

BAR BRIEFS

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A Season of Gratitude and Connection

*By Farrah Ramdayal-Howard, President,
Macomb County Bar Association*

As the holiday season approaches, I find myself reflecting on 2025 and feeling genuinely grateful. Each president who has served before me has contributed to the strong, steady foundation that this Association stands on. I am mindful of that history and deeply appreciative of the leadership, tradition, and community they've built over decades.

My hope this year is to carry forward what already makes the MCBA special: our sense of connection, our professionalism, and our commitment to one another.

As we head into the close of this year, I've been reflecting on the memorable events that occurred in 2025. To recap, we welcomed our new Executive Director, Maddie Bennage at the start of the year - and as I keep saying, if you haven't met her yet, you are truly missing out. Maddie is deeply committed to our Bar. She is innovative, hard-working and consistently demonstrates poise and leadership. She has already become an integral part of our team, and her long-term role will undoubtedly strengthen our Bar as she helps guide and support a continually evolving Board.

In February we held our "Travelling Bench bar" a great event that helped us support our local restaurants while engaging meaningfully with our judiciary. March brought our annual Topgolf Members Tournament, which remains a lighthearted favorite among our golfing members.

In May, we gathered at Jimmy John's Field for Baseball Night, and in June we came together at Octopus Beer Garden for our Annual Meeting, where Dana Freers concluded a successful and dedicated term.

July 1st, we began our new bar year with our Toast at Host celebration, where the full board was sworn in with renewed energy and purpose. We had a wonderful turnout, great food, and the chance to support one of Macomb County's newer restaurants. It set a positive, hopeful tone for our incoming board.

In September, my Presidential Installation Ceremony at Gowanie Golf Club brought the Association together in an important way. I continue to hear positive feedback, and I'm grateful we had over 100 members enjoy the evening together. Our 5:01 Happy Hours at Madison's have also returned with enthusiasm. The common theme I hear is simple but powerful: everyone is happy to see each other again. Sometimes all we need is that nudge or reminder that our colleagues, the people

who understand the work we do better than anyone else, are right here in our community.

In October, Macomb County Clerk Anthony Forlini gave a presentation on the innovations and efficiencies that have earned his office statewide recognition. Attendance was smaller, but the content was excellent, and we made sure to share the key takeaways in Bar Briefs so that no one missed out. In November, Angelo Donofrio will present via Zoom on "How to Get Paid" and I hope many will join us for what promises to be a practical and popular session.

And on December 9th, we gathered at Da Francesco's for our Holiday Party. It was a warm chance to connect, unwind, and celebrate the season together.

Going into the new year, we will continue to offer opportunities for education, connection, and collaboration. With that said, I have heard the concerns that members want to receive event notices earlier. I assure you your Board is working hard to plan and market events in a timely manner.

To stay apprised with upcoming events we encourage you to:

- **Skim your E-Briefs before deleting**
- **Glance through Bar Briefs each month**
- **Check the MCBA website periodically**
- **Call the Bar office. Maddie is always happy to bring you up to speed with what's on our calendar!**
- **Sign up for text alerts if you haven't already**

This will ensure you don't miss events you genuinely want to attend, because the truth is, people want to be there. The energy is strong. The camaraderie is real. And showing up, whether in person or online, helps keep that sense of community thriving.

I'm grateful for the positive feedback, the participation, and the warmth I've felt from so many of you. And I'm honored to continue serving an organization built on decades of leadership, hard work, and dedication.

As always, my door is open. We welcome your feedback. We welcome your ideas. And most of all, we welcome your presence.

Wishing you and your families a joyful, peaceful holiday season.

Judge Kathy Viviano Honored with the Kenneth L. Rancilio Memorial Award at IABAM Annual Winter Gala

By Hon. Aaron J. Hall, Editor-In-Chief & MCBA Director

The Italian American Bar Association of Michigan (IABAM) celebrated excellence in the legal community at its Annual Winter Gala, where Judge Kathy Viviano was presented with the prestigious Kenneth L. Rancilio Memorial Award. Judge Rachel Rancilio delivered the award in memory of her late cousin, whose legacy of service and integrity continues to inspire attorneys across Michigan.

In her remarks, Judge Kathy Viviano offered a heartfelt tribute to her family, highlighting the profound influence of her father, Retired Judge Antonio (“Tony”) Viviano, whose example shaped her path in the law. She also reflected on the unique privilege of practicing alongside her brothers, Former Michigan Supreme Court Justice David Viviano and attorney Joe Viviano, underscoring the sense of purpose and unity her family has brought to their shared profession.

