BAR BRIEFS

Official Publication of the Macomb Bar Association April 2026

The Annual Meeting

Ford House

1100 Lakeshore Drive
Grosse Pointe Shores, MI 48236

TUESDAY, MAY 19TH, 2026

5:00 PM

Tickets: $75.00

Register at members.macombbar.org

Volume 44 | Number 10

Bar Briefs

Together. We are MORE!

IN THIS ISSUE:

Macomb Bar Association
Macomb County Circuit Court Building
40 North Main St., Suite 435 • Mount Clemens, MI 48043-1037
(586) 468-2940 • MacombBar.org

MACOMB BAR ASSOCIATION
EST. 1906

Legacy Is Built in the Everyday

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

I am often referred to as an "old soul." Some even tell me I am a bit stuck in the past. But I have always been a reflective person, someone who finds meaning and comfort in what has come before. And because of that, I can't help but pause when I think of some of the colleagues, friends and family we have lost in our legal community over the last year. Moments like these have a way of slowing us down. They invite reflection—not only on the people we've lost, but also on the lives we are actively living.

As lawyers, we spend much of our professional lives focused on legacy. We help clients decide what happens to their property, their businesses, and their assets after they are gone. We draft documents designed to preserve wealth, protect families, defend people, and create structure for the future.

Every now and then it's worth asking a more personal question:

What legacy are we leaving behind ourselves?

But every now and then it's worth asking a more personal question: What legacy are we leaving behind ourselves?

When we see people we care about pass, we can't help but confront a quiet truth: one day, others will gather and reflect on our lives as well. It's a sobering thought, but not necessarily a sad one. In many ways, it's clarifying. It pushes us to think about what truly matters and how we want to be remembered.

Legacy is not always the grand gesture people imagine. Most often, it is built quietly, day by day, through the way we show up in the world.

It lives in how we treat colleagues in the courthouse and in the hallways; it shows in how we mentor younger attorneys, and it appears in the patience we show to our clients during some of the most difficult moments of their lives.

What matters most is not the title we held, the cases we won, or even the positions we occupied. Those things matter in the moment, but over time they fade into the background. What remains is something far simpler, I think. Were we fair? Were we kind? Were we honorable?

Losing people in our lives reminds us that time moves quickly. The days are full, the calendars are crowded, and before long years have passed. Over time, the small moments become the story people tell about us, and the daily choices we make will shape the memory we leave behind. It's like the saying goes…

People will forget what you said, people will forget what you did, but people will never forget how you made them feel.

The truth is these few lines have so much meaning; I keep these words close to my desk where I can read them often to remind myself that the legacy we leave behind will not simply be what we accomplished, but something grander. Something that when people remember your name, they remember a kind encounter with you, the respect you showed them, or simply the way you made them feel. Your legacy will be carried forward in the stories others tell about you, often in the smallest of moments—the ones we might have overlooked, but they never did. And if we did it right, we left something good, something people remembered, something one day, another generation of people will pause for.

Special Unit Spotlight: A New Series Exploring Special Prosecution Units

By Nancy Zieah, Assistant Prosecuting Attorney
Macomb County Prosecutor's Office

In Macomb County, the prosecutor's office plays a central role in protecting public safety, supporting victims, and ensuring the justice system is fair and effective. The specialized units that handle various cases requiring particular expertise are instrumental to fulfilling this role.

To provide a better understanding of how these units function and what cases each unit handles, the prosecutor's office is introducing a new series, Special Unit Spotlight. Each feature will highlight a special unit by providing background information on the prosecutors involved and clarify how specific cases are assigned to these specialized units.

These special units exist because of the need for focused expertise and often involve complex investigations, vulnerable victims, evolving technology, and long-term community impact.

Throughout this series, the prosecutor's office will expand on:

- The prosecutors assigned to the special units
- How cases are selected for specialized assignment
- The kinds of investigations involved in these complex prosecutions
- The work that is being done to support victims and protect the community
- How the office promotes fairness, accountability, and transparency through its prosecutions

Each feature will provide an inside look at each unit's mission, its team members, the types of cases it prosecutes, and case examples that illustrate the specialized situations each unit is trained to handle.

