Genesee County Bar Association



GCBA at the U.S. Supreme Court

Thank You for a Great Year!

From the Editors

Senior Attorneys

Justice Bernstein Inspires GCBA Membership at March Meeting

ADR Tips: Mediating Family Law Cases

Reflections on My Legal Education

1st Generation Attorneys

Surrogate Parenting in Michigan: A New Frontier

Attention Golfers and Non-Golfers Alike

Congratulations



At Blue Cross, we know you want the best for your employees. That's why we're ready to help with plans designed to fit any budget, and coverage you can use anywhere, thanks to one of the largest networks of doctors and hospitals in Michigan. From maternity and menopause to mental health and virtual care, we offer whole health coverage and solutions that you and your team can trust.

Attracting better talent starts with having better benefits, and we're ready to help. **bcbsm.com/employers**

Blue Cross Blue Shield of Michigan and Blue Care Network are nonprofit corporations and independent licensees of the Blue Cross and Blue Shield Association.

W012370

Genesee County Bar Association

2023-2024 Board of Directors PRESIDENT - Craig R. Fiederlein VICE PRESIDENT - Angela Wheeler TREASURER - Elias J. Fanous SECRETARY - Eric J. Mead

IMMEDIATE PAST PRESIDENT - Nancy K. Chinonis

Specialty Bar Board Members Young Lawyers Delegate - Craig Datz

Women Lawyers Delegate - Vacant Mallory Van Dyne Scott Bar - I'Lanta Robbins Flint Trial Lawyers Representative - Vacant

Board Members

Mary Hood '25

Vinson F. Carter'24 Robert Goldstein '24 Leo J. Foley, Jr. '24 Paul J. White '24 Heather V. Burnash '25 Rachel Hawrylo '25

Brooke E. Tucker '25

Jessica Mainprize-Hajek '26 David Roth '26 Andrew Otis Stout '26 Cara Willing '26

Tatilia Y. Burroughs, Executive Director Starlynn J. Estep, LRIS Specialist

Bar Beat Editors Shelley R. Spiyack

Sean M. Siebigteroth Coryelle Christie, Assistant Editor Julie Winkfield, Assistant Editor Cara Willing, Assistant Editor

BarBeat@gcbalaw.org

Genesee County Bar Association 315 E. Court St., Flint, Michigan 48502-1611 (810) 232-6012

For editorial information, call (810) 232-6000.

Published quarterly by the State Bar of Michigan, 306 Townsend St., Lansing, MI 48933, for the Genesee County Bar Association. For advertising, call (517) 346-6315.

No material in Bar Beat reflects the opinion or endorsement of the Genesee County Bar Association, unless otherwise stated.

Table of Contents

Thank You for a Great Year! by Craig R. Fiederlein 5 From the Editors by Shelley R. Spivack and Sean M. Siebigteroth **Senior Attorneys** by Hon. Duncan Beagle

Justice Bernstein Inspires GCBA Membership at March Meeting

ADR Tips: Mediating Family Law Cases 8 by Barbara Dawes Reflections on My Legal Education by Joshua Cambri

10 1st Generation Attorneys edited by LindaLee Massoud

12 Surrogate Parenting in Michigan: **A New Frontier**

by Cara G. Willing and Shelley R. Spivack by Anthony Tomaszewski

15 Attention Golfers and Non-Golfers Alike

17 Congratulations

Thank You to Our Advertisers

- Blue Cross Blue Shield of Michigan and Blue Care Network
- Hamo Law Firm
- Jakeway Injury Law
- LawPay
- Lawrence J. Day PC
- McNally Mason Agency
- Tom R. Pabst PC
- Yeo & Yeo CPAs & Business Consultants

Cover Photo Credit

Hon, B. Chris Christenson



Larry Day Attorney www.lawrencedaylaw.com

(810) 603-3400

Legal Help For Injured People

Experience—Personal injury attorney since 1980

Member Genesee County Bar Association

Member Grand Traverse-Leelanau-Antrim Bar Association

Referral fees honored and confirmed in writing

AREAS OF INTEREST:

- Auto and Truck Accidents
- Scalding tap water burns in baths and showers
- Juul E-Cigarette Vaping Claims
- Hernia Mesh Claims
- Birth Injury Claims
- Roundup®/Glyphosate Cancer Claims
- Metal on Metal Implant Claims
- Please see "REAL PEOPLE—REAL RESULTS" at www.lawrencedaylaw.com

Thank You for a Great Year!

By Craig R. Fiederlein, President

As my term draws to a close, I am filled with gratitude for the opportunity to serve as the President of the Genesee County Bar Association this past year. It has truly been a privilege and an honor.

