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A Reflection Back...

*By Francesco Briguglio,
President of Macomb Bar Association*

As I near the end of my term as president, I look back at my experiences as a member of the Board of Directors of the Macomb Bar Association. I started out on this journey as a very new lawyer about 12 years ago at the suggestion of my mentor Khalid Sheikh. At the beginning, I was purely interested in networking with lawyers and judges.

Twelve years later, I am finishing nearly 20 months as president. I can say that my experience on the board has been a pleasure, sometimes a pain, but a growing and learning experience that I will forever cherish throughout my career. I am proud of the leadership on our board and optimistic at how the next few years look like with Lori Smith, our incoming president, to be followed by Ryan Zemke, and Dana Freers. Ms. Smith is also a lifelong resident of Macomb County, practicing family law at O'Reilly Rancilio PC. As a reflect, I cannot think of a better person to help lead the bar association this coming year.

COVID has changed many things about the

way that we practice. Now more than ever, I see the value of our voluntary bar association and having strong leadership. Rick Troy has been an invaluable resource to me and many other presidents before me. There have been many after hours phone calls and meetings to help provide leadership and value to our membership. We are rolling out a brand new KENECT program that will let us engage with our members directly via text messaging. This provides us with a new way to directly engage with our membership and provide valuable information, reminders, and new ways to engage.

More than ever, the bar association needs people to get involved, whether it be in a limited role such as committee work, or as a full-fledged board member. Whether you are a relatively new lawyer, a member of the public defender's office, prosecutor's office, or a more senior member of our bar association, I encourage you to consider volunteering your service to help our bar association grow and succeed for all of our members. I guarantee that you to will cherish the experience.



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Circuit Court Corner

By Macomb County Circuit Court
Administration

Treatment Court Services expanded for OWI 3rd Offenders (Alcohol and Drugs)

In August of 2021, the Specialty Courts began accepting applications for its newest treatment court; DWI/Sobriety Treatment Court. Judge Julie Gatti presides over the program. Currently, the DWI/Sobriety Treatment Court accepts applicants with OWI 3rd alcohol-only offenses. During the discussions leading up to the creation of the DWI/Sobriety Court, we noted that OWI 3rd drug-related offenses remained ineligible for any of our treatment court programs. To rectify this omission, we have now expanded the target population for the Adult Drug Court Program to include individuals with OWI 3rd drug-related offenses (effective in April of 2022). The Adult Drug Court Program is presided over by Judge Joseph Toia.

Both programs currently have openings for eligible participants.

For more information regarding the Adult Drug Court Program, DWI/Sobriety Court Program, Mental Health Court, or the Veterans Treatment Court please contact Christina Wohlfield, Court Services Director by phone at (586) 469-5229, or via email at Christina.wohlfield@macombgov.org.

To apply for any treatment or specialty court program, please submit a completed treatment court application to: treatmentcourts@macombgov.org or drop off a paper application at the Specialty Courts Department, located on the 6th floor of the County Courthouse (40 North Main Street).

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Cutting Out Redundancy

*By Sean Blume,
President of Macomb Bar Foundation*

I was at the American Academy of Matrimonial Lawyers annual presentation this past week and a presenter, Andrew Rifkin, presented on the overall issue of Practice Management for the Next Decade. I liked the idea of the presentation because I had been considering writing something about my own revelations in this area myself. Mr. Rifkin went on in his presentation to identify a handful of issues that every office should try to address for the future, a list that mirrored many of the things that I had done over the past few years. With that as the backdrop, I offer my one major change I implemented last year which helped me maintain my growing business during the pandemic.

Giving away the answer up front, it is that I implemented a practice management software (PMS). I know there are several different versions out there, and this is certainly not an article promoting one over another, it is merely about how they revolutionized my practice. I know colleagues who use some of the others and they find that their PMS serves them just as well as mine. I chose Clio and I believe that my efficiency, organization, and overall productivity have all gone up since signing up.

