


BAR BRIEFS



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A New Year, A Renewed Commitment

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

The beginning of a new year naturally invites reflection. We pause, look back at where we have been, and consider what lies ahead. In the legal profession, January often brings conversations about goals, resolutions, and fresh perspectives. For the Macomb County Bar Association, this moment is less about reinvention and more about recommitment, to our colleagues, our profession, and the community we serve.

Over the past several months, I have been encouraged by the response from so many members who have shared that they feel re-engaged and excited to be involved again. The energy has been tangible, particularly at our recent holiday party, which brought together members from across practice areas and generations. While successful events are always gratifying, what matters most is what they represent: connection, collegiality, and a shared sense of purpose. A renewed commitment does not belong to any one person or board. It belongs to all of us. Bar associations thrive when members choose to show up—not just for programs and events, but for one another. Whether that means mentoring a younger attorney, reconnecting with a colleague, or simply taking the time to attend a program outside one's usual practice area, these small commitments collectively strengthen our professional community.

As an estate planning attorney, I am often reminded that thoughtful planning is never about starting from scratch. It is about foresight, intention, and responsibility. It requires us to

look ahead while honoring established plans, values, and the people who came before. Those same principles guide our work as a Bar Association. We are not reinventing who we are; we are building upon a strong foundation laid by past leadership, with a continued commitment to education, collaboration, and professionalism. Just as careful planning creates stability and clarity for the future, intentional leadership and engaged membership allow our Bar to continue to grow and thrive.

This month, we are pleased to partner with the Macomb County Probate Bar on a joint program that will include a panel discussion with members of our judiciary and experienced attorneys. These opportunities are invaluable. They foster dialogue across disciplines and provide insight from the bench. Collaboration like this reflects a renewed commitment to learning together and to strengthen the practice of law in Macomb County.

As we move into the second half of the Bar year, there is much to look forward to. At the same time, this is an ideal moment to pause and consider how each of us engages with the Association.

Perhaps a renewed commitment this year means attending one additional event, volunteering for a committee, or simply making space for professional connection in an increasingly busy world. Every level of participation matters. Thank you for your continued involvement, your professionalism, and your support of one another. I look forward to the months ahead.

**We are not reinventing
who we are; we are
building upon a strong
foundation laid
by past leadership.**



A New Year's Message

From Macomb County Prosecutor Peter J. Lucido



As we turn the page to a new year, I want to extend my warmest wishes for health, peace, and prosperity to all members of the Macomb County Bar, as well as the citizens we proudly serve. The start of a new year offers a moment to pause, reflect, and look ahead with purpose—and I am grateful for the opportunity to continue as the chief law enforcement officer to strengthen safety, trust, and justice throughout Macomb County.

As judges, attorneys, victim advocates, law enforcement partners, and court staff, each of you are vital in ensuring fairness and safeguarding the Constitutional rights of every resident. I remain deeply appreciative of your professionalism and collaboration, and I look forward to building on that strong foundation throughout the coming year.

Our office is committed to continuing several initiatives focused on improving outcomes and delivering meaningful service to the public. I am proud that through collaboration and leadership with our partners, the Child Support Specialty Court has launched with the first participants who have made application to the program. I extend my sincere thanks to all who participated to get this program implemented.

Our Two-and-Through Policy is already seeing results. I personally have received thanks from the bench, bar and victims for implementing this policy. We will also be investing in technology and training that help streamline processes, strengthen case integrity, and ensure that justice is administered efficiently and responsibly.

Equally important is our commitment to transparency and accessibility. In the year ahead, we will broaden our public outreach, provide more communication about the work we do, and strengthen the connection between the Prosecutor's Office and the residents of Macomb County. We are also expanding our presence in local high schools, engaging directly with students to reinforce a message that truly matters: behavior has consequences. Those consequences can be positive or negative, and the choices our young people make today will help shape the course of their futures.

I am optimistic about the year ahead—optimistic because I know the quality of the people who make up this legal community, and because I see daily examples of dedication, integrity, and compassion from those who serve within it. Together, we have the opportunity to make 2026 a year marked by progress, collaboration, and a shared commitment to justice.

