proper service, so it set aside the default judgment. Marti appealed the trial court's judgment setting aside the prior default judgment. The Missouri Court of Appeals-Eastern District affirmed the trial court's ruling in *Marti v. Concrete Coring Company of North America*.[9]

W. Dudley McCarter

A "return of service shall be considered prima facie evidence of facts recited therein."[10] However, as an initial matter, a return of service "must show on its face that every requisite of the statute has been complied with."[11] If the sheriff's return "is deficient on its face, the court acquires no jurisdiction over the party allegedly served."[12] "A judgment entered against a defendant by a court lacking personal jurisdiction over the defendant is void."[13] "Here, we do not reach the issue of whether CCC presented clear and convincing evidence to impeach the sheriff's return of service because we find it is deficient on its face," the court ruled. "The return as it stands in the record is deficient on its face, thus the trial court did not err in determining the default judgment was void for lack of personal jurisdiction."[14]

TORT CLAIM WAS NOT COVERED BY FORUM SELECTION CLAUSE IN THE CONTRACT

***Luebbering v. Varia*, 2021 WL 4530521 (Mo. App. E.D. 2021).**

Adam and Stephanie Luebbering appealed the trial court's grant of Lexicon Relocation, LLC's motion to dismiss. The appellants argued the trial court erred in enforcing the forum selection clause in the agreement between the two parties and dismissing the case. The Missouri Court of Appeals-Eastern District reversed the trial court's ruling in *Luebbering v. Varia*.[15]

The Luebberings argued the trial court erred because the outbound forum selection clause in the agreement they signed does not apply to their tort claims against Lexicon Relocation since the forum selection clause does not include precise language requiring tort claims to be litigated in the contractually selected forum. To determine if a forum selection clause that applies to contract actions also extends to non-contract claims depends on whether resolution of the claims relates to interpretation of contract.[16]

The existence of a forum selection clause in a contract that requires contractual disputes to be litigated in a specific forum does not control the forum for tort claims between the same parties.[17] "The language in the forum selection clause incorporated in the contract between the parties is not specific enough to encompass the tort claims alleged" by the Luebberings.[18]

NOTICE OF CLAIM REQUIREMENT IN CITY CHARTER CONFLICTED WITH STATE STATUTES

***Zang v. City of St. Charles*, 2021 WL 4850931 (Mo. App. E.D. 2021).**

Christopher Zang alleged he was injured due to a bicycle accident on a metal bridge in St. Charles. The trial court dismissed Zang's claim of premises liability against St. Charles, citing failure to give timely notice of his injury pursuant to the city's charter. The trial court found St. Charles' charter notice provision mirrored §§ 77.600, 79.480, 81.060, and 82.210 RSMo., and the charter provision was "not inconsistent or in conflict with state law."[19] Citing *Jones v. City of Kansas City*,[20] the trial court held notice was a condition precedent to maintaining an action against St. Charles.

In his sole point on appeal, Zang alleged the trial court erred in granting St. Charles' Motion to Dismiss the premises liability count of his First Amended Petition. Zang alleged he was not required to give notice of his claim as required under § 12.3 of St. Charles' charter since the charter provision is in conflict with state statutes, §§ 537.600.1(1), 537.600.1(2), 82.210, and 516.120 RSMo. The Missouri Court of Appeals-Eastern District reversed the trial court's judgment in *Zang v. City of St. Charles*.[21]

City ordinances are to be upheld "unless the ordinance is expressly inconsistent or irreconcilable conflict with the general law of the state."[22] A city ordinance is inconsistent with state law when it "permits what statute prohibits" or "prohibits what the statute permits."[23] "'Ordinances may supplement state laws' without creating a conflict, 'but when the expressed or implied provisions of each are inconsistent in irreconcilable conflict, then the statutes annul the ordinances.'"[24]

Section 12.3 of St. Charles' charter prohibits all actions against the city unless the plaintiff gives the city notice within 90 days of an incident "for or on account of any injury growing out of alleged negligence of the city." "This language is so broad that it encompasses all claims subject to the express waiver of sovereign immunity set forth in Section 537.6001, but the state statutes only apply to 'any injuries growing out of any defect in the condition of any bridge, boulevard, street, sidewalk or thoroughfare.' Moreover, the Missouri Supreme Court has only very narrowly construed even the limited provisions of the notice statutes," The Court of Appeals wrote.[25] This means St. Charles' charter provision is "void in that it 'prohibits what the statute permits' and irreconcilably conflicts with state statutes."[26]

Endnotes

1 W. Dudley McCarter, a former president of The Missouri Bar, is a partner in the St. Louis law firm of Behr, McCarter, Potter, Neely & Hyde.

2 Section 213.010, RSMo (2016).

3 2021 WL 4057199 (Mo App. W.D. 2021).

4 *Id.* at 3.

5 *McGaughy v. Laclede Gas Company,* 604 S.W.3d 730, 751 (Mo. App. 2020).

6 *Soto v. Costco Wholesale Corp.,* 502 S.W.3d 38, 48 (Mo App. W.D. 2016).

7 2021 WL 4057199, 4 (2021).

8 *Marti v. Concrete Coring Company of North America,* 630 S.W.3d 920, 921 (Mo. App. E.D. 2021).

9 *Id.*

10 Rule 54.22(a). "[A] return of service may be impeached by clear and convincing evidence showing the true facts of service." *Howell v. Autobody Color Co.,* 710 S.W.2d 902, 905 (Mo. App. S.D. 1986).

11 *State ex rel. Bufford v. Dalton,* 479 S.W.2d 204, 206 (Mo. App. 1972); *Carter v. Fylnn,* 112 S.W.2d 364, 369 (Mo. App. 1938).

12 *Gerding v. Hawes Firearms Co.,* 698 S.W.2d 605, 607 (Mo. App. E.D. 1985).

13 *Bueneman v. Zykan,* 52 S.W.3d 49, 58 (Mo. App. E.D. 2001).

14 *Marti v. Concrete Coring Company of North America,* 630 S.W.3d 920, 921 (Mo. App. E.D. 2021).

15 2021 WL 4530521 (Mo. App. E.D. 2021).

16 *Major v. McCallister,* 302 S.W.3d 227, 231 (Mo. App. S.D. 2009).

17 *See Service Vending Co. v. Wal-Mart Stores, Inc.* 93 S.W.3d 764, 768 (Mo. App. S.D. 2002).

18 2021 WL 4530521 at 4.

19 *Id.* at 1.

20 15 S.W.3d 736, 737 (Mo. banc 2000) (citing *Dohring v. Kansas City,* 71 S.W.2d 170, 171 (Mo. App. 1934)),

21 2021 WL 4850931 (Mo App. E.D. 2021).

22 *City of Kansas City v. Carlson*, 292 S.W.3d 368, 373 (Mo. App. W.D. 2009) (citing *McCollum v. Dir. Of Revenue,* 906 S.W.2d 368, 369 (Mo. banc. 1995)).

23 *Cape Motor Lodge, Inc. v. Cape Girardeau,* 706 S.W.2d 208, 211 (Mo. banc 1986).

24 *Zang*, 2021 WL 4850931 at 2 (citing *State ex rel. Teefey v. Bd. Of Zoning Adjustment of Kansas City,* 24 S.W.3d 681, 685 (Mo. banc 2000)).

25 *Id.* at 4 (citing *Jones v. City of Kansas City,* 15 S.W.3d 736, 737 (Mo. banc 2000)).

26 *Id.* at 4 (citing *Cape Motor Lodge, Inc. v. City of Cape Girardeau,* 706 S.W.2d 208, 211 (Mo. banc 1986)).

Data Analytics and Artificial Intelligence in Litigation

Nan L. Grube[1]

"Do I have a good case?" asks every client that walks into the office. What the client is truly asking, however, is for the lawyer to predict the outcome and cost of the case during all phases of litigation.[2] Adding data analytics and artificial intelligence (AI) to the management of litigation can greatly assist a lawyer in predicting results and financials.

Perhaps most importantly, coupling data analytics and AI with traditional litigation management can dramatically assist both legal departments and law firms in determining whether there is value in proceeding with litigation.[3]

Assessing the practicality and sustainability of a piece of litigation is an ongoing cost-benefit analysis of interrelated and ever-evolving variables. The lawyer analyzes the risks presented by the tangle of short deadlines, unfavorable judicial assignments, procedural rules, opposing party personalities, client nuances, and finances that may sway the strategic direction of a matter, not to mention the facts, legal precedents, statutes, and regulations that directly impact the case outcome.[4] Moreover, the pressure cooker includes constantly assessing the viability and value of the litigation, successfully meeting the client's expectations of a "win" while adhering to a lean budget, and routinely presenting it in a manner that is understandable for the client.[5] No easy task.

In the past, lawyers based the outcome and cost prediction of a case upon their legal training, years in practice, and exchanges among colleagues of anecdotal experiences in a jurisdiction or before a specific judge.[6] Perhaps as a manner of protecting one's reputation, any prediction was likely caveated with, "But we never know what a court or jury will do."

In today's practice, effective litigation managers can supplement their legal training and years of practice with enhanced insight from strategic and proactive use of quantitative predictions derived from statistical patterns and practices uncovered by data analytics and AI.[7] Lawyers utilizing this technology have enhanced value to clients because of their increased ability to accurately predict costs and outcomes.[8] The technology is readily available and priced for the general consumption. The costs can range from free (Google Scholar for searching scholarly articles and Fastcase, which is available at no cost to lawyers through The Missouri Bar) to relatively expensive and comprehensive (full-service Westlaw, Lexis, and Bloomberg), although even these dedicated services have plans that add value.

The use of data analytics and AI has been a "game changer" for society.[9] It is busy in the background of our everyday lives — from the airplanes that fly on autopilot[10] and that can now land on their own,[11] to product recommendations from Amazon.[12] However, the legal field remains somewhat sluggish in its adoption of AI and data analytics that will keep it profitable, agile, and in step with its business partners.[13]

Perhaps the lack of adoption is due to lack of understanding what AI and data analytics are and how they work. Generally speaking, data analytics is discovering the patterns, trends, and relationships between and among a colossal amount of data through the use of computer algorithms and programs.[14] Data analytics uncovers patterns that correlate with an outcome, and in the legal field, this data allows law-

yers to make informed strategic decisions.[15] Examples might include finding the case on point in a water rights matter between states, knowing that a judge has ruled in favor of the plaintiff 45% more often than the defendant in a bench trial setting, or knowing that opposing counsel has filed 76% of all litigation in a particular county in the employment law area.

AI, as the term was first coined in 1956, is a complex and varied area of computer science.[16] AI is an umbrella term that includes an array of technologies that learn over time as they are exposed to more data.[17] AI embraces the capability to learn, reason, and understand concepts and relationships.[18] The bulk of today's AI uses human reasoning as a guide to provide a better service or create a better or more useful product.[19]

Utilizing AI and data analytics in the law is changing the way lawyers practice.[20] More than any technology that has preceded it, AI has the ability to transform the practice of law in remarkable ways.[21] Still, AI isn't truly new but has been discussed in the legal field since the 1970s.[22] Nonetheless, it has been slow to be adopted widely. So, where is the legal field using it?

AI is used in discovery, for one. Many, if not most, lawyers are familiar with e-discovery and Technology Assisted Review (TAR). TAR is the process of having the computer software (AI) classify the documents of a discovery review based upon a set standard from expert reviewers.[23] TAR can dramatically reduce the time and cost of review[24] and has become commonplace in litigation. Several courts have even required TAR in certain cases.[25]

Electronic legal research is another area that is steeped in AI and will continue to improve as continued investment in AI technology is made.[26] Historically, legal research was tied to expensive books with archaic indexing systems. In fact, a portion of us in practice learned to research in the actual hardbound books in the stacks of the law library. But a growing number of us have never opened a court reporter and instead sat down at a computer that may or may not have been in the law library to complete a Boolean search to study a legal topic while in law school. Now, law firms and law schools have limited the books or even removed most of them and invested instead in computers and subscriptions services that are powered by AI. For example, popular databases like Lexis, Westlaw, Casetext, Fastcase, and Google Scholar have integrated AI. Primarily, the well-known law research platforms are based in the federal system because it is completely digitized on PACER. For example, Lexis offers increasingly robust litigation analytics for cases, judges, and litigants in federal courts, allowing the litigation manager to discover more about a particular federal judge or lawyer practicing in federal court. However, powerful litigation analytics is not limited to federal court; as more states become digitized and adopt e-filing, a boon in state-based analytics and predictive technologies will follow for state jurisdictions as well.[27] A company called Gavelytics is providing an AI-powered analysis of tens of millions of state court litigation documents to find behavior patterns of judges, law firms, litigants, and motion filings in at least 10 state jurisdictions with plans to cover 20 states.[28] Through AI, Gavelytics can help lawyers discern the judicial leanings, speed, rulings by motions and outcomes, and bench trial tendencies; it can highlight information about the opposition concerning its case filings and outcomes; and it can also review detailed filing by the litigants and the win/loss ratio.[29] Fastcase touts an AI sandbox that is fully customizable for user-driven data analysis projects, and lawyers can utilize Fastcase's data to bolster research and analytics projects (additional costs may apply).[30]

AI has increased the lawyer's ability to anticipate and predict a litigation's trajectory based upon the historical path of previously amalgamated litigation.[31] It is even used to predict the eventual litigation outcome.[32] Several startup companies are building models to predict the outcome of pending cases.[33] Blue J Legal, for instance, is a startup with an AI-powered prediction engine focused on tax cases and employment law cases. According to Blue J, the system works by using machine learning to predict how a court would rule in a specific scenario. Lawyers can then input the scenario by filling out a brief questionnaire with facts about the unique legal situation. Blue J uses its AI to compare the entered case against all relevant previous cases in its database. From this point, a lawyer can simulate a change in facts on the outcome and compare it against other cases.[34] Blue J reports it can predict case outcomes with 90% accuracy.[35] This information can be used in litigating, settling, or presenting the case and the possibilities to the client.

In the area of litigation finance, where a third party finances the plaintiff's litigation costs in return for a share of the successful outcome, AI is creating a data-driven assessment to determine which cases are worthy of investing. Similar to Blue J, Legalist is using data from 15 million court cases from all over the United States to predict which lawsuits are likely to be winners based on historical data utilizing criteria such as the length of the litigation and the probable amount of settlement or judgment.[36] The information allows investors to make sound judgments about which cases are worth the investment.

Preparing litigation is benefited from adding data analytics and AI because it can provide quick, efficient, and accurate results that would be wholly inefficient if undertaken by a group of associates or paralegals. For example, AI and data analytics can make a determination of the important facts in relevant documents by finding and highlighting words and phrases used repeatedly or in combination with one another; determine and set forth the timeline of events derived from emails and document creation as determined by the metadata; create a visualization of the spider web of connected emails and conversations between relevant parties based on who corresponded with whom about what subject using which phrases; determine important fact witnesses in global litigation based on the number of communications or how frequently a person was involved in the discussion; reveal key terms, including short form or anacronyms; unveil case

themes; and highlight outcomes of similar cases. With the press of a button or the crunch of a software program running through a database, data analytics are pushed out to unearth new information the litigation manager can use in the specific case.

The litigation manager's strategy decisions can benefit from AI and data analytics as well. Litigation data analytics can facilitate the discovery of the best arguments, tactics, and cases to use before a specific judge based upon the judge's past rulings and behavior.[37] Litigation teams can find and track successful strategies in previous matters and quantitatively assess litigation risks and likely outcomes.[38] For example, the litigation manager can access the metrics of several potential jurisdictions to determine which is the most advantageous for filing. Data analytics and AI can issue and track litigation holds within a corporation, highlight strengths in outside counsel, expose weaknesses in opposing counsel, reveal an opponent's propensity to settle early, and unearth a judge's preferred local counsel.[39] If litigation managers have access to and knowledge of the facts and strategies that have worked in the past, then they can make similar decisions going forward.

