

BAR BRIEFS

Official Publication of the Macomb Bar Association

November 2023

*Happy
Thanksgiving*

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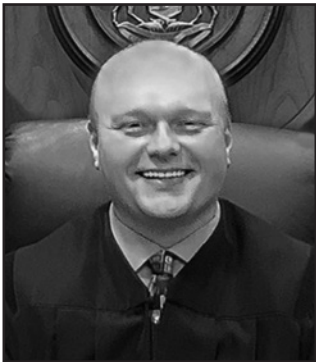
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Gratitude

By Ryan Zemke, President of the Macomb Bar Association

As the Thanksgiving season is upon us it is important that we all take time to practice gratitude. Gratitude is a sense of happiness and thankfulness in response to a fortunate happenstance or tangible gift as defined by the American Psychological Association.

Admittedly, there are times that we just do not feel grateful at all. It could be a difficult case, a bad day, a bad week, a relationship, politics, clients, or something as simple as bad weather that just makes the ability to feel thankful a challenge from time to time. However, we must all make a concerted effort to practice gratitude in our lives – even if at times that can feel like a bit of a challenge.

Thankfulness has been consistently shown to raise one's personal happiness. It triggers our brains to make us feel a sense of reward which in turn leads to positive moods, increased productivity, strengthened relationships, and bonds that help us become more resilient.

There have even been studies that show gratitude having a positive effect on our health vitals such as blood pressure (although this may be slightly affected by what you decide to eat on Thanksgiving). Psychologically speaking, gratitude can improve your self-esteem, reduce aggression, and improve your sleep. Simply stated, giving thanks and practicing gratitude makes us better people any way that you look at it.

The best part of this is that at least to some extent gratitude is under your own control. Nobody else controls

your ability to be a good person. We can all very easily come up with ways to show our appreciation to others. It could be as simple as giving thanks ('tis the season) or sitting down and just counting your blessings, writing a journal, or sending out a thank you note.

Even during setbacks there is usually a blessing in disguise at the end of the tunnel. Though so many people will seek gratitude in material items such as possessions,

there is so much gratitude to be found in non-tangible items such as health and relationships as well. Each person will have a different viewpoint through which they can express gratitude.

I encourage each of you to take some time during the holiday season and take time to yourselves and also encourage your families, your clients, your co-workers, your friends, or anyone you so desire to take time to not just give thanks but

to recognize all the good in their lives no matter how difficult that may seem. As a bar association we have so much to be grateful for and for each of us that may be something entirely different.

As we move toward a new year and a new future for the bar association, I am thankful for what each of you brings to the Macomb County Bar Association and I look forward to continuing to strengthen our local community in the future. I hope that you and your families have a blessed and Happy Thanksgiving.

**We must all make
a concerted effort to
practice gratitude in our
lives – even if at times
that can feel like a bit
of a challenge.**

Macomb County Prosecutor's Office Offers Opportunity and Possibilities to Law School Students

By the Macomb County Prosecutor's Office



The Macomb County Prosecutor's Office is seeking law student interns to appear in court on criminal cases for preliminary examinations and motion hearings, assist with jury instructions, prepare sentencing guidelines, assist with trial preparation and legal research under the direct supervision of assistant prosecutors which is allowed per the Michigan Court Rules.

The Macomb County Prosecutor's Office Internship Program started after Prosecutor Lucido took office in 2021. Since the fall of 2021, the Macomb County Prosecutor's Office has had over 200 interns. These unpaid internships are available for undergraduate, graduate, and law school students, giving them practical experience in the criminal justice system, a strong work ethic, and college and law school credits towards their degree. Law school student interns participate in courtroom proceedings and gain invaluable knowledge and experience. Pursuant to Michigan Court Rule 8.120, law school students are given the authority to appear and represent the People of the State of Michigan in court proceedings under the supervision of an assistant prosecutor.