First and foremost, I would like to extend my heartfelt appreciation to our departing co-editors, Shelley Spivack and Sean Siebigteroth. Their dedication and commitment to our organization have been exemplary, and their final contribution—a transition to an electronic book issue of *Bar Beat*—marks a significant milestone. I have every confidence that Julie Winkfield, our new editor, along with the rest of the *Bar Beat* committee, will continue to uphold the high standards set by Shelley and Sean.

I am deeply grateful to Tina, Starr, and all the committee chairs for their tireless efforts throughout the year. The success of our organization is a testament to the hard work and dedication of each and every member. I would also like to express my appreciation to the Bar Foundation and the Piper Foundation for their invaluable support and resources, which have been instrumental in our continued growth and development.

While my time as President may have been limited to a single year, I am proud of the progress we have made together. However, I recognize that there is still much work to be done. Therefore, I urge our incoming President, Angela Wheeler, to build upon our achievements and embrace new technologies that will enhance accessibility for



Craig R. Fiederlein

our members. Angela has already demonstrated exceptional leadership this year, not only by overseeing various sub-committees but also by organizing an impressive lineup of speakers for our monthly meetings, including:

- Genesee County Prosecutor David Leyton
- April Alleman of the State Bar on the importance of succession planning
- Chuck Story on the importance of fraud investigations
- Chief Ray Hall of the University of Michigan Police Department
- Nancy Vogl on Percy J. Langster, the nation's first elected Black Prosecuting Attorney
- Justice Richard Bernstein of the Michigan Supreme Court
- Joe Tate, the Speaker of the Michigan House of Representatives.

These speakers provided invaluable insights and perspectives on the law and our history.

Tom R. Pabst, P.C.

2503 S. Linden Rd., Flint, Michigan



(810) 732-6792

tomrpabstpc.com

Local Attorneys Obtaining Justice for Genesee County Citizens for Over 40 years



Focusing especially in claims for -

- Personal Injury/Wrongful Death/Medical Malpractice
- Commercial litigation including fire loss, breach of contract and minority shareholder oppression
- Wrongful Discharge
- Whistleblower Protection Act
- Constitutional law, including 1st Amendment and 4th Amendment excessive force cases
- · Civil Rights/Discrimination
- Family Medical Leave Act



Referrals -

- We make it the highest priority to analyze referrals from Genesee County attorneys
- Paid millions in referral fees

Despite the challenges posed by the pandemic, we have persevered and celebrated many successes together, from the Meet the Judge's Night and our Holiday Giving Project to the memorable trip to the Supreme Court in Washington D.C.

As I bid farewell to my role as President, I am filled with optimism for the future of the Genesee County Bar Association. Together, we have laid a strong foundation upon which

future generations can build and thrive. I am confident that under Angela's leadership, our organization will continue to flourish and serve its members with excellence.

Thank you once again for the opportunity to serve as your President. It has been a privilege and an honor that I will always cherish.

From the Editors

By Shelley R. Spivack and Sean M. Siebigteroth

We begin with a few words about format. This is the first issue of *Bar Beat* that comes to you electronically rather than by mail. This new format will make *Bar Beat* more flexible and easier, faster, and cost efficient to produce and distribute. Please let GCBA Executive Director Tina Burroughs know if you had any difficulty accessing this issue, or if you have any other questions or suggestions.

This is also the final issue with Shelly and me as co-Editors. Shelley has been *primus inter pares* during our tenure, and this publication would have suffered greatly without Shelley's firm and steady leadership. Shelley is a great work partner, and I am grateful for her friendship and for her hard work on *Bar Beat* over the past couple of years. We'll both be involved with *Bar Beat* going forward. Meanwhile, please welcome Julie Winkfield, who has graciously agreed to be Editor-in-Chief going forward. We're confident she will do a tremendous job.

-Sean

I'll add just a few words to close out my tenure as co-editor of *Bar Beat*. Many thanks to Sean, Tina, Cory, Julie, Cara, Sue (from the State Bar) and of course to our prior editor LindaLee.





Sean M. Siebigteroth

Shelley R. Spivack

Now that we have gone electronic, *Bar Beat* can bring you more in-depth articles probing new cases and legal issues. This month, we bring you an article on Surrogate Parenting which explores both the history of the issue, as well as current developments nationally and in Michigan.

I am also quite proud to publish an article by Josh Cambri, one of the recipients of last year's Beagle Scholarship. Josh is a graduate of UM-Flint and will be returning to practice in the Flint area after his graduation from MSU College of Law this spring.