While it is true that each of these areas can be researched and managed by lawyers using traditional methods, the time and dollars expended are dramatically increased,[40] perhaps to a point that would make it unfeasible. Further, the insight may come so late in the litigation cycle that it would no longer be useful or pertinent. The cost and time savings of data analytics and artificial intelligence cannot be disputed, even though its use is relatively new to the practice of law.[41] Quickly sorting through hundreds of thousands of emails, delivering pertinent cases in a fraction of the time it would take a seasoned researcher to locate them in reporters, and illuminating the patterns and propensities of the sitting judge are possible due to artificial intelligence.[42]

Use of AI and data analytics is already pervasive in the business world because it yields efficiencies, predicts behavior, and discovers trends to gain a competitive advantage in the global market place.[43] Clients are demanding the same cutting-edge approach to their legal challenges to bring maximum value and deploy appropriate resources.[44] By utilizing rigorous statistical data in baseline case predictions, litigation managers can dramatically improve outcome predictions and decisions – and produce tailored client advice.[45]

Lawyers now have statistical data to support their anecdotal experience, or proverbial "gut feeling," with legal data analytics and AI.[46] Data-driven predictions are 60% more accurate than when a lawyer acts based on years of experience or "gut feeling" alone.[47] Ultimately, legal departments and law firms can determine if there is value in proceeding with litigation based on the data analytics sourced from AI.[48]

Still, as noted, the legal field has been slow to adopt the technology.[49] Traditionally, the legal field has been predicated upon taking a labor intensive approach to solving a client problem to produce a superb legal product with limited thought to the cost.[50] In contrast, technology produces efficiency, but efficiency does not support traditional legal hierarchical firm structure.[51] Conversely, corporate general counsels have been pressured to operate with the same efficiency, speed, and value as their business counterparts and are likewise demanding the same of outside firms retained to handle the litigation portfolios.[52] The average business wants to extract maximum value from its deployed resources, and its outside counsel are not immune.[53] Therefore, technology can assist firms in meeting client needs, but the firm will also need to review its traditional hierarchical structure.

AI and analytics are a mainstay in the business world[54] and will become commonplace in the practice of law.[55] Lawyers will need to utilize data analytics and AI for every facet of preparing, understanding, and litigating a matter.[56] Data is the great equalizer among lawyers, providing each person with the same information.[57] However, willingness to adopt data analytics and AI in the litigation management space will be the differentiator among law firms.[58] In other words, the synergy of the lawyer using data is greater than the data alone or the lawyer alone.[59]

HOWEVER, WHILE 45% OF GENERAL BUSINESS COMPANIES HAVE HIRED A TECHNOLOGY SPECIALIST OR A TEAM OF SPECIALISTS, ONLY 27% OF LAW FIRMS HAVE DONE SO.

It's clear the legal field sees technology's potential — 78% of law firms and 80% of corporate lawyers see the greater use of technology as one of the biggest changes in legal service delivery in the next three years.[60] However, while 45% of general business companies have hired a technology specialist or a team of specialists, only 27% of law firms have done so.[61] With only 27% of law firms investing in the technology necessary to gain these efficiencies, there will be a divide among those firms that harness the technology and those that sit on the sidelines.[62]

Data is available to anyone willing to mine it and utilize it, thus leveling the playing field among the high-priced white glove lawyer and the smaller boutique lawyer. As technology continues to mature and the players in the space multiply, pricing becomes more and more competitive, making it affordable to most. For those who find these technologies outside of their budgets, there are free options noted above, and most law libraries now have access to legal research at the minimum.

Law firms utilizing this technology will be able to achieve better outcomes through insightful data-driven decisions. Leveraging the technology available to lawyers has become a strategic advantage, and those not positioning themselves to take advantage of the technology will likely be left behind. Coupling data analytics and AI in litigation preparation allows the efficient and informed litigation manager to deploy the appropriate resources to extract the maximum value for the client and provide answers to, "Do I have a good case?"

Endnotes

Nan L. Grube

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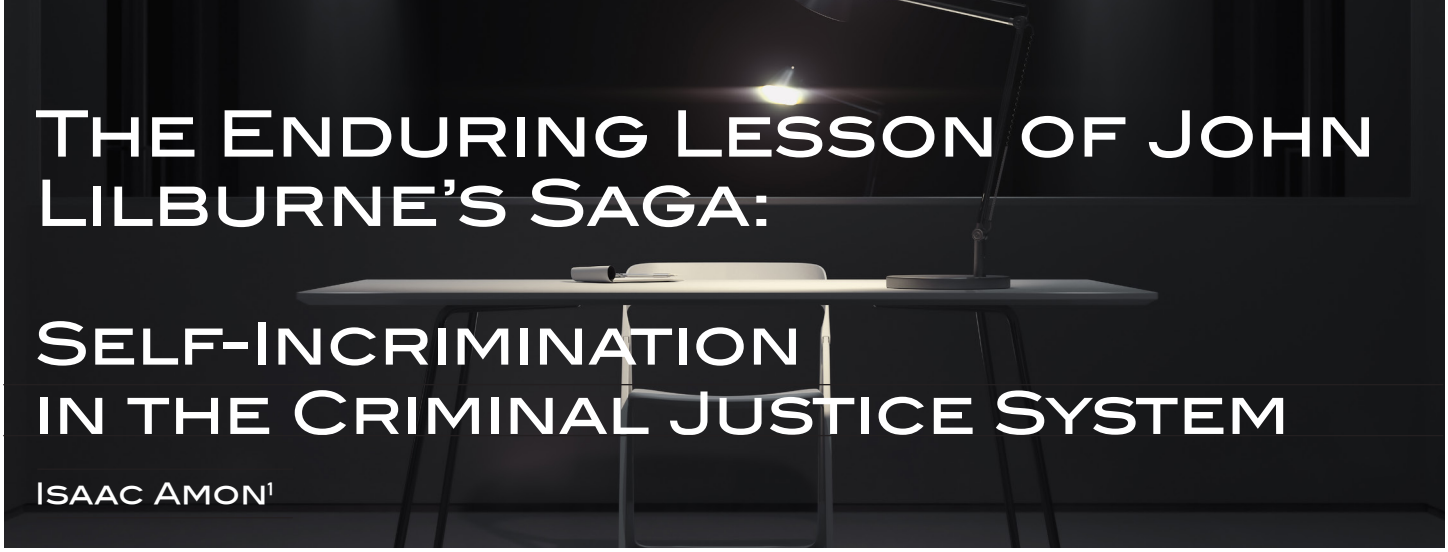

The Enduring Lesson of John Lilburne's Saga:

Self-Incrimination in the Criminal Justice System

Isaac Amon[1]

In 1637, the pamphleteer John Lilburne was arrested on the orders of the Star Chamber, an inquisitorial tribunal in London answerable to only the king and not subject to common law procedure. Lilburne, 23, imported pamphlets from Holland, which had been condemned as treasonous.

He was denounced by co-conspirators, and his conviction seemed certain. The Star Chamber compelled suspects to take an oath promising to answer the charges prior to being informed of them. This institutional practice accordingly ensnared defendants within the "cruel trilemma of self-accusation, perjury or contempt."[2] Lilburne categorically refused to take this oath until he knew the charges, thus undermining the very system upon which the Star Chamber had been constructed.[3] He invoked a right to remain silent and the opportunity to confront his accusers.[4] The oath, he said, was "against the law of God, and the law of the land."[5]

The Star Chamber, frustrated by his obstinacy, ordered Lilburne to be severely punished for refusing to take the oath. He was sentenced, along with another publisher, "to pay a five-hundred pound fine, punishment in the pillory, and imprisonment until they conformed themselves by taking the oath. Lilburne was to also be whipped through the streets on the way from Fleet prison to the pillory."[6] Yet, while being lashed, he continued to assert the free-born rights of Englishmen, and eventually managed to publish several denunciations of this particular inquisitorial tribunal.

Although Lilburne lived to see the abolition of the Star Chamber in 1641, he died at 43 and languishes in obscurity today, a less-than-fitting end for the man who helped establish the common law right against self-incrimination.[7] Only later, in "a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal," would he be recognized by jurists and scholars as one of the founders of this foundational right, enshrined today around the world.[8]

Methods of persuasion

The common law has long claimed that its geographic isolation endowed its legal system with uniqueness in that it escaped the fate of the continental European legal system, particularly the phenomenon of coerced confessions. This claim has been adopted by the U.S. Supreme Court throughout its jurisprudential history.[9] Yet, even if torture constituted an aberration in Anglo-American history,[10] English law utilized the practice of *peine forte et dure* for nearly five centuries.

Suspects who refused to enter a plea upon indictment were jailed; if they needed additional coercion, diet was limited to stale bread and water was rationed.[11] If these restrictions still failed to generate a plea before the court, the suspect would be "pressed with as great a weight of iron as his wretched body can bear."[12] Most times, the suspect relented and pleaded. Accordingly, at this point they would have heavy weights piled on top of their chests, until they either pleaded or suffocated. While this process normally took minutes to hours, there are accounts of *peine forte et dure* lasting for days.[13] The original punishment – as detailed in the 1275 Statute of Westminster during the reign of King Edward I – was "*soient mys en la prisone fort et dure*."[14] This word, *prisone*, or imprisonment, was radically different than *peine*, or pain, and treatment of the suspect thus varied dramatically.[15]

Most suspects refused to plead to remain not guilty. Under English law, their property would not be attainted and could be inherited by their next of kin.[16] F.W. Maitland, a famous legal historian, remarked that while the common law "escaped secrecy and torture … we were not very far from torture in the days when *peine forte et dure* was invented."[17] It continued to operate well into the 1760s, when the distinguished jurist William Blackstone published his *Commentaries on the Laws of England*.[18]

Although common law formally abolished this method in 1772, rules of criminal procedure construed refusal by defendants to plead as an acknowledgment of guilt, resulting

in conviction. This legal presumption was only reversed in 1827 (during the same time that the Portuguese and Spanish Inquisitions were formally abolished) when courts finally treated defendants' refusal to enter a plea as equivalent to a plea of not guilty, as remains the case today.

The United States

The ordeals of Lilburne dramatically influenced the founders of our Republic when they drafted the Constitution, particularly the Fifth Amendment in the Bill of Rights, which explicitly states that no individual may be "compelled in any criminal case to be a witness against himself."[19] This guarantee was enshrined to prevent the accused from ever facing the Star Chamber's "cruel trilemma of self-accusation, perjury or contempt," like Lilburne had.[20] Near the end of the 19th century, the U.S. Supreme Court first dealt with coerced confessions in *Hopt v. Utah* and *Bram v. United States*.[21] The Court held that confessions must be voluntarily made to be valid because those made due to inducement or coercion were inadmissible, "for the law will not suffer a prisoner to be made the deluded instrument of his own conviction."[22]

Yet, well into the 20th century, American law enforcement utilized physical methods to extract confessions. The spirit of Lilburne haunted judicial opinions as they were increasingly written in response to physically coercive techniques eerily reminiscent of the Star Chamber. In *Brown v. Mississippi*, a local sheriff whipped and beat three African Americans suspected of murder.[23] One was lynched before being cut down alive. This process was repeated days later and the boys confessed. The U.S. Supreme Court reversed the lower court's ruling, observing that "[i]t would be difficult to conceive of methods more revolting to the sense of justice than those taken to procure the[se] confessions..."[24]

The Court continued to grapple with these questions well into the following decades. In *Chambers v. Florida*,[25] 40 African American men were arrested for the murder of an elderly white man. Under heavy pressure to locate suspects, local law enforcement subjected these men to repeated questioning over five days in "circumstances calculated to break the strongest nerves and the stoutest resistance."[26] A unanimous Supreme Court condemned this practice and held that the "testimony of centuries … [stands] as proof that physical and mental torture and coercion … [such as t]he rack, the thumbscrew, the wheel … protracted questioning … had left their wake of mutilated bodies and shattered minds … ."[27] Four years later, the Court invalidated a lower court ruling which admitted a confession after the suspect was questioned for over 36 hours without interruption.[28]

Lilburne's saga, however, was featured most prominently in the seminal case of *Miranda v. Arizona*. This decision, considered controversial within American society, constituted the zenith of American jurisprudential acknowledgment of the right against self-incrimination. Chief Justice Earl Warren explicitly invoked the trials and tribulations of Lilburne before the Star Chamber to support the Court's holding that law enforcement must directly inform suspects of their right to remain silent during questioning.[29] An extremely important observation that *Miranda* made was its recognition of interrogative techniques used by police to obtain a confession. While falling short of the Star Chamber's methods, they would unquestionably be repugnant to the conscience today.[30]

These interrogative methods, often referred to as "the Reid Technique" (after John Reid, the Chicago police officer who popularized Fred Inbau's psychological techniques), retain the same objective of the "third degree" – extracting a confession for they "dominate all other case evidence [and will] lead a trier of fact to convict the defendant."[31] This system is well-known to lawyers and fans of procedural cop dramas or TV shows, such as "Law & Order." The accused, once identified, is escorted to the police precinct or station. They are thrust into an unfamiliar setting – isolating them from family and friends (depriving them of their moral support); skewing their perception of time by enclosing them in a location where there are no clocks or windows; and occurring in early morning or late night, when a person's guard is normally more relaxed. Although Inbau recommended that "single interrogation sessions should not exceed three to four hours 'unless the suspect is showing clear potential for telling the truth'… [researchers found that] in cases of false confessions in which interrogation time was recorded, 34% lasted six to twelve hours, 39% lasted twelve to twenty-four hours, and the average length was 16.3 hours."[32]

In this milieu, this psychological technique is employed with devastating effectiveness. Law enforcement first ask ordinary questions to establish a behavioral baseline. This permits police – based on certain behavioral cues – to decide whether the suspect is presumed to be guilty. The "Reid Technique" is premised on an implied assumption of guilt, "a theory-driven social interaction led by an authority figure who already believes that he or she is interrogating the perpetrator and for whom a just outcome is measured by confession."[33] Once the interrogator believes the suspect is guilty, the confrontational phase formally commences. If the accused continues to deny culpability, law enforcement is advised to persistently bat away their denials (thus infusing the very atmosphere with assumptions of guilt) until the confession is finally given.[34]

Police are trained to obtain confession by either *maximization* ("scare tactics designed to intimidate suspects: confronting them with accusations of guilt, refusing to accept their denials and claims of innocence, and exaggerating the seriousness of the situation") or *minimization* ("minimizing the seriousness of the offense and the perceived consequences of confession, and gaining the suspect's trust by offering sympathy, understanding, and face-saving excuses").[35] These techniques make it easier for suspects to confess, often believing that they will receive leniency.[36] It must also be acknowledged that the suspect "who is attempting just to make the interrogation stop very well may spew inaccurate details, either because he is factually innocent … [or] calculates his responses to please the interrogator … so that he gets the

earliest and fullest relief from the interrogation."[37]

Although the Reid Technique has thus been criticized for "confirmation bias,"[38] the instructional organization advertises that this method can elicit confessions in 80% of cases.[39] This corroborates the empirically proven phenomenon of false confessions. The Innocence Project uncovered that approximately *one quarter* of wrongful convictions involved the suspect giving a false confession.[40] Reasons include alleged intimidation like force, threat of force, mental health issues, limited education, and simple ignorance of the law.[41] Since the first DNA exoneration in 1989, 375 individuals in 37 U.S. states have been exculpated due to the Innocence Project's pioneering work.[42] In 2019, according to the National Registry of Exonerations, 143 individuals who cumulatively spent almost 2,000 years behind bars were exonerated,[43] while 24 cases – or nearly 17% – involved false confessions.[44]

Miranda thus turned out to be more of an anomaly in the annals of American jurisprudence than is commonly believed. Despite the theoretical warnings the Miranda rights provide to criminal suspects, their power is more illusory than substantive. Despite their limited applicability (and theoretical ability to cease law enforcement's interrogation), it is estimated that up to 80% of criminal suspects waive these rights.[45] This waiver occurs in many cases because awareness of one's own innocence "leads people not only to waive their Miranda rights to silence and to counsel, but also to be more open and forthcoming in their interactions with police. If you have nothing to hide, you might wonder why you should remain silent and get an attorney."[46]

These developments have arguably circumvented *Bram*'s late 19th century bright-line rule – that inducements or threats to compel confession would not be countenanced by the U.S. criminal justice system. *Miranda* and its progeny effectively transformed judicial analysis into a time-intensive and exhaustive factual determination as to whether criminal suspects had genuinely waived their rights ("voluntarily, knowingly and intelligently"). Despite the Court's eventual reaffirmation of *Miranda*'s core holding,[47] its significance has changed with further decisions. Three years after *Miranda*, the U.S. Supreme Court in *Frazier v. Cupp* seemingly permitted law enforcement to intentionally deceive criminal suspects to obtain a confession when they decided that "the fact that the police misrepresented the statement that Rawls had made is, while relevant, insufficient, in our view, to make this otherwise voluntary confession inadmissible."

