

BAR BRIEFS

Official Publication of the Macomb Bar Association

August 2025

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MACOMB BAR ASSOCIATION
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Built on Tradition, Fueled by Purpose

By Farrah Ramdayal-Howard, 97th President,
Macomb County Bar Association

It is both an honor and a privilege to serve as your 97th President of the Macomb County Bar Association. As I step into this role, I stand on the shoulders of leaders who have championed excellence, integrity, and collegiality within our legal community. I look forward to continuing that tradition—and inviting fresh perspectives and bold ideas to shape the year ahead.

I want to take a moment to introduce myself to those who may not know me. I'm originally from Toronto and have had the privilege of practicing law in Macomb County for over 15 years. During that time, the Macomb County legal community—with its professionalism and a kind heart—has truly made me feel at home. To now serve in this role as your President is my absolute pleasure.

Over the past few months, I've had the opportunity to speak with many of you about what you hope to see from the Bar Association. I've listened closely—reflecting on how we can enhance member participation and ensure that every attorney finds real value, support, and meaningful educational opportunities through their membership. I've also been inspired by the stories you've shared—of how the Bar Association has shaped your careers, fostered professional growth, and built a sense of camaraderie that continues to define this legal community.

Our legacy is strong. The Bar Association has stood as a beacon of professionalism and friendship for nearly a century. We have celebrated progress, stood shoulder to shoulder during challenges, and built bridges across legal disciplines and generations. That foundation of tradition is what allows us to keep moving forward with confidence.

My goal is simple: I want to honor the tradition that the Bar Association has created and fuel the future of our organization with excitement, education, participation, and purpose. Tradition without purpose can become stagnation, that's why I want our Association this year to be driven by meaningful connection, service, and innovation. Whether you're a new lawyer finding your place in our legal community, a seasoned practitioner mentoring others, or a judge shaping the next chapter of justice in Macomb County—your voice, your work, and your presence matter. We are a special group of attorneys—people see it, and it shows.

This year, we have exciting plans to bring our members together in new and familiar ways:

- **The Return of the 5:01 Happy Hour:**

We're bringing back our monthly 5:01 p.m. Happy Hours at Madison's—a post-COVID effort to reconnect in person and build friendships that extend beyond the courtroom.

- **Practice Area Spotlight Months:**

We'll highlight areas of law practiced by our members—civil litigation, personal injury, probate, estate planning, family law, and criminal law. These themed months will feature targeted programming, education, and networking opportunities.

- **Annual Golf Outing:**

We'll host our signature golf outing in June 2026.

- **Holiday Party:**

Hosted by your Young Lawyers Section, we'll take time to honor our members who have served our community for over 35 years—acknowledging the roots that continue to nourish our legal family.

- **Business & Tech Month:**

We'll spotlight practical ways to grow your practice, including the use of emerging technologies and artificial intelligence—giving you the tools to stay competitive and forward-thinking in a rapidly changing profession.

This year we have a strong and dedicated Board filled with fresh ideas and a shared commitment to elevating the Bar Association. I'm incredibly proud of this team, and I'm confident we won't let you down. Let's come together, celebrate who we are, and make this our best year yet.

I invite you to join us on **Tuesday, September 10th at 5:00 p.m. at Gowan Golf Club** for my **Presidential Installation**—an evening where we'll share our vision and hopes for the future of our Bar Association. This event will mark an exciting kickoff to what promises to be a dynamic and purposeful year. Your presence matters.

Thank you for the trust you have placed in me to serve as your 97th President. Together, we'll shape our legacy and continue working toward becoming the premier bar association in Michigan.

Warmly,
Farrah Ramdayal-Howard



Macomb County Bar Foundation Footprint

By Sherrie L. Detzler, MCBA President-Elect and MCBF President

The Macomb County Bar Foundation was created in 1992 with the vision of people of all ages having a better understanding of the impact that the United States Constitution, the Bill of Rights and the State and Federal system of laws have on their lives. The Foundation's earliest Trustees established the Foundation's tradition of leadership in the fields of legal education, projects promoting literacy and aiding victims of sexual and physical abuse, as well as a scholarship program. Recent Past Presidents are Lori Smith, R. Timothy Kohler, and Dana Warnez.