On behalf of myself and all of us at the Macomb County Prosecutor's Office, may God bless you and your families in this new year. It is an honor to serve alongside you, and I look forward to the work we will accomplish together for the people of Macomb County.

Sincerely,



Practical Collection: The Uncharted Frontier (Part Four)

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



In this last part of my four-part series, I will talk about a specific collection mechanism: receiverships. Though often employed in commercial disputes, nuisance abatement, and in divorces with uncooperative spouses, receiverships are frequently used to collect civil judgments. As a lawyer who has represented many receivers and been involved in the sale of many pieces of real property, the keys to a successful receivership are a sizeable judgment, real property available for sale (mostly unencumbered), and a knowledgeable receiver and lawyer who can steer the receiver in the right direction. For this article, the words “defendant” and “debtor” are used interchangeably, as are “plaintiff,” “petitioner,” and “creditor.”

A receiver may be appointed pursuant to multiple statutes and a Court Rule providing for the same.¹ The interplay between them is important when seeking a receiver. In most cases (and for purposes of this article), one should seek appointment of a receiver pursuant to MCR 2.622 (the general court rule controlling a receiver’s appointment) and MCL 600.6104 (the statute regarding appointment of a receiver after rendering a money judgment).² As courts have noted, a receivership is a harsh proceeding, and should be employed cautiously.³ Before seeking a receiver, a petitioner must exhaust all other remedies.⁴ A petitioner must have explored less intrusive means, and show that the petitioner was unsuccessful in satisfying the judgment (like after a creditor’s examination, or other collection activities).⁵ However, the Court of Appeals has also found that a receiver was appropriate when the task of subpoenaing records and examining witnesses would have involved “much more court time and expense than appointing a receiver.”⁶ Even if you are successful in nominating a receiver, the court officer (if used before to seize personal property) and the receiver must first attempt to satisfy the judgment against a defendant’s personal property, otherwise execution against realty is not permitted.⁷

Before filing a Motion to Appoint a Receiver, you should conduct a title search to see what encumbrances may exist against the real property you seek to levy. When writing your Motion, you should set forth the history of your collection efforts, the real property available for sale, and how much money you seek to realize from the sale of the real property. In other words, set forth a real plan for the receivership.⁸ I would also examine the factors set forth in MCR 2.622(B)(5) when selecting a receiver. These include:

- (a) the experience in the operation and/or liquidation of the type of assets to be administered;
- (b) the relevant business, legal and receivership knowledge, if any;
- (c) the ability to obtain the required bonding if more than a nominal bond is required;
- (d) any objections to any receiver considered for appointment;

- (e) whether the receiver considered for appointment is disqualified under subrule (B)(6); and
- (f) any other factor the court deems appropriate.⁹

Study well basis for disqualification on MCR 2.622(B)(6); you should nominate someone who has no perceived conflicts to avoid trouble later.¹⁰ I have worked with several court officers (who work in the court that the judgment originates from). I personally like a court officer acting as a receiver because it serves two purposes; a court officer is already bonded, and, if removal of occupants is needed, then a court officer may perform the work. This work is also within the confines of his contemplated activities, and it avoids pesky objections later.

A smart practitioner should always include in the receivership order a detailed scope of the receiver’s powers (with citations to law, if possible), a description of the real property you seek to levy, the receiver’s discovery powers, provisions allowing the receiver to obtain the debtor’s banking or other records and personal property, or records or personal property that belong to that debtor’s business. You should include a provision allowing the receiver to exercise control of a debtor’s business interests or businesses and provide that the receiver may assume all control or managerial power over the same. I would also indicate that the receiver, if he discovers more real or personal property belonging to the debtor during the receivership, may seize control of it without needing further judicial process.

Once a receiver is appointed, the receivership order must provide the bond amount, the type of real or personal property that will be made a part of the receivership estate, details regarding the

¹MCR 2.622, MCL 554.1012, MCL 600.2926; MCL 600.6104.