Specifically, I found that the PMS helped me bill my time more efficiently. I have talked to multiple attorneys who are still hand writing time entries, or who are entering them into an accounting software and then sending out the bills separately. When I started using my PMS, I was printing and mailing all of my bills at the end of the month. Instead of this 20th Century approach, the PMS allows you to keep the program open and enter your time as you do the activity, and then to send the bills out by email at the end of the month. No printing, no postage, and it is fully integrated.

Speaking of integration, another amazing thing is that my LawPay account is directly linked to my PMS, and I believe that most of the others allow this as well. Therefore, I am able to attach my Business Operating account as well as my Trust account to the PMS. What that means is that I can send out email requests directly to the client for deposits to my Trust account, which

will then be placed through LawPay directly to my Trust account when the client pays it by credit or with a debit card. On top of this, it is directly credited to my Trust balance for the client profile within my PMS. So, when I get to the end of the month and want to send out my emailed bills, that bill lists the Trust Balance, the amount of that month's bill, and the remaining balance, all calculated by the PMS. The only thing it doesn't do is actually take any money out of your Trust account. That important job has to be done manually by you through your bank software.

Another thing about integration is that the program allows multiple users to work together. I have a separate sign in for my assistant and then they have their own interface to keep track of their time, and even have their own billing rates on the files when applicable. Time for us both then goes on to the bills for review by me.

An available tool that I didn't find useful for my practice was document management. My PMS actually allows you to work directly with them to create forms with boxes to be filled, which you can then send to clients to be filled out on their phone. These documents come back to you ready to edit. I tried using this function and did not feel it benefited me over how I had been handling forms previously. I did, however, keep my DocuSign subscription for signature collection, which I find invaluable and use for contracts at the front end and judgments and orders on the back end.

I can't say exactly why I never looked into this before. I guess I just thought that this was something that the big firms do. I ended up following up out of necessity when I found myself without an assistant, like so many of us did during the pandemic. When I couldn't do it all, every day, I looked for a solution, and the PMS was perfect. Without the document management piece, I pay under \$200 a month for two subscriptions. With that, I couldn't even count the number of hours I save each month just cutting out redundancy and through increased integration. I encourage you to look into them and please reach out if you have any questions for me.

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41B District Court



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Macombbar.org, or at the event. If you vote more than once, only your FIRST vote will count.**

Ransomware Today: Top Tips for Law Firms

By Sharon D. Nelson, Esq., John W. Simek and Michael C. Maschke

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Ransomware has been a curse for quite a while. Law firms are one-stop shopping for cybercriminals, alluring because they hold the data of many people and businesses.

More than 80% of attacks today exfiltrate or take your data. That means you have a data breach – and potentially a number of legally required notifications. Attackers will try for two ransoms, one for the decryption key to restore your data and – if you’ve been lucky enough to be able to restore your data with known good backups that are NOT connected to your network, the cybercriminals will still demand a hefty ransom to keep them from selling or leaking your data. They’ll put pressure on you by calling the media or they will call your clients themselves to let them know that their data will be leaked or sold if a ransom is not paid.

The average ransom paid at the beginning of 2021 was \$118,000 – by the end of the year, it rose to \$322,000. Ransomware now comprises more than 75% of cyberinsurance claims. Which is why you are paying more (30-40% more) for your premiums and getting less (as coverage exclusions proliferate). One increasingly common provision excludes attacks by nation-states. Often, it is unknown who the attacker is – and who is going to prove whether the attack was a nation- state attack? We are already envisioning the court battles.

Humans are a factor in these attacks more than 80% of the time - whether by clicking on a link, failing to abide by policies, using poor passwords, etc. We’ve even seen insiders selling out their employers for a portion of the ransom. Don’t ever assume that insiders, especially disgruntled insiders, can’t be a threat.

Remediation costs 10 times more than the ransom paid on average. This is one reason why some victims and their insurers may want to pay the ransom. They are counting on a good outcome, which is not always wise. If the cybercriminals retain your data, they may demand another ransom. And if you paid for a decryption key, it rarely works for 100% of your data.