In *Colorado v. Connelly*, an individual suffering from chronic schizophrenia confessed to murder, claiming voices had compelled him to do so. Nonetheless, the Court upheld his self-incrimination holding that official coercion must exist for confessions to be deemed "involuntary."[48]

Justice William Brennan vigorously dissented and remarked that our traditional

> distrust for reliance on confessions is due, in part, to their decisive impact upon the adversarial process. Triers of fact accord confessions such heavy weight in their determinations that 'the introduction of a confession makes the other aspects of a trial in court superfluous and the real trial … occurs when the confession is obtained.[49]

In *Arizona v. Fulminante*, a five-justice majority held that the defendant had been coerced to confess and that the confession had played a determinative role at trial. Accordingly, the Court overturned his conviction. Yet, the Court arguably muddied the legal waters by subjecting the question of coercion to a "harmless error" analysis. Four dissenting justices contended that "permitting a coerced confession to be part of the evidence on which a jury is free to base its verdict of guilty is inconsistent with the thesis that ours is not an inquisitorial system of criminal justice."[50]

This trend has continued over the past decade. In *Berghuis v. Thompkins*,[51] the Court held that a suspect in custody must expressly invoke "the Miranda rights" to benefit from those protections. Otherwise, an unfavorable inference may be drawn from a suspect's silence.[52] This holding, requiring suspects to expressly invoke their Miranda rights to benefit from them, was extended by the Court in *Salinas v. Texas*.[53] The individual in that case voluntarily accompanied law enforcement officers to the police station and answered most questions, but remained silent when asked an incriminating question. In a noncustodial setting, the Court held that a suspect must invoke his privilege against self-incrimination; otherwise, adverse inferences could be drawn at trial. While the core holding of *Miranda* thus remains, and the warnings are ubiquitous in popular culture, the right against self-incrimination no longer retains the sacrosanct position it once indisputably did.

A path forward?

Lilburne's legacy and centuries of subsequent legal history show how those in power could seek to obtain the confession of criminal suspects to legitimate their power. The temptation to abuse power by the state is great – despite the existence of procedural protections such as the Miranda rights – while the unreliability of confessions remains high. The widespread usage of the Reid Technique has led to the conviction of scores of innocent individuals across the country. Some countries have hence dispensed with the Reid Technique and adopted non-confrontational interrogation methods, such as the PEACE technique,[54] Cognitive Approach, or Kinesic Method.[55] These methods, in contrast to the Reid Technique, seek to uncover facts in the beginning and "interviewers are encouraged to be fair and open-minded and to pursue reliable, true and accurate information."[56] Nonetheless, while these methods appear promising, the annals of history – from Lilburne to the 21st century – bear out the seemingly innate impulse in criminal justice to coerce suspects to confess crimes to themselves, their victims, and the system.

Although our legal *ethos* continues to insist on the value of a confession, the modern criminal justice system has developed extrinsic evidence – eyewitness testimony, DNA, and circum-

stantial evidence – arguably supplanting the need for confession. Most importantly, false confessions occur and innocent people are jailed, knowingly or unknowingly, usually upon the basis of confession. "If there is more to criminal justice than truth-seeking alone, then to avoid defeat of the additional goals of dignity and integrity, we have to reject even the accurate confession if involuntarily obtained."[57]

In the end, empirical studies have conclusively shown that the Reid Technique has sometimes given law enforcement erroneous confidence in the guilt of suspects, helping lead to false confessions and incarceration of innocent individuals, sometimes for decades. Prohibiting conviction upon self-incrimination provided to law enforcement would not exclude its use in plea bargains, but the confession would be subject to negotiations between prosecutor and defense counsel, thus helping to equalize resources of the two sides. While there may be some social costs if this model came to be adopted, new benefits would likely arise – law enforcement could focus on examining facts first and foremost, suspects would no longer be deceived, and manipulative psychological tactics and subsequent false confessions could be reduced. Judges would no longer have to analyze whether the confession was freely given without undue pressure, and suspects – ignorant of procedural protections – would have constitutional rights upheld. Study of history is imperative, for as Oliver Wendell Holmes Jr., the future U.S. Supreme Court justice, observed:

> The rational study of law is still to a large extent the study of history. History must be a part of the study … because it is the first step toward … a deliberate reconsideration of those rules … It is revolting to have no better reason for a rule of law than that so it was laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since, and the rule simply persists from blind imitation of the past.[58]

After centuries of torture, grave abuses, and false confessions it is time to perhaps end the age of the confession in criminal law, conceding that "*mea culpa* belongs to a man and his God. It is a plea that cannot be extracted from free men by human authority."[59]

Endnotes

Isaac Amon

1 Isaac Amon is a researcher, lawyer, and counselor at law. He obtained a Juris Doctorate and a Master of Laws in negotiation and dispute resolution and Doctor of Juridical Science in comparative criminal procedure at Washington University School of Law. He interned in the Missouri State Public Defender System and served as the director for Legislative and Constituent Services at the Missouri Department of Corrections. He was awarded the Dagen-Legomsky Public Interest Fellowship in law school for his work at the International Criminal Tribunal for the Former Yugoslavia in The Hague. Prior to the global pandemic, he worked as an NGO legal analyst investigating atrocity crimes. He researches, writes, and speaks on legal history, criminal procedure, and comparative law, with a particular emphasis on adversarial and inquisitorial systems.

2 *Murphy v. Waterfront Comm'n of N.Y. Harbor*, 378 U.S. 53, 55 (1964).

3 Jno. C. Knox, *Self Incrimination*, University of Pennsylvania Law Rview and American Law Register 74, no. 2 (1925): 139-54, 42-43: "But, here again, it must be remembered that Lilburn[e]'s objection was limited to being compelled to answer without being charged with a definite crime. It seems not to have occurred to him to contend that he might properly refuse to answer were he called upon to refute a specific allegation."

4 John Rushworth, "Historical Collections: 1637 (3 of 5)." In *Historical Collections of Private Passages of State: Volume 2, 1629-38*, (London: D Browne, 1721), 461-481. *British History Online*, accessed December 2018, http://www.british-history.ac.uk/rushworth-papers/vol2/pp461-481: As the record, written by the Bishop of Norwich, says for February 13, 1637: "Information was preferred in Star-Chamber by the King's Attorney General, against *John Lilburne* and *John Warton* [another publisher], for the unlawful Printing and Publishing of Libellous and Seditious Works … they were brought up to the Office [of the Star Chamber], and there refused to take an Oath to answer Interrogatories, saying it was the Oath *ex Officio*, and that no free-born *English* man ought to take it, not being bound by the Law to accuse himself, (whence ever after he was called *Free-born John*) … ."

5 Leonard W. Levy, Origins of the Fifth Amendment: The Right Against Self-Incrimination 275 (1968); *see also* John Hostettler, Sir Edward Coke: A Force for Freedom 147 (Chichester, England: Barry Rose, 1997). Hostettler observes that Lilburne's assertion of common law protection under the "law of God and the law of the land" would be repeatedly invoked by him over the course of the 1640s and 1650s, as he was brought to trial a few more times, while Oliver Cromwell ruled the English Commonwealth during the Interregnum.

6 *Id*. at 276.

7 Glanville Williams, LL.D., The Proof of Guilt: A Study of the English Criminal Trial 39 (London: Stevens & Sons 1955): "The use of torture to extract confessions is a stain on the legal history of all European countries, not to say the contemporaneous history of some of them; Englishmen can at least say that it was abandoned here sooner than anywhere else. And the revulsion from torture has, perhaps, left a deeper mark upon our legal system than on any other. The strong insistence, after the abolition of the Star Chamber, that the administration of an oath to a defendant was contrary to the law of God and the law of nature, was a race-memory from those evil days." However, English law countenanced the use of *peine forte et dure* for centuries, until even the time of Blackstone in the late 18th century.

8 *See* Lincoln, Abraham, "Gettysburg Address" (1863). Leonard W. Levy, Origins of the Fifth Amendment: The Right Against Self-Incrimination 272-273 (New York, 1968): "Had Lilburne been the creation of some novelist's imagination, one might scoff at so far-fetched a character. He was, or became, a radical in everything – in religion, in politics, in economics, in social reform, in criminal justice – and his ideas were far ahead of his time. … In successive order he defied king, parliament, and protectorate, challenging each with libertarian principles. … Standing trial for his life four times, he spent most of his adult years in prison and died in banishment…[but]…was the catalytic agent in the history of the right against self-incrimination. He appeared at the right moment in history."

9 David Alan Sklansky, *Anti-Inquisitorialism*, 122 Harv. L. Rev. 1634, 1665-66 (2009): "When the [Supreme] Court first used inquisitorial methods as a contrast model for the protections the Constitution provided against coerced confessions, the methods it had foremost in mind were torture and prolonged questioning in isolation: '[t]he rack, the thumbscrew, the wheel, solitary confinement, protracted questioning and cross questioning, and other ingenious forms of entrapment of the helpless or unpopular' – tactics that 'had left their wake of mutilated bodies and shattered minds along the way to the cross, the guillotine, the stake and the hangman's noose.'" *See Chambers v. Florida*, 309 U.S. 227, 237-38 (1940); *Ashcraft v. Tennessee*, 322 U.S. 143, 152 n.8 (1944); *Brown v. Mississippi*, 297 U.S. at 287 (1936).

10 It is interesting to note that though torture in Elizabethan times may have been a "brief departure from a legal tradition that abhorred and ridiculed [it]," as Hanson has argued, contemporaries denied that torture even occurred during the reign of Elizabeth I. Indeed, on p. 57 of her article "Torture and Truth," she quotes from Sir Thomas Smith's *De Republica Anglorum* (1565, published about 20years later), in which he wrote, "torment or question which is used by the order of the civill lawe and custome of other countries to put a malefactor to excessive paine, to make him confesse him

selfe, or of his fellowes or complices, is not used in England…" This is, of course, manifestly false.

11 Andrea McKenzie, *"'This Death Some Strong and Stout Hearted Man Doth Choose:'" The Practice of Peine Forte et Dure in Seventeenth and Eighteenth-Century England*," 23 Law & Hist. Rev. 284 (2005).

12 *Id.*

13 *Id.* at 287.

14 As quoted in William Blackstone's Commentaries on the Laws of England, Work IV, 212 (1765).

15 J.H. Baker, An Introduction to English Legal History (Oxford: Oxford University Press, 4th ed. 2007), 508-509. *See also* Sir Frederick Pollock and Frederic William Maitland, The History of English Law: Before the Time of Edward I651-652 (London: Cambridge University Press, 2d ed. 1898. Reprint, London: Cambridge University Press, 1968), where they similarly observe, "In 1275 Edward I found it necessary to declare that notorious felons who were openly of ill fame and would not permit themselves upon inquests should be kept in strong and hard prison as refusing to stand to the common law of the land. Soon afterwards we learn that their imprisonment is to be of the most rigorous kind; they are ironed, they lie on the ground in the prison's worst place, they have a little bread one day, a little water the next. A few years later we hear that the prisoner is to be laden with as much iron as he can bear, and thus in course of time the hideous *peine forte et dure* was developed."

16 McKenzie, *supra* note 11, at 289.

17 Pollock and Maitland, *supra* note 15, at 659.

18 *See* Blackstone, *supra* note 14, at 213, where even he remarked "the doubts that may be conceived of its legality and the repugnance of its theory (for it rarely is carried into practice) to the humanity of the laws of England, all seem to require a legislative abolition of this cruel process, and a restitution of the antient [sic] common law."

19 U.S. Const. amend. V.

20 *Murphy v. Waterfront Comm'n of N.Y. Harbor*, 378 U.S. 53, 55 (1964).

21 *Hopt v. Utah*, 110 U.S. 574 (1884); *Bram v. United States*, 168 U.S. 532 (1897).

22 *Bram*, 168 U.S. at 547 (quoting Hawkins' Pleas of the Crown section 3, chapter 46, note 2 (Leach, 6th ed., 1787)).

23 *Brown v. Mississippi*, 297 U.S. 278 (1936).

24 *Brown*, 297 U.S. at 286.

25 *Chambers v. Florida*, 309 U.S. 227 (1940).

26 *Chambers*, 309 U.S. at 238.

27 *Chambers*, 309 U.S. at 237.

28 *Ashcraft v. Tennessee*, 322 U.S. 143 (1944).

29 *Miranda v. Arizona*, 384 U.S. 436, 458-459 (1966): "We sometimes forget how long it has taken to establish the privilege against self-incrimination, the sources from which it came and the fervor with which it was defended. Its roots go back into ancient times. Perhaps the critical historical event shedding light on its origins and evolution was the trial of one John Lilburn [sic], a vocal anti-Stuart Leveller, who was made to take the Star Chamber oath in 1637. … He resisted the oath and declaimed the proceedings … . On account of the Lilburn trial, Parliament abolished the inquisitorial Court of Star Chamber … . Those who framed our Constitution and the Bill of Rights were ever aware of subtle encroachments on individual liberty. … The privilege was elevated to constitutional status … . We cannot depart from this noble heritage."

30 Saul M. Kassin and Gisli H. Gudjonsson, *The Psychology of Confessions: A Review of the Literature and Issues*, 5 *Psychol. Sci. in Pub. Int.* 33, 41 (2004): "In the past, American police routinely practiced 'third degree' methods of custodial interrogation – inflicting physical or mental pain and suffering to extract confessions and other types of information from crime suspects. Among the commonly used coercive methods were prolonged confinement and isolation; explicit threats of harm or punishment; deprivation of sleep, food, and other needs; extreme sensory discomfort (e.g., shining a bright, blinding strobe light on the suspect's face); and assorted forms of physical violence and torture (e.g., suspects were tied to a chair and smacked repeatedly to the side of the head or beaten with a rubber hose, which seldom left visible marks). Third-degree tactics may have faded into the annals of criminal justice history, but modern police interrogations are still powerful enough to elicit confessions, sometimes from innocent people."

31 Richard A. Leo & Richard J. Ofshe, *The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation*, 88 J. Crim. L. & Criminology 429, 429 (1998).

32 Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C.L. Rev., 891, 946 (2004).

33 Saul M. Kassin, S.C. Appleby, and J.T. Perillo, *Interviewing suspects: Practice, science, and future directions. Legal and Criminological Psychology*" 15 The British Psychological Society 39, 41 (2010).

34 Jessica R. Klaver et al., *Effects of Personality, Interrogation Techniques and Plausibility in an Experimental False Confession Paradigm*, 13 Legal & Crim. Psychol. 71, 81 (2008); Richard J. Ofshe & Richard A. Leo, *The Social Psychology of Police Interrogation: The Theory and Classification of True and False Confessions*, 16 Stud. L. Pol. & Soc'y 189, 192-93, 227 (1997).

35 Melissa B. Russano et al., *Investigating True and False Confessions within a Novel Experimental Paradigm*, 16 Psychol. Sci. 481, 482 (2005).

36 Saul M. Kassin, *False Confessions: Causes, Consequences, and Implications for Reform*, 17 Current Directions in Psychol. Sci. 249, 250 (2008).

37 Dean A. Strang, *Inaccuracy and the Involuntary Confession Understanding* Rogers v. Richmond *Rightly*, 110 J. Crim. L. & Criminology 69, 74 (2020).

38 Saul M. Kassin, *On the Psychology of Confessions: Does Innocence Put Innocents at Risk?* 60 Am. Psychol. 215, 216, (2005): In response to the question whether "[law enforcement's] methods of influence might cause innocent people to confess[?]" a common answer was "No, because I do not interrogate innocent people."

39 Douglas Starr, *The Interview*, New Yorker, Dec. 9, 2013, at 42.

40 *DNA Exonerations in the United States: Fast Facts*, The Innocence Project, (https://www.innocenceproject.org/dna-exonerations-in-the-united-states/); Jennifer Lackey, *False Confessions and Testimonial Injustice*, 110 J. Crim. L. & Criminology 43, 45 (2020).

41 Innocence Project, *supra* note 40.

42 *Id.*

43 *Id.*

44 *Id.*

45 Kassin et. al., *supra* note 33, at 42. Probably the best piece of legal advice in this regard would be that offered by Justice Robert Jackson in *Watts v. Indiana*, 338 U.S. 49, 59 (1949) (Jackson, J., dissenting): "any lawyer worth his salt will tell the suspect in no uncertain terms to make no statement to police under any circumstances." *See also* Saul M. Kassin & Rebecca J. Norwick, *Why People Waive Their Miranda Rights: The Power of Innocence*, 28 Behav. L. & Hum. Behav. 211, 218 (2004). To put it simply, if criminal confessions are inadmissible, false confessions will stop.

46 Lackey, *supra* note 40, at 48.

47 *Dickerson v. United States*, 530 U.S. 428, 432 (2000) ("We hold that Miranda, being a constitutional decision of this Court, may not be in effect overruled by an Act of Congress, and we decline to overrule Miranda ourselves. We therefore hold that Miranda and its progeny in this Court govern the admissibility of statements made during custodial interrogation in both state and federal courts.")

48 *Colorado v. Connelly*, 479 U.S. 157 (1986).

49 *Id.* at 182 (Brennan, J., dissenting) (quoting E. Cleary, McCormick on Evidence 316 (2d ed. 1972).

50 *Arizona v. Fulminante*, 499 U.S. 279, 293-294 (1991).

51 *Berghuis v. Thompkins*, 560 U.S. 370 (2010).