Since its inception, the Foundation has raised substantial tax-deductible funds for projects in fulfillment of its mission to identify, initiate and support law related education projects and programs for the betterment of the community.

Among the achievements of the Foundation are:

- **Feed the Need**
Annual day of serving our most vulnerable community a hot meal and providing community resources
- **The Resolution Center**
Founded in 1993--Macomb County's premier provider of alternative dispute resolution services
- **Turning Point**
Opened in 1980 with a 25-bed shelter and a 24-hour crisis hotline, Macomb County's only domestic and sexual assault protection agency.
- **Care House**
A child-friendly, family-oriented, multidiscipline center serving victims of child sexual and physical abuse.
- **Mock Trials**
Partnered with the Michigan Center for Civic Education, this program provides school students with the knowledge and skills needed to become engaged citizens and participate in mock trials
- **Law Day**
Events include recognition of the works of Grades 1

through 8 students, like essays and posters dedicated to the rule of law.

- **Legally Speaking**
Co-produced with Sterling Heights Television provides law related education to the public.
- **The Kimberly M. Cahill Memorial Fund**
Dedicated to the memory of past State Bar and MCBA President Kimberly M. Cahill established to encourage programs in honor of her tireless advocacy of lifelong learning, service to others, and community justice.
- **The History Book Club**
Brings together members of the community to discuss notable works of history.
- **The Lawyer-Teacher Partnership**
Pairs attorneys with classrooms to collaborate and present law-related lessons to young students.
- **Constitution Day**
Provides the Foundation an opportunity to sponsor community based educational programs and events held on Constitution Day, September 17.

Macomb County Bar Foundation Board of Directors for 2025-2026 are Brian Grant, Immediate Past President, Sherrie L. Detzler, President, Chris Metry, President-Elect, Tanya Grillo, Secretary, and Paul Spaniolo, Treasurer. Macomb County Bar Foundation Directors are William "Bill" Moore, Hon. Joseph Toia, Jen Smith, Kristina Joseph-Constantino, Annette Gattari-Ross, Joseph Pernicano, with newly added Directors: Ryan Zemke, Danielle Stace, and Stephen Becker.

As we enjoy our summer break and look forward to planning our future endeavors, we'd like to leave you with a thought to ponder—how do you fit into the MCB Foundation mix? To put it bluntly—you are a key ingredient! Starting in September, we need volunteers! Can you read to a group of 2nd graders? On Constitution Day, September 17, we will be reading to several classrooms across the county—sign up today!

Best Ways to Contact Macomb County Assistant Prosecutors

By Jonathan Mycek, Macomb County Assistant Prosecuting Attorney



Summer at the Prosecutor's Office is a season for interns and with their youthful desire to work comes an equally youthful – yet honest – exhibition of their inexperience. Questions about the mail chutes in the Circuit Court building, cassette or VHS tapes in older trial files, or – as in my last job – the ashtrays set into the walls adjacent to the elevator call buttons are often as common as questions about the work we do. One question that comes to mind, since it's often asked, is "How do I get in contact with opposing counsel?"

The question is a very important one, since our entire profession is built upon adversarial – but mostly genial – confrontation. (It's certainly better than the ones about the ash trays at the old Frank Murphy Hall of Justice.) Invariably, I – and my fellow APAs – offer the inquiring intern different suggestions and send them to their work. After the last time I answered it, I wondered if other, more seasoned, members of the bar have the same problem. Do they know how to get in touch with me?

We all know that open lines of communications between counsel and assistant prosecutors are vital for the prompt and just resolution of a case, but beginning that two-way relationship could be difficult, especially if you don't know where to call or email. Luckily, getting in contact – and staying in contact – with the Assistant Prosecuting Attorney (APA) assigned to your case is easy to do. If you didn't get the APA's contact information at your first face-to-face meeting, here are five ways to find it – in no particular order:

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1. State of Michigan Bar Directory

Looking-up an APA in the State Bar Directory remains an effective way for getting reliable contact information. Although the hardcopy directory is largely a thing of the past, the directory is online and easy to employ. Use your favorite search engine to find the State Bar of Michigan Member Directory or navigate to sbm.reliaguide.com/home and use the APA's name, P Number, or even put "Macomb County Prosecutor" as a keyword to find the APA you need.