By the end of 2021, the military - as well as both Microsoft and Google - announced that they had joined

the fight. The military said they would impose costs on the ransomware gangs, though understandably declined to reveal the specifics.

Corporations are going to court to seize control of malicious websites. Our government is arresting gang members and offering millions of dollars for the identification of major ransomware players. Russia itself shut down REvil, one of the most notorious Russian ransomware gangs in January 2022, based on information provided by the U.S. In retrospect, who knows why? Were they placating us in advance before the war on Ukraine? Who knows? Their cooperation here remains a mystery to us.

Our top tips for combatting ransomware:

1. Use multi-factor authentication
2. Upgrade your router and firewall to include Intrusion Detection and Intrusion Prevention functionality
3. Keep software updated and patched
4. Use strong, complex passwords and a password management tool
5. Install Endpoint Detection and Response (EDR) software on all endpoints
6. Require annual mandatory cybersecurity awareness training for all personnel
7. Utilize a cloud backup provider to help protect your data from ransomware
8. Implement phishing testing for all employees
9. Utilize WPA2 or WPA3 to encrypt all wireless networks
10. Disable all unneeded network services
11. Change all factory default settings
12. Implement inactivity timers for all devices
13. Maximize log collection and retention
14. Begin implementing Zero Trust architecture

Could we go on and on with tips? Yup, but then your heads would hurt. Enough for now. Get these 14 things done and you’re way ahead of most of your colleagues.



MAACS Roster - Looking for a Few Good Attorneys

*By Patricia Maceroni, Deputy Administrator for
Michigan Appellate Assigned Counsel System*

The Michigan Appellate Assigned Counsel System (MAACS) is accepting applications from qualified attorneys to represent indigent criminal appellate clients. MAACS has reformed the entire roster attorney experience in recent years, implementing reliable and reasonable attorney fee policies, efficient assignment and vouchering processes, greater access to experts and investigators, intensive support and training, and an opportunity to learn and practice criminal defense at the highest levels in Michigan. Larry Katz, a longtime Macomb County practitioner, has been a MAACS roster attorney for almost 40 years. He has seen significantly positive changes over those decades.

“MAACS has evolved over the decades to ensure that the system of lawyer assignments is reliable and trustworthy, and that its appellate attorneys are qualified and trained. MAACS administrators work full time to improve the quality of the roster through top-level seminars, research materials and personal mentorship for any roster attorney looking for help on any issue. They work tirelessly to increase the compensation for roster attorneys,” Katz said. “MAACS has been so successful in improving the system of appellate representation and the best interests of the justice system, my membership has been the source of great personal satisfaction.”

A new regional assignment system has changed the entire foundation of court appointed appellate counsel in Michigan. Started as a pilot program in 2015 with a handful of Michigan counties participating, today only seven of Michigan’s 83 counties are not part of the regional assignment system. Before the Regional Lists, each county maintained its own assignment list and payment schedule. Macomb County, for example, before joining the Southeast Region, paid MAACS roster attorneys \$25.00 an hour, an amount that had not changed since 1974.

The circuit courts in the regional system now

pay attorneys handling plea-based appeals \$50.00 an hour and those handling trial-based appeals, \$75.00 an hour. The vouchers are maintained online and, once the case is completed, submitted directly to MAACS. No longer do roster attorneys have to fill out paper vouchers and then file them with the circuit court judge. These improvements save attorneys and their staff time and aggravation, as well as speed up payment. The assignment and voucher system developed by MAACS’ programming specialist is state of the art. Before the new system was adopted, court orders assigning a case were physically mailed to the attorney. The attorney would then have to mail the acceptance back and request the case materials from the circuit court, including the court’s register of actions, circuit court pleadings, and pre-sentence reports. Now, once attorneys are identified for assignment, they are automatically provided much of this information electronically and given until 5:00 p.m. the next business day to accept or reject the assignment. Pre-sentence reports are now available via email, through the Michigan Department of Corrections (MDOC). These changes provide attorneys a detailed background on their cases and clients weeks before the transcripts are filed.