As Sean mentioned, Julie Winkfield, from Legal Services of Eastern Michigan has graciously volunteered to be *Bar Beat's* new editor. Julie is an experienced and able editor who has lots of good ideas for future editions of our publication.

Thank you and have a great summer!

-Shelley



MISSION STATEMENT

The Genesee County Bar Association exists to serve the professional needs of our members, improve the justice system, and educate the public about the law and the role of lawyers.

Senior Attorneys

By Hon. Duncan Beagle, Senior Attorneys Coordinator

Our good friend and colleague, Richard Ruhala, passed away on October 16, 2023. He invited me to breakfast about a month before his passing.

As the leader of the "Senior Attorneys" of the Genesee County Bar Association, Richard asked me if I would consider being the coordinator of this "aging" group and continue doing what he had done for many years.

How do you say no to a man we all loved and respected? Richard gave me his file going back over 10 years, which included pictures of many seniors at scheduled luncheons, *Flint Journal* obituaries of those who had passed away and handwritten notes of phone calls to colleagues to advise them of a scheduled meeting.

Unwritten Mission

Our "unwritten mission" is to provide senior attorneys with the following:

- An opportunity to socialize over scheduled luncheons and share "old war stories." (Note: It was decided senior members would not be placed under oath.)
- To keep all seniors advised as to the passing of a colleague(s) and those with serious health issues.
- To consider a group outing to an afternoon Tigers baseball game or consider other locations based on input from seniors who have traveled to different destinations.

2024 Meetings

We have had three (3) meetings thus far in 2024, one in January, one in March, and our most recent on May 9. About 20-25



Hon. Duncan Beagle

senior attorneys have attended the meetings.

Next Meeting

The next meeting of the Senior Attorneys will be at 12:00 p.m. on Thursday, June 13 at the Redwood Lodge, located at 5304 Gateway Centre Blvd., off Hill Road and close to US-23 and 1-75. Please join us!







G-8161 S. Saginaw Street, Grand Blanc, MI 48439 (810) 694-1211 www.JakewayInjuryLaw.com

- War Genesee County Personal Injury Referral Connection
- Accepting Referrals in All Injury Matters
- Millions Paid Out to Referring Attorneys

Auto-Negligence Premises Liability Medical Malpractice General Negligence

Justice Bernstein Inspires GCBA Membership at March Meeting

The March GCBA membership meeting featured the Honorable Richard Bernstein of the Michigan Supreme Court. A graduate of the University of Michigan and Northwestern Law School, Bernstein is the first blind justice to sit on our state's highest court. In his talk, Justice Bernstein inspired

members and guests to continue the fight for justice and equal rights for all peoples. He recounted the numerous disability rights cases he handled prior to taking the bench which have resulted in increased access for people with various types of physical and sensory impairments.



ADR Tips: Mediating Family Law Cases

By Barbara Dawes, GCBA ADR Committee

ost of our current judges send a divorce case to mediation prior to trial. To assist the mediator in resolving cases with spousal support and property issues, always provide the mediator with information regarding the areas in dispute (for example, is spousal support an issue?). It is also helpful to have pending orders available so the mediator is aware of the current arrangements between the parties. If spousal support is an issue, the mediator should be provided information so the spousal support factors (age, education, work history, income, health, etc.) may be meaningfully discussed. Finally, current information on financial accounts and the values of major assets should be provided to the mediator, with current statements and appraisals provided at mediation.

Keep in mind that before domestic law cases are mediated, MCR 3.216(H)(2) requires that the mediator inquire whether either party has a history of coercion or violence with the other party, and must continue to screen for the presence of coercion or violence that would make mediation physically or emotionally unsafe for any participant or that would impede achieving a voluntary and safe resolution of issues.

In cases involving children, current custody, parenting time and support orders should be provided to the mediator. In addition, if there



Barbara Dawes

is a guardian *ad litem* (GAL) involved, advise the mediator and agree to allow the mediator to discuss the case with the GAL. On occasion, it may be helpful to have the GAL attend the mediation. If school attendance or grades are a concern, have those records for the mediator. If a GAL is not involved and the children are old enough, then the mediator may speak with the children, if the parties agree. Each party should be able to discuss the "best interest" factors for each child and be able to identify any concerns regarding the other parent. To calculate child support, the parties will need to provide verification of the previous year's income as well as current income.

Remember: the more information you provide to the mediator, the greater the likelihood of a successful mediation.