52 *Id.* at 378 ("There is good reason to require an accused who wants to invoke his or her right to remain silent to do so unambiguously. A requirement of an unambiguous invocation of *Miranda* rights results in an objective inquiry that 'avoid[s] difficulties of proof and … provide[s] guidance to officers' on how to proceed in the face of ambiguity. … If an ambiguous act, omission, or statement could require police to end the interrogation, police would be required to make difficult decisions about an accused's unclear intent and face the consequence of suppression 'if they guess wrong.' Suppression … in these circumstances would place a significant burden on society's interest in prosecuting criminal activity.")

53 *Salinas v. Texas*, 570 U.S. 178 (2013).

54 The acronym stands for 1) Preparation and Planning; 2) Engage and Explain; 3) Account; 4) Closure; 5) Evaluate.

55 *See Current State of Interview and Interrogation*, FBI Law Enforcement Bulletin (Nov. 6, 2019) (available at https://leb.fbi.gov/articles/featured-articles/current-state-of-interview-and-interrogation).

56 *Id.*

57 Dean A. Strang, *supra* note 37, at 74.

58 Oliver Wendell Holmes, *The Path of the Law,* 10 Harv. L. Rev. 478 (1897).

59 Abe Fortas, *The Fifth Amendment: Nemo Tenetur Prodere Seipsum*, 25 J. Clev. B. Ass'n 91, 98 (1954).

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Creating the next generation of leaders:

Missouri Bar Citizenship Education

Nicole Roberts-Hillen[1]

As a junior at Jefferson City High School, Danielle Atchison and her AP Government class competed in The Missouri Bar's 2005 We the People competition – now known as Show-Me the Constitution.

The competition is a mock-Congressional hearing where students are challenged to research and deliver oral presentations about topics related to Constitutional issues surrounding current events. After students present their arguments, contest judges ask questions to gauge students' knowledge and understanding of the topic.

That competition was critical for Atchison, now a business immigration lawyer with Mdivani Corporate Immigration Law Firm. At the time, she aspired to attend law school and saw the competition as an opportunity to test her abilities.

"That pivotal moment was the We the People competition. The entire semester was scary and exciting and changed my life," says Atchison, who now judges Show-Me the Constitution.

Show-Me the Constitution is just one of many ways The Missouri Bar's Citizenship Education Department aims to inspire students to engage in civics.

Lighting a spark

The Missouri Bar's Citizenship Education Department creates resources to help teachers discuss government and constitutional issues, along with programs to help students understand and engage in civics.

The department offers a plethora of PowerPoint presentations, test questions, and interactive classroom activities that educators can implement. It provides ideas for research projects, as well as movies and TV shows teachers can play in their classrooms to illustrate complex governmental ideas. These resources are available at MissouriLawyersHelp.org.

The department also hosts trainings like the annual Summer Institute, a free, multi-day event where civics and government teachers can master innovative ways to explain Constitutional issues. The institute may focus on an amendment, like freedom of speech or search and seizures, or it could dive into a part of a governmental institution, like the presidency or the courts.

No matter the topic at hand, the goal is to help teachers even better make these matters exciting to students.

"We're not only wanting to help teachers get through a semester of this, but we also want to light a spark within these students that's going to be there for the rest of their lives," says Tony Simones, director of the Citizenship Education Department. "You do that by raising issues that are timely and relevant."

Trish Baumgartner, a teacher at Jefferson High School in Festus, regularly participates in the Citizenship Education Department's trainings. She says the programming has developed her teaching style.

> "It is beyond exciting to watch your students learn that they are more capable than they were aware."

"Really understanding a concept requires more than memorization," Baumgartner says, noting that methods shared by The Missouri Bar ask students to use what they've learned. "It requires students to look at both sides of an issue and assess where they stand."

Through the Citizenship Education Department's work, Baumgartner's students have been exposed to new people and ideas, expanding both their abilities and their self-worth.

"I have introduced my students to the Supreme Court of Missouri judges and talked with (presidents George H.W.) Bush's and (Bill) Clinton's chiefs of staff," she adds. "It is beyond exciting to watch your students learn that they are more capable than they were aware."

Simones understands that when educators find unique ways

to teach government, they're more likely to capture students' attention, and the young learners may be more likely to grasp complex topics. In Atchison's case, We the People helped her better understand due process.

"Government classes can be fill-in-the-blank and memorize terms, but I mastered due process because of that competition," Atchison says. "It was practical, hands-on skill sets where I was building the muscles to dig into a concept that was maybe way too difficult at first sight."

The U.S. governmental system was created with the idea of having an "informed and involved citizenry," Simones explains. When students participate in the governmental activities in their classes – such as arguing First Amendment rights or discussing how judges are appointed to the U.S. Supreme Court – they discover that they have opinions and their ideas matter. Students also grow more confident in expressing their opinions and develop trust in the system, Simones adds.

"The empowerment that you see from that kind of situation, it's what creates the next generation of leaders," he says. "If we can instill in the students confidence and commitment and interest, that could be a new world."

> "THE EMPOWERMENT THAT YOU SEE FROM THAT KIND OF SITUATION, IT'S WHAT CREATES THE NEXT GENERATION OF LEADERS. IF WE CAN INSTILL IN THE STUDENTS CONFIDENCE AND COMMITMENT AND INTEREST, THAT COULD BE A NEW WORLD."

How lawyers and judges can help with civics education

While the classroom materials Simones creates are predominately implemented by educators, it's also easy for lawyers and judges to utilize these resources when they speak to classes or community groups.

Simones and Atchison encourage legal professionals to ask their local teachers about speaking to their students. They can also chat with The Missouri Bar's Citizenship Education Department about volunteer opportunities and available resources.

"The more people know about our courts, the more they're going to believe in the courts and the more they're going to strengthen our courts," Simones says.

These programs and volunteer opportunities are also a great way to humanize lawyers and judges.

When Atchison competed in the We the People competition, she remembers Hon. Duane Benton, with the 8th Circuit U.S. Court of Appeals, and the impact he had on the students. Volunteering as a competition judge, Benton continuously smiled at students as they presented their arguments and answered his questions.

"He's a kind person, so to sit across from him – who's very prestigious in his own right – as a 17-year-old was so scary but also so comforting to know that this is a human being sitting in front of me," Atchison says.

That humanization can inspire students to pursue careers in the legal profession, Simones adds.

Some lawyers and judges are hesitant to participate in civics education programs like Show-Me the Constitution because they are worried about the time investment and preparation, Atchison says. The Missouri Bar offers resources legal professionals can use when speaking to classes at MissouriLawyersHelp.org. Lawyers and judges don't need an abundance of preparation given that they understand the Constitution and have support from the bar's Citizenship Education Department staff, Atchison adds.

"The little investment you give, the benefit is exponentially greater for the students you're working with," Atchison says.

To learn more about the work of The Missouri Bar's Citizenship Education Department and how you can get involved, visit MissouriLawyersHelp.org.

Endnote

1 Nicole Roberts-Hillen is assistant editor of the Journal and communications coordinator at The Missouri Bar.

EMERGENCY FINANCIAL ASSISTANCE TO INDIGENT CLIENTS NOW PERMITTED IN PRO BONO REPRESENTATIONS

MELINDA J. BENTLEY[1]

THE SUPREME COURT OF MISSOURI ENTERED AN ORDER ON NOV. 23, 2021, EFFECTIVE THAT SAME DAY, CHANGING THE OVERALL PROHIBITION ON FINANCIAL ASSISTANCE TO CLIENTS PURSUANT TO MISSOURI RULE OF PROFESSIONAL CONDUCT 4-1.8(E).

The order provided a limited exception permitting a lawyer to offer emergency financial assistance to an indigent client who is being represented pro bono as provided in the new Rule 4-1.8(e)(3).[2] In addition to amending the blackletter rule, the order added three new comments providing guidance regarding this change and renumbered the remaining comments.

Melinda J. Bentley

Parameters of new emergency financial assistance exception

To better understand the parameters of this new exception, below is the text of Rule 4-1.8(e), which now states in relevant part:

> A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that: …
> (3) a lawyer representing an indigent client pro bono may provide emergency financial assistance to the client, whether monetary or in-kind, for food, housing, transportation, medicine, and other basic necessities. The lawyer:
> (i) may not promise, assure, or imply the availability of such emergency financial assistance prior to retention or as an inducement to continue the client-lawyer relationship after retention;
> (ii) may not seek or accept reimbursement from the client, a relative of the client or anyone affiliated with the client; and
> (iii) may not publicize or advertise a willingness to provide such emergency financial assistance to prospective clients.
> Emergency financial assistance under this Rule may be provided even if the representation is eligible for fees under a fee-shifting statute.

There are a few points to consider regarding this new provision of Rule 4-1.8(e). First, it is important that representation must be pro bono before a lawyer may provide emergency financial assistance. Second, lawyers should know that this assistance is permissive, "may provide," and not required. Third, Comment [11] to Rule 4-1.8(e) provides guidance as to who may provide such assistance, including "[a] lawyer representing an indigent client pro bono or through nonprofit legal services, public interest organizations, law school clinical programs, or other pro bono programs." Fourth, "emergency financial assistance" can be monetary or in-kind, and it is only appropriate in limited circumstances. Comment [11] to Rule 4-1.8(e) provides that "[s]uch assistance is limited to food, housing, transportation, medicine, and other basic necessities of life." Finally, the lawyer has a duty to communicate and consult with the client if the emergency financial assistance may have consequences for the client, including issues regarding tax liability, receipt of social services, or government benefits.[3]

Further, Rule 4-1.8(e)(3)(i) – (iii) places limits on a lawyer who is willing to provide emergency financial assistance to

an indigent pro bono client. The lawyer is prohibited from promising, assuring, or implying such assistance is available if the lawyer is retained or as an inducement to continue a representation.[4] The lawyer may not seek or accept reimbursement from the client, anyone affiliated with the client, or a relative of the client.[5] Also, the lawyer is prohibited from publicizing or advertising a willingness to provide emergency financial assistance to prospective clients.[6]

Additionally, Comment [12] to Rule 4-1.8 notes that this emergency financial assistance is a narrow exception and only appropriate "in specific circumstances where it is unlikely to create conflicts of interest or invite abuse." Guidance is provided that "[e]mergency financial assistance is reasonable if the financial hardship would otherwise prevent the client from instituting or maintaining the proceedings or from withstanding delays that put substantial pressure on the client to settle."[7]

Finally, Rule 4-1.8(e)(3) expressly permits emergency financial assistance "even if the representation is eligible for fees under a fee-shifting statute." However, Comment [13] to Rule 4-1.8 clarifies that a lawyer is not permitted "to provide assistance in other contemplated or pending litigation in which the lawyer may eventually recover a fee, such as contingent-fee personal injury cases or cases in which fees may be available under a contractual fee-shifting provision, even if the lawyer does not eventually receive a fee."

Existing prohibition on financial assistance to clients otherwise unchanged

Rule 4-1.8(e) continues to require that:

> A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
> (1) a lawyer may advance court costs and expenses of litigation, including medical evaluation of a client, the repayment of which may be contingent on the outcome of the matter; and
> (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

Comment [10] to Rule 4-1.8(e) remains unchanged, and it provides guidance that lawyers are still prohibited from making or guaranteeing loans to clients for living expenses and may not subsidize lawsuits or administrative proceedings for clients "because to do so would encourage clients to pursue lawsuits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation." However, Comment [10] goes on to note that the same "dangers do not warrant a prohibition on a lawyer lending a client court costs and litigation expenses, including the expenses of medical examination and the costs of obtaining and presenting evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts." Finally, Comment [10] explains that the exception to pay court costs and litigation expenses for indigent clients, regardless of whether such funds are repaid, is appropriate for the same reason of ensuring access to the courts.

If you have questions about the Rules of Professional Conduct regarding emergency financial assistance to indigent clients being represented pro bono, or any other ethics issue, you are encouraged to contact the Office of Legal Ethics Counsel at Mo-Legal-Ethics.org to seek an informal advisory opinion about your prospective conduct under the Rules of Professional Conduct.

Endnotes

1 Melinda J. Bentley is legal ethics counsel for the Advisory Committee of the Supreme Court of Missouri.

2 Order dated Nov. 23, 2021, effective Nov. 23, 2021, In re: Repeal of subdivision (e) and paragraphs [11] through [20] of the Comment of subdivision 4-1.8, entitled "Conflict of Interest: Prohibited Transactions," of Rule 4, entitled "Rules of Professional Conduct," and in lieu thereof adoption of a new subdivision (e) and new paragraphs [11] though [23] of the Comment of subdivision 4-1.8, entitled "Conflict of Interest: Prohibited Transactions," at https://www.courts.mo.gov/page.jsp?id=182255.

3 Rule 4-1.8, Comment [11].

4 Rule 4-1.8(e)(3)(i).

5 Rule 4-1.8(e)(3)(ii).

6 Rule 4-1.8(e)(3)(iii).

7 Rule 4-1.8, Comment [12].

DISCIPLINARY ACTIONS

SUSPENSIONS

10/27/21	Andrew Gavin Wynne #66415 5940 Cates Ave. St. Louis, MO 63112
12/23/21	Christian Joseph Rasmussen #55123 3590 Old Hwy. 54 Lake Ozark, MO 65049-9008
12/29/21	Dan K. Purdy #18694 P.O. Box 462 Osceola, MO 64776-0462

2021 Economic Survey Takeaways

Trevor Mulholland[1]

In the summer of 2021, The Missouri Bar Economic Survey was administered to a random sampling of 8,000 lawyers licensed in Missouri. The 2021 survey provides a snapshot of the economic performance of the legal profession in the state as of Dec. 31, 2020.

Respondents shared data that allows Missouri lawyers to evaluate their firm's performance relative to comparable law firms in terms of geographical location and other indicators. The report also provides economic information about Missouri's lawyers who practice as solo practitioners, government attorneys, and corporate counsel, as well as those who work in law-related and non-legal professions. Below are some key findings from the survey.

Income

Table 1.15: Full-time Income by Primary Type of Employment

Primary Full-time Employment Status	Median Income	Minimum Income	Maximum Income	Number of Respondents
Private practice of law	$103,743	$0	$4,000,000	710
Corporate law-related	$150,000	$0	$12,000,000	149
Government law-related	$60,000	$5,500	$212,000	310
Nongovernmental agency/ non-profit	$57,521	$0	$240,000	51
Law-school/education-related	$84,000	$34,000	$200,000	13
Independent contractor	$51,000	$45,000	$120,000	6
Non-law-related	$87,500	$4,000	$1,000,000	70
All employment categories	$88,900	$0	$12,000,000	1309

From 2019-2020, income increased for 22% of respondents, stayed the same for 23.1%, and decreased for more than half (54.8%).

Salary adjustments

While 2020 provided salary growth for those in corporate law, lawyers in private practice saw a decrease in income. Although the 2018 median income for private practitioners was $115,000, the median income in 2020 dropped to $103,743. This portion of the survey was limited to full-time lawyers.

Factoring for gender and age

Looking at total net income for all types of employment by gender in 2020, the median income for female respondents was 77% the total median income of male respondents. Comparatively, the 2018 median income for female respondents was 71% of the total median income of male respondents. Median income was down across all age groups in 2020, except among respondents who were 31-35 years of age. As was true for most survey years, the highest median income from all employment sources was the category of individuals licensed to practice law 30-39 years; however, the median income for this group — $105,743 — was substantially less than in previous years.

COVID-19 impacts

Table 1.32: Impacts of COVID-19 on Work in Law

Impact	I Experienced Personally		Others in my Workplace Experienced	
	Responses	Percent	Responses	Percent
Moved to teleconferencing or other virtual meeting	1536	87.4%	989	56.3%
Worked remotely	1424	81.0%	1065	60.6%
Had delays in cases	1159	66.0%	672	38.2%
Experienced increased family/ home demands	920	52.4%	821	46.7%
Had clients choose to delay cases	511	29.1%	302	17.2%
Increased work hours	509	29.0%	288	16.4%
Increased caseload	458	26.1%	313	17.8%
Decreased caseload	442	25.2%	279	15.9%
Reduced work hours	376	21.4%	305	17.4%
Offered additional wellness benefits to staff	336	19.1%	300	17.1%
Received a pay raise	280	15.9%	149	8.5%
Received a pay cut	277	15.8%	157	8.9%
Discontinued or reduced benefits	86	4.9%	61	3.5%
Position was eliminated	30	1.7%	125	7.1%
Was furloughed	23	1.3%	101	5.7%

Percentages are calculated from the 1,757 respondents presented this question.

As one might expect, the COVID-19 pandemic played a role in shifting work behaviors among practicing lawyers. The 2021 Economic Survey asked lawyers for information regarding caseload, benefits, work hours, and office settings. A large majority of respondents moved to teleconferencing/ virtual meetings and worked remotely. Interestingly, about equal percentages of respondents had increased caseloads as had decreased caseloads.

