

BAR BRIEFS

Official Publication of the Macomb Bar Association

June 2025

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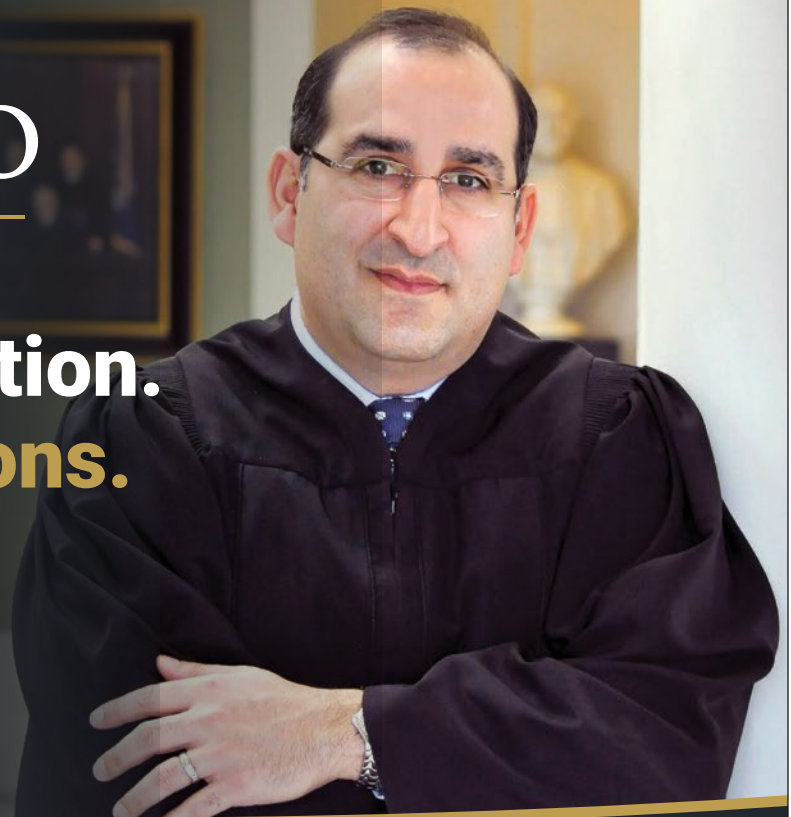


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Until Later

By Dana Freers, President of the Macomb Bar Association

The time has come – not for goodbye, but to pass the torch. It has truly been the honor of my career to serve as your president.

Last summer, I planned out a rough sketch for my year as president. I knew the year would fly by, but I can't believe how fast it has actually come and gone. I have several people I have to acknowledge and thank for all their help. First, my amazing board! No progress would have been made without all of you and I am so thankful for all of you, your ideas, and your help.

Thank you to former Executive Director Kelly Bennett. Her time with us was short but she did a great deal to help us straighten out the organization and get us back on track. Thank you to Sherriee Detzler. She filled in at the bar office until we hired Maddie. Sherriee's help was absolutely invaluable! That brings me to our new Executive Director, Maddie Bennage. She has been so great! She jumped right in, got

up to speed and has been bringing her own flair to the bar. I can't wait to see where we go.

Thank you to Ryan Zemke. Ryan knows everything! He's been so incredibly helpful with all the things I don't have an answer for and answering all my questions. Finally, thank you to my family. For supporting me and helping me through this entire journey. I am eternally grateful and appreciate each and every one of you.



My main goal this year was to try and get our members more involved with the Bar and try to plan things that would appeal to all. I hope I was able to do that. I hope all

of you found value with your membership. I hope when people ask why you are a member of the Macomb County Bar Association, you can tell them why you're proud to be a member. For me, it's about the camaraderie. I enjoy seeing everyone outside of work, meeting your families and learning something new about you. I hope to see you at our golf outing on Juneteenth at the St. Clair Shores Golf Club and our Annual Meeting on June 26th at the Octopus Beer Garden. We have such a great group of attorneys here in Macomb. It is the best place to practice!

Saying goodbye is always hard, so I'm not saying goodbye. I'm saying until later because I'll still be here for the bar. We are so lucky to have Farrah Ramdayal-Howard as our incoming MCBA President. She's wonderful and I know we're going to have a great year. Be on the lookout for upcoming details for her installation. See you all soon. Thank you for sharing my year with me.





Securing Mobile Devices in Modern Law Firms

By Cheyenne Harden, CEO, Cyber Protect, LLC



Mobile devices have become indispensable in modern law firms, enabling attorneys to work remotely and stay connected with their colleagues and clients. However, this increased reliance on mobile technology has also made smartphones and tablets prime targets for cyberattacks. The confidential nature of legal work—including privileged client communications, case strategy documents, and sensitive discovery materials—creates an attractive target for malicious actors seeking valuable information.

In recent years, cybercriminals have developed sophisticated techniques to exploit vulnerabilities in mobile devices and gain unauthorized access to sensitive data. These attacks can result in significant financial losses, damage to reputation, and legal liabilities for businesses. Law firms face particular scrutiny in this area, as they are bound by ethical obligations to protect client confidentiality and may face disciplinary action from state bar associations for security breaches in addition to potential malpractice claims.