2. Macomb County Bar Association Member Directory

Just like the State Bar Directory, you can find APA contact information on the Macomb County Bar Association Member Directory. Again, use a search engine to find the Macomb County Bar homepage or head over to macombbar.org and, under the "Products & Services" header, select "Member Directory" from the drop-down menu. Use an APA's first name, last name, or both, and view his or her membership page.

3. MCPO Website – Prosecutor's Office Units

If you can't remember what APA you were working with head over to the Macomb County Prosecutor's Office website by going to macombgov.org/departments/prosecutors-office or using your go-to search engine and clicking on the "Prosecutor Units" tab. The next screen will have a comprehensive list of all the MCPO's 20 units. Click on any of them to find the Unit's Chief, Deputy, and the best way to contact them. They will help connect you to the APA on your case or address any concern(s) you have.

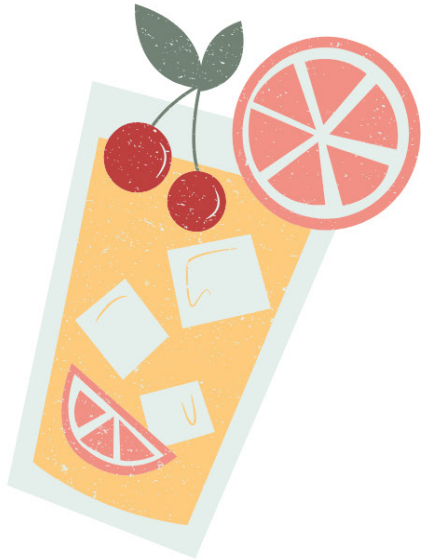
4. Ask for a Business Card

Another tried and true way is to ask the APA you're working with for a business card. Most – if not all – APAs have them and they'll be happy to share.

5. MCPO Mainline

If all else fails – or if you want to cut right to the chase – call the Macomb County Prosecutor's Office mainline number at (586) 469-5350 and ask for the APA by name; you'll be transferred along. If you don't know the APA's name – or if you've forgotten who you're working with – give the MCPO's expert staff the name of your client and he or she will ensure your call is appropriately directed.

Obtaining the contact information for the APA assigned to your client's case is easy to do and even easier to use, so use it. Don't let your client's case languish, so call or email your APA today!



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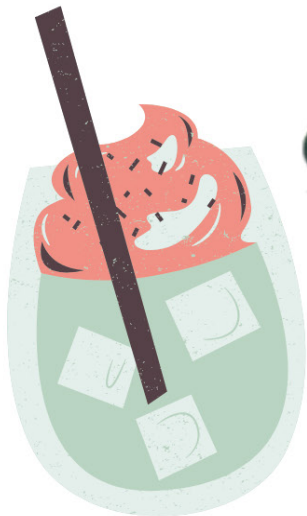
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Special Needs Trusts and Inherited IRAs: Technical Guidance for Advisors



*By Patrick M. Simasko, Elder Law Attorney
& David Howard, CPA & Financial Advisor —
CoreCap Advisors, LLC*

Introduction

Parents often need to leave their retirement accounts to a child with a disability which can be very tricky. Without proper planning, two things can go very wrong:

1. The IRA income gets hammered with taxes at trust rates.
2. The inheritance disqualifies the disabled beneficiary from benefits like SSI and Medicaid.

This article dives into how Retirement Accounts work when left to a Special Needs Trust (SNT), and then how to strike the right balance between minimizing taxes and protecting the child's government benefits which often requires the attorney, CPA, and financial advisor all working together.

The SECURE Act & Eligible Designated Beneficiaries

The SECURE Act eliminated the lifetime stretch for most IRA beneficiaries and replaced it with a 10-year payout rule. However, one exception is for an Eligible Designated Beneficiary (EDB), which includes disabled individuals under the tax code. If we structure everything properly, we can still stretch distributions over the disabled beneficiary's life.