²See also MCL 600.2926. There is also another statute providing for appointment of a receiver, MCL 554.1011 et. seq., however, this statute and its following sections apply generally to property used for farming (and commercial use), commercial property, or when real property with one or more dwelling units pertaining to the operation (generally) of commercial activities.

³*Michigan Minerals, Inc v Williams*, 306 Mich 515, 525 (1943).

⁴*In re Trudel*, 477 Mich 1202, 1203 (2006).

⁵*Reed v Reed*, 265 Mich App 131, 162 (2005).

⁶*Hofmeister v Randall*, 124 Mich App 443, 446 (1983).

⁷MCL 600.6004; *Ypsilanti Charter Township v Kircher*, 281 Mich App 251, 283 (2008).

⁸MCR 2.622(B)(5).

⁹Id.

¹⁰MCR 2.622(B)(6).

receiver's compensation, filing requirements for annual reports, including the final report and accounting, a description of the duties, authority and powers of the receiver, a listing of property to be surrendered to the receiver, and any other provision the court deems appropriate.¹¹ You should also include a scheme for how the receiver's employees, agents, independent contractors (like realtors) are to be compensated, then the receiver, and, last but not least, the plaintiff.

Once a receiver is appointed, the receiver should file a notice of acceptance, and his counsel, an appearance. The receiver or counsel should also record both the receivership order, and a lis pendens against the real property subject to receivership, in the local register of deeds. This ensures that the debtor does not alienate the real property without you knowing (if the debtor attempts a sale). The receiver should also file an inventory, complete with the real property (or personal property on hand or known to the receiver) once he is appointed, and annual (or biannual) reports as required. Make sure the receiver insures the real property and has a proper bond for his activities before he acts. A receiver should also have a separate trust account, and sufficient funds to cover costs before the real property is sold.

One situation I have faced is the need to remove the defendant/debtor from the real property, or tenants who are not subject to the judgment. A circuit court is uniquely situated to dispossess debtors and others from real property.¹² The Court of Appeals has routinely allowed the removal of occupants from real property by a circuit court. In *De Bruyn Produce Co v Romero*, 202 Mich App 92, 101 and 106 (1993), the Court of appeals indicated that "[p]ursuant to § 5750 of the [Summary Proceedings Act], the remedy provided by summary proceedings 'is in addition to, and not exclusive of, other remedies, either legal, equitable or statutory'"¹³ when it comes to removing individuals from real property who are inhabiting it unlawfully. In *Woodward v Schwartz*, No. 343704, 2020 Mich App LEXIS 1923 (Ct. App. Mar. 12, 2020), the Court of Appeals ruled that the circuit court had subject-matter jurisdiction to enter an immediate order to remove the defendant/debtor in the circuit court so that a residence could be sold upon motion of a receiver (since the residence was subject to the receivership).

Once the real property is empty, list it on the open market with a realtor, and rely on the realtor's advice before listing it or agreeing to an offer. List the real property for sale subject to the court's approval and file a motion to permit the sale once a prospective buyer is obtained. Once the sale is completed, file a motion for distribution of the proceeds. Be aware of the permitted exemptions for a debtor for any property, real or otherwise.¹⁴ When in doubt, file motions for approval of your activities, and do not hesitate to cite the powers conferred by the receivership order the court already signed.


Acting as a receiver and employing a receiver requires great knowledge of the law. It is best that you nominate, or work with, a receiver and counsel that deal in receiverships before. I hope that this series has been useful to you. Happy collecting.

¹¹MCR 2.622(C)(1-7).

¹²MCL 600.6104.

¹³See also MCL 600.5750.

¹⁴MCL 600.6024; MCL 600.6027.

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Protecting Your Practice in 2026 Using CTEM

Continuous Threat Exposure Management (CTEM) in Plain Language for Attorneys

By Cheyenne Harden, CEO, Cyber Protect, LLC



Many attorneys assume cybersecurity is either a “big company problem” or a highly technical issue best left to IT. In 2026, neither assumption holds true.