Our first feature of Special Unit Spotlight will focus on the Senior Crime Unit, a team dedicated to prosecuting cases involving victims over the age of 65.

From there, we will continue to feature the units outlined below, hopefully offering the reader a deeper understanding of the work these prosecutors do every day to promote safety, accountability, and justice.

Protecting Vulnerable Victims

The special units that the prosecutor's office will feature first are the units that handle some of the most sensitive victims and impactful cases in the community.

- Senior Crime
- Domestic Violence
- Child Protection
- Human Trafficking

The first feature of this series will highlight the dynamic of working relationships between prosecutors and victim advocates, investigators, and community partners who strive to protect individuals who may be at heightened risk.

Community Safety

The next installment in this series will focus on special units that prosecute crimes affecting broader public safety including neighborhoods and property. These units often prosecute cases involving complex investigations, technical evidence, or categorical crimes that require specialized legal knowledge.

- Auto Theft
- Drugs
- Consumer Protection
- Juvenile Crimes
- Internet Crimes
- Environmental Crimes
- Animal Protection
- Cold Cases

This portion of the series will highlight how prosecutors respond to patterns of crime, repeat offenders, and emerging trends that impact the community. Readers will gain insight into how modern investigations rely on digital evidence, financial analysis, scientific expertise, and long-term case development.

Ensuring Justice and Accountability

The final articles of the series will focus on the special units that work behind the scenes to maintain the integrity of criminal prosecutions and the justice system.

- Appeals Unit
- Conviction Integrity Unit

These units play a critical role in reviewing legal decisions, defending lawful convictions, and addressing credible claims that require additional review.

The Prosecutor's Office webpage has Resources for Defense attorneys, including forms for discovery requests, adjournment requests, deviation requests and office contact information: https://www.macombgov.org/departments/prosecutors-office/defense-attorneys.

Special Unit Spotlight: Senior Crime Unit

The Senior Crime Unit focuses on prosecuting crimes that specifically target senior citizen victims because of their age, vulnerability, financial security, or living arrangements. This group of vulnerable victims are often targeted by offenders because senior citizens may be easier to manipulate, isolate, or defraud.

This special unit handles complex and sensitive cases involving physical harm, neglect, exploitation, and financial crimes committed against senior citizens over the age of 65 or vulnerable adults. Prosecutors in this unit work closely with investigators, victim advocates, financial institutions, and community partners to hold offenders accountable and safeguard senior members of our community.

Crimes against seniors often present unique challenges that require specialized attention. Some examples of these challenges include:

- Victims who may be isolated or dependent on the offender for care
- Complex financial investigations involving a long history of bank records and transfers
- Legal investigations into guardianship and power of attorney orders
- Long-term schemes or ongoing exploitation
- Medical or cognitive issues affecting victims
- Navigating situations involving family members or caregivers
- Coordination with adult protective services and other community agencies

Meet the Team

Unit Chief Danielle Strace

Danielle Strace is the Chief of the Senior Crime and Consumer Fraud Units at the Macomb County Prosecutor's Office, where she, and Deputy Chief Caitlin Sahlaney, specialize in the investigation and prosecution of financial crimes and offenses committed against vulnerable adults and individuals aged 65 and older. This role requires broad and continually developing knowledge of the Michigan Penal Code, encompassing offenses ranging from abuse and neglect to complex financial crimes such as embezzlement and criminal enterprise.

Danielle earned her Bachelor of Arts in Political Science (Pre-Law) from Michigan State University and her Juris Doctor from the University of Detroit Mercy School of Law. While in law school, she was awarded a Ford Grant through which she helped develop a program in the 37th District Court designed to assist homeowners facing foreclosure.

She began her legal career as an Assistant Prosecutor with the Wayne County Prosecutor's Office, where she served as a domestic violence prosecutor before advancing to first-chair in several Circuit courtrooms. She later joined the office's Senior Crime Unit, focusing on the prosecution of abuse, neglect and exploitation against vulnerable adults. Danielle subsequently broadened her litigation experience in private practice, where she handled civil litigation matters and further developed her skills in motion practice, negotiation, and oral advocacy before returning to public service.