Reflections on My Legal Education

By Joshua Cambri, 2023 Recipient of the John S. Beagle Scholarship

"ve been at law school longer than most. I know some say "nothing prepares you for law school, like law school," but such a statement is an understatement. During my four years, I have been through COVID and a school shooting, and have witnessed major shifts in different areas of the law. Nevertheless, I am honored to have the opportunity to share my law school experience at Michigan State University College of Law, pursuing my joint J.D. and Masters in Social Work.

But before I begin, I must admit something: I went to law school without knowing much about the law.

I entered law school in 2020 with my Bachelors of Social Work from the University of Michigan- Flint. At the time I could have convincingly given you reasons why I entered law school: I am a social work major who wants to change the system; I care about social justice, equity, and diversity; I worked in Flint and saw how the laws and policies had failed a community; and I had the amazing opportunity to work with

the Flint community as they rebuilt and empowered themselves after the Water Crisis.

While all these reasons are all still true, at the time they were toothless. While I am still proud



Joshua Cambri

of the work I did, I was at the ground level. I could not fully discern the policies, statutes, and case law that had built the foundation and walls in the spaces I inhabited. And while I wanted to be a policy-focused social worker, I had only a shapeless idea of "policy," let alone what "law" truly meant.

So, I entered law school with many questions, but at the core of it all I kept asking: "I want to change the law, how do I do that?"

Let's begin with my 1L year. This first year of law school was during the COVID times, meaning that it was completely online. I had heard the stories of in-class cold calls and the

horrors of the "socratic method" employed by professors as a form of legal hazing. Zoom law school is full of its own eccentricities, but admittedly, it was quite convenient to roll out of bed five minutes before class. Yet, I'll never forget when eight students passed on a case in contracts and Professor Lawton yelled into her mic "did ANY of you do the reading?" No amount of coffee could get my heart pumping as fast as my computer speaker did that day.

Perhaps one of the most fascinating developments in law is how quickly it has fluctuated throughout my time here. Shortly before starting law school, the Supreme Court decided the *Bostock* case, in which the Court held that Title VII protects employees against discrimination because of sexuality or gender identification. As a result, I was able to witness and study in my Law and Gender class how that decision shifted the landscape of Title VII litigation for the LGBTQIA+ community.

But of course, other fluctuations have also occurred. I had the misfortune of taking Constitutional Law II in spring of 2022. We knew in the tea leaves that SCOTUS would be making some changes, but having major decisions like *Dobbs* and *Bruen* come down later that summer made me wish I had waited to take that class. Not to mention, you spend so much time sweating over the *Chevron* doctrine in Administrative Law, only for it to (likely) be altered or gone in the next couple of months!

So then, does changing the law require a SCOTUS decision? Surely with all the sweeping new precedents and new Justices on the court, coupled with a gridlocked Congress, it seems our judicial branch has had more of a role than ever before to determine the law and shape our lives.

Well, as the saying goes, it depends.

Changing the law does not begin by changing the "letter of the law." It has taken me some time to fully understand this, but "policy" and "law" are ultimately just the outcomes of a larger change. I would be letting down my fellow social workers by not highlighting the fact that law is never where change begins. Law is a tool; it is a conduit of power. The ways in which others access and wield that power lies at the heart of law.

McNally Mason Agency

Since 1948

AGENT FOR CNA SURETY
PROBATE, TRUST AND SURETY BONDS

ATTORNEY RICHARD F. McNally

717 S. GRAND TRAVERSE, FLINT, MI 48502

(810) 767-5550 WWW.MCNALLYMASONAGENCY.COM CARLMASONAGENCY@AOL.COM

Changing the law, in my experience, is the culmination of other efforts to collaborate, educate, and organize. In order to encourage change, you start with the people who interact with the law everyday, which is, needless to say, everyone. My education both in Flint and here at MSU has given me the opportunity to work with amazing people everyday, some of whom I agree with, others I can't always see eye-to-eye. But regardless, I deeply respect the chance to talk and collaborate with my peers. Additionally, I have had amazing opportunities to teach high school students about their Fourth Amendment rights, coordinate a social work conference in St. Louis, and facilitate a moot court competition on issues of gender and sexuality. And I am honored to have had awesome internships with the Washtenaw County Court and within the Executive Office of the Governor. To me, these opportunities were just as valuable to helping change the law as the time I spent in class learning.