Judge Kathy Viviano closed with a message directed to all members of the bar, particularly emerging attorneys, urging them to embrace diligence, collaboration, and a commitment to public service. She emphasized that the legal profession finds its highest meaning in helping others, a principle that stands at the core of both the award’s legacy and continuing mission.

Congratulations to Judge Kathy Viviano on this distinguished honor!





Practical Collection: The Uncharted Frontier (Part Three)

By Angelo Donofrio, Trial Attorney at Lucido & Manzella, PC



My last two articles have focused on both collecting information from clients and sureties before a fee dispute arises and how to sue these parties when you are owed money. Now that you have judgment, it is time to collect. For this section, the words “defendant” and “debtor” are used interchangeably as they refer to the same party. There are many remedies available to you as the plaintiff/creditor, but I can only cover a few in this article.

Before you begin collecting, the 21-day stay on collection of a judgment must elapse.¹² Once the stay has elapsed, it’s time to start working. If you sued multiple defendants, then you may pursue collection against all of them until you are made whole (if you pled that each defendant is jointly and severally liable).³ As the plaintiff, you are entitled only to be made whole, and not to a windfall.⁴

Two principal collection methods I employ are garnishments and orders to seize. A periodic garnishment seeks the collection of a defendant’s employment wages.⁵ Make sure you fill out the MC 12 form properly. This includes computing the judgment interest (the rates fluctuate every six months) and computing your recoverable costs.⁶ You must provide enough information to identify the defendant, so you should use a current address and the defendant’s social security number.⁷ Make sure you pay both the periodic garnishment and disclosure fees. A garnishee (the one who is actually garnished) has 14 days to disclose whether it will withhold funds.⁸ Suppose the garnishee discloses that it will not withhold, but you have suspicions that the garnishee is hiding information, what then? In that case, you may serve the garnishee with discovery requests within 14 days after you receive a disclosure.⁹ If a garnishee fails to serve a disclosure, then you may notify the garnishee that, if it does not serve you with a disclosure within 28 days, you may seek a default and then a default judgment against the garnishee.¹⁰ If a garnishee is a corporation or other entity, you need to find out where to serve the garnishment. Calling the garnishee’s payroll department is important to determine where you should serve all these materials, and it will save you time.

You may issue a nonperiodic garnishment to garnish (1) a defendant’s income tax return or (2) a bank account, or

any other account where a defendant holds funds (generally speaking). I have even garnished Venmo accounts and even GoFundMe accounts. Fill out the MC 13 and MC 52 forms properly. A nonperiodic garnishee’s failure to serve a disclosure promptly can lead to a default judgment (though not against the government).¹¹ Make sure you serve the Michigan Department of Treasury and pay the fee associated with receiving a disclosure. The same applies to a bank or other financial institution. Serving the right department at a financial institution can be tricky. Some financial institutions will disclose this information on their websites, but more likely, you will need to contact their legal departments.

An order to seize allows seizure of a defendant’s personal property subject to execution like vehicles, or books, chattels, jewelry, receivables, corporate personal property, and other items.¹² I research the Michigan Secretary of State’s website to see if a defendant’s vehicle has any liens because this is the most obvious one to seize. I also use another

¹MCR 2.614(A)(1).

²If you served a defendant by personal service, then the defendant may (1) set aside the default before entry of the default judgment, or (2) file a motion to set aside the default judgment within 21 days of its entry. MCR 2.603(D)(2)(a-b). A debtor may also seek relief from judgment (for certain reasons) up to one year after its entry, though it does not suspend enforcement of the judgment. MCR 2.612(C)(2). However, a court may order suspension of a judgment if a party requests it when a party files a motion according to this MCR 2.612(C). See MCR 2.614(B).

³“Joint and several liability” is defined as “[l]iability that may be apportioned either among two or more parties or to only one or a few select members of the group, at the adversary’s discretion.” Black’s Law Dictionary (11th ed). Each “liable party is individually responsible for the entire obligation, but a paying party may have a right of contribution or indemnity from nonpaying parties.” Id.

⁴“Inherent in the meaning of joint and several liability is the concept that a plaintiff’s recovery is limited to one compensation for the single injury.” *Velez v Tuma*, 492 Mich 1, 13 (2012).

⁵MCR 3.101(B); see generally MCL 600.4011.