Additionally, as a result of the COVID pandemic, MAACS instituted a user-friendly video visit system so roster attorneys can visit their clients in the MDOC. These visits are scheduled via email, through the MAACS system. The visits are conducted via ZOOM technology. Attorneys can conduct the visits from their law offices or homes and need not travel to a MAACS office as was required pre-pandemic. Another time saver for the attorneys is the availability of expert and investigative funds at the circuit court level. The adoption of the MIDC standards allows roster attorneys to access funding at the circuit court, as long as the case is jurisdictionally in the circuit court. Roster attorneys no longer must file a motion to approve and

pay an expert before the same judge who just sentenced the client. The approval and payment of expert witnesses and private investigators are handled by the MIDC's administrative representative in that county. Additionally, MAACS has evolved into more than just a data depository for the roster attorneys. MAACS has implemented a revised training protocol for new roster attorneys. Before attorneys accept their first assignments, they must attend orientation programming. The new attorneys work closely with the MAACS Litigation Support Counsel on their first two assignments. The litigation support counsel helps attorneys with issue spotting, establishing client communication, and finalizing appellate pleadings. While the regional assignment lists have certainly improved the hourly fees, the proliferation of public defense offices and standard fees for court appointed counsel in the trial courts has resulted in MAACS roster fees being less than the MIDC trial attorney rates. MAACS administration is working hard to bridge this financial gap. However, being a MAACS roster attorney offers other economic benefits.

For example, MAACS roster attorneys have

access to a deeply discounted legal research package including complete web access to SADO/CDRC resources and currently, an annual subscription to Westlaw. Valued at over \$3,000, this package is available to roster attorneys for \$250 per year. Bi-monthly Case Rounds are held virtually, so roster attorneys can discuss case strategies and new appellate decisions. MAACS has hired a sentencing mitigation specialist to assist roster attorneys in a variety of ways.



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The mitigation specialist will investigate a client's background and collect mental health and physical treatment information. The mitigation specialist will speak with family members as well as interview the client to assist with re-sentencing and post-conviction evidentiary hearings.

However, many of the benefits of being a MAACS roster attorney cannot be quantified by economic factors. The majority of MAACS roster attorneys are in private practice, either sole practitioners or members of small firms, practicing not just criminal defense law but family, probate and other civil litigation. That type of practice rarely leads to appearing in the Michigan Court of Appeals. Cecilia Baunsoe, a roster attorney since 2013, says that because of her MAACS clients, she has been able to argue in both the Court of Appeals and Michigan Supreme Court. Several of her cases resulted in published case law.

Gary Kennedy, now working for the Macomb County Public Defender's Office, had to resign from the roster when he took his new job. "I loved being a MAACS Roster Attorney, and I miss it," said Kennedy. "As mainly a trial attorney in private practice, being a MAACS roster attorney taught me things I would have never learned on my own. I would not be the writer I am

today without MAACS and the special writing seminars it puts on. I am a better trial attorney because of it. New attorneys should not be scared to do appellate work. I believe it is a must if you are considering doing criminal defense work."

MAACS is currently accepting applications through September of 2022. Once the application period has closed, the 2022 roster class will be selected and training scheduled. Applications are available at SADO.org under the MAACS tab. If you have any questions or need any more information, please contact Patricia Maceroni, MAACS Deputy Administrator, at pmaceroni@sado.org.

Patricia A. Maceroni was a MAACS Roster attorney early in her legal career, but resigned after about 15 years, due to the aggravations of the old assignment and pay system. She rejoined in 2015 after the Regional Assignment lists were in place. In private practice for 30 years, principally practicing in Macomb County and federal court, she joined MAACS as the Litigation Support Counsel in 2020. Last October, she became MAACS Deputy Administrator.