At the Macomb County Prosecutor's Office, Danielle has served as a district court prosecutor, first-chair for the Honorable Judge Edward Servitto, and a member of the Warrant Appeals Unit. In addition to her prosecutorial responsibilities, Danielle serves on the 40th District Court Sobriety Court team, the Board of Directors for the Macomb County Bar Foundation and is a member of the Women Lawyers Association. She is also actively involved in several professional and community organizations focused on elder justice and victim protection, such as the Elder Justice Alliance multidisciplinary team, the Community Coordinated Response team through the Macomb County Office of Senior Services, and is a certified instructor through the National Clearinghouse on Abuse in Later Life Grant Program, where she provides education and training to law enforcement on the investigation and prosecution of crimes against older adults.

Deputy Chief Caitlin Sahlaney

Caitlin Sahlaney was born and raised in Macomb County, Michigan. Caitlin earned her Bachelor of Arts in Psychology from Oakland University and then graduated Cum Laude from Cooley Law School. During law school, Caitlin represented her class as a Senator in the Student Bar Association and later, became the Student Bar Association Secretary. Caitlin participated in mock trial activities, federal and criminal law student-member associations, and assisted first-year students as the teaching assistant for Criminal Law. Caitlin obtained two certificates of merit ("book awards") during her law school education for Civil Procedure and Michigan Sentencing Guidelines. Throughout law school, Caitlin had a strong desire to work in criminal law. She interned in Macomb County under the Honorable Edward Servitto, witnessing many criminal trials and observing his fair and respectable rulings which fostered her own yearning to make a positive difference as a future lawyer.

After law school, Caitlin joined her father's successful bankruptcy practice in Oakland County and became a partner of his law firm. She specialized in assisting clients file bankruptcy under Chapter 13 of the United States Bankruptcy Code. Caitlin spent eight years practicing law exclusively in the United States Federal Bankruptcy Court, Eastern District of Michigan, litigating bankruptcy matters with United States Bankruptcy Trustees and arguing adversary proceedings for agencies represented by the United States Attorney.

During the COVID-19 pandemic, Caitlin paused her legal career and dedicated three years to being fully present with her family. Once her son attended school full time, Caitlin began exploring part-time legal opportunities and was hired at the Macomb County Prosecutor's Office as a grant-funded employee. Her new position re-ignited her love for criminal law, and she became a full-time employee of the office shortly thereafter. Initially assigned to the District Court Unit, Caitlin was primarily assigned to the 41B District Court in Clinton Township. In June of 2024, Caitlin was re-assigned to the Consumer / Senior crimes unit where she vertically prosecutes a case from warrant authorization to sentencing. Caitlin finds great satisfaction in prosecuting a case from start to finish and cherishes the relationship of trust she can build with the victims.

Caitlin's experience representing clients in private practice, many who were of advanced age, assists in her ability to connect with her senior victims on criminal cases. Further, her years of experience in financial law aids in her ability to prosecute complex financial crimes.

Cases Assigned to the Senior Crime Unit

Cases assigned to the Senior Crime Unit involve victims 65 and older who have been targeted by offenders to exploit or harm these members of our community.

Typical cases include:

- Physical assault of a senior citizen
- Neglect or physical abuse in care facilities or by caretakers
- Power of attorney abuse
- Financial exploitation of seniors
- Fraud and scams targeting seniors
- Identity theft involving seniors
- Embezzlement by caregivers, family members, or other trusted individuals
- Home repair or contractor fraud scams targeting seniors
- 'Investment' or 'romance' scams involving senior citizens
- Theft from vulnerable or incapacitated adults

Notable Case Examples

Caregiver Financial Exploitation

A caregiver who gained access to an elderly victim's financial accounts and transferred thousands of dollars over several months. The case involved reviewing bank records, digital transaction analysis, and testimony regarding the caregiver's position of trust. The case was assigned to this unit due to the victim's vulnerability and the financial exploitation involved.

Contractor Fraud Targeting Seniors

A contractor who targeted multiple homeowners and exploited their vulnerable age by accepting large deposits for home repairs that were never completed. The unit worked with investigators to identify additional victims and establish a pattern of fraud to properly prosecute the offender.

Family Member Misuse of Power of Attorney

A family member who used legal authority over a senior relative's finances to divert funds for personal use. The case involved financial tracing and coordination with financial institutions to effectively prosecute the offender.