My efforts in law school were recently recognized when I was awarded the John S. Beagle Scholarship. For the past four years, I would consistently find myself tying back many abstract legal concepts to my undergrad experiences in Flint. With every new piece of knowledge and opportunity under my belt, I would think of the city and how I could do so much more with what I know now. As I've continued to learn, I have been able to empathize with some of the policy decisions made by my supervisors and even critique where I would have done things differently. Without these experiences, I would have never had interest in the law and receiving the John S. Beagle Scholarship has reinforced my commitment to serving Flint and Genesee County with the knowledge I have attained.

I know now that changing the law can be as simple as passing an ordinance. It can be getting signatures for a state level constitutional amendment. It can be modifying internal workplace policies. It can be an interpretation by the Sixth Circuit or the Michigan Supreme Court. My education has taught me that any of those options can have more of an impact on a community than any federal statute or Supreme Court decision. Of course, the federal level matters, however change does not have to come from the top. Any of these changes symbolize the collective efforts of advocates, policymakers, and constituents who push our law to be better and, hopefully, more just.

I can now say with some confidence what a policy is and how to read and apply the law. I also like to think that I am more qualified to help others with the education I have received. However, I cannot say I am good at changing the law. It is a difficult process and it goes beyond just me wanting to change it. Nevertheless, I am excited to enter the legal profession. I want to be a part of the process of change so I can continue supporting Flint and Genesee County and the amazing people within it.

1st Generation Attorneys

Edited by LindaLee Massoud

Over the years, we have featured many special groups of attorneys, from multi-generational attorney families, to attorneys who have a business on the side, to attorneys who are very active in charitable and community activities. This new series will spotlight members who are the first in their families to become attorneys.



LindaLee Massoud

Megan Cottington-Heath, Michigan State University College of Law, 2010

My parents had a bitter divorce and custody dispute that put my brother and I in the middle of a war we did not choose. I wanted to do better. I wanted to use my personal experience to help attorneys, judges, and court employees do better.



There is no legal background in my family. I definitely did not understand what a billable hour was or how it worked. Before practicing law, I always just clocked in and out at jobs. Billing software that requires you to account for your time in 6-minute increments seemed like an impossible chore and a foreign language.

Goal: My goal is serving the public with respect and care. I use trauma-informed approaches, and advocate for making the court system accessible to everyone, including those who cannot afford an attorney. I just started as an FOC Referee in Genesee County in August, and I'm so impressed and thankful to find a legal community that seems to be, for the most part, inviting and collegial.

Samantha J. Orvis, Wayne State University Law School, 2011

I had always been fascinated with the legal profession but I did not know any lawyers. When I was in undergrad, I took a few pre-law courses and one of my professors encouraged me to apply to law school. The rest is history.



Growing up in a low-income, single-parent home, yet becoming an attorney, makes me a statistical anomaly. I assumed all attorneys made "a lot" of money. I learned quickly upon graduating from law school that was not true. Being a member of GCBA has been invaluable for me as a local attorney. It has given me an opportunity to meet and get to know other attorneys in the community, and I am fortunate to now call many of them friends.

Goal: I firmly believe that privilege comes with responsibility. I have found a way to overcome many barriers to success, and I give back through pro bono legal work and mediation services through the Community Resolution Center.







LET'S THRIVE



We wake up every morning thinking about the things that keep your clients up at night.

BUSINESS VALUATION

Analysis of factors that value your business or one in which you have interest. A third party with true perspective.

ESTATE PLANNING

Wealth building advisement with a full range of estate planning strategies and solutions. Matching your purpose with your legacy.

EXPERT WITNESS TESTIMONY

Our expertise brings reliable and relevant support for your cases. We're with you every step of the way.

YEOANDYEO.COM









Surrogate Parenting in Michigan: A New Frontier

By Cara G. Willing and Shelley R. Spivack

In February of 1985 Noel Keane, an attorney from Dearborn who operated the Infertility Center of New York, negotiated a surrogate parenting agreement between William Stern and Mary Beth Whitehead. Stern, a biochemist, agreed to pay Whitehead, a working-class mother with two children, \$10,000 to become pregnant with his child through artificial insemination. The agreement required Whitehead to surrender the child to Stern and his wife, and to voluntarily terminate her parental rights. The child, later known to the world as "Baby M" was born on March 27, 1986. While Whitehead initially turned over the child to the Sterns, she later changed her mind and pleaded with the Sterns to temporarily return the child to her. Afraid that Whitehead would kill herself, the Sterns agreed. A week later, Whitehead informed the Sterns that she intended to keep the child, and it was at this point that the legal battle and media frenzy began. While the New Jersey trial court upheld the surrogacy contract, a year later the New Jersey Supreme Court, in a unanimous opinion, invalidated the contract, calling it the "sale of a child" and the "purchase of a woman's procreative capacity." 1