Taking actions and future expectations

In addition to HR/personnel-related changes, at least 10% of respondents working in a law-related field reported other pandemic-related actions in their workplaces, the most common being delays or reductions of equipment purchases. When asked to anticipate how COVID-19 will affect their budgeting and finances for the upcoming year, more than one in five respondents anticipated a decrease in revenues. Notably, a similar percentage did not expect the pandemic to affect their budgeting. There was a great deal of uncertainty about the pandemic's effects on budgeting and finance as expressed by the 45% who were unsure.

Changes in employment, underemployment, and unemployment

In 2020, 15.4% of respondents changed jobs, with 14% of those being by choice. Around 31% of these respondents reported their unemployment was somewhat due to the pandemic, while 36% reported it was completely due to the pandemic. The unemployment rate among survey respon-

dents increased from 2.1% in 2018 to 2.8% in 2020. Approximately 12% of respondents are actively seeking new employment, with 19% of those respondents preferring this new employment be non-law related.

Private practice workplace characteristics

The 856 respondents in full- and part-time private practice for at least half of 2020 were asked a series of questions concerning office practices, such as billing, marketing, and office organization.

Billable hours

One-third of full-time respondents reported working less than 1,500 hours. For those lawyers in a firm with a requirement of 1,751–2,000 billable hours to be worked, 32% worked fewer than the required 1,751 hours, while 68% met or exceeded the requirement, with 23% of these lawyers clocking over 2,000 hours. The top five expenses charged to clients included lawyer time spent on the phone; court appearances; reading and responding to email; in-office appointments; and travel expenses.

Attracting clients

Firm websites and networking continue to be the top two practices for advertising legal services, while social media, professional organizations, and speaking engagements round out the top five methods. In addition, lawyers indicated that their top source of new clients comes from client or friend referrals, followed by referrals from other professionals. Lawyers also noted that a positive reputation, firm website, and social or business affiliations provide client leads.

Missouri lawyers can access the full report at MoBar.org/EconomicSurvey to learn more about the state of the profession – and how they compare.

Endnote

1 Trevor Mulholland is director of member services for The Missouri Bar.

CHARLES DICKENS' NOVELS IN THE COURTS

DOUGLAS E. ABRAMS[1]

IN SEVERAL RECENT "WRITING IT RIGHT" ARTICLES, I HAVE DESCRIBED HOW FEDERAL AND STATE JUDGES OFTEN ENHANCE THEIR WRITTEN OPINIONS WITH REFERENCES TO WELL-KNOWN CULTURAL MARKERS. THESE REFERENCES DO NOT DECIDE ANY CLAIM OR DEFENSE, BUT JUDGES REMAIN CONFIDENT THAT THE REFERENCES – CITATIONS, QUOTATIONS, OR BOTH – RESONATE WITH READERS.

Douglas E. Abrams

These "Writing It Right" articles share a common theme: The wide array of judicial references invites advocates, where relevant and appropriate, to follow the courts' lead to enhance their briefs and other written submissions with references to well-known cultural markers.

The wide array of cultural markers

The array of cultural markers referenced in written federal and state judicial opinions remains wide indeed. Some of my early "Writing It Right" articles profiled opinions that referenced terminologies, rules, and traditions of baseball,[2] football,[3] basketball, golf, hockey,[4] and other participation and spectator sports that help shape American life. Later articles profiled judicial references to classic television shows and movies,[5] as well as well-known children's stories, fairy tales, and Aesop's Fables.[6] I have also described judicial references to the plays of William Shakespeare.[7]

This article examines written judicial opinions that contain references to novels by Charles Dickens (1812-1870), the British novelist and social critic who is widely regarded as one of the greatest writers of the Victorian Age. Americans today still read Dickens' best-known novels, and the U.S. Supreme Court and the lower federal and state courts have cited and quoted from them.

Charles Dickens in the U.S. Supreme Court

"Bleak House" (1852-53)

Dickens' novel, "Bleak House," features the fictional probate case of *Jarndyce and Jarndyce*, in which the parties in the English Court of Chancery fought one another for decades until the testator's large estate was depleted and the only ultimate winners were the lawyers who collected their fees all the while. More than a century and a half after publication of "Bleak House," *Jarndyce* remains the prime literary example of civil litigation whose wasteful duration outlives the best interests of litigants who have compromised their rationality and clear thinking.

* * *

Fast-forward to recent times. In 1994, Vickie Lynn Marshall – known as Anna Nicole Smith by the public – married billionaire J. Howard Marshall II, who died the following year. J. Howard Marshall II was generous with gifts and money throughout the couple's courtship and brief marriage, but he did not name her in his will.

In 1996, Vickie filed suit in Texas probate court against E. Pierce Marshall, the testator's son and the ultimate beneficiary under his father's estate plan. Her claim was for half of the vast estate. On various claims and counterclaims, the litigation worked its way through federal and state courts in three states before it reached the U.S. Supreme Court in 2006. In *Marshall v. Marshall*, the Court held unanimously that the federal district court properly asserted jurisdiction over Vickie's counterclaim against Pierce because the counterclaim did not fall within the scope of the probate exception to that jurisdiction.[8]

Legal proceedings, including Vickie's bankruptcy declaration, survived the U.S. Supreme Court decision. By the time the Court decided *Stern v. Marshall* in 2011, another appeal in the "long-running dispute,"[9] Vickie and Pierce had both died and their respective executors of estates continued litigating in their places. *Stern* held, 5-4, that as an Article I judge, the bankruptcy court judge did not hold constitutional authority to decide a counterclaim by Vickie's estate against Pierce's estate.[10]

Writing for *Stern's* majority in 2011, Chief Justice John G.

Roberts Jr. opened his opinion by citing and quoting from the "Bleak House" description of the interminable *Jarndyce* probate proceeding:

> This "suit has, in course of time, become so complicated, that ... no two ... lawyers can talk about it for five minutes, without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause: innumerable young people have married into it;" and, sadly, the original parties "have died out of it." A "long procession of [judges] has come in and gone out" during that time, and still the suit "drags its weary length before the Court."[11]

"Those words were not written about this case," Chief Justice Roberts explained, "but they could have been."[12] Commenting on the diminished value of J. Howard Marshall's estate by 2011, the Los Angeles Times aptly called the Marshall saga "a Dickensian legal struggle."[13]

"A Tale of Two Cities" (1859)

Dickens returned to the pages of the U.S. Reports in 2015, in *Davis v. Ayala*.[14] During jury selection in his murder trial in California state court, defendant Hector Ayala objected that seven of the prosecution's peremptory strikes were race-based in violation of *Batson v. Kentucky*.[15] To avoid disclosure of trial strategy, the trial judge permitted the prosecution to respond to the objections outside the defense's presence. The judge found that all seven challenged strikes were race-neutral, and the trial proceeded.

After California state courts affirmed the murder conviction and death sentence, Ayala sought federal habeas corpus relief. His claim was that the trial court unconstitutionally excluded the defense from part of the *Batson* hearing. When the federal habeas appeal reached the U.S. Supreme Court, the Court held, 5-4, that any constitutional error arising from the ex parte *Batson* hearing was harmless and left the conviction and capital sentence undisturbed.[16]

Associate Justice Anthony M. Kennedy's *Ayala* concurrence discussed a matter that surfaced during oral argument. The concurrence reported that since being sentenced to death in 1989, the prisoner had spent most of the next 25 years in solitary confinement, likely "in a windowless cell no larger than a typical parking spot for 23 hours a day; and in the one hour when he leaves it, he likely is allowed little or no opportunity for conversation or interaction with anyone."[17]

Justice Kennedy cautioned that "[y]ears on end of near-total isolation exact a terrible price."[18] (In congressional testimony earlier in 2015, he told the lawmakers that prolonged solitary confinement in prison "literally drives men mad."[19])

Justice Kennedy's *Ayala* concurrence helped give madness a human face with a vignette from Charles Dickens' historical novel, "A Tale of Two Cities," which took place in London and Paris before and throughout the French Revolution. "In literature," Justice Kennedy wrote, "Charles Dickens recounted the toil of Dr. Manette, whose 18 years of isolation ... caused him, even years after his release, to lapse in and out of a mindless state with almost no awareness or appreciation for time or his surroundings ... And even Manette, while imprisoned, had a work bench and tools to make shoes, a type of diversion no doubt denied many of today's inmates."[20]

Charles Dickens in the lower courts

The Dickens novels most widely cited and quoted by the lower federal and state courts are "Bleak House"[21] and "Oliver Twist."[22] This article closes with a recent lower court decision that cited and quoted from the latter.

"Oliver Twist" (1837-39)

"Oliver Twist," one of Dickens' most enduring novels, tells the story of a poor orphan boy who met persistent setbacks from his poverty. Mr. Bumble was a cruel, irascible sort who supervised the austere orphanage in which Oliver was raised. When Bumble learned that husbands bore legal responsibility for their wives' conduct, his retort remains one the most often quoted lines in Dickens' novels. "If the law supposes that," he said, "the law is a ass – a idiot."[23]

* * *

In 2015's *Walton v. State*, the non-indigent defendant was convicted in Georgia state court of speeding.[24] The trial court denied her motion to require the official court reporter to transcribe all pre-trial and jury trial matters and to provide her with a free transcript that she contended the law required.[25]

The Georgia Court of Appeals affirmed the trial court's denial. The panel noted that the defendant's contention, "if accepted, would shift the cost of transcripts from non-indigent criminal defendants to the general public. If that is the law, to quote Charles Dickens' Mr. Bumble, 'the law is a ass – a idiot.' But that is not the law."[26]

The *Walton* panel held that the applicable statute entitles a non-indigent defendant to a transcript only when the defendant pays for it.[27]

Conclusion

"Dull briefs are a real disappointment," said William A. Holohan, former chief justice of the Supreme Court of Arizona. "The law is dynamic. It is about human conduct. There is nothing dull about it … There is no reason that a brief shouldn't be good literature."[28]

Endnotes

1 Douglas E. Abrams, a University of Missouri law professor, has written or co-written six books, which have appeared in a total of 22 editions. Four U.S. Supreme Court decisions have cited his law review articles. His writings have been downloaded more than 40,000 times worldwide (in 153 countries). His latest book is "Effective Legal Writing: A Guide for Students and Practitioners" (West Academic 2d ed. 2021).

Thank you to Sarah Walters (University of Missouri School of Law, class of 2022) for her excellent research on this article.

2 Douglas E. Abrams, *References to Baseball In Judicial Opinions and Written Advocacy*, 72 J. Mo. Bar 268 (Sept.-Oct. 2016).

3 Douglas E. Abrams, *References to Football In Judicial Opinions and Written Advocacy*, 73 J. Mo. Bar 34 (Jan.-Feb. 2017).

4 Douglas E. Abrams, *References to Spring's Championship Sports In Judicial Opinions and Written Advocacy*, 73 J. Mo. Bar 168 (May-June 2017).

5 Douglas E. Abrams, *References to Television Shows In Judicial Opinions and Written Advocacy (Part 1)*, 75 J. Mo. Bar 25 (Jan.-Feb. 2019); Douglas E. Abrams, *References to Television Shows In Judicial Opinions and Written Advocacy (Part 2)*, 75 J. Mo. Bar 85 (Mar.-Apr. 2019); Douglas E. Abrams, *References*

to Movies In Judicial Opinions and Written Advocacy (Part 1), 75 J. Mo. Bar 222 (Sept.-Oct. 2019); Douglas E. Abrams, *References to Movies In Judicial Opinions and Written Advocacy (Part 2)*, 75 J. Mo. Bar 297 (Nov.-Dec. 2019).

6 Douglas E. Abrams, *References to Children's Stories and Fairy Tales In Judicial Opinions and Written Advocacy*, 76 J. Mo. Bar 212 (Sept.-Oct. 2020); Douglas E. Abrams, *References to Aesop's Fables In Judicial Opinions and Written Advocacy*, 77 J. Mo. Bar 24 (Jan.-Feb. 2021).

7 Douglas E. Abrams, *Shakespeare In the Courts*, 77 J. Mo. Bar 132 (May-June 2021).

8 547 U.S. 293, 300 (2006). For earlier U.S. Supreme Court decisions referencing Dickens, *see Hess v. Port Authority Trans-Hudson Corp.*, 513 U.S. 30, 48 n.19 (1994) (citing "Bleak House" and *Jarndyce and Jarndyce*); *Application of Gault*, 387 U.S. 1, 79 (1967) (Stewart, J., dissenting) ("In the last 70 years many dedicated men and women have devoted their professional lives to the enlightened task of bringing us out of the dark world of Charles Dickens in meeting our responsibilities to the child in our society.").

9 *Stern v. Marshall*, 564 U.S. 462, 468 (2011).

10 *Id*. at 469.

11 Charles Dickens, *Bleak House*, *in* 1 Works of Charles Dickens 4–5 (1891), *quoted at Stern v. Marshall*, *supra* note 9 at 468.

12 *Stern v. Marshall*, *supra* note 9 at 468.

13 David G. Savage, *Supreme Court rejects Anna Nicole Smith case*, L.A. Times (June 24, 2011), https://www.latimes.com/archives/la-xpm-2011-jun-24-la-na-court-anna-nicole-20110624-story.html.

14 576 U.S. 257 (2015).

15 476 U.S. 79 (1986).

16 576 U.S. at 260.

17 *Id*. at 286-87 (Kennedy, J., concurring).

18 *Id*. at 289 (Kennedy, J., concurring).

19 The Editorial Board, *Justice Kennedy's Plea to Congress*, N.Y. Times (Apr. 4, 2015), https://www.nytimes.com/2015/04/05/opinion/sunday/justice-kennedys-plea-to-congress.html.

20 576 U.S. at 287 (Kennedy, J., concurring).

21 Decisions citing and quoting from "Bleak House" include *Doermer v. Oxford Financial Group, Ltd.*, 884 F.3d 643, 649 (7th Cir. 2018); *Hanggi v. Holder*, 563 F.3d 378, 384 (8th Cir. 2009) (Bright, J., concurring); *VirnetX Inc. v. Apple Inc.*, 2021 WL 1941740, at *8 (E.D. Tex. Jan. 15, 2021); *Jeranian v. Dermenjian*, 2019 WL 6117991, at *10 (D.R.I. Nov. 15, 2019); *Seils v. Rochester City School District*, 192 F. Supp.2d 100, 104 (W.D.N.Y. 2002), *aff'd*, 99 Fed. Appx. 350 (2d Cir. 2004); *Figi Graphics, Inc. v. Estate of Edwards*, 1997 WL 567792 (D. Kan. Aug. 26, 1997); *In re Trust No. T-1 of Trimble*, 826 N.W.2d 474, 492 (Iowa 2013); *Lieberman v. Mossbrook*, 208 P.3d 1296, 1310 n.4 (Wyo. 2009); *Nardone v. Ritacco*, 936 A.2d 200, 202 (R.I. 2007); *In re Estate of Silsby*, 914 A.2d 703, 708 n.5 (Maine Sup. J. Ct. 2006); *Hercules, Inc. v. Utah State Tax Com'n*, 974 P.2d 286, 288 (Utah 1999); *Fort Worth Independent School District v. Palazzolo*, 2019 WL 2454866, at *1 n.1 (Tex. Ct. App. June 13, 2019); *Gardella v. Alexander*, 2004 WL 2943255 (Cal. Ct. App. Dec. 21, 2004); *Cadle Co. v. D'Addario*, 2010 WL 1376701, at *6 (Conn. Super. Ct. Mar. 1, 2010).

22 Decisions citing and quoting from "Oliver Twist" include *Community Television Systems, Inc. v. Caruso*, 284 F.3d 430, 436 n.7 (2d Cir. 2002); *U.S. v. Merinord*, 2015 WL 6457166, at *4 (W.D.N.C. 2015); *U.S. v. Ibanga*, 454 F. Supp. 2d 532, 543 (E.D. Va. 2006), *vacated on other grounds and remanded*, 271 Fed. Appx. 298 (4th Cir. 2008); *Sadowski v. Gudmundsson*, 206 F.R.D. 25, 27 (D.D.C. 2002); *McDowell v. Citibank*, 734 N.W.2d 1, 13 (S.D. 2007); *Donahoe v. Donahoe*, 632 S.E.2d 42, 44 (W. Va. 2006); *State v. Boylen*, 2000 WL 1719917 (Ohio Ct. App. Nov. 13, 2000); *White v. Medical Protective Co.*, 2013 WL 10545388 (Pa. Ct. Common Pleas Aug. 27, 2013).

23 Charles Dickens, Oliver Twist 277 (1867 ed.).

24 334 Ga. App 265 (2015).

25 *Id*. at 680-81

26 *Id*. at 681.

27 *Id*.