Why You Need a Trust for a Disabled Beneficiary

If you leave the IRA directly to someone on SSI or Medicaid it will usually cause them to lose their benefit because they are now over assets. That's why most of our clients need to establish a Third-Party Accumulation SNT to protect their eligibility.

To qualify for the stretch, the trust must be a See-Through Trust. It must:

- Be irrevocable at the IRA owner's death
- Be valid under state law
- Clearly identify the beneficiaries
- Be provided to the IRA custodian by October 31 of the year after death

Conduit vs. Accumulation Trust—Why It Matters

A Conduit Trust pushes all IRA distributions directly to the beneficiary, which is fine for taxes—but disastrous for SSI and Medicaid. That's why these trusts are created to be an

Accumulation Trust, which holds the money inside the trust but pays taxes at trust rates.

Shifting IRA Income from Trust to Beneficiary?

The solution is to have the SNT trust pay the beneficiary's non-support expenses. By doing so, the Trust can transfer the RMD income onto the beneficiary's tax return so that they can pay the tax at their lower rate. But you have to make sure that the trust never pays for the beneficiary's housing or food, because SSI would count these payments as income and the beneficiary would lose their benefit.

The Practical Conflict: Tax vs. Benefits

In many instances, the beneficiary doesn't have enough non-support expenses to cover the Beneficiary IRA's RMD and even though you can save taxes by shifting this income to the beneficiary—but you risk them losing their benefits. In these cases, it's better to have the trust accumulate the income and pay the tax at the higher trust rates but at least the benefits are preserved.

Best Practices to Navigate the Tension

- Do Roth conversions during the IRA owner's life.
- Fund the SNT trust with other non-qualified assets—like life insurance or brokerage accounts.
- Create language in the underlying Trust Agreement, that allows the Successor Trustee to apportion non-taxable assets to the SNT to help mitigate any negative tax consequences.
- Educate the trustees and their tax preparers on what counts as in-kind support and what doesn't.

Meet Mary

Mary, age 70, has a \$600,000 traditional IRA. Her son John (age 30) is on SSI and Medicaid. She names a Third-Party Accumulation SNT as her IRA beneficiary, and her other son as trustee.

- The trust qualifies as a See-Through.
- RMDs are based on John's life, not the 10-year rule.
- The trustee uses RMDs to pay for travel and personal care—not food or rent.

- Any unused RMDs are taxed inside the trust.
- Mary did Roth conversions before she passed to reduce future tax impact.
- Mary's Revocable Trust had an apportionment clause so that the SNT trust could have received more of the non-qualified assets but was not necessary in this case

Result: lifetime stretch, public benefits preserved, and tax drag minimized.

Conclusion & Advisor Takeaways

If you're advising a family with a disabled beneficiary and an IRA, you need to know how this works. Use a Revocable Trust with an apportionment clause, have the disabled beneficiary's share be distributed to an Accumulation SNT. Talk to the family about proper tax planning to minimize the Retirement Accounts prior to their death. Educate the trustee, as well as the financial advisor and tax preparer on how these Trusts need to be administered and then reviewed annually.

About the Authors

Patrick M. Simasko is an elder law attorney, an Investment Adviser Representative with CoreCap Advisors, LLC, and elder law professor at Michigan State University College of Law.

David Howard, CPA & Financial Advisor, is an Investment Adviser Representative with CoreCap Advisors, LLC. He focuses on tax planning, retirement strategy, and trust/IRA planning.



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Personal Injury Settlements and Divorce

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



Personal Injury cases can be tricky to the extent that any injury settlement may be treated as part of the marital estate and thus, subjected to the divorce.

There are several types of personal injury cases: vehicle accidents are the most common way a person suffers compensable injuries; dog bites are common; medical malpractice leads to tortious claims; and slip and fall cases are back thanks to a recent ruling by the Michigan Supreme Court.