⁶MCL 600.6013(6); MCL 600.6455(2).

⁷MCL 600.4011(10); MCR 3.101(E)(1).

⁸MCR 3.101(H).

⁹MCR 3.101(L)(1-3).

¹⁰MCL 600.4012(6-7); MCR 3.101(S)(2).

¹¹MCR 3.101(S)(1).

¹²MCL 600.6002; MCR 3.106; MCL 600.6017.

platform, like Lexis, to research a defendant's assets before filing an order. An order to seize can execute against realty, but only after personal property has been seized and is found insufficient to satisfy the judgment (or if the court officer could not seize any personal property).¹³ Stay in contact with the court officer or sheriff; if he makes an agreement with the defendant, then make sure it is committed to writing and that the court officer's fees are paid.

MCR 2.621 and MCL 600.6101-6143 also allow proceedings supplementary to judgment. These include issuing subpoenas to discover assets belonging to the debtor, appointing a receiver, seeking orders or subpoenas to enjoin the transfer of a debtor's assets, and requesting that a court issues an order necessary to satisfy the judgment;¹⁴ like an order declaring that a defendant's transfer of property was fraudulent. MCL 600.6110 provides for what is colloquially known as a creditor's exam. I use a creditor's exam to obtain documents or other asset-materials from the defendant and to compel the defendant's appearance in court (though I have done these exams at my office). Rather than question a defendant on the record, I bring a questionnaire packet and require that the debtor fill it out. When the defendant inevitably fails to produce the requested documents or materials, I require that the defendant sign orders compelling compliance. I do this to preserve my right to seek remedies for contempt. I also seek restraint of the debtor's assets at the same time. I would advise that you use these powers to gain leverage over the defendant.

If a defendant declares Chapter 7 Bankruptcy, then you may want to consider filing an adversary proceeding to prevent discharge of the debt. This is also available in a Chapter 13 proceeding. I have filed adversary proceedings seeking to stop discharge of debts owed by citing a debtor's fraud by false pretenses and false representation, and his willful and malicious injury in the procurement of the debt. This is fact-specific however; the basis for the incurring of the debt cannot rest solely on a contract, and other fraud needs to be present to prosecute these claims. In a Chapter 13 proceeding, consider filing an Official Form 410: Proof of Claim as quickly as possible in the proceeding to increase your chances of recovery.

Once you are (hopefully) paid, you should always file a satisfaction of judgment. If you exhaust all your remedies, but there remains a balance due on the judgment, then you may want to consider a receivership. This is perhaps the greatest power to be exercised by a court, but we will discuss this in the next and final installment of my series on collection.

¹³MCL 600.6004; MCL 600.6018.

¹⁴MCL 600.6104

¹⁵MCL 600.6134.

¹⁶MCL 600.6116; MCL 600.6119.

¹⁷11 U.S.C. § 523(a)(2)(A); 11 U.S.C. § 523(a)(6).



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Dealing with Parenting Time Issues During the Holidays

By Timothy P. Flynn and
Frank L. Briguglio, Clarkston Legal



Many Friend of the Court's across Michigan have historically generated a standard Holiday Parenting Time Schedule. This schedule may differ slightly from County to County based upon traditions and other factors that may be geographically specific. For instance, Wayne and Macomb Counties have long published a "standard" schedule on their respective Friend of the Court websites that many practitioners will "copy paste" into a Judgment of Divorce, Custody, or Separate Maintenance. Most holiday parenting time schedules as a general rule supersede normal parenting time based upon the historic importance these events have within the family structure.

Friend of the Court's from across the State of Michigan have expanded their guidance on Holiday Parenting Time in recent years. Macomb County has most recently updated their parenting time schedule in 2019. There is no longer just one schedule but multiple schedules that take into consideration the fact that one size definitely does not fit all. In other cases, attorneys and parties may modify what they consider to be a standard parenting time schedule for the specific needs of a particular family.

When preparing a holiday parenting time schedule some of the considerations that the astute attorney take into consideration are:

Cultural or Family Holiday Traditions: One size does not fit all situations especially in the increasingly diverse melting pot that is Metro Detroit. As an example, you may have a couple they are both of East Indian descent and may practice completely different religions. One parent may be Roman Catholic while the other parent is Hindu. For that family, the secular celebration of Christmas may or may not be important to them. The parent that is a practicing Roman Catholic might find it extremely important to them to have the actual Christmas Holidays in exchange for the other parent receiving the Hindu holidays to spend with the children. Parties should keep a keen eye towards actually crafting a holiday schedule that serves that family to the best level that it can.