28 Mark Rust, *Mistakes to Avoid on Appeal*, 74 A.B.A. J. 78, 79 (Sept. 1988).

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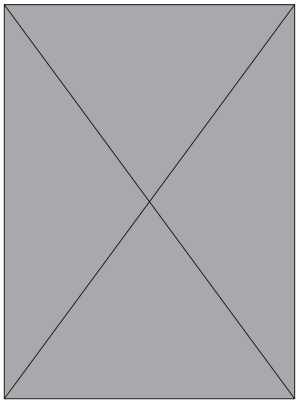
IRS CHIEF COUNSEL ADVICE FINDS SUBSTANTIAL SERVICES SUBJECT RENTAL INCOME TO SELF-EMPLOYMENT TAX

SCOTT VINCENT[1]

The Internal Revenue Service recently issued Letter Ruling 202151005 providing IRS Chief Counsel Advice on the application of self-employment tax to certain rental income. The chief counsel first finds that whether an activity is a "rental activity" under Internal Revenue Code § 469 does not determine whether the activity is "rentals from real estate" excluded from net earnings from self-employment under Code §1402 for self-employment tax purposes. In situations that do not involve real estate dealers, the chief counsel further finds that if sufficiently substantial services are provided to occupants, the net rental income may be subject to self-employment tax. The taxpayer requested advice on two general fact patterns that highlight the circumstances when self-employment tax may apply to net rental income.



Scott E. Vincent

Fact situation 1

An individual taxpayer directly owns and rents, in a trade or business, a fully furnished vacation property via an online rental marketplace. The taxpayer is not a real estate dealer and does materially participate, so the activity is not a passive activity. The taxpayer provides linens, kitchen utensils, and all other items to make the vacation property fully habitable for each occupant. The taxpayer also provides daily maid services, including delivery of individual-use toiletries and other sundries; access to dedicated Wi-Fi service for the rental property; access to beach and other recreational equipment for occupant use; and prepaid vouchers for ride-share services between the rental property and the nearest business district.

Fact situation 2

An individual taxpayer directly owns and rents, in a trade or business, a fully furnished room and bathroom in a dwelling via an online rental marketplace. The taxpayer is not a real estate dealer and does materially participate, so the activity is not a passive activity. Occupants only have access to common areas of the home to enter and exit the room and bathroom and have no access to other common areas such as the kitchen and laundry room. The taxpayer cleans the room and bathroom in between each occupant's stay.

Applicable law

The Chief Counsel Advice outlines several relevant Internal Revenue Code, treasury regulations, IRS rulings, and court cases, including the following:

Code § 469(c) provides that a passive activity is generally any trade or business activity in which the taxpayer does not materially participate or any rental activity. Regulations under § 469 provide that an activity involving the use of tangible property is not a rental activity for the taxable year if the average period of customer use for the property is seven days or less. Under § 469(h), a taxpayer materially participates in a trade or business activity only if "the taxpayer is involved in the operations of the activity" on a regular, continuous, and substantial basis. In the case of individuals, the regulations provide seven tests for material participation. Regulations § 1.469-5T(a)(1) provides that an individual will generally be treated as materially participating in an activity for a taxable year if the individual participates in the activity for more than 500 hours during such year.

Regulations § 1.469-1T(d)(1) provides that the characterization of items of income or deduction as passive does not affect the treatment of such items under provisions of the code other than § 469. Therefore, whether amounts are passive activity income or loss under the § 469 regulations is not determinative of whether those amounts are rentals from real estate under § 1402(a)(1) and related regulations.

Section 1401 imposes tax on the self-employment income of individuals. Section 1402(b) defines self-employment income as net earnings from self-employment, with certain modifications. Section 1402(a) provides that the term "net earnings from self-employment" (NESE) means

gross income derived from any trade or business less the deductions that are attributable to such trade or business. However, under § 1402(a)(1), rental income from real estate reduced by proper deductions attributable to that rental income (net rental income) is excluded from NESE, unless received in the course of a trade or business as a real estate dealer.

Regulations § 1.1402(a)-4(c)(1) provides that rentals from living quarters, where no services are rendered for the occupants, are generally considered rentals from real estate under § 1402(a)(1), except in the case of real estate dealers. However, regulations § 1.1402(a)-4(c)(2) provides:

"Payments for the use or occupancy of rooms or other space where services are also rendered to the occupant . . . are included in determining net earnings from self-employment. Generally, services are considered rendered to the occupant if they are primarily for his convenience and are other than those usually or customarily rendered in connection with the rental of rooms or other space for occupancy only."

Regulations § 1.1402(a)-4(c)(2) lists examples of situations where services are rendered for the convenience of occupants, such as hotels, boarding homes, warehouses, and storage garages.

In revenue ruling 57-108 (1957-1 C.B. 273), the IRS ruled that a landlord who rented furnished vacation beach dwellings and rendered services "for the comfort and convenience of his guests in connection with their recreational activities" – including maid services, swimming and fishing instruction, mail delivery, furnishing of bus schedules, and information about local churches – rendered these services primarily for the occupants' convenience. Consequently, the net rental income from the vacation beach dwellings was included in the landlord's NESE because the § 1402(a)(1) exclusion did not apply.

In *Bobo v. Commissioner of Internal Revenue*, the tax court considered a mobile home park that provided leased trailer park units with utility hookups, sewage facilities, and laundry facilities.[2] The court held that the net rental income from the rental of the trailer park units was excluded from the owners' NESE under § 1402(a)(1), setting the standard for when services are considered not rendered for the occupant. The court noted Section 1402(a)(1): "should be applied to exclude only payments for use of space, and, by implication, such services as are required to maintain the space in condition for occupancy. If the owner performs additional services of such substantial nature that compensation for them can be said to constitute a material part of the payment made by the tenant, the 'rent' received then consists in part of income attributable to the performance of labor which is not incidental to the realization of return from passive investment."[3]

Ultimately, the *Bobo* court determined that even though the trailer park furnished laundry services that were "clearly rendered for the convenience of the tenant and not to maintain the property in condition for occupancy," the tenants' payments for the laundry services were not "substantial enough to classify all the tenants' (rental) payments as received for 'services to the occupants.'"[4] Accordingly, the court held the payments at issue were rental from real estate excluded from NESE.

Chief counsel analysis – fact situation 1

In Letter Ruling 202151005, the chief counsel concluded the net rental income in fact situation 1 is not excluded from NESE under code §1402(a)(1). The chief counsel finds that determining whether services are rendered for an occupant is based on the facts and circumstances in each case. In this fact situation, the chief counsel finds that the services are for the convenience of the occupants, are beyond what is clearly required to maintain the space for occupancy, and are "of such a substantial nature that the compensation for these services can be said to constitute a material portion of the rent." Based on these fact findings, the chief counsel determines that the net rental income is included in NESE. The chief counsel also concludes that characterization of the activity as "not a passive activity" under code § 469(c) does not affect whether it is excluded from NESE code § 1402(a)(1).

Chief counsel analysis – fact situation 2

In contrast, the Chief Counsel Advice concludes that the net rental income in fact situation 2 is excluded from NESE under code §1402(a)(1). In this fact situation, the services provided to clean and maintain the property so it is suitable for occupancy were described as "not furnished primarily for the convenience of the property's occupants" and described as not so substantial to constitute a material part of the payments made by the occupants. Based on these facts, the chief counsel determines that the net rental income is excluded from NESE. It is again noted that this NESE determination is not impacted by characterization of the activity as "not a passive activity."

Conclusion

The Chief Counsel Advice highlights a potentially unexpected tax on net rental income for certain taxpayers renting property via online rental marketplaces. When substantial services are provided with a rental, the taxpayer will need to consider the fact situations in this guidance and determine whether the net rental income from the activity may be subject to self-employment tax. Presumably, the IRS will pursue this issue, and failure to pay self-employment tax consistent with this advice could be an IRS audit flag. It's unknown whether taxpayers will further pursue this issue in litigation to challenge the IRS chief counsel position.

Endnotes

1 Scott E. Vincent is the founding member of Vincent Law, LLC, in Kansas City.

2 70 T.C. 706 (1978).

3 Id at 709.

4 Id at 711.

IN MEMORIAM

Hon. Fred Daniel Bollow, age 84, of Shelbina, on Nov. 18, 2021. Bollow served as a prosecuting attorney and associate circuit court judge. He graduated from the University of Missouri and joined The Missouri Bar in 1961.

Hon. Charles Curry, age 75, of Grandview, on Nov. 27, 2020. Curry owned a private practice in Grandview and served as chief judge for Belton. He graduated from the University of Missouri-Kansas City and joined The Missouri Bar in 1975. Curry served in the U.S. Navy.

Stephanie M. Galetti, age 43, of O'Fallon, IL, on Feb. 12, 2021. Galetti was a lawyer at the Law Offices of Gunty & McCarthy. She graduated from Southern Illinois University School of Law and joined The Missouri Bar in 2007.

Bernard C. Huger, age 76, of St. Louis, on July 18, 2021. Huger practiced law for more than 50 years at Greensfelder, Hemker & Gale PC. He graduated from Georgetown University School of Law and joined The Missouri Bar in 1970.

Mark C. Johnson, age 71, of Colleyville, TX, on Oct. 14, 2021. Johnson worked as a lawyer at Southwestern Bell Telephone Co. and American Airlines before founding ERISA Benefits Consulting Inc. He graduated from the University of Houston School of Law and joined The Missouri Bar in 1988.

Brandon Dwight Kerns, age 27, of Kansas City, on Sept. 15, 2021. Kerns served as an assistant Missouri attorney general in the litigation division. He graduated from the University of Missouri-Kansas City School of Law and joined The Missouri Bar in 2020.

Paul William Kopsky Sr., age 82, of Glencoe, on May 6, 2021. Kopsky practiced law for 55 years, with the majority of them in Chesterfield. He graduated from Washington University School of Law and joined The Missouri Bar in 1963. Kopsky served in the U.S. Army.

Jack Everett Koslow, age 90, of Minneapolis, MN, on Nov. 11, 2021. Koslow practiced law in St. Louis and served as the city magistrate judge in Creve Coeur. He graduated from Washington University and joined The Missouri Bar in 1957. Koslow served in the U.S. Navy.

Richard W. Metz Sr., age 84, of Fort Myers, FL, on Nov. 19, 2021. Metz practiced law for more than 30 years total at Thompson Mitchell, Peabody Coal, and Mercantile Bank. He attended Duke University School of Law and The George Washington University School of Law. He joined The Missouri Bar in 1962.

Danieal "Danny" H. Miller, age 66, of Columbia, on Oct. 30, 2021. Miller practiced law for 41 years in Columbia. He graduated from the University of Missouri and joined The Missouri Bar in 1980.

Hon. Victor M. Rocha, age 83, of Kansas City, on Oct. 28, 2021. Rocha served as a judge and joined The Missouri Bar in 1963.

Sheldon K. Stock, age 80, of St. Louis, on Nov. 13, 2021. Stock practiced law in St. Louis for more than 50 years, most recently as a partner at Greensfelder, Hemker, & Gale, P.C. He graduated from Washington University School of Law and joined The Missouri Bar in 1964. He served in the U.S. Marines Corps.

Karl Heinz Timmerman, age 73, of Pascagoula, MS, on Nov. 30, 2021. Timmerman joined The Missouri Bar in 1982.

S. Sheldon Weinhaus, age 90, of St. Louis, on Oct. 17, 2021. He served as a lawyer and was the founder of Weinhaus & Potashnick and the Patient Advocate Foundation. He joined The Missouri Bar in 1957.

SUPREME COURT RULE CHANGES

In an order dated Nov. 23, 2021, the Supreme Court of Missouri repealed subdivision (e) and paragraphs [11] through [20] of the Comment of subdivision 4-1.8, entitled "Conflict of Interest: Prohibited Transactions," of Rule 4, entitled "Rules of Professional Conduct," and in lieu thereof adopted a new subdivision (e) and new paragraphs [11] though [23] of the Comment of subdivision 4-1.8, entitled "Conflict of Interest: Prohibited Transactions."

The order became effective Nov. 23, 2021.

The complete text of the order may be read in its entirety at courts.mo.gov.

The Supreme Court of Missouri, in an order dated Nov. 23, 2021, released the following additions, revisions to MAI-Civil Instructions, Notes on Use, Notices, and Comments.

TABLE OF INSTRUCTIONS

MAI 6.02 AGGRAVATING CIRMCUMSTANCES
(Committee Comment – Revision)

Chapter 9 EMINENT DOMAIN
(General Notice – New)

MAI 10.00 GENERAL COMMENT
(Comment – Revision)

MAI 10.01 OUTRAGEOUS CONDUCT – INTENTIONAL TORTS
(Committee Comment – Revision)

MAI 10.02 NEGLIGENCE CONSTITUTING CONSCIOUS DISREGARD FOR OTHERS
(Committee Comment – Revision)

MAI 10.03 MULTIPLE DEFENDANTS
(Committee Comment – New)

MAI 10.04 STRICT LIABILITY – EITHER PRODUCT DEFECT OR FAILURE TO WARN SUBMITTED
(Committee Comment – Revision)

MAI 10.05 STRICT LIABILITY – BOTH PRODUCT DEFECT OR FAILURE TO WARN SUBMITTED
(Committee Comment – Revision)

MAI 10.06 BOTH NEGLIGENCE AND STRICT LIABILITY SUBMITTED
(Committee Comment – Revision)

MAI 10.07 MODIFICATION OF MAI 10.02 – SUBMISSION OF SPECIFIC ACTS AND KNOWLEDGE
(Committee Comment – Revision)

MAI 17.17 PER SE NEGLIGENCE – IMPROPER TURN
(Notes on Use – Revision)

MAI 17.18 PER SE NEGLIGENCE – VIOLATING SPEED LIMIT
(Notes on Use – Revision)

MAI 33.16 CONVERSING EXEMPLARY DAMAGES
(Committee Comment – Revision)

Chapter 35 ILLUSTRATIONS
(General Notice – New)

MAI 35.00 GENERAL COMMENT
(Comment – Revision)

MAI 35.19 PUNITIVE DAMAGES – BIFURCATED TRIAL UNDER § 510.263 – NO COMPARATIVE FAULT – TWO DEFENDANTS – APPORTIONMENT OF FAULT BETWEEN DEFENDANTS
(Committee Comment – Revision)

MAI 37.00 COMPARATIVE FAULT – GENERAL COMMENT
(Comment – Revision)

MAI 37.01 VERDICT DIRECTING MODIFICATION
(Committee Comment – Revision)

MAI 37.03 DAMAGES
(Committee Comment – Revision)

MAI 38.01(A) VERDICT DIRECTING – MISSOURI HUMAN RIGHTS ACT – EMPLOYMENT DISCRIMINATION
(for actions accruing before August 28, 2017)
(Committee Comment – Revision)

MAI 38.01(B)VERDICT DIRECTING – MISSOURI HUMAN RIGHTS ACT – EMPLOYMENT DISCRIMINATION BY REASON OF DISABILITY – EXISTENCE OF DISABILITY DISPUTED
(for actions accruing before August 28, 2017)
(Committee Comment – Revision)

MAI 38.06 VERDICT DIRECTING – MISSOURI HUMAN RIGHTS ACT – EMPLOYMENT DISCRIMINATION
(for actions accruing on or after August 28, 2017)
(Committee Comment – Revision)

MAI 38.07 VERDICT DIRECTING – MISSOURI HUMAN RIGHTS ACT – EMPLOYMENT DISCRIMINATION BY REASON OF DISABILITY – EXISTENCE OF DISABILITY DISPUTED
(for actions accruing on or after August 28, 2017)
(Committee Comment – Revision)

MAI 39.01 VERDICT DIRECTING – VIOLATION OF MISSOURI MERCHANDISING PRACTICES ACT
where S.B. 591 (Laws 2020) does not apply
(Title – Revision)
(Instruction – Revision)
(Notes on Use – Revision)
(Committee Comment – Revision)

MAI 39.02 VERDICT DIRECTING – VIOLATION OF MISSOURI MERCHANDISING PRACTICES ACT
where S.B. 591 (Laws 2020) applies
(Instruction – New)
(Notes on Use – New)
(Committee Comment – New)

ORDER

1. New and revised MAI-Civil Instructions, Notes on Use, Notices, and Comments as listed above, having been prepared by the Committee on Jury Instructions – Civil and reviewed by the Court, are hereby adopted and approved.
2. The Instructions, Notes on Use, Notices, and Comments revised as set forth in the specific exhibits attached hereto must be used on and after July 1, 2022, and may be used prior thereto; any such use shall not be presumed to be error.
3. It is further ordered that this order and the specific exhibits attached hereto shall be published in the South Western Reporter and the Journal of The Missouri Bar.