The Statistics

Here are some statistics from the Michigan State Police relating to vehicle injuries to give you an idea of how many injury cases are generated by these crashes.

Of course, the counties that have Michigan's major population centers lead the way. Here is the MSP breakdown for 2022 vehicle crashes:

- Wayne County had the most vehicle crashes at over 50,000; of those crashes, 201 were fatal and another 11,248 involved injuries.
- Oakland County was next with just over 34,000 vehicle crashes; 76 fatalities and 6490 injuries.
- Macomb County had over 22,000 crashes; 55 of which were fatalities; 4879 of the crashes involved injuries.
- Kent County rounds out our list with just over 20,000 crashes; 50 of those were fatalities; 3768 involved injuries.

With these high numbers of vehicle crashes, it is easy to understand the omnipresence of advertisements from injury lawyers attempting to claim the injured among their clientele. This post examines the intersection of these injury cases with divorce.

Damage Classifications

Settlement proceeds from an injury lawsuit are often divided into two categories: "pain and suffering" and

economic damages. Generally, the pain and suffering portion of the settlement is considered the separate property of the injured party. The economic damages component, however, is considered to be part of the marital estate if the injured party is married.

This distinction is important and has implications for the divorce property settlement. In an injury case, economic damages include things like lost wages and medical bills. These items are imbued with the character of a marital asset. A spouse's earnings, for example, are marital property and do not stand separate from the marital estate. The same can be said of medical bills; they are marital and are often apportioned between the spouses on a 50/50 basis in most divorce proceedings.

Compensation for "pain and suffering" or "bodily injury" however are distinct. The pain and the suffering a spouse experiences due to a bodily injury resulting from an accident is uniquely personal to the injured spouse.

The Michigan Supreme Court's definition of "bodily injury" includes "pain and suffering" within its scope.

"Bodily injury" was understood to be a category of injury for which damages that were the natural consequence flowed, including both damages resulting from an inability to work, as well as pain and suffering, so long as those damages were properly pleaded.

Earlier this year, the Michigan Court of Appeals affirmed the general rule that such "pain and suffering" damages are the separate property of the divorcing spouse.

Injury lawyers come in all stripes; some are diligent and meticulous; others are downright sloppy. The competence of the injury lawyer is crucial to the injured party going through a divorce.

The injured party's divorce lawyer should be actively involved in the structure of the injury settlement. Often, when an injury case nears a settlement, especially when that settlement is less than seven figures, the injury lawyers and the

insurance company sometimes do not bother to break-out the injury settlement into its component parts. In the divorce, this can be problematic.

When there is no breakdown for a cash settlement, the non-injured spouse can claim that the proceeds are marital. Whenever possible, the injured spouse must insist on apportioning the settlement between economic and non-economic damages.

Loss of Consortium

A loss of consortium claim is another way injury proceeds make their way into the marital estate. If a loss of consortium claim is lodged, an injury settlement can include damages specifically designated for loss of consortium; those damages are generally considered marital. Therefore, the injured party that is contemplating divorce should take care not to encourage such a claim in their injury litigation.

If the settlement check is made payable to both spouses and a loss of consortium claim is lodged, the entire settlement is considered a marital asset. In any event, an injured party going through a divorce should clearly identify and characterize the injury settlement in any divorce settlement agreement.


Invasion of Separate Property

In Michigan, the equitable powers of the family court allow a judge to make findings such that the separate property of one spouse can be invaded. Such an invasion could be aimed at the injured spouse's injury settlement.


When a family court determines that equity in a divorce property settlement requires the invasion of separate property, then the court must weigh the factors relevant to the parties' needs and circumstances and determine whether any portion of the settlement proceeds should be distributed to the other party.

The factors considered by the family court in making a property award are: 1) the duration of the marriage; 2) contributions of the parties to the joint marital estate, i.e. the sources of the property; 3) the ages of the parties; 4) the health of the parties; 5) their station in life; 6) the necessities and circumstances of the parties; and 7) the earning ability of the parties.

Thus, if the family court judge concludes that the injured spouse will experience a windfall when the injury settlement comes in, that judge can invade what would otherwise have been the injured