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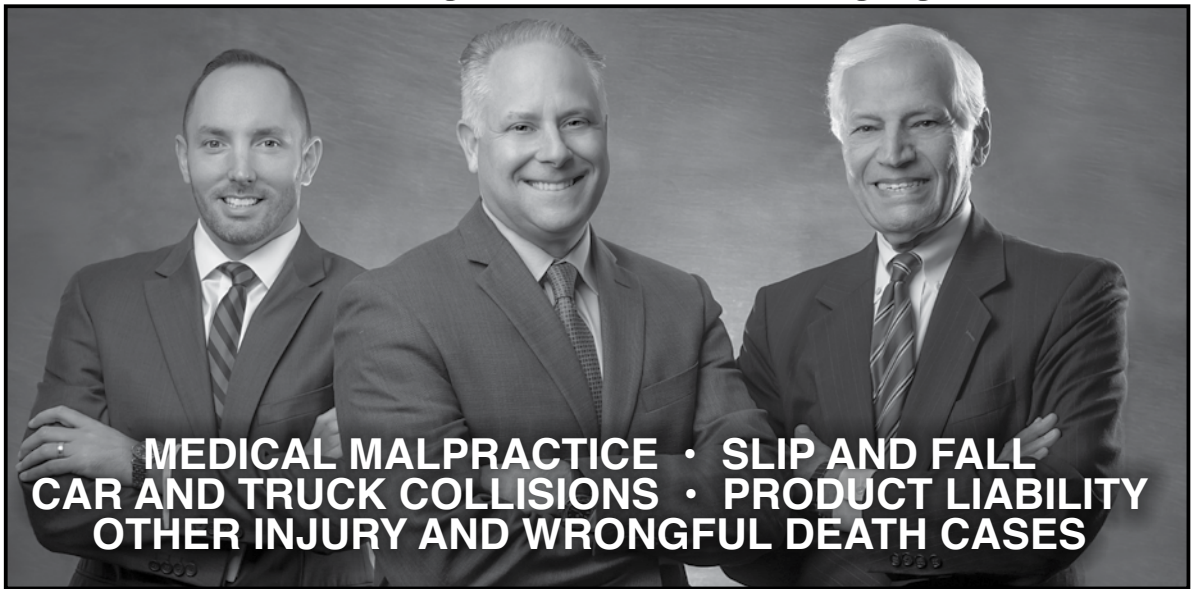
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The Macomb Bar

By Rick R. Troy, Executive Director of the Macomb Bar Association and Macomb County Bar Foundation

As June 2022 comes to an end, so too does another bar association year. In accordance with the Bylaws, we begin a new fiscal and program year with new association officers and directors on July 1. Before that day comes, I encourage you to join me to say thanks to Francesco Briguglio, the 93rd President of the Macomb County Bar Association. Frank has the unique distinction of serving as your President longer than any other any other, at 20 months and 5 days. And, to this day he still takes my calls in the evening to talk over bar issues!

Someday, when the history of the Macomb Bar is updated, Frank’s presidency will be noted not only for his time of service, but also the time period in which he served. I recall a keynote speaker at an ABA Bar Leadership Institute several years ago tell incoming bar presidents that no matter the length or breadth of the plans for “their” year as President, something...

something will come along and move your sails so that you will be forced to go in a different direction. Frank’s sails were caught by the pandemic winds of change. He accepted it with poise and calmly and patiently led us through the historic time that changed not only the practice of law, but everything in our lives, including keeping a professional membership organization meaningful and beneficial. Thank you, Frank for your many years of service as a bar leader!

On June 23, 2022 we will once again convene for the association’s annual meeting and awards ceremony. This year the Association and Foundation have partnered and are making the event free to all Association members and Foundation trustees that **register by June 16.**

It is going to be a busy week because on June 20 we will be hosting the annual golf outing at Greystone. Always a great time with great weather. Well, except

that one time a small tornado disrupted the day. But even that day was a lot of fun as we gathered in the basement and shared even more laughs before heading back out on the course. Good times. I hope you can join in on the fun!