Day - to – Day

_____
PAUL C. WILSON
Chief Justice

The order will become effective July 1, 2022.
The complete text of the order may be read in its entirety at courts.mo.gov.

In an order dated Nov. 23, 2021, the Supreme Court of Missouri repealed subdivision (a) of subdivision 59.01, entitled "Request for and Effect of Admissions," of Rule 59, entitled "Admission of Facts and of Genuineness of Documents," and in lieu thereof adopted a new subdivision (a) of subdivision 59.01, entitled "Request for and Effect of Admissions."

In that same order, the Court repealed subdivision (c) of subdivision 61.01, entitled "Failure to Make Discovery: Sanctions," of Rule 61, entitled "Enforcement of Discovery: Sanctions," and in lieu thereof adopted a new subdivision (c) of subdivision 61.01, entitled "Failure to Make Discovery: Sanctions."

The order will become effective July 1, 2022.
The complete text of the order may be read in its entirety at courts.mo.gov.

The Supreme Court of Missouri, in an order dated Nov. 23, 2021, repealed of the title of Rule 55, entitled "Pleadings and Motions," and in lieu thereof adoption of a new title of Rule 55, entitled "Pleadings, Motions, and Hearings."

(2) Repeal of the heading title and subdivision 55.30, entitled "Times and Places for Hearing Motions to be Established – Submission on Written Statements Without Oral Hearing," of Rule 55, entitled "Pleadings, Motions, and Hearings," and in lieu thereof adoption of a new heading title and a new subdivision 55.30 entitled "Times and Places for Hearings to be Established – Use of Telephone or Video Conference – Oral Hearing – Submission on Written Statements Without Oral Hearing."

The order will become effective July 1, 2022.
The complete text of the order may be read in its entirety at courts.mo.gov.

In an order dated Dec. 21, 2021, the Supreme Court of Missouri repealed the heading title and subdivision (a) of subdivision 17.03, entitled "Referral, Notification and Appointment," of Rule 17, entitled "Alternative Dispute Resolution," and in lieu thereof adopted a new heading title and a new subdivision (a) of subdivision 17.03, entitled "Referral, Notification, and Appointment."

In that same order, the Court repealed the title of Rule 88, entitled "Dissolution, Legal Separation and Child Support," and in lieu thereof adopted a new title of Rule 88, entitled "Domestic Relations and Paternity Cases – Calculation of Child Support – Mediation – Self-Representation Litigants."

In that same order, the Court repealed subdivision 88.02, entitled "Mediation Authorized;" the heading title and subdivision 88.03, entitled "Mediation of Child Custody and Visitation – Mediation Defined;" subdivision 88.04, entitled "Mediation – When Ordered – Appointment of Mediator;" subdivision 88.05, entitled "Mediation – Qualifications of Mediator;" and the heading title and subdivision 88.08, entitled "Confidentiality," of Rule 88, entitled "Domestic Relations and Paternity Cases – Calculation of Child Support – Mediation – Self-Representation Litigants," and in lieu thereof adopted a new subdivision 88.02, entitled "Mediation Authorized;" a new heading title and a new subdivision 88.03, entitled "Mediation Defined;" a new subdivision 88.04, entitled "Mediation – When Ordered – Appointment of Mediator;" a new subdivision 88.05, entitled "Mediation – Qualifications of Mediator;" and a new heading title and a new subdivision 88.08, entitled "Confidentiality and Settlement."

In that same order, the Court adopted a new Model Local Court Rule 75, entitled "Mediation in Domestic Relations and Paternity Cases," of subdivision 6.04, entitled "Model Local Court Rules," of Court Operating Rule 6.

In that same order, the Court repealed the portion of the table of contents entitled "Rules Relating to Particular Actions" of subdivision 6.01, entitled "Table of Contents," of Court Operating Rule 6 and in lieu thereof adopted a new portion of the table of contents entitled "Rules Relating to Particular Actions."

The order will become effective July 1, 2022.
The complete text of the order may be read in its entirety at courts.mo.gov.

NOTICES OF CORPORATE DISSOLUTION

Notice of Corporate Dissolution Rates: $1.25 per word for a member of The Missouri Bar; $2.00 for non-members. For purposes of the total word count, any element surrounded by spaces is considered to be a word. DO NOT SEND A CHECK with the notice. You will be invoiced in advance of publication, and all invoices must be paid prior to publication.

Copy must be received by September 1, 2021 (for September/October 2021 issue), November 1, 2021 (for November/December 2021 issue), January 4, 2021 (for January/February issue), March 1, 2022 (for March/April 2022 issue), May 2, 2022 (for May/June 2022 issue), and July 1, 2022 (for July/August 2022 issue).

Send notices by email to ads@mobar.org.

NOTICE OF DISSOLUTION AND WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST 1011 E. ST. MAARTENS DR., LLC

On Dec. 17, 2021, 1011 E. St. Maartens Dr., LLC, a Missouri limited liability company (the "Company"), filed a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective as of Dec. 17, 2021.

All persons with claims against the Company may submit any claim in accordance with this notice to: Murphy, Taylor, Siemens & Elliott P.C., 3007 Frederick Ave., St. Joseph, MO 64506 Attention: Kenneth E. Siemens. All claims must include the name, address, and telephone number of the claimant; the amount claimed; the basis for the claim; the documentation of the claim; and the date(s) of the event(s) on which the claim is based occurred.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST 3729 VETERANS, L.L.C.

3729 Veterans, L.L.C., a Missouri limited liability company (the "Company"), was dissolved Nov. 19, 2021, by the filing of a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The Company requests all persons and entities with claims against the Company present them in writing by mail to: 3729 Veterans, L.L.C., c/o J & K Trustee Services, Inc., 150 N. Meramec Ave., Ste. 400, St. Louis, MO 63105. Each claim must include:

1. The name, address, and telephone number of the claimant;
2. The amount of the claim;
3. The basis of the claim;
4. The date(s) of the event(s) on which the claim is based occurred; and
5. Documentation in support of the claim.

NOTICE: Any and all claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST 7330 OLIVE, LLC

7330 Olive, LLC, a Missouri limited liability company (the "Company"), was dissolved Nov. 19, 2021, by the filing of a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The Company requests all persons and entities with claims against the Company present them in writing by mail to: 7330 Olive, LLC, c/o J & K Trustee Services, Inc., 150 N. Meramec Ave., Ste. 400, St. Louis, MO 63105. Each claim must include:

1. The name, address, and telephone number of the claimant;
2. The amount of the claim;
3. The basis of the claim;
4. The date(s) of the event(s) on which the claim is based occurred; and
5. Documentation in support of the claim.

NOTICE: Any and all claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST AMERICAN PLAZA, LLC

On Dec. 21, 2021, American Plaza, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. American Plaza, LLC requests that all persons and organizations who have claims against it present them immediately by letter to: Travis H. McGee, 308 S. 9th St., Suite 101-M, Columbia, MO 65201.

All claims must include the following information: (a) name, address, and telephone number of the claimant; (b) the amount claimed; (c) date on which the claim arose; (d) basis for the claim and documentation thereof; and (e) whether the claim was secured and, if so, the collateral used as security.

All claims against American Plaza, LLC will be barred unless a proceeding to enforce the claim is commenced within three years after the date of publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OR AND CLAIMANTS AGAINST ARBOR GARDENS, LLC

Arbor Gardens, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on Nov. 11, 2021. Any and all claims against Arbor Gardens, LLC may be sent to Robert Berra, 5091 Baumgartner Road, St. Louis, MO 63129.

Each claim should include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

Any and all claims against Arbor Gardens, LLC will be barred unless a proceeding to enforce such claim is commenced within three years after the date this notice is published.

NOTICE OF WINDING UP
FOR LIMITED LIABILITY COMPANY
TO ALL CREDITORS OR AND CLAIMANTS AGAINST
ARBORS AT STONEGATE, LLC

Arbors at Stonegate, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on Nov. 11, 2021.

Any and all claims against Arbors at Stonegate, LLC may be sent to Robert Berra, 5091 Baumgartner Road, St. Louis, MO 63129. Each claim should include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

Any and all claims against Arbors at Stonegate, LLC will be barred unless a proceeding to enforce such claim is commenced within three years after the date this notice is published.

NOTICE OF WINDING UP
FOR LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS AGAINST
B SQUARED CLEANING SOLUTIONS, LLC

On Dec. 13, 2021, B SQUARED CLEANING SOLUTIONS, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

All claims against the Company should be submitted in writing to:

B SQUARED CLEANING SOLUTIONS, LLC
c/o Schmidt Basch, LLC
1034 S. Brentwood Blvd., Suite 1555
St. Louis, Missouri 63117

All claims must include: (1) the name and address of the claimant; (2) the amount of the claim; (3) the date on which the claim arose; (4) the basis for the claim; and (5) documentation in support of the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years of the publication of this notice.

NOTICE OF WINDING UP
OF LIMITED LIABILITY COMPANY
TO ALL CREDITORS AND CLAIMANTS AGAINST
BOONE MARKET, L.L.C.

On Oct. 26, 2021, Boone Market, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Bush & Patchett, L.L.C., Attn: Kerry Bush, 4240 Philips Farm Rd., Ste. 109, Columbia, MO 65201. Each claim must include the following information: name, address, and telephone number of the claimant; amount of claim; date on which the claim arose; basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF ARTICLES OF DISSOLUTION
BY VOLUNTARY ACTION
TO ALL CREDITORS OF AND CLAIMANTS AGAINST
BUELL BROTHERS, INC.

You are hereby notified that BUELL BROTHERS, INC., a Missouri corporation, the principal office of which is located at 15220 Melrose Drive, Overland Park, KS 66221, filed Articles of Dissolution by Voluntary Action with the Secretary of State of Missouri on Dec. 28, 2021.

Any and all claims against BUELL BROTHERS, INC. may be sent to Craig C. Reaves, Esq., Reaves Law Firm, P.C., 4400 Madison Ave., Kansas City, Missouri 64111. Each claim should

include the following: name, address, and telephone number of claimant; amount of claim; basis of the claim; and documentation supporting the claim.

All claims against BUELL BROTHERS, INC. will be barred unless a proceeding to enforce the claim is commenced within two years after the date this notice is published.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST BUMB CONSTRUCTION, INC.

On Dec. 13, 2021, Bumb Construction, Inc., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. Dissolution is effective Dec. 31, 2021.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at: Bumb Construction, Inc., c/o David Bumb, Registered Agent, 12890 Pennridge Dr., Bridgeton, MO 63044 OR Anthony J. Soukenik, Esq., Sandberg Phoenix & von Gontard P.C., 600 Washington Ave., 15th Fl.; St. Louis, MO 63101.

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of Bumb Construction, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the two notices authorized by statute, whichever is published last.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST CAPITOL CITY PROPERTY MANAGEMENT, INC.

On Oct. 26, 2021, CAPITOL CITY PROPERTY MANAGEMENT, INC., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. CAPITOL CITY PROPERTY MANAGEMENT, INC. requests that all persons and organizations who have claims against it present them immediately by letter to CAPITOL CITY PROPERTY MANAGEMENT, INC., 705 Hobbs Rd., Jefferson City, MO 65109.

All claims must include the following information: (a) name and address of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against CAPITOL CITY PROPERTY MANAGEMENT, INC. will be barred unless a proceeding to enforce the claim is commenced within two years after the date of publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST CAPITOL CITY RESIDENTIAL PROPERTIES, LLC

On Dec. 20, 2021, CAPITOL CITY RESIDENTIAL PROPERTIES, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. CAPITOL CITY RESIDENTIAL PROPERTIES, LLC, requests that all persons and organizations who have claims against it present them immediately by letter to CAPITOL CITY RESIDENTIAL PROPERTIES, LLC, 705 Hobbs Rd., Jefferson City, MO 65109.

All claims must include the following information: (a) name and address of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against CAPITOL CITY RESIDENTIAL PROPERTIES, LLC, will be barred unless a proceeding to enforce the claim is commenced within three years after the date of publication of this notice.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST D & D PROPERTY MANAGEMENT, LLC

On Nov. 9, 2021, D & D Property Management, LLC, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The event was effective Nov. 9, 2021.

You are hereby notified that if you believe you have a claim against D & D Property Management, LLC, you must submit a summary in writing of the circumstances surrounding your claim to the corporation to: Jennifer M. Snider, Witt Hicklin & Snider, P.C., 2300 Higgins Rd., P.O. Box 1517, Platte City, MO 64079.

The summary of your claim must include the following information: (a) the name, address, and telephone number of the claimant; (b) the amount of the claim; (c) the date on which the event on which the claim is based occurred; (d) a brief description of the nature of the debt or the basis for the claim; and (e) copies of any document supporting your claim.

The deadline for claim submission is the 90 calendar days from the effective date of this notice. All claims against D & D Property Management, LLC, will be barred unless the proceeding to enforce the claim is commenced within two years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST D.J. ROTH CONSTRUCTION, LLC

On Dec. 15, 2021, D.J. Roth Construction, LLC, A Missouri limited liability company, filed its Notice Of Winding Up For Limited Liability Company With The Missouri Secretary Of State. The effective date of said notice was Dec. 15, 2021.

D.J. Roth Construction, LLC hereby requests that all persons and organizations with claims against it present them immediately by letter to: D.J. Roth Construction, LLC, C/O Tom K. O'Loughlin II, Attorney At Law, 1736 N. Kingshighway St., Cape Girardeau, Missouri 63701.

All claims must include: (1) the name, address, and telephone number of the claimant; (2) the amount claimed; (3) the basis for the claim; (4) the date(s) on which the events on which the claim is based occurred; and (5) and documentation in support of the claim.

NOTICE: Because of the dissolution of D.J. Roth Construction, LLC, any and all claims against the limited liability

company will be barred unless a proceeding to enforce the claim is commenced within three years after the date of publication of this notice as authorized by RSMo 347.141.

NOTICE OF ARTICLES OF DISSOLUTION BY VOLUNTARY ACTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST DAVID G. KENNEDY, M.D., P.C.

David G. Kennedy, M.D., P.C., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action on Dec. 16, 2021, with the Missouri Secretary of State.

All claims against the corporation should be sent to Rachel A. Jeep, Copeland Thompson Jeep PC, 231 S. Bemiston Ave., Suite 1220, Clayton, MO 63105. Each claim should include the following: (1) the claimant's name, address, and telephone number; (2) the amount of the claim; (3) the date on which the claim arose; and (4) the basis of the claim and any documents related to the claim.

All claims shall be barred unless a proceeding to enforce the claim is commenced within two years after the date of this publication.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST DISTRICT PROPERTIES, L.L.C.

On Oct. 26, 2021, District Properties, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Bush & Patchett, L.L.C., Attn: Kerry Bush, 4240 Philips Farm Rd., Ste. 109, Columbia, MO 65201. Each claim must include the following information: name, address, and telephone number of the claimant; amount of claim; date on which the claim arose; basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST ED & B, L.L.C.

On Dec. 3, 2021, ED & B, L.L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The Notice of Winding Up was effective Dec. 3, 2021.

Said company requests that all persons and organizations who have claims against it present them immediately by letter to the company at: The Kaiser Law Firm, P.C., 16090 Swingley Ridge Rd., Ste. 360, Chesterfield, MO 63017.

All claims must include the name and address of the claimant, the amount claimed, the basis for the claim, the date(s) on which the event(s) on which the claim is based occurred, the documentation of the claim, and a brief description of the nature of the debt or the basis for the claim.

NOTICE: All claims against ED & B, L.L.C., will be barred unless commenced within three years after the date of the publication of this notice.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST EFILTERS.COM, L.L.C.

On Nov. 16, 2021, eFilters.com, L.L.C., a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Secretary of State of Missouri.

The Company requests that any and all claims against the Company be presented by letter to the Company in care of King Filtration Technologies, Inc., c/o Betsy J. King, 2112 Meadow Creek Dr., Innsbrook, MO 63390.

Each claim against the Company must include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the date on which the claim arose; a brief description of the nature of or the basis for the claim; and any documentation related to the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST EOB II & III, L.L.C.

On Dec. 3, 2021, EOB II & III, L.L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The Notice of Winding Up was effective Dec. 3, 2021.

Said company requests that all persons and organizations who have claims against it present them immediately by letter to the company at: The Kaiser Law Firm, P.C., 16090 Swingley Ridge Rd., Ste. 360, Chesterfield, MO 63017.

All claims must include the name and address of the claimant, the amount claimed, the basis for the claim, the date(s) on which the event(s) on which the claim is based occurred, the documentation of the claim, and a brief description of the nature of the debt or the basis for the claim.