Geographical Distances Between the Parties: Another consideration when crafting a holiday parenting time schedule are the geographical situations of the parties. A "standard" holiday schedule might serve families that still reside in the

same city. Some "standard" schedules have parenting time starting at the start of the school break and a parenting time exchange would occur on Christmas Day so the other parent would have time from Christmas Day until the Winter Break ends. That same schedule might not necessarily work for a mother that lives in Clinton Township, Michigan and a father that lives in San Francisco, California. In that situation, a parenting time exchange on Christmas Day may be impossibly burdensome for the minor children that are under the auspices of a defined parenting time order. A schedule that might work better in that the parties alternate the entire Winter Break in an odd even year rotation.

What are some tips and best practices for those implementing a Holiday Parenting Time Schedule?

Plan Ahead, Communicate Often and Early with Your Ex: Discuss your holiday parenting time schedule well in advance so that there are no snafus or last-minute conflicts ensuring both parents know the details of drop off locations and times. For example, one family might be having dinner with their family early Christmas Eve or attending Midnight Christmas Mass which is an important tradition for that family. The parties should communicate about inclement weather if that is a factor as well in exercising that holiday parenting time schedule. This reduces stress when possible and eliminates many last-minute surprises. Another tip that our firm gives to its clients is that you should try to coordinate gifts and traditions. To prevent overlap or competition talk about gift ideas in advance or consider starting new traditions post separation to make the holidays special without comparison.

Another piece of good advice is to have an "Elevator Speech" when kids say, "I wish we were all together" Something like "I know holidays can feel different now that mom and dad are not living together. But we both love you so much and you get two Thanksgiving dinners this year—that's is pretty great" Repeat it to yourself, so it's at the ready if asked difficult questions around the holidays.

Deviating from Court Ordered Parenting Time: Changing up holiday parenting time schedules happens in reality. Advice that the attorney should be giving to their client in the event that there is a last-minute change up include:

1. Be Flexible and Willing to Compromise: Holidays are not an all or nothing proposition. Sometimes consider swapping holiday parenting time if there is a special event that the children cannot miss. Additionally, it's important to consider that the holiday season also coincides with cold and flu season. It's important to be flexible when unexpected illnesses occur, parents should try to compromise and not use the children in tug of war.

2. Keep the children's needs paramount: Prioritize their happiness and stability by avoiding disparaging or negative comments about the other parents' family. Encourage the children to enjoy their time without the feeling of guilt or FOMO "Fear of Missing Out" Don't let your children feel like they must carry the burden of making the holidays special for the parent.

3. Create a Shared Parenting Time Calendar: Use Tools like AppClose or OurFamilyWizard to create calendars to track the holiday parenting time schedule and any special events to make sure that both parents are on the same page. There might be a special dinner, parade, or tradition that the other parent doesn't want to miss.

Some of these tips and best practices can help parties avoid having to seek last minute legal advice from their lawyer during the holiday season and set the families up to have an enjoyable experience instead of one filled with acrimony and stress for the entire family.



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When Built-In Email Filters Aren't Enough: Emerging Threats Facing Law Firms

By Cheyenne Harden, CEO, Cyber Protect, LLC



Email remains the most common entry point for cyberattacks, and recent research shows that the threat landscape continues to shift in ways that directly affect professional service sectors, including law firms. While many attorneys rely on the built-in filtering provided by platforms such as Microsoft Outlook and Google Gmail, new findings indicate that these default protections are no longer sufficient against modern, highly adaptive threat actors.

Security researchers analyzing more than 1.8 billion emails in a recent quarter observed a significant rise in malicious activity targeting major cloud-based email platforms. Their findings underscore an uncomfortable truth: even well-established, widely used email systems allow a concerning number of phishing attempts, malicious attachments, and credential-harvesting links to reach users' inboxes.

For the legal community, which places high importance on the confidentiality of communications and client data, understanding this emerging risk is essential.

A Shift in Attacker Tactics

Threat actors have adapted their methods to evade detection. Instead of relying on obvious malware attachments or poorly disguised phishing layouts, attackers increasingly use:

- **Compromised legitimate websites** to host malicious content
- **Shortened redirect chains** that obscure the final malicious destination
- **Clean-looking emails** that blend seamlessly with routine business communication
- **Credential-harvesting pages** styled to replicate Microsoft 365 and Google Workspace login screens

Recent research found that roughly 79% of malicious phishing URLs were hosted on compromised but legitimate domains, meaning the websites themselves had strong reputations, making them more likely to bypass traditional filtering.