"I created this internship program because that's how I started my career. The Macomb County Prosecutor's Office Internship Program offers unlimited opportunities and possibilities. This experience can help shape an undergraduate student's continued pursuits and it gives law school students the opportunity to practice law in a courtroom before finishing school. Not everything is quantified by money," said Macomb County Prosecutor Peter J. Lucido.

The Macomb County Prosecutor's Office Internship Program gives students real world experience. Undergraduate interns will experience a professional office environment, learn how to work with others, gather knowledge of the criminal justice system, and create

a strong work ethic. They will provide administrative assistance to Prosecutor Lucido and staff in areas ranging from communications, general office administration, and special projects while having the opportunity to learn and experience the prosecutorial process. Some responsibilities will include filing, communications, scanning warrants, drafting correspondence, data entry, and attendance at court hearings.

The Macomb County Prosecutor's Office Law School Internship Program provides law school students the unique opportunity to gain hands-on experience with the responsibilities and duties of a Macomb County assistant prosecuting attorney. This opportunity begins with the law school interns being assigned to an assistant prosecuting attorney to shadow and learn from. Their duties include plea negotiations, bench trials, formal hearings, case review, legal research and appellate brief writing. Law school interns may have the opportunity to prepare and conduct jury trials alongside an assistant prosecuting attorney. They will be able to advocate for victims and victim's families and experience their first time in a courtroom in front of a judge and/or jury. This internship will bridge the gap between law school and real courtroom experience. Law school interns learn how to address the court, be on the record, gain confidence in the courtroom, and so much more.

The Macomb County Prosecutor's Office Internship Program offers extensive experience in the criminal justice system. These unpaid positions have flexible schedules and earn college credits and/or scholarships and grant benefits. If you are interested in becoming an intern or know someone who is, cover letters and resumes should be emailed to Intern Coordinator Martha Maxwell at Martha.Maxwell@macombgov.org. For questions please call Martha at (586) 469-7175. **The deadline to apply for winter 2024 internships is Friday, December 1, 2023. Space is limited, so apply early.**



Michigan Deer Hunting Update – 2023

By Joe Pernicano, Pernicano Law, PLLC
and Young Lawyers Section Director

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Opening day for Michigan’s regular firearm deer season is quickly approaching. With the 2023 deer hunting season already ongoing, the State has made some significant changes to the mandatory deer harvesting reporting law, specifically the penalties for failing to report.

Mandatory Deer Harvest Reporting Changes

In 2022, Michigan began requiring hunters report a deer harvest to the Michigan Department of Natural Resources (“DNR”) within 72 hours of a successful harvest. That requirement is largely unchanged for the 2023 deer hunting season.

2023 Michigan Deer Hunting Seasons

Archery

October 1 – November 14
December 1 – January 1, 2024

Regular Firearm

November 15 – November 30

Muzzleloading

Zone 1, 2 & 3: December 1 – December 10

Late Antlerless Firearm

December 11, 2023 – January 1, 2023

If a hunter failed to report a deer harvest within 72 hours, the initial offense could result in the hunter being charged with a misdemeanor and if convicted, sentenced up to 90 days in jail and or up to a \$500.00 fine.

In February of 2023, Senator John Cherry (D) introduced Senate Bill 0052 to amend the Natural Resources and Environmental Protection Act to reduce the penalty for violating the mandatory deer harvest reporting requirement. Under the amendment, a person who failed to report a deer harvest within 72 hours could be responsible for a state civil infraction and fined up to \$150.00.

The Bill passed the Michigan Senate and House with large majorities of both chambers voting in favor of the bill. Both chambers also supported the bill taking immediate effect. Governor Whitmer signed the bill on July 11, 2023, allowing the amendment to become law with immediate effect. *MCL 324.40118(19)(d)*.

As of July 11, 2023, and within the permissible hunting seasons, if a hunter fails to report a deer harvest within 72 hours, they could now be found responsible for a state civil infraction and fined up to \$150.00. This type of decriminalization of state statutes should be utilized more often and can have profound benefits for clients and their futures.