Today’s attacks are increasingly automated and opportunistic. Threat actors continuously scan the internet for exposed systems, weak passwords, outdated software, misconfigured cloud services, and unused accounts that still work. Law firms are attractive targets because they hold valuable information like client communications, financial records, litigation strategy, protected health information in some matters, and data subject to confidentiality obligations.

Continuous Threat Exposure Management (CTEM) is simply a structured way to keep your firm aware of where it is exposed and to keep closing the most consequential gaps first, rather than treating security as something you revisit “once in a while.”

What CTEM Really Means

CTEM is an ongoing routine to:

- **Find** weaknesses across your technology environment (inside and outside the firm)
- **Rank** them by **business and legal risk**
- **Fix** the most dangerous items first
- **Verify** that exposure is actually decreasing over time

Think of CTEM like **regular checkups** for your practice’s technology and security posture rather than waiting for a crisis (ransomware, account takeover, data exposure) to force action.

Why a Law Firm Should Care

Even small firms are routinely targeted. “Not being a target” is a myth because attackers are not always “choosing” victims; software is.

A continuous approach matters because it reduces the likelihood of the outcomes law firms can least afford:

- **Ransomware and downtime** that halts operations, disrupts court deadlines, and interrupts client service
- **Email compromise** that enables wire fraud, impersonation, or exposure of privileged communications
- **Data leakage** from cloud file sharing or misconfigured permissions
- **Reputational damage** that erodes client trust

- **Regulatory and ethical complications** tied to confidentiality and competence expectations

CTEM helps by **shrinking the number of easy entry points** attackers can exploit.

The CTEM Routine in Plain Language

1) Find

A law firm cannot defend what it cannot see. “Find” means maintaining a current inventory of:

- Laptops/desktops and any servers
- Microsoft 365 or Google Workspace
- Remote access methods (VPN, RDP, remote tools)
- Key cloud applications (practice management, eDiscovery, accounting, file sharing)
- Vendor access (IT providers, court filing tools, third-party legal platforms)

Then, your firm (or its IT/security partner) performs regular scans and reviews to identify issues such as outdated systems, risky configurations, exposed remote access, or accounts without strong authentication.

2) Decide

This is where CTEM becomes practical. Many firms get stuck reacting to random alerts. CTEM focuses your attention on what could realistically cause serious disruption.

For attorneys, top priorities usually include issues that could:

- Expose sensitive or privileged information
- Enable business email compromise or impersonation
- Disrupt operations near deadlines or hearings
- Prevent recovery after ransomware
- Expand access beyond what staff should have

Instead of treating every issue as equally urgent, CTEM ranks vulnerabilities by **legal and business impact**.

3) Fix

Once priorities are clear, you address the highest-risk items first. Common examples include:

- Applying security patches to operating systems and applications
- Removing or disabling unused accounts and outdated users
- Tightening admin privileges and enforcing least privilege
- Enabling or strengthening MFA
- Securing remote access and limiting external exposure
- Encrypting firm devices and sensitive data

- Confirming backups are isolated, protected, and recoverable

The key is tracking what gets done, so improvements accumulate rather than resetting after each fire drill.

4) Check

CTEM isn't complete unless you confirm progress. "Check" means re-scanning and reviewing a simple monthly report to verify:

- Critical exposures are decreasing
- Fix times are improving
- New issues are being caught quickly rather than silently accumulating

This creates something most firms lack: **measurable security improvement over time.**

What "Continuous" Looks Like on Your Calendar

CTEM does not require constant meetings or disruption. It works best as a predictable cadence.

Weekly or Bi-Weekly (Brief Review)

- Review any new high-risk findings
- Assign action items
- Confirm urgent exposures are being addressed

Monthly (Operations-Focused Routine)

- Run scans and review results
- Patch critical systems and key applications
- Review user access (especially admin and remote access)
- Remove stale accounts and enforce MFA
- Confirm backup success and perform a recovery check

Quarterly (Strategic Review)

- Review firm-wide risk trends and exposure reduction
- Discuss changes in systems, vendors, staffing, or office locations
- Align security priorities with firm operations, budget, and compliance needs

How Your IT/Security Partner Fits In

Most attorneys should not be expected to run scans, interpret vulnerability data, or manage technical remediation. This is where a qualified IT/security partner provides leverage.