NOTICE: All claims against EOB II & III, L.L.C. will be barred unless commenced within three years after the date of the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST FAULT LINE ICE, LLC

On Dec. 14, 2021, Fault Line Ice, LLC, a Missouri Limited Liability Company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Claims against the Company must be mailed to Gary D. Silverthorn, 129 Greenbrier Dr., Sikeston, MO 63801. All claims must be presented in writing and contain: (a) the name, address, and telephone number of the claimant; (b) the amount claimed; (c) the basis for the claim; (d) the date(s) when the event(s) on which the claim is based occurred; and (e) any documentation in support of the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST FZET HOLDINGS, L.L.C.

On Oct. 25, 2021, FZET Holdings, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Bush & Patchett, L.L.C., Attn: Adam Patchett, 4240 Philips Farm Rd., Ste. 109, Columbia, MO 65201. Each claim must include the following information: name, address, and telephone number of the claimant; amount of claim; date on which the claim arose; basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST HARRIS-HANSON COMPANY, INC.

On Nov. 3, 2021, HARRIS-HANSON COMPANY, INC., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. Dissolution was effective Nov. 3, 2021.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at:

HARRIS-HANSON COMPANY, INC.
Attn: A. Fuller Glaser Jr.
c/o Sandberg Phoenix & von Gontard P.C.
600 Washington Ave., 15th Fl.
St. Louis, MO 63101

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of HARRIS-HANSON COMPANY, INC., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the notices authorized by statute, whichever is published last.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST INVEST RITE MOTORS, LLC

On Nov. 24, 2021, Invest Rite Motors, LLC, a Missouri limited liability company (the "Company") filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The effective date of said notice was Nov. 24, 2021.

Invest Rite Motors, LLC, hereby requests that all persons and organizations with claims against it present them immediately by letter to: Invest Rite Motors, LLC, c/o Randy J. Reichard, Attorney at Law, 901 St. Louis St., 20th Fl., Springfield, MO 65806.

Each claim must include the following information: name, address, and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

NOTICE: Because of the dissolution of Invest Rite Motors, LLC, any and all claims against the limited liability company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of the notices authorized by §347.141 RSMo., whichever is published last.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST J.C. MILLER CORP.

On Dec. 20, 2021, J.C. MILLER CORP., a Missouri corporation (hereinafter the "Corporation"), filed its Articles of Dissolution by Voluntary Action with the Secretary of State, effective as of the date of filing by the Secretary of State.

The Corporation requests that all persons and organizations with claims against it present to them immediately, by letter, to the attention of: John C. Miller, 1846 Grassy Ridge Rd., Kirkwood, MO 63122. Each claim must include the following information: the name, address, and telephone number of the claimant; the amount claimed; the date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Corporation will be barred unless a proceeding to enforce the claim is commenced within two years after publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST JCJ FEE OFFICE LLC

On Dec. 20, 2021, JCJ Fee Office LLC, a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Terry Cole, 83 N. Ridge Road, Sikeston, Missouri 63801. Each claim must include the following information: name, address, and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF CORPORATE DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST JONES GRADING AND EXCAVATING, INC.

On Dec. 13, 2021, Jones Grading and Excavating, Inc., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. Dissolution was effective
Dec. 13, 2021.

Said corporation requests that all persons and organizations who have claims against it present them immediately by letter to the corporation at: Jones Grading and Excavating, Inc., c/o Noel R. Jones, Registered Agent, 3716 Big Bend Industrial Ct., St. Louis, MO 63143 OR Anthony J. Soukenik,

Esq., Sandberg Phoenix & von Gontard P.C., 600 Washington Ave., 15th Fl., St. Louis, MO 63101.

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the dissolution of Jones Grading and Excavating, Inc., any claims against it will be barred unless a proceeding to enforce the claim is commenced within two years after the publication date of the two notices authorized by statute, whichever is published last.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST KCI AUTO SALES, LLC

On Nov. 9, 2021, KCI Auto Sales, LLC, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The event was effective Nov. 9, 2021.

You are hereby notified that if you believe you have a claim against KCI Auto Sales, LLC, you must submit a summary in writing of the circumstances surrounding your claim to the corporation to: Jennifer M. Snider, Witt Hicklin & Snider, P.C., 2300 Higgins Rd., P.O. Box 1517, Platte City, MO 64079.

The summary of your claim must include the following information: (a) the name, address, and telephone number of the claimant; (b) the amount of the claim; (c) the date on which the event on which the claim is based occurred; (d) a brief description of the nature of the debt or the basis for the claim; and (e) copies of any document supporting your claim.

The deadline for claim submission is the 90 calendar days from the effective date of this notice. All claims against KCI Auto Sales, LLC, will be barred unless the proceeding to enforce the claim is commenced within two years after the publication of this notice.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST KCI COLLISION CENTER, LLC

On Nov. 9, 2021, KCI Collision Center, LLC, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The event was effective Nov. 9, 2021.

You are hereby notified that if you believe you have a claim against KCI Collision Center, LLC, you must submit a summary in writing of the circumstances surrounding your claim to the corporation to: Jennifer M. Snider, Witt Hicklin & Snider, P.C., 2300 Higgins Rd., P.O. Box 1517, Platte City, MO 64079

The summary of your claim must include the following information: (a) the name, address, and telephone number of the claimant; (b) the amount of the claim; (c) the date on which the event on which the claim is based occurred; (d) a brief description of the nature of the debt or the basis for the claim; and (e) copies of any document supporting your claim.

The deadline for claim submission is 90 calendar days from the effective date of this notice. All claims against KCI Collision Center, LLC, will be barred unless the proceeding to enforce the claim is commenced within two years after the publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST KLHEGH, LLC

On Dec. 13, 2021, KLHEGH, LLC, a Missouri limited liability company (the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

All claims against the Company should be submitted in writing to:

KLHEGH, LLC
c/o Schmidt Basch, LLC
1034 S. Brentwood Blvd., Suite 1555
St. Louis, Missouri 63117

All claims must include: (1) the name and address of the claimant; (2) the amount of the claim; (3) the date on which the claim arose; (4) the basis for the claim; and (5) documentation in support of the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years of the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST LAKE OF THE OZARKS CONDOS, L.L.C.

On Oct. 25, 2021, Lake of the Ozarks Condos, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Bush & Patchett, L.L.C., Attn: Adam Patchett, 4240 Philips Farm Rd., Ste. 109, Columbia, MO 65201. Each claim must include the following information: name, address, and telephone number of the claimant; amount of claim; date on which the claim arose; basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST M.E. DUGAN ESTATE, L.L.C.

On Sept. 17, 2021, M.E. Dugan Estate, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Kathy Collins, 1542 S.W. H Hwy., Montrose, MO 64770. Each claim must include the following information: name, address, and telephone number of the claimant; amount of claim; date on which the claim arose; basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OR AND CLAIMANTS AGAINST McBRIDE BERRA AMBER TRAILS, LLC

McBride Berra Amber Trails, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on Nov. 11, 2021.

Any and all claims against McBride Berra Amber Trails, LLC may be sent to Robert Berra, 5091 Baumgartner Road, St. Louis, MO 63129. Each claim should include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

Any and all claims against McBride Berra Amber Trails, LLC will be barred unless a proceeding to enforce such claim is commenced within three years after the date this notice is published.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OR AND CLAIMANTS AGAINST McBRIDE TOWN CENTER, LLC

McBride Town Center, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on Nov. 11, 2021.

Any and all claims against McBride Town Center, LLC may be sent to Robert Berra, 5091 Baumgartner Road, St. Louis, MO 63129. Each claim should include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

Any and all claims against McBride Town Center, LLC will be barred unless a proceeding to enforce such claim is commenced within three years after the date this notice is published.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST MORRISON-POST INSURANCE AGENCY, INC.

On Nov. 15, 2021, Morrison-Post Insurance Agency, Inc., a Missouri Corporation, whose business address was 211 West Cherry St., Nevada, MO 64772, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State.

If you believe you have a claim against the corporation you must submit a written claim mailed to: Guthrie Law Office, c/o J. Lee Guthrie, P. O. Box 698, in Nevada, MO 64772.

A claim must include: the name, address, and telephone number of the claimant; the amount of the claim; the basis for the claim; documentation to support the claim; and the date on which the event on which the claim is based occurred.

NOTICE: All claims against Morrison-Post Insurance Agency, Inc., will be barred unless a proceeding to enforce the claim is commenced within two years after the publication of the notices authorized by statute, whichever is published last.

NOTICE OF COMPANY DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST POWERING DOWN, LLC

On Nov. 2, 2021, Powering Down, LLC, a Missouri limited liability company f/k/a Custom Shade Sails, LLC (the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

All claims against the Company should be submitted in writing to William Moore, 1734 Clarkson Rd., #316, Chesterfield, MO 63017.

All claims must include: (1) the name and address of the claimant; (2) the amount claimed; (3) the date on which the claim arose; (4) the basis for the claim; and (5) documentation in support of the claim.

All claims against Powering Down, LLC, will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS OF AND CLAIMANTS AGAINST PRESTIGE PLAZA INVESTMENTS, L.C.

On Dec. 17, 2021, PRESTIGE PLAZA INVESTMENTS, L.C., a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. PRESTIGE PLAZA INVESTMENTS, L.C., requests that all persons and organizations who have claims against it present them immediately by letter to PRESTIGE PLAZA INVESTMENTS, L.C., 9048 Cottonwood St., Lenexa, KS 66215-3212.

All claims must include the following information: (a) name and address of the claimant, (b) the amount claimed, (c) date on which the claim arose, (d) basis for the claim and documentation thereof, and (e) whether or not the claim was secured and, if so, the collateral used as security.

All claims against PRESTIGE PLAZA INVESTMENTS, L.C., will be barred unless a proceeding to enforce the claim is commenced within three years after the date of publication of this notice.

NOTICE OF ARTICLES OF DISSOLUTION BY VOLUNTARY ACTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST ROBERT M. HUSTER, MD, P.C.

On Dec. 2, 2021, ROBERT M. HUSTER, MD, P.C., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action with the Missouri Secretary of State. The dissolution was effective on Dec. 31, 2021.

You are hereby notified that if you believe you have a claim against ROBERT M. HUSTER, MD, P.C., you must submit a written summary of your claim to the corporation in care of Robert M. Huster, 6910 N. Agnes Ave., Gladstone, MO 64119. The summary of your claim must include the following information: (1) the name, address, and telephone number of the claimant; (2) the amount of the claim; (3) the date of the event on which the claim is based; and (4) a brief description of the nature of the debt or the basis for the claim.

All claims against the corporation will be barred unless a proceeding to enforce the claim is commenced within two years after publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST RT FARMINGTON, L.L.C.

RT FARMINGTON, L.L.C., a Missouri limited liability company (the "Company"), was dissolved on Nov. 19, 2021, by the filing of a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The Company requests all persons and entities with claims against the Company present them in writing by mail to: RT Farmington, L.L.C., c/o J & K Trustee Services, Inc., 150 N. Meramec Ave., Ste. 400, St. Louis, MO 63105. Each claim must include:

1. The name, address, and telephone number of the claimant;
2. The amount of the claim;
3. The basis of the claim;
4. The date(s) of the event(s) on which the claim is based occurred; and
5. Documentation in support of the claim.

NOTICE: Any and all claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST S&S ICE, LLC

On Dec. 14, 2021, S&S Ice, LLC, a Missouri Limited Liability Company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Claims against the Company must be mailed to Gary D. Silverthorn, 129 Greenbrier Dr., Sikeston, MO 63801. All claims must be presented in writing and contain: (a) the name, address, and telephone number of the claimant; (b) the amount claimed; (c) the basis for the claim; (d) the date(s) when the event(s) on which the claim is based occurred; and (e) any documentation in support of the claim.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP TO ALL CREDITORS AND CLAIMANTS AGAINST SLSG PRO, LLC

SLSG Pro, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State on Nov. 16, 2021. Any and all claims against SLSG Pro, LLC, may be sent to Sean P. Clancy, 7733 Forsyth Blvd., Ste. 400, Saint Louis, MO 63105. Each claim should include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the basis of the claim; and the date(s) on which the event(s) on which the claim is based occurred.

Any and all claims against SLSG Pro, LLC, will be barred unless a proceeding to enforce such claim is commenced within three years after the date this notice is published.

NOTICE OF DISSOLUTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST SSG HOLDING COMPANY, INC.

SSG Holding Company, Inc., a Missouri corporation ("Company"), was dissolved Dec. 10, 2021. Company requests that claims against Company be presented by letter to: Alec Moen, Doster Ullom & Boyle, LLC, 16150 Main Circle Dr., Ste. 250, Chesterfield, MO 63017.

Claims against Company must include the following: name, address, and telephone number of the claimant; amount of the claim; date on which the claim arose; and a description of the basis and nature of the claim. Claims against Company will be barred unless a proceeding to enforce the claim is commenced within two years after publication of this notice.

NOTICE OF ARTICLES OF DISSOLUTION BY VOLUNTARY ACTION TO ALL CREDITORS OF AND CLAIMANTS AGAINST SUSEELA SAMUDRALA, M.D., P.C.

Suseela Samudrala, M.D., P.C., a Missouri corporation, filed its Articles of Dissolution by Voluntary Action on Dec. 16, 2021, with the Missouri Secretary of State.

All claims against the corporation should be sent to Rachel A. Jeep, Copeland Thompson Jeep PC, 231 S. Bemiston Ave., Suite 1220, Clayton, MO 63105. Each claim should include the following: (1) the claimant's name, address, and telephone number; (2) the amount of the claim; (3) the date on which the claim arose; and (4) the basis of the claim and any documents related to the claim.

All claims shall be barred unless a proceeding to enforce the claim is commenced within two years after the date of this publication.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST T & C HEALTHCARE, L.L.C.

On Dec. 20, 2021, T & C Healthcare, L.L.C., a Missouri limited liability company (hereinafter the "Company"), filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

Any claims against the Company may be sent to: Terry Cole, 83 N. Ridge Road, Sikeston, Missouri 63801. Each claim must include the following information: name, address, and phone number of the claimant; amount claimed; date on which the claim arose; the basis for the claim; and documentation in support of the claim.

All claims against the Company will be barred unless the proceeding to enforce the claim is commenced within three years after the publication of this notice.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST THE KICKHAM FAMILY LIMITED LIABILITY COMPANY

On Jan. 10, 2022, THE KICKHAM FAMILY LIMITED LIABILITY COMPANY, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State, effective on Dec. 31, 2021.

Said limited liability company requests that all persons and organizations who have claims against it present them immediately by letter to the company at:

THE KICKHAM FAMILY LIMITED LIABILITY COMPANY
Attn: Michael F. Kickham, Jr.
1508 Dietrich Glen Drive
Ballwin, MO 63021

With a copy to:

Sandberg Phoenix & von Gontard, P.C.
Attn: Anthony J. Soukenik, Esq.
600 Washington Avenue, 15th Floor
St. Louis, MO 63101
314-231-3332

All claims must include the name and address of the claimant; the amount claimed; the basis for the claim; and the date(s) on which the event(s) on which the claim is based occurred.

NOTICE: Because of the notice of winding up of THE KICKHAM FAMILY LIMITED LIABILITY COMPANY, any claims against it will be barred unless a proceeding to enforce the claim is commenced within three years after the publication date of the notices authorized by statute, whichever is published last.

NOTICE OF WINDING UP FOR LIMITED LIABILITY COMPANY TO ALL CREDITORS OF AND CLAIMANTS AGAINST WINDY ACRES STABLE AND TACK, LLC

On Dec. 23, 2021, Windy Acres Stable and Tack, LLC, a Missouri limited liability company (the "Company"), filed a Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State. The dissolution was effective on that date.

You are hereby notified that if you believe you have a claim against the Company, you must submit a written summary of your claim to the Company in care of Brenda Shaw, PO Box 6, 26171 W. 136th Ave., Martinsville, MO 64467.

The summary of your claim must include the following information: the name, address, and telephone number of the claimant; the amount of the claim; the date on which the claim is based occurred; a brief description of the nature of the debt or the basis for the claim; and whether the claim is secured, and if so, the collateral used as security.

All claims against the Company will be barred unless a proceeding to enforce the claim is commenced within three years after publication of the notice.

NOTICE

The Jefferson City firm of Williams Keepers, LLC, certified public accountants, has completed an independent audit, through December 31, 2020, of the finances of the following entities:

The Missouri Bar
The Advisory Committee Fund
The Missouri Bar Foundation
The Missouri Lawyer Trust Account Foundation
The Trustees of The Missouri Bar

Copies of the financial reports for each of these entities, including all notes and attachments, are available by going to The Missouri Bar's website https://mobar.org/site/content/About/Financial_Reports.aspx.

In addition, printed versions of the audit materials may be obtained by contacting:

The Missouri Bar
P.O. Box 119, Jefferson City, MO 65102
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