As always, best of luck to anyone heading into the woods this fall. If you have any questions regarding the DNR requirements or any DNR violations, you can contact Joe Pernicano at pernicanolaw.com.

Joe Pernicano is a solo practitioner who represents Michiganders that have been seriously injured or are facing criminal charges. You can reach him by visiting pernicanolaw.com, (313) 618-5914 or joe@pernicanolaw.com.



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Macomb County's Conviction Integrity Unit Awarded \$1.6 Million Grant For Post Conviction DNA Cases

By the Macomb County Prosecutor's Office



Prosecutor Peter Lucido is thrilled to announce that on September 27, 2023, the Macomb County Prosecutor's Office Conviction Integrity Unit (CIU) was awarded the "Post Conviction DNA Evidence Award." This a \$1.6 million award of grant money from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for post-conviction review of cases for DNA evidence and testing.

This grant is highly sought after and involves entities competing for it across the United States. The total award available to all those who applied this year was \$6.0 million. The Macomb County Prosecutor's Office CIU grant of \$1.6 million was one of only four programs in the country to receive an award.

The grant money will be allocated over 3 years. It will be used by the CIU to increase its capacity to identify and review post-conviction DNA cases and locate biological evidence to determine whether DNA testing may prove actual innocence in felony cases. The CIU hopes to add 2 attorneys, 2 investigators and a full-time clerical assistant with grant funds to accomplish these objectives.

Gail Pamukov, Chief of the Macomb County Prosecutor's Office CIU, said "this is a real game changer for our Unit. We have a serious backlog of cases. Some are from the mid 1980's. Those cases occurred before DNA testing was even available as a forensic tool. The grant will be invaluable in increasing our capacity to clear cases via case review, DNA identification and testing."

Macomb County Prosecutor Lucido said, "this is one of the largest grants for a single unit ever received by the Macomb County Prosecutor's Office. I am committed to finding as much grant money as possible to give my office the funds to continually

provide the citizens of Macomb County with the best possible public safety service. The prosecutors' office now has a consultant on contract that searches for grant funds and assists in the grant process. The grant awards this year shows the dedication and tremendous return on this staff investment."

The Conviction Integrity Unit reviews post-conviction claims of innocence. The Macomb County CIU had its first exoneration in March 2023. Prosecutor Lucido formed the Macomb County Prosecutor's Office's CIU in 2022 after his budget request for an additional assistant prosecuting attorney was approved by the Macomb County Board of Commissioners.

For further information regarding the Macomb County CIU, please see the Macomb County Prosecutor's CIU website and link: <https://prosecutor.macombgov.org/Prosecutor-Units-ConvictionIntegrity>.



Gail M. Pamukov, Chief of the Macomb County Prosecutor's Office Conviction Integrity Unit



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REGISTRATION CODE: MOL50

A IS FOR ATTORNEY (IN PERSON)

November 9, 2023 9:30am | Shanty Creek – 5780 Shanty Creek Rd., Bellaire, MI
REGISTRATION CODE: MOL49

CDAM 2023 FALL CONFERENCE (IN PERSON)

November 10-12, 2023 9:00am | Shanty Creek – 5780 Shanty Creek Rd., Bellaire, MI
REGISTRATION CODE: MLSC45

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December 15, 2023 9:00am | Shanty Creek – 5780 Shanty Creek Rd., Bellaire, MI
REGISTRATION CODE: MOL51

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Protecting Your Identity From Cybercriminals

By Cheyenne Harden, Owner and CEO of Cyber Protect LLC



In today's interconnected and technology-driven world, protecting one's identity has become increasingly crucial. The vast amount of personal information available online and the prevalence of cybercrime make safeguarding your identity a top priority. This article delves into implementing a credit freeze to help protect your identity.

One effective measure to protect your identity is to implement a credit freeze with the major credit bureaus, including Experian, TransUnion, Equifax, and the lesser-known Innovis. The best part is, it's free!