The media flurry associated with the 'Baby M' case resulted in 72 surrogacy bills being introduced in 26 states and the District of Columbia during the 1987 legislative session. However, during the next 20 years, only 17 states and the District of Columbia had actually enacted legislation regulating surrogacy. Of these, approximately one half banned surrogacy contracts, while the remainder regulated them in varying fashions²

Amongst the jurisdictions that banned surrogacy, Michigan imposed the harshest penalties and until recently was the only state which prosecuted it as a felony³ Passed shortly after the 'Baby M' decision, the statute "was aimed specifically at shutting down the Dearborn Michigan surrogate clinic run by attorney Noel Keane who arranged the Baby M Surrogate contract." While Michigan law declared both commercial and non-commercial surrogacy contracts to be void and unenforceable, criminal penalties applied only to commercial contracts. Parties to a contract that involved compensation could have been found guilty of a misdemeanor; while a third party who brokered such a contract could have been found guilty of a felony punishable by up to five years in prison and a \$50,000.00 fine. In a challenge brought by the ACLU, the Michigan Court of Appeals statute

Since the decision in the 'Baby M' case and the passage of the Michigan legislation, both reproductive science and the social acceptance of surrogate motherhood have ad-







Shelley R. Spivack

vanced significantly. In "traditional' surrogacy, such as that which was involved in the 'Baby M' case, the embryo is produced from the egg of the surrogate mother and the sperm of the donor father. The resulting child would then be genetically related to both. Over the last 30 years, 'traditional' surrogacy has all but disappeared and has been replaced by what is known as 'gestational' surrogacy. In this type of surrogacy, the child is not biologically related to the surrogate mother, who is often referred to as a gestational carrier. Instead, the embryo is created via in vitro fertilization (IVF), using the eggs and sperm of the intended parents or donors, and is then transferred to the surrogate.

Several attempts have been made since the 'Baby M' case to establish either Uniform or Model state surrogacy Laws, with the most recent being the 2017 Uniform Parentage Act (UPA).⁸ As of July of 2017, only two states had enacted surrogacy provisions based upon the 2002 UPA. In revising the UPA in 2017, the Commissioners sought to create a less burdensome Act which more accurately reflected current surrogacy practices.⁹ However, despite the numerous attempts to create uniform laws, surrogacy statutes remain inconsistent throughout the country. At the current time, California, Connecticut, D.C., Delaware, Maine, New Jersey, Oregon, and Pennsylvania are viewed as the states with the most favorable surrogacy laws.¹⁰

With the recent passage of new surrogacy legislation, Michigan has moved out of the 'dark ages' in terms of surrogacy laws. On April 1st of 2024, Governor Whitmer signed "The Assisted Reproduction and Surrogacy Parentage Act" which repealed the 1988 Surrogate Parenting Act and applies both to the birth of a child by assisted reproduction not involving surrogacy, as well as to the birth of a child under a surrogacy agreement. By its terms, the Act applies to both 'traditional' as well as 'gestational' surrogacy agreements. Most significant is that the new law allows for surrogate mothers to be compensated.

The Act sets minimum standards for surrogacy agreements, prescribes the process to establish a parent-child relationship for individuals who have used assisted reproduction methods, and offers protections to children born through surrogacy, the surrogate, and the intended parents. Under the Act a surrogate must be 21 years old, must have previ-

ously given birth to a child, must complete a consultation and evaluation by a physician, and a consultation with a mental health professional concerning the surrogacy arrangement. Intended parents must also be 21 years old, and complete a consultation with a mental health professional. Furthermore, the intended parents and the surrogate would be required to obtain independent legal counsel licensed in the state of Michigan for the negotiation process, the execution of the agreement, and throughout the duration of the agreement concerning the terms of the surrogacy agreement and the potential legal consequences. The intended parent or parents would be required to pay for the surrogate's independent legal representation.

Each intended parent, the surrogate, and the surrogate's spouse, if any, would have to be parties to the agreement, and sign it before a notary. At least one party to the agreement must be a Michigan resident or, in the alternative, the birth and assisted reproduction must occur in the state. The surrogacy agreement must be executed before a medical procedure related to the agreement (other than the medical and mental health consultations described above) occurs.