Looking back to our most recent event, on April 29 the Foundation hosted Law Day in the jury room. Wow! What an incredible afternoon of celebrating

2nd through 8th graders and their artistry and essays on the subject, “Towards a More Perfect Union: The Constitution in Times of Change.” Reading the essays and viewing their interpretation of this theme leaves you realizing that the vision of youth is simply amazing. We have a few photos of the event on page 15. A big thanks to Law Day chairs Lori Finazzo and Judge Matthew Switalski, and Lori Smith for all of the help! And an extra special thank you to our State



Bar President, Dana Warnez for helping with the awards presentation. Watching the kids and their parents enjoy the moment is super special, but there was a moment that I wish we captured on video that spoke to everyone. Judge Switalski took a few moments to introduce one of Macomb's first woman lawyer, Florence Schoenherr-Warnez. The packed jury room gave her a well deserved standing ovation. Amazing moments in time!

And this is where I encourage you to get involved with the Foundation. The programs, projects and service that your Bar Foundation provides for the greater community, all in the name of your profession, is simply astounding. Become a trustee today or contact me to learn how you can contribute your skills. I guarantee you feel good paychecks!

Congratulations and a hearty Macomb Bar welcome to our newest 40 North Main Street neighbors; the Hon. Teri Lynn Dennings on the 3rd floor, the Hon. Matthew Sabaugh on the 6th floor, and the Hon. Sara Schimke, on the 5th floor. Welcome and please know that the bar is here ready to help you.

Next month we open the door to the 2022-2023 bar association year. Initial plans for the new year are being drawn up and, if things go the way I believe they will, your association is going to be extremely busy. New technologies, a return of favorite programs, broadened leadership engagement, and additional benefits for all Association members. On the Foundation side, I envision reaching even more of the public with messages of civic and legal education through Law Day, Constitution Day, Mock Trials, Scholarship and more.

It's a great time to be a member of the Macomb Bar!

You Just Received a Notification from EVIDENCE.COM, Now What?

By: The Macomb County Prosecutor's Office

If you practice criminal defense, you have probably received email alerts from Evidence.com recently and wondered, "What is this?" Prosecutor Peter J. Lucido's office prioritized getting a 21st century digital evidence management platform to benefit the entire legal community. As a result, our office is implementing Evidence.com by Axon.

What does this mean for Defense Attorneys?

Big news: Discovery is shared via a fast and easy download link, and is remotely accessible to your email. This service is FREE.

With Evidence.com, Defense Attorneys will no longer need to travel back and forth to the prosecutor's office for digital discovery. Furthermore, there is no more two-step discovery process for digital media for defense attorneys, or delay in picking up DVDs / USBs, if it was uploaded to Evidence.com. Instead, you can quickly access discovery on your laptop, tablet, or smartphone. This system includes a discovery verification report to ensure defense attorneys have all available discovery in a timely fashion.

What do Defense Attorneys need to access Evidence.com?

Our Discovery Unit will share discovery by emailing a download link to defense attorneys. No logins, no new accounts, no waiting. Presently, the link expires after 90 days. Included in the email is contact information if defense attorneys need to contact Axon for support. Here are some quick tips to make the initial setup seamless as possible.

Once you receive an email from Evidence.com, you simply download the attachment and the digital evidence is readily available on your device. If the download is several gigabytes, close all other internet pages and other applications to ensure the fastest download speed. The download speed depends on your personal internet connection, not Evidence.com. Check your downloads folder to locate the file and then organize it in your case file management system.

Also, some video evidence requires a specific application to view and play it. Usually, the application is included in the download. If not, you can easily Google search a free video application to play the video. Most videos are playable through the newest versions of Windows Media Player, VLC Player, and Quicktime.

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Macomb County Bar Association

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MacombBar.org



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– YOUR PROSECUTOR –

Wednesday, July 27, 2022 • 5:00 - 7:30 P.M.

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Deadline to send checks by mail:

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