Organizations need to implement robust mobile security measures to mitigate the risks associated with mobile attacks. By deploying good mobile security practices, businesses can protect their mobile endpoints from a wide range of threats and safeguard their sensitive data. For law firms, this protection extends beyond good business practice—it represents fulfillment of ethical and professional responsibilities to clients.

How do you protect your firm?

One of the most effective ways to secure mobile devices is through real-time mobile threat defense, which uses machine

learning and behavioral analysis to detect and prevent cyber threats in real time. A good mobile security solution should provide round-the-clock protection against emerging threats, advanced anti-malware and anti-spyware capabilities, and malicious app protections.



These features can help detect and prevent cyberattacks before they can harm the firm and protect against a range of mobile threats, including malware, phishing, and network attacks. By implementing real-time mobile threat defense, businesses can ensure that their mobile devices are protected against the latest and most sophisticated cyber threats before they can harm the firm.

Additionally, comprehensive mobile security strategies should include:

- **Mandatory device encryption** for all firm-owned and BYOD devices accessing firm resources
- **Multi-factor authentication** requirements for accessing sensitive applications and data
- **Remote wipe capabilities** to protect data if devices are lost or stolen
- **Regular security training** for all attorneys and staff on mobile security best practices
- **Secure communication channels** for client-attorney communications

Mobile device management and protection are hard, right?

Implementing mobile security measures can be daunting, but it doesn't have to be. With the right solution, businesses can simplify the management of endpoint protection and better protect their mobile devices without adding to the complexity of their existing security infrastructure.

Modern mobile device management (MDM) solutions have evolved considerably from early iterations, offering intuitive interfaces and streamlined deployment options that minimize disruption to attorney workflow. Cloud-based solutions can now be implemented without significant on-premises infrastructure investments, making enterprise-grade security accessible even to small and mid-sized firms.

The Cost of Inaction

While implementing robust mobile security requires investment, the cost of a data breach far exceeds preventative measures. For law firms, a significant breach can lead to:

- Mandatory breach notifications to clients
- Potential violations of Rules of Professional Conduct regarding client confidentiality
- Reputational damage that may persist for years
- Loss of client trust and business
- Regulatory fines and potential litigation costs
- Increased malpractice insurance premiums

Conclusion

As attorneys increasingly rely on mobile devices to practice law effectively, securing these endpoints becomes a critical component of a firm's risk management strategy. By implementing comprehensive mobile security solutions, law firms not only protect sensitive client information but also demonstrate their commitment to maintaining the highest standards of professional responsibility. The investment in mobile security is not merely a technical consideration—it's an essential element of modern legal practice that directly impacts client service and firm reputation.

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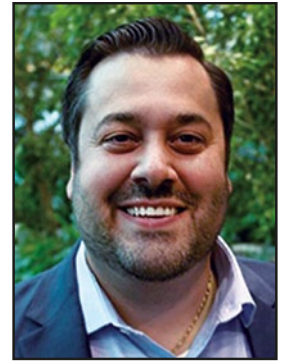
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The Effect of a Judgment of Separate Maintenance on Property Rights—A Brief Primer

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



Two individuals enter into a Consent Judgment of Separate Maintenance. In that judgment, the parties agree to bar alimony and divide property. They also agree that, should they proceed with a divorce, the terms of the Consent Judgment of Separate Maintenance will be merged into the Judgment of Divorce. The question then arises: what happens if one party later challenges the agreed-upon property division during the divorce proceedings?

Married individuals may seek separate maintenance for various reasons, such as religious objections to divorce or a desire to remain legally married. Separate maintenance can allow both parties to retain health care coverage. However, some employers and health insurance providers treat the entry of a separate maintenance judgment as a triggering event that disqualifies the non-employee spouse from continued coverage. This practice is not applied uniformly across employers or insurance carriers.

An action for separate maintenance is filed in the same manner and on the same legal grounds as a divorce.¹ Either the plaintiff or the defendant must have resided in Michigan for at least 180 days and in the county of filing for at least 10 days immediately before filing the complaint.² Both of these residency requirements are jurisdictional and must be met at the time of filing. When the matter is resolved, the parties remain legally married, but their marital property may be divided pursuant to MCL 552.19 which states:

Restoration of real and personal estate to parties.

Upon the annulment of a marriage, a divorce from the bonds of matrimony or a judgment of separate maintenance, the court may make a further judgment for restoring to either party the whole, or such parts as it shall deem just and reasonable, of the real and personal estate that shall have come to either party by reason of the marriage, or for awarding to either party the value thereof, to be paid by either party in money and the court may order support for a spouse who requires it, MCL 552.23(1).