Unit Significance

Crimes against seniors can have devastating financial and emotional consequences for victims. Many victims lose life savings, housing security, or independence because of these offenses.

The Senior Crime Unit is dedicated to ensuring these cases are taken seriously, thoroughly investigated, and prosecuted by attorneys with the experience necessary to pursue justice and protect vulnerable members of the community.

Frequently Asked Questions

When does a case qualify for the Crimes Against Seniors Unit?

Cases are typically assigned when an older adult is specifically targeted or exploited, particularly when there is financial loss, abuse by a trusted individual, or evidence of vulnerability.

Do victims need to report the crime themselves?

Not always. Reports may come from banks, family members, neighbors, caregivers, or social service agencies.

What should someone do if they suspect elder exploitation?

They should contact local law enforcement or adult protective services as soon as possible.

Crimes against seniors are often hidden, complex, and deeply personal, but their impact on victims and families can be devastating. The Senior Crime Unit is dedicated to ensuring that these offenses do not go unnoticed and that those who exploit vulnerable adults are held accountable. Through specialized training, careful investigation, and strong partnerships with law enforcement and community organizations, the prosecutors in this unit work to protect the dignity, safety, and financial security of senior citizens in our community.

Some Evidence

By Hon. Carl J. Marlinga, 16th Judicial Circuit Court and Macomb County Probate Court Judge (Ret.)

About four years ago I left the bench to run for congress. It was a worthwhile but ultimately unsuccessful effort. I was acutely aware that if I had won, I would be ensnared in a world much different from the disciplined, ethical, and intellectually satisfying world of the judiciary. The sole purpose of the courts is to do justice based on a dispassionate search for the truth. The goal of partisan politics is to promote competing and subjective theories of what constitutes the public good; but done in a way which generally side steps the search for truth to advance desired partisan results. I much prefer working in a milieu which prizes truth above everything else.

Now that I am back, I am very much enjoying my life as a mediator, arbitrator, and visiting judge. This is where I belong. It's home. Over the holidays I was reminded that during my tenure as a judge, I regularly contributed a column to *Bar Briefs* on the rules of evidence. The person I spoke with graciously suggested that I might pick up where I left off. I recently got *another* call advising that a committee of the Macomb County Bar Association was making the same request. This made me think that perhaps the first request wasn't just the alcohol talking at a holiday party.

Writing about the rules of evidence is a true labor of love. The rules are an indispensable tool in our rigorous search for the truth. By happenstance, I was present at the beginning when the federal rules of evidence and the Michigan rules of evidence were being drafted and adopted. I was fortunate enough to work with Jim Robinson (Associate United States Attorney General, Dean of the Wayne Law School, and greatest evidence professor ever) when we were young lawyers at Honigman, Miller, Schwartz, and Cohn. Jim served on the state bar committee drafting the rules which were adopted by the Michigan Supreme Court, effective March 1, 1978.[1]

The rules are to be applied liberally to find the truth. To that end, it is always better to err on the side of admissibility.

Although I did not serve on the committee, I was lucky enough to engage in wondrous conversations and heated debates with Jim about the work of the committee. Each evening at about 9:00 p.m. as I was sneaking out early to end my day, Jim would catch me and boggle my mind with either the latest drafting conundrum facing the committee or the ingenious, twisted evidence exam question he was writing for his Wayne State Law students. I rarely got the answer right on the first try, but as they say in law school, I became adept at identifying issues.

The foregoing serves as an introduction to some and a recapitulation to others. It was written to give perspective as to what I am going to say now. My columns are not meant to be another Wigmore on Evidence or the like. I could not possibly compete and that is neither my purpose nor methodology. Sometimes my columns are thick with case citations and footnotes. Other times not. I write as someone who has learned the rules of evidence the hard way: by trial and error—in the many senses of those words. My hope is to have each reader come to regard the rules of evidence as trusted friends, so that in preparation for trial one will be at ease with what will be admitted into evidence and what will not. My stories and examples are true, or only slightly exaggerated. This opening column, after a long layoff, will be an especially easy read. Like any good novelist or drug-dealer, I want to suck you in before we get to the hard stuff.