In addition, researchers identified tens of thousands of previously unseen malicious attachments and URLs, clear evidence that attackers are aggressively developing new techniques that signature-based filters cannot recognize.

Why Built-In Email Filters Fall Short

Although cloud email platforms provide basic spam and malware screening, these tools are not designed to address the full scope of modern threats. Several limitations are noteworthy:

1. Inability to Detect Novel or Zero-Day Threats

Traditional filtering relies heavily on known indicators, such as suspicious domains or previously identified malicious files. When attackers use brand-new URLs or repurpose legitimate websites, these filters often cannot classify them as dangerous.

2. Limited Behavioral Analysis

Most built-in tools analyze email content, not how users interact with it. They may not detect unusual login behaviors, credential misuse, or signs of account compromise that occur after a phishing message is opened.

3. Overreliance on Domain Reputation

Attackers routinely misuse trusted websites, allowing malicious links to pass through filters simply because the hosting domain has a strong reputation.

4. Restricted Visibility into Redirect Chains

Many malicious links now use multiple redirects to conceal the final destination. Basic filters may scan only the initial link, not the series of jumps that lead to the harmful page.

5. Minimal Support for Compliance-Driven Monitoring

Legal organizations often require detailed auditing, historical visibility, and reporting capabilities that built-in tools do not fully provide.

Specific Risks to Law Firms

Confidentiality and Privilege Concerns

Email compromise may expose client information, internal strategy discussions, or privileged communications, often without immediate detection.

Business Email Compromise (BEC)

BEC attacks use social engineering to impersonate attorneys, partners, clients, or financial institutions. These attacks often involve wire fraud, unauthorized fund transfers, or the manipulation of client trust accounts.

Unauthorized Access to Cloud-Hosted Documents

Because many firms now rely on Microsoft 365 or cloud-based document repositories, a single successful phishing attack may allow an intruder to access documents far beyond email.

Regulatory and Ethical Obligations

Under the ABA's duty of technological competence, attorneys must take reasonable steps to secure client

information. Inadequate email security can place firms at risk of falling short of these professional expectations.

Indicators Your Firm's Email Defenses May Be Insufficient

Law firms should remain alert for signs that their email security posture needs reassessment:

- Increase in convincing phishing emails reaching inboxes
- Multiple staff reports of credential prompts or unexpected login challenges
- Alerts of unfamiliar login locations or unauthorized access attempts
- Lack of reporting on advanced threat detections within the email platform
- Dependence solely on standard email filtering without additional safeguards

Any of these may signal gaps that require further review.

A Modern Approach to Email Security

Given the sophistication of current threats, law firms should consider strengthening their email protection strategy through the following measures:

1. Advanced URL and Attachment Analysis

Modern security systems can detonate attachments in secure sandboxes, follow full redirect chains, and analyze real-time behavioral patterns to identify previously unseen threats.

2. Identity and Access Monitoring

Monitoring sign-in patterns, enforcing multi-factor authentication (MFA), and detecting unusual access attempts

can prevent credential-based compromise.

3. Behavioral Anomaly Detection

Tools that identify sudden changes in email behavior, such as unexpected forwarding rules, unusual sending patterns, or login anomalies, can identify compromised accounts early.

4. Regular Staff Awareness Training

Attorneys and staff should understand the indicators of modern phishing attempts, including login screens that appear legitimate, requests for credential re-entry, or subtle redirect behavior.

5. Clear Incident Response Procedures

Firms should establish protocols for isolating suspected compromised accounts, notifying leadership, securing cloud systems, and reviewing access logs.

Why This Matters Now

The legal sector remains a prime target for threat actors due to the high value and sensitivity of the information it handles. Phishing campaigns aimed at law firms increasingly blend technical sophistication with social engineering, a combination that can defeat traditional defenses with surprising ease.

The takeaway is simple: default email protections offered by major platforms, though valuable, are no longer sufficient on their own to defend against current threat levels.

Strengthening email security is not just an IT concern; it is a matter of protecting client confidentiality, maintaining professional obligations, and ensuring operational continuity within the firm.

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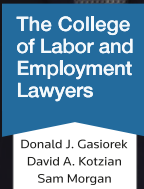


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