Surrogacy agreements must also comply with ALL of the following requirements:

- The surrogate must agree to attempt to become pregnant by means of assisted reproduction.
- The surrogate's spouse, if any, must acknowledge and agree to comply with the obligations imposed on the surrogate by the agreement.
- The agreement must include information disclosing that the intended parent or parents will cover the agreed-upon expenses of the surrogate, the assisted reproduction expenses, and the medical expenses for the surrogate and the child.
- The agreement must allow the surrogate to make all health and welfare decisions regarding the surrogate and the pregnancy, including whether to consent to a cesarean section or multiple embryo transfer. The Act does not diminish the right of a surrogate under Section 28 of article 1 of the state constitution (right to reproductive choice).
- The agreement must permit the surrogate to use the services of a health care practitioner of their choosing.
- The agreement must include information about each party's right to terminate the agreement.
- The surrogate and the surrogate's spouse or former spouse, if any, must have no claim to parentage of a child conceived by assisted reproduction under the agreement, (except as provided under the Act)
- The agreement must provide that the intended parent or parents, immediately upon birth, will

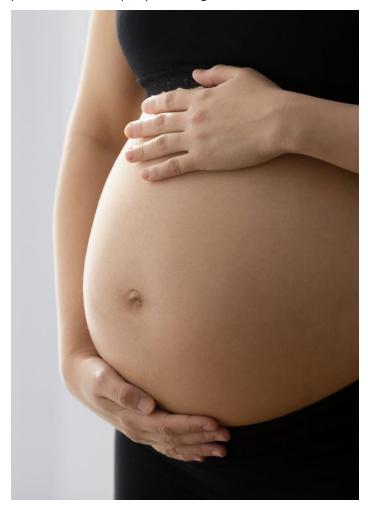
be the exclusive parent or parents of the child and will assume responsibility for their financial support; regardless of the number of children born or the gender, mental, or physical condition of each child.

(Section 302)

A surrogacy agreement could provide for payment of compensation, support, and reasonable expenses, for reimbursement of specific agreed-upon expenses if the agreement is terminated, or for both. Agreements could be terminated at any time before a gamete or embryo transfer and the parties would be released from the agreement.

As to parentage, each intended parent would be, by operation of law, a parent of the child, and neither a surrogate nor the surrogate's spouse or former spouse, if any, would be a parent of the child. Where assisted reproduction is used, a donor would not be the parent of the child. If a child is alleged to be a genetic child of the individual who agreed to be a surrogate, the court shall order genetic testing of the child. If the child is a genetic child of the individual who agreed to be a gestational surrogate, parentage must be determined based on the law of this state other than the act.

Before, on, or after the birth of a child conceived by assisted reproduction under a surrogacy agreement that complies with Part 3, a party to the agreement could commence



an action in the family division of the circuit court for entry of a parentage judgment. The requested parentage judgment could be issued before or after the birth as requested by the parties. The surrogate and all intended parents would be necessary parties to the action. The complaint would have to be accompanied by a certification from the attorney representing the intended parent or parents and from the attorney representing the surrogate that the surrogacy agreement complies with the requirements of Part 3 and a statement from all parties to the surrogacy agreement that they knowingly and voluntarily entered into the agreement and that all parties are requesting the judgment of parentage. Upon receipt of the complaint and accompanying certifications, the court, without holding a hearing unless the surrogate challenges the accuracy of the attorney certificates, would have to enter a judgment of parentage.

If a child is conceived by assisted reproduction under a surrogacy agreement that does not substantially meet the material requirements of Part 3 of the Act, a court would have to determine parentage consistent with the intent of the parties, taking into account the best interests of the child. Each party to the surrogacy agreement and any of their spouses at the time the agreement was executed would have standing to maintain an action to adjudicate an issue related to its enforcement.

Except as expressly provided in a surrogacy agreement, if the agreement is breached by the surrogate or one or more intended parents, the nonbreaching party would be entitled to the remedies available at law or in equity. However, the breach of the surrogacy agreement by one or more intended parents would not relieve the intended parent of the support obligations imposed by the parent and child relationship under Part 3. Specific performance would not be a remedy available for the surrogate's breach of a provision in the agreement that the surrogate be impregnated, terminate a pregnancy or submit to medical procedures. Specific performance would be available against the surrogate if she prevents the intended parent from exercising full rights of parentage or against the intended parent(s) if they fail to accept the duties of parentage.

This is a new and fascinating area of the law and as with most legal issues, there are many questions left unanswered that will be resolved through future litigation. In the meantime, family law practitioners should familiarize themselves with the new Act and take advantage of any training opportunities that may arise.