Today's column is set in a seventh-grade classroom. I chose that because at age 12 the human mind is fast approaching the peak of its ability to process information but is still supple enough to question everything. The subject matter is civics—and, in particular, the court system and rules of evidence.

In previous lessons the teacher has explained the guiding philosophy of the rules of evidence. He instructed the students that the overarching principle in the rules is to reach a just and fair determination of the facts. [MRE 102] The rules are to be applied liberally to find the truth. To that end, it is always better to err on the side of admissibility. If things are admitted that should not have been admitted, the harm done to the search for the truth is never as bad as excluding things which should have been admitted. Juries are smart. They can put aside things that are irrelevant or misleading; but they can never assess the reliability of things that they were never told.

The teacher has also explained the concept of hearsay. Hearsay is second-hand testimony. The person whose statement is being quoted is not there to be questioned; and his or her absence is a factor which must be considered in assessing the reliability of what that person said. The person being quoted might have been in a position to observe what that person reported, or perhaps not. The person might be accurate, or perhaps not. The person could be truthful, or perhaps not. It is the "perhaps not" that makes hearsay problematic. Unless the person is on the witness stand, under oath, and subject to cross-examination we have very little to go on in making up our minds as to

[1]See Reed, John W. "A Review of the Proposed Michigan Rules of Evidence," J. Robinson, co-author. Mich. St. B. J. 56 (1977); 21-39; available at: https://repository.law.umich.edu/facarticles/808.

whether that person's statement should be accepted as reliable. [MRE 801] For that reason, we have decided to generally not allow a hearsay statement into evidence. [MRE 802]

The lesson for today's class is based on this question: *Can you think of some things that are hearsay which are so reliable that they should be admitted anyway?*

At first the class is silent. Then tentatively, Carole (who always sits in the front) raises her hand. "So this may sound funny. But if someone asked me how old I am, I would say 12. But, like, I don't really know that. I mean, I have no memory of when I was born, so I am just taking my parents' word for it. I am really confident that I am 12 years of age, but that is based completely on what you call hearsay. Right."

"Yes," says the teacher. You nailed it. "Once you understand that, you have the key to understanding a whole bunch of exceptions to what we call the hearsay rule. There are things that are definitely hearsay, but they are so reliable that we accept them without requiring an oath, or the person's presence, or cross-examination. If something is sufficiently reliable, we will listen and consider it as evidence, even if it is hearsay. These reliable exceptions to the hearsay rule are written out in Michigan Rule of Evidence 803. What you came up with Carole is the gist of MRE 803(19)."

"So, anybody else think of something?" asks the teacher.

Juanita raises her hand. "Okay, this is different, but I am thinking of how we never question when someone is telling us about things they are immediately experiencing. Like if my sister tells me that she was talking to my mom on the phone, and my mom says that the house next door got hit by lightning, there is no way that I'm thinking my mom made that up. Sure, it's hearsay, but I don't have to talk to my mom to know it happened."

"Okay," Juanita. "You just got MRE 803(1)."

Boyd, who sits next to Carole raises his hand immediately and says without being called upon, "You know, I bet that extends to any time that someone says something in reaction to a startling event. If you blurt out something right away, you don't have time to think about making something up. Even if it is second hand, I would always tend to believe that when someone says something about what just now shook them up is likely going to be true. [MRE 803(2)]

Juanita, who secretly likes Boyd, and is upset that he always sits next to Carole, then says: "Sometimes, you don't even have to be startled to be believable. Back to my mom. If my sister told me that mom said she had a headache, I would believe that. If someone is talking about how they feel or whether or not they are sick, or happy, or sad, you usually aren't making that stuff up. It seems like a lot of stuff that we call hearsay is really believable. There is probably more reliable hearsay in the world than unreliable hearsay." [MRE 803(3)]

"You know Juanita, you are on to something," says the teacher. "I know a lot of lawyers and judges think that reliable hearsay – or exceptions to the hearsay rule as they call it – are rare. But actually, the opposite is true. Our lives are lived listening to, and relying on, reliable hearsay. The same is true, or should be true, in a court of law. Yes, there are some occasions when a witness will quote another person, and it will be inadmissible hearsay; but between statements that are not hearsay (because they do not meet all the tests of MRE 801) and the many exceptions to the hearsay rule (MRE 803) the majority of things that witnesses want to talk about that other people told them are admissible. If a judge is granting too many hearsay objections, perhaps that judge should take a time out to re-think the rules."