A well-run CTEM-style approach typically looks like this:

- The provider handles scanning, monitoring, and reporting
- The firm's leadership makes decisions based on business/legal impact
- Changes are approved and prioritized by the firm
- Remediation is tracked to completion

What to Ask For (So It's Not All "Tech Talk")

Instead of long technical reports, ask for a one-page CTEM report with clear metrics such as:

- **Number of critical exposures open**
- **Number of critical exposures closed this month**
- **Average time to fix high-risk findings**
- **Top 3 risks to firm operations and confidentiality**
- **Backup and recovery status (verified vs. unverified)**

A report like this helps managing partners and administrators make informed decisions without getting buried in jargon.

Closing Perspective

Law firms don't need "perfect" security. They need disciplined, consistent reduction of their most meaningful risks, especially the ones that threaten confidentiality, operations, and client trust.

CTEM provides a structured, repeatable way to do that: **gain visibility, know your exposures, prioritize the most serious issues, fix them, and prove improvement over time.**

In 2026, that is what prudent technology stewardship looks like for the modern legal practice.



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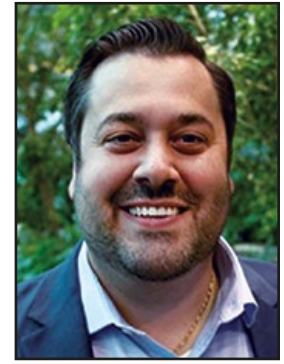


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New Case Law Finally Settles the Binding Effect of Consent Judgments of Separate Maintenance in Subsequent Divorce Proceedings

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



I. Introduction

In our hypothetical, a husband and his wife enter into a Consent Judgment of Separate Maintenance after a 20-year marriage. The parties have a comprehensive settlement that addresses alimony and property division. After they are legally separated, the parties continue to try to repair their marriage. Seeing the marriage is irrevocably broken, husband decides to file for divorce and completely dissolve the bonds of matrimony after two more years. Wife now claims that the parties get to completely relitigate their case while husband wants to enter a Judgment of Divorce that matches the terms of the Judgment of Separate Maintenance. **What is the court to do?** New case law has now shed light on a murky issue within the family division.

There has long been ambiguity as it pertained to the enforcement of Judgments of Separate Maintenance on subsequent divorce actions. *Johnson v Johnson* ___ Mich App ___, ___ NW2d ___ (2025) has finally settled this gray area of the law. The court has held that such consent judgments are generally binding as contracts overruling prior precedent that permitted some modifications in divorce proceedings. This decision reiterates the long-held notion that Judgments of Separate maintenance are contractual in nature and it promotes finality in property division and spousal support arrangements while allowing limited exceptions.

An action for separate maintenance is filed in the same manner and on the same grounds as a divorce.¹ Either the plaintiff or the defendant must have resided in the state for at least 180 days and in the county of filing for at least 10 days immediately preceding the filing of the complaint.² Both of these residency requirements are jurisdictional and must be met on the date of filing. Michigan family law recognizes two primary mechanisms for marital dissolution; judgments of separate maintenance under MCL 552.7 and Judgments of Divorce under MCL 552.6. Separate maintenance allows spouses to live apart while legally married. Judgments of Separate Maintenance typically address issues including property division spousal support, and child related matters in certain instances. When the matter is concluded, the parties are still technically married, but the 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,³

When parties later seek divorce, questions in the past remained as to the effect of a Judgment of Separate maintenance on a subsequent divorce filing, particularly as it pertains to non-child related matters.