Endnotes

- 1 Matter of Baby M, 109 NJ 396, 437-438; 537 A 2d 1227 (NJ 1988)
- 2 Markens, Surrogate Motherhood and the Politics of Reproduction (Berkeley: University of California Press, 2007) pp 28-29.
- 3 Act 199 0f 1988, MCL 722.851, et. seq.
- 4 Risen, "Michigan Outlaws Surrogate Maternity Contracts: Ban Aimed at Baby M Clinic," Los Angeles Times, 28 June 1988:14.
- 5 MCL 722.855
- 6 MCL 722.859
- 7 Doe v Attorney General, 194 Mich App 432; 487 N.W.2d 484 (1992).
- 8 Uniform Status of Children of Assisted Conception Act (1988); Uniform Parentage Act (2002); Uniform Parentage Act (2017).
- 9 Campbell (2021) "Gestational Surrogacy Contract Terms Under the 2017 Uniform Parentage Act," Child and Family Law Journal: Vol. 9: Iss. 1, Article 1, pg 5 Available at: https://lawpublications.barry.edu/cflj/vol9/iss1/1
- 10 The Baby Business Boom: Navigating the Surrogacy Regulatory Landscape in the United States https://www.texasulj.org/post/the-baby-business-boom-navigating-the-surrogacy-regulatory-landscape-in-the-united-states
- 11 Public Act 24 of 2024



Attention Golfers and Non-Golfers Alike

By Anthony Tomaszewski

The 46th Annual GCBA Golf Outing is scheduled for Monday June 17, 2024 at the historic Flint Golf Club. Tee time is 1:00 p.m. with lunch before and dinner following at about 5:30 p.m. Because the club needs to reserve enough carts to accommodate us, we need teams to sign up as soon as possible.

If you want to play but don't have a team, sign up and we will assign you a team.

Not a golfer? Come and join us for a great buffet dinner after golf for \$40. You can participate in the door prize and 50-50 raffles.

We have already secured another Stay & Play certificate at Island Resort Casino for one night, and two rounds of golf on Sweetgrass and Sage Run in Harris, MI near Escanaba in the U.P. These are two spectacular courses.

As usual, we can always use volunteers to help out that day with registration, raffle ticket sales and on course games. We can also use your help in securing items for the raffle, here are a few ideas:



Anthony Tomaszewski

- tickets and donate them

 Make a donation of cash
 (this would be used to
 - secure extra rounds of golf at local courses to include in the raffle)
- Donate gift certificates to your favorite restaurant or other business (salon, oil change, etc) Buy one and see if the restaurant will donate a second which you can donate to the GCBA.

I am a committee of ONE! I try my best to put on our biggest fundraiser of the year. This year will be especially difficult as I am scheduled for shoulder replacement surgery on April 12, and will be recovering for a few weeks and unable to work on the event. For this reason, your early help is extremely necessary.

Thank you and I hope to see you on June 17!





Injury Lawyers Servicing Flint & Genesee County for over 40 Years.

- Auto Accidents
- Motorcycle Accidents
- Trucking Accidents
- Wrongful Death
- No Fault Law

- Personal Injury
- Dog Bites
- Medical Malpractice
- Premises Liability
- Dram Shop

- ❖ We Always Honor Referral Fees
- Millions Paid to Referring Attorneys
- ❖ GCBA Member Since 1981
- ❖ 100% Locally Owned
- Statewide Practice



810-234-3667

www.HamoLaw.com

Congratulations

On Tuesday, April 23, 2024, members of the Genesee County Bar Association were admitted to the Supreme Court of the United States of America. Congratulations to:

Charles A. Boike

Vinson F. Carter

Nancy K. Chinonis

Mary Melissa Digiamberdine

Paul J. Goyette

Joanne Gurley

Judge Khary L. Hanible

Richard D. Hetherington

Jessica R. Mainprize-Hajek

Eric J. Mead

Judge Geoffrey L. Neithercut

Brooke E. Tucker

The movant was GCBA President Craig R. Fiederlein.



Hon. B. Chris Christenson, Hon. Khary L. Hanible, and Hon. Geoffrey L. Neithercut



Richard D. Hetherington, Hon. B. Chris Christenson, and Craig R. Fiederlein



Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.

22% increase in cash flow with online payments

Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA

62% of bills sent online are paid in 24 hours

Trust Payment
IOLTA Deposit

New Case Reference

**** **** **** 9995

TOTAL: \$1,500.00

VISA

© LAWPAY

PAY ATTORNEY

Get started at lawpay.com/gcba

866-730-4140

Data based on an average of firm accounts receivables increases using online billing solutions. LawPay is a registered agent of Synovous Bank, Columbus, GA., Fifth Third Bank, N.A., Cincinnati, OH, and Wells Fargo Bank, N.A., Canadian Branch, Toronto, ON, Canada.