"All right," says the teacher. "Let's keep this going. How many other things can we think about that are hearsay and yet totally reliable?"

Henry, with some hesitation, joins the discussion. "So this is different, but I know that things you say in certain circumstances are almost always the truth. Like, when I broke my arm, I told my mom and dad that I just tripped. But what really happened, and please don't anybody tell on me to my mom or dad, what really happened is that I was climbing the tree at the back of the school yard, and I fell. So, I lied to my parents, but when the doctor asked me what happened, I told her the truth. It's like, you just don't lie to your doctor. That would be dumb. So, I guess when people tell stuff to their doctors, that is probably another example of reliable hearsay." [MRE 803(4)]

Tanya then speaks up. "My mom is a lawyer. She told me that it is really important for people to take notes if they have been in an accident. She told me that it is common for people to like forget all the bad stuff that they go through after an accident – like days they just can't get out of bed because of the pain, or important things in their kids' lives that they can't attend, and a whole bunch of stuff like that for which they could get money in a lawsuit. Thing is, according to my mom, your notes are technically hearsay, because it is you talking before you get on the witness stand. Get it. But here's the good part. As long as you write those notes at or about the same time that stuff is going down, those notes are considered reliable enough to get around the hearsay rule. Is that right, teach?

"Absolutely right," says the teacher. [MRE 803(5)]

The class keeps on thinking about reliable hearsay (or exceptions to the hearsay rule as we lawyers like to say) but there is silence for about a minute. The teacher breaks the silence with these thoughts: " There are a lot of things that are likely beyond your experience at this stage of your life; but here are examples of things so reliable that we do not care if they are hearsay: Records of regularly conducted activity (so-called business records); people need these things to be accurate. [MRE 803{6)] This is almost the same thing, but the absence of a record of an activity or event if it should have been there. [MRE 803(7)] A public record of an office's activities, including a description of a matter observed while under a legal duty to report the matter observed." [MRE 803(8)]

Ahmed suddenly shoots his hand in the air. "Does that include birth certificates, death certificates, marriage licenses, and things like that?"

"Yes," replies the teacher, "but those things have their own rules. It is MRE 803(9). And like before, as with records of regularly conducted activity, the absence of an entry that should have been there can be used to prove a negative – that something did not happen." [MRE 803(10)]

Miriam asks, "What happens if official documents from a county or shire or place where your family came from are lost or just don't exist? Can you use records from parishes, or congregations, or temples, or priests, or rabbis or Imams, or ministers – who are not part of a government structure to establish facts about a family?"

"Yes," says the teacher. Those things are covered as reliable hearsay in MRE 803(11 and MRE 803(12).

Theresa says, "So what if you don't have a government public record or a religious organization record, but there are records contained in an old family Bible? Or, I know that my Aunt Helen has a genealogy chart that traces the family all the way back to Poland. Is that kind of thing reliable enough to be admitted into evidence over a hearsay objection?"

Once again the teacher says yes. "Those things are covered in MRE 803(13). Even things like an inscription on a portrait or an engraving on a ring can be an admissible piece of evidence." (The teacher notes silently to himself how uncanny it is that the students are coming up with ideas that follow the enumeration of the exception of MRE 803.)

Anticipating the next several exceptions, and wisely assuming that these matters would be beyond the students' experience, the teacher explains the exceptions for records and statements in documents affecting an interest in property [MRE 803(14) and (15)]; statements in "ancient" documents that are at least 20 years old [MRE 803 (16)] and stock market reports as contained in the Wall Street Journal and other similar publications and internet sites. [MRE 803(17)]

The teacher wryly observes that many lawyers preparing for trial sweat out how they will get these things into evidence simply because they got too bored with MRE 803 to read it all the way to the end.