Thanks to a federal law enacted in September 2018, consumers now have the power to halt intruders in their tracks by requesting a credit freeze without any charge. By doing so, you restrict access to your credit file, making it much more challenging for criminals to open fraudulent accounts or credit cards in your name.

Despite the benefits, many individuals remain unfamiliar with the concept of a credit freeze and how it operates. Surprisingly, some consumers mistakenly believe that freezing their credit will prevent them from using their existing credit cards. Let's shed some light on the

subject and clarify these misconceptions.

A credit freeze effectively blocks most businesses and entities from reviewing your credit file. When you opt for a voluntary credit freeze, you receive a unique Personal Identification Number (PIN), which is crucial to remember. This PIN is used to lift the freeze temporarily when you need to apply for new credit.

According to the Federal Trade Commission, if you request a credit freeze online or via phone, the credit reporting agency is obligated to implement the freeze by the following business day. Additionally, if you decide to lift the freeze temporarily—perhaps to secure financing for a new car or open a bank account—the credit freeze must be lifted within one hour, ensuring convenient and timely access to your credit file. Then, after a specified period of time, your credit will automatically reapply the freeze keeping it safe from cybercriminals.

To freeze your credit across all of these credit bureaus, you should be prepared with the following necessary information:

- Social Security Number
- Date of Birth
- Present residential address

The mode of initiation may require additional documents such as:

- Copy of your official identification, like a driver's license, passport or military ID
- Copy of official documents for financial transactions, e.g. tax documents or bank statements
- Residential proof like a utility bill

Bear in mind, if you choose to proceed via phone, there might be some authentication-based questions for security purposes too. It is prudent to gather all these documents in advance before starting the process.

Implementing a credit freeze provides an additional layer of security by restricting unauthorized access to your credit information. By understanding how credit freezes work and taking advantage of this free service, you can enhance your defenses against identity theft and maintain greater control over your financial well-being.

Cheyenne Harden is a Security Expert, and a Data Breach and Ransomware Prevention Specialist. As a dedicated family man, taking on the roles of both husband and girl dad, I also have a longstanding career in cybersecurity.

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TransUnion

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Innovis

Call **866-712-4546** or go to <https://www.innovis.com/personal/SecurityFreeze>



The Sobering Reality of What AI Actually is

By Brian D. Wassom, Partner

Society is currently somewhere around the fourth-date phase of its relationship with generative artificial intelligence: still infatuated, but beginning to sober up enough to acknowledge that the object of our affections may not prove to be entirely worthy of our trust. All but the most ardent of enthusiasts have realized we can't take for granted that AI applications tell us the truth.

ChatGPT unblushingly delivers fact and fiction with equal gusto in response to our queries. The prevailing description of these flights of fancy is "hallucination" — an anthropomorphizing term that implies the app truly desires to be honest with us but is inadvertently held back by an occasional schizophrenic break with reality.

This is dangerously misleading vocabulary. Of course, to speak of AI as if it is something more personal than the complex interaction of 1s and 0s is our first mistake. AI programs act intelligently, if by that we mean "able to adapt." The very thing that sets AI apart from garden-variety software is its ability to adapt in response to accumulated feedback. We call these processes "machine learning" or "deep learning," and the more advanced AI designs are known as "neural nets" — all terms patterned after the way human minds operate.

But these terms are more analogical than accurate. AI is not — cannot be — "intelligent" in the same way a human brain is, because software lacks a mind. Merriam Webster more thoroughly defines "intelligence" as "the skilled use of reason" and "the ability to apply knowledge ... or to think abstractly." Machines can do none of this. If an AI program generates data that happens to correspond to reality, that is the happy result of its human coder's effort. These programmers are like civil engineers who design a complex array of subterranean pipes precisely enough to ensure that water flows only to the desired location. But an AI program does not know it is telling the truth any more than a pipe knows it is delivering water correctly, because it has no mind with which to ascertain what reality is.