Both of the family law practitioners’ manuals recognize this principle. The manual *Michigan Family Law* states the principle succinctly:

When a judgment of separate maintenance is entered and a party subsequently wishes to become divorced, a complaint for divorce will need to be filed and the statutory waiting period will apply. Even if the judgment of separate maintenance permits either party to convert it to a judgment of divorce if and when they choose, a complaint for divorce will likely still need to be filed. *However, the parties do not get to relitigate all the issues.* Emphasis supplied.³

The *Michigan Family Law Benchbook*, a guide to family court judges has this to say about the at-issue procedure in this case.

If a party wishes to divorce after a final judgment has been issued in a separate maintenance action, the party should file an entirely new cause of action. Although *many issues will already have been decided and are enforceable under the judgment*, any remaining issues like dissolution of the marriage should occur under the new action. Emphasis supplied.⁴

A consent judgment of divorce is construed as a contract. As the Court of Appeals has noted:

- *Andrusz v Andrusz*, 320 Mich App 445, 452; 904 NW2d 636 (2017): A consent judgment is a contract and can only be modified by mutual consent, absent fraud, mistake, illegality, or unconscionability.
- *Blaske v Blaske*, 33 Mich App 210, 212; 189 NW2d 713 (1971); *Greaves v Greaves*, 148 Mich App 643, 646; 384 NW2d 830 (1986): The court may fill in gaps in an incomplete consent judgment, balancing equities under the circumstances.
- *In re Lobaina Estate*, 267 Mich App 415, 417-418; 705 NW2d 234 (2005): The overarching goal of contract interpretation is to determine and give effect to the parties’ intent. See *id*

When analyzing the merits of this situation based upon MCL 552.19, the judgment divides property and bars alimony. The clear statutory intent of the practice of this state, as referenced in the practitioners' manuals cited above, is contrary to MCL 552.19 and the principle of collateral estoppel and, most importantly, contradicts the intent of the parties as reflected in their previously entered judgment.

When analyzing the terms of the Judgment on a contractual basis, the parties entered a judgment of separate maintenance by consent in 2022. Wife argues that since this is a new action the old Judgment is not dispositive. Even with this argument it does not overcome the fact that the parties clearly contracted the terms of the Judgment of Separate Maintenance should be clearly incorporated into their Judgment of Divorce.

Either analysis leads to the conclusion that when the parties enter a Judgment of Separate maintenance at least to the extent that the parties agreed on division of certain property rights the court should uphold those terms when dividing property in a subsequent Judgment of Divorce.

¹ MCL 552.7

² MCL 552.7(1), and section (9)1.

³ Michigan Family Law, *supra* at footnote 1.

⁴ Michigan Family Law Benchbook, *supra* at footnote 1.

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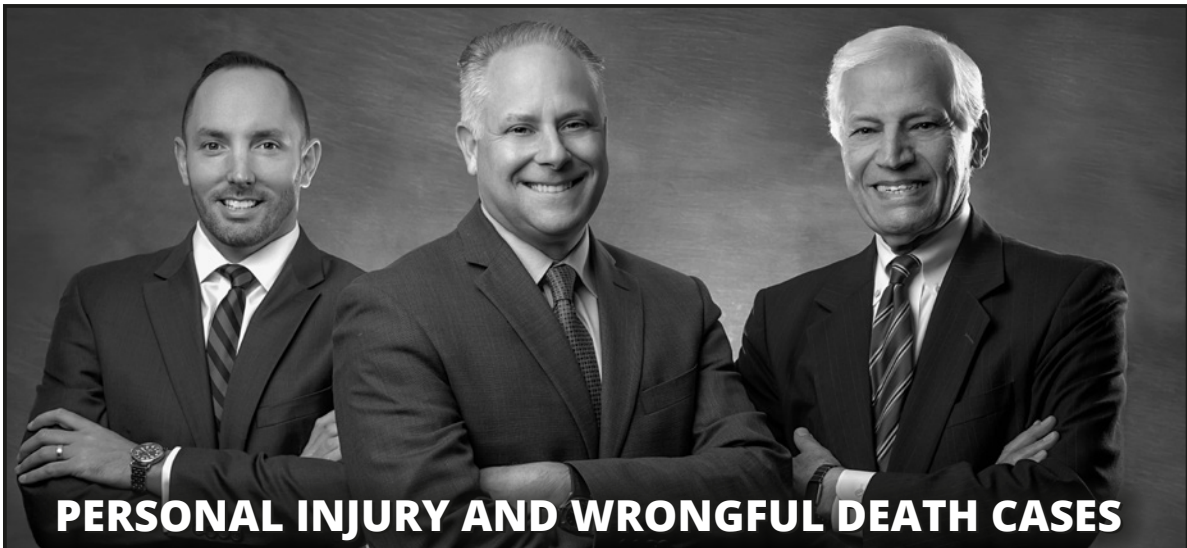
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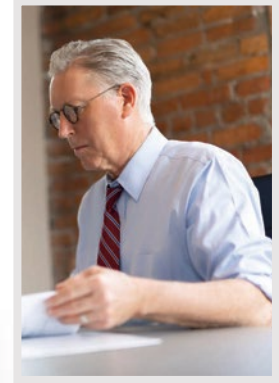
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