Next the teacher briefly explains what an expert witness is under MRE 701 and notes that the deposition of an expert witness is admissible without having to call that person to the stand for live testimony. [MRE 803(18)]

The trickiest part of the class comes next in trying to explain the admissibility of reputation evidence in MRE 803 (19)(20) and (21). Carole, the brightest kid in the class, opines that there is something fishy about reputation evidence. She argues that reputation is just a whole bunch of individual hearsay opinions bundled together. If offered one by one, the things that an individual witness heard about a person's character, or about a family matter, or about a land boundary would be inadmissible hearsay. Yet, somehow when all the individual hearsay statements are brought together and labeled as "reputation" they suddenly become reliable enough to be an exception to the hearsay rule. To which the teacher responds, "That's right. You got it. And there's the secret sauce that makes these exceptions understandable. The whole is greater than the sum of its parts. The additional layers of the same hearsay buttress each other. At some point, when enough hearsay leads to the same conclusion there is a tipping point at which the law says it has become reliable. The rules are looking for reliability. When something is repeated enough to be thought of as reputation it is deemed sufficiently reliable to be considered as evidence."

The teacher closes the class with an explanation of how the contents of court judgments are considered sufficiently reliable to be introduced as evidence. [MRE 803(22) and (23]

That's the end of the class and the end of this column. The experienced practitioner will have recognized that I left a lot on the table. Each of these subsections of MRE 803 have several delightful quandaries which can and will be addressed in later columns.[2] I also want to assure the reader and the publisher that most of the columns will be shorter. This was as protracted as it was because, as noted above, few lawyers take the time to completely read through this rule. That is unfortunate because it simplifies the admission of evidence in so many cases. I also wanted to take the time with MRE 803 to again illustrate a point that infuses and informs my thinking and the thinking of the drafters of the rules of evidence; namely, the hearsay rule has its place and must be enforced when necessary; but it is overused and not sufficiently understood. Michigan Rule of Evidence 803 is a testament to how often hearsay should be admitted. Reliability is the key. Truth is the goal.

[2]The original series of columns discussed each of the rules of evidence, starting with relevance in Chapter 4 and meandering thereafter in a somewhat rational pattern to cover all the rules from MRE 101 to MRE 1102. It would be redundant to slavishly cover that same ground. Rather, I will focus on new developments in the law of evidence, recent amendments to the rules, and rules that always invite interest and controversy. There is also a joint project now under way between the MCBA and me to publish a book or pamphlet containing all prior articles. If anyone wants to help with editing, please contact the MCBA or you could reach out directly to me at carlmarlinga@gmail.com. I also take suggestions on rules that you would like to have discussed.

MACOMB BAR ASSOCIATION
EST. 1906
ANNUAL GOLF Outing
CHERRY CREEK
GOLF CLUB
CHERRY CREEK GOLF CLUB 30 YEARS SINCE 1994 SHELBY TWP., MI
Friday, June 5th
• $100 per player
• $400 per foursome
• Sponsorship opportunities available
M | B
EST. 1906
Cherry Creek Golf Club
52000 Cherry Creek Dr.
Shelby Township, MI 48316
Shotgun Start 8 AM
Register at: members.macombbar.org/events

What Are 530a Accounts and How Are They Divided In The Event Of A Divorce?

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

530A accounts, commonly known as "Trump Accounts," are a new type of tax-advantaged savings and investment account introduced under the One Big Beautiful Bill Act (passed in 2025). They function as a special form of traditional individual retirement account (IRA) but are designed specifically for children under age 18. These accounts aim to give kids a head start on long-term savings and investing, with the funds owned by the child (parents/guardians act as custodians until age 18). They became available starting in 2026, with contributions possible from July 2026 onward in many cases. Parents can open these accounts by making an election on IRS Form 4547 or via a website trumpaccounts.gov.

These types of investments grow without current taxes on earnings (dividends, capital gains, etc.), similar to a traditional IRA. This allows compounding over many years—potentially decades—for greater long-term value. Once the child turns 18, the account transitions to standard traditional IRA rules. A child can continue growing it tax-deferred, make contributions (if they have earned income), or withdraw funds (taxed as ordinary income; some penalty-free uses like first-time home purchase may apply under IRA rules). More traditional 529 accounts are limited to K-12 education and have less flexibility as it pertains to spending options.

In Michigan, which follows equitable distribution rules for marital property (not necessarily a strict 50/50 split, but a fair division based on various factors), a 530A plan is generally treated as a marital asset if contributions were made during the marriage using marital funds (e.g., income earned by either spouse while married).