II. Background and Procedural History of *Johnson*

The parties were married on October 15, 1982. The parties are now both advanced in age. In 2013 Husband filed a complaint for divorce, wife filed counterclaim for separate maintenance. The parties agreed to enter Consent Judgment of Separate Maintenance that addressed issues of property settlement and nonmodifiable alimony except in limited circumstances pertaining to division of husband's UAW Pension. The Consent Judgment of Separate Maintenance even included *Staples v Staples* language as it pertained to the non-modifiability of the alimony provision in the Judgment. The judgment of separate maintenance also provided for the sale of the marital home which became a bone of contention in the parties' post judgment proceedings. Almost ten years later husband filed for divorce. The matter eventually went to trial and the court entered a Judgment of Divorce that substantially modified the ten-year-old Judgment of Separate Maintenance.

The trial court relied on *Engemann v Engemann*⁴ in its rationale that it had authority to modify substantive portions addressed in the consent judgment of separate maintenance.

¹MCL 552.7.

²MCL 552.7(1), and section (9)1.

³MCL 552.23(1).

⁴53 Mich App 588; 219 NW2s777 (1974)

The court's rationale under that case was that a complaint for separate maintenance was legally distinct from a complaint for divorce. The trial court also went further to modify the "non-modifiable" spousal support as contained in the consent judgment of separate maintenance citing the rationale that they were not bound by the prior judgment despite the prior judgment containing Staples language.

III. Appellate Court's Analysis

The Court of Appeals reviewed de novo the interpretation and enforceability of the consent judgment, treating it as a contract under established principles (citing *Vittiglio v Vittiglio*, 297 Mich App 391 (2012); *Andrusz v Andrusz*, 320 Mich App 445 (2017)). Consent judgments in domestic relations are enforceable absent fraud, duress, mutual mistake, or unconscionability. A consent judgment can only be modified with the consent of the parties, at least in the absence of fraud, mistake, illegality, or unconscionability. The consent judgment at issue in this matter is a contract and must be treated as such pursuant to ordinary principles of contract interpretation.

IV. Key Take Aways from *Johnson*

1. **Clarity on the Finality of Property Settlements:** New case law has now clarified that property settlements as defined by statute are binding and should be enforced.

2. **Overruling *Engemann* and Clarification of Seemingly Conflicted Case Law:** The conflict between *Andrusz* and *Vittiglio* are now put to rest with the *Johnson* ruling.

3. **Reinforcing *Staples*:** *Johnson* has further expanded the finality of non-modifiable alimony. It cannot be changed by merely filing a new action after alimony was settled.

4. **Limited Flexibility of the Court's to Exercise Equitable Powers:** New case law makes it clear that a prior judgment cannot be reformed except under very limited circumstances such as impossibility.

5. **Future Impact:** It is very possible that the *Johnson* case may lead to more Judgments of Separate Maintenance being entered now that parties can depend on the finality of those property settlements.

V. Conclusion

Resolution of this muddy area of the law is a win for both parties that can partially save the bonds of matrimony by being able to depend on the bargain that they initially strike when separating being enforced by a court of competent jurisdiction. This also has the added effect of improving judicial economy by settling the ambiguity that the prior body of case law created.

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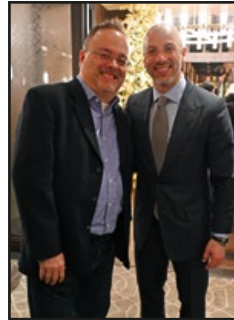
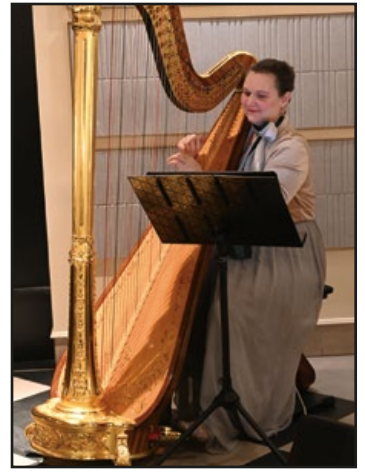
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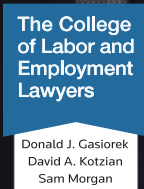


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Doors open 4:30 PM; Start time 5 PM



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