At least AI cannot lie to us. A liar is one who recognizes the truth and chooses to deceive the listener into believing something different. AI cannot "know" the truth, so it cannot lie.

But neither can it "hallucinate." To hallucinate is still to perceive a reality, just not the actual one. So, if we're going to continue speaking of AI in anthropomorphized terms, we should at least be more precise. Lulling ourselves into a mistaken understanding of how the software functions sets us up to misunderstand both its limitations

and its true potential utilities. To that end, I propose that the most accurate way to describe the output of generative AI programs is — to use the abbreviation — "BS."

I'm serious. In a 2005 book that became his most popular publication, philosopher Harry G. Frankfurt set out to define this oft-used but ill-understood term. Titled *On Bullsh*t*, the book posits that "the essence of [BS] is not that it is false but that it is phony." Unlike a liar, who is actively "attempting to lead us away from a correct apprehension of reality," the BS artist "does not care whether the things he says describe reality correctly. He just picks them out, or makes them up, to suit his purpose."

That describes ChatGPT's conversations with us. The only difference between a chatbot and a human BS artist is that the person does it intentionally. AI has no intention. But that just cements the description. As Frankfurt says, "[BS] is unavoidable whenever circumstances require someone to talk without knowing what he is talking about." Since ChatGPT cannot know what it is talking about, it cannot say anything other than BS.

This is easiest to see in the context of a chatbot, but the same principle applies to all manifestations of AI. Humans relying on AI-generated information as if it were reliable advice have already caused disastrous outcomes in numerous industries.

AI-powered tools will be useful for an increasingly broad array of applications that inform and assist human decision-making, but they must always be wielded by humans exercising independent judgment. AI solutions must be implemented within guardrails restrictive enough to ensure that the program's final output is sufficiently likely to correlate to reality as to be useful (after human-led review and revision) for its intended purpose. The acceptable parameters will vary by context. But to the extent we allow ourselves or our businesses to uncritically rely on generative AI as a source of truth rather than the sometimes-useful BS that it is, we will come to regret it.

Brian D. Wassom is a partner at Warner Norcross + Judd LLP, where he is the practice leader for content, branding and media litigation and chair of the firm's Emerging Media and Technologies Industry Group. He holds a certificate in artificial intelligence from the Wayne State Engineering School and advises clients from Fortune 500 companies to local businesses on AI issues. Brian is also a globally recognized pioneer in the legal aspects of augmented reality and other cutting-edge digital fields.

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Madison's Mt. Clemens Lawyers Softball League

By Charles Trickey III, Commissioner

On September 6th, the President of the Macomb County Bar Association, 41B District Court Magistrate Ryan Zemke, awarded the Madison's Mt. Clemens Lawyers Softball Championship Trophy to the Macomb Prosecutor team, managed by Dan DeBruin.

Pictured here are: Dale Vande Vrede, Dan DeBruin, Andres Villafane, Richard Nelson, MCBA President 41B District Court Magistrate Ryan Zemke, Jim O'Deherty, Justin Gonzales, Carmen DeFranco, Mitch Albert, Tony Servitto, Ben Wiegand and Adam Kroll.

The Macomb Prosecutor team is sponsored by Little Lorraine's Bar and the sponsor for the league is Madison's Pub, both of Mt. Clemens.



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MCBA'S Diversity & Inclusion

Future Meeting Schedule

Every 3rd Wednesday of the month
at 5:00 pm, for about 1.5 hour

Location:

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***Any location change for a future meeting will be
communicated via email blast in advance***

July 19, 2023	January 17, 2024
August 16, 2023	February 21, 2024
September 20, 2023	March 20, 2024
October 18, 2023	April 17, 2024
November 15, 2023	May 15, 2024
December 20, 2023	June 19, 2024



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Macomb County Bar Association

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Holiday Party

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FRIDAY, DECEMBER 8, 2023

11:30 am - 1:30 pm
..... ❁

TestaBarra

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Members: \$50/Non-Members: \$55

Luncheon buffet, champagne punch

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