The law in Michigan as set forth in *Sparks v Sparks,* 440 Mich 141, 485 NW2d 893 (1992), provides the Court the relevant factors to be considered:

1. Duration of the marriage;
2. Contributions to the marital estate;
3. Age of the parties;
4. Health of the parties;
5. Life status of the parties;
6. Necessities and circumstances of the parties;
7. Earning ability of the parties;
8. Past relations of the parties;
9. Interruption of the personal career or education of either party; and
10. General principles of equity.

Id at 159-160.

This means the account and its value are subject to division as part of the overall property settlement in a divorce, similar to other assets like bank accounts, retirement funds, or real estate. The child is the beneficiary, but the account is legally owned and controlled by the account owner (usually one parent), not the child. This ownership aspect is key because 530A plans typically allow only one owner, and the owner has significant control (e.g., changing beneficiaries or taking distributions, subject to tax rules). So, what are the options to divide 530A accounts when going through the divorce process?

Parents and courts frequently use these approaches (often negotiated in a settlement agreement to avoid court decisions):

Keep the Account Intact but Add Protection: One parent remains the owner (often the custodial parent, as recommended by some experts for financial aid reasons). Such an agreement normally contains safeguards in the Judgment of Divorce, such as:

- Requiring both parents' written consent for withdrawals, beneficiary changes, or ownership transfers.
- Mandating that funds be used only for the child's qualified education expenses.
- Allowing the non-custodian parent to receive account statements.
- Prohibiting changes to benefit other children (e.g., future stepchildren). This preserves tax advantages and the original intent.

Splitting the Account: Divide the balance into two (or more) separate 529 accounts, often proportionally (e.g., 50/50 or based on contributions/other factors).

- The original owner transfers a portion via rollover to a new 529 account owned by the other parent (same or different beneficiary/child).
- Both parents then control their own account and can continue contributing.
- Many state 529 plans allow this per divorce decree instructions. This gives both parents control and incentive to contribute further.

Freeze or Restrict the Account: Agree to "freeze" it—no new contributions, but existing funds grow and can only be used for the child's education. This prevents misuse while keeping tax benefits.

Stipulate Future Use and Contributions: In the divorce agreement:

- Specify how/when funds will be used (e.g., for college costs before other parental obligations).
- Require ongoing contributions from one or both parents (potentially tied to child support).
- Address ownership changes (e.g., transfer to the child at a certain age or upon college completion).

Other Options (Less Common)

- Liquidate and divide proceeds (triggers taxes/penalties—usually avoided).
- Offset by assigning other marital assets to balance value.
- One parent opens a new 530A for the child (kids can have multiple plans).

In practice, 530A accounts should be addressed with the same level of care as other financial assets in a divorce. Early identification, clear ownership terms, and specific use restrictions can prevent future disputes and protect the child's long-term benefit. As these accounts become more common, practitioners should ensure that judgments of divorce include precise language governing control, contributions, and permissible use.

MICHIGAN CENTER FOR CIVIC EDUCATION

Mock Trial 2026

Macomb County Bar Foundation

M | B MACOMB BAR FOUNDATION



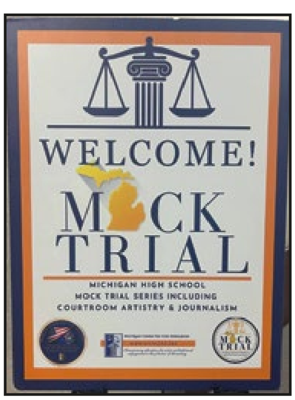






16th Judicial Circuit Court

March 7th, 2026





SSR LAW
Elder Law & Estate Planning
Referral Fees Guaranteed
Medicaid
Estate Planning
Veterans Benefits
Trust Administration
Probate
Special Needs Planning
(586) 239-0871
ssrlawoffice.com


FRASER & SOUWEIDANE P.C.
Personal Injury Lawyers
Proven Results for your Client Referrals
EastsideLawyers.com • 877-Eastside
12900 Hall Road, Suite 330 • Sterling Heights, MI 48313

Macomb County Bar Association
40 N. Main St., Suite 435
Mt. Clemens, MI 48043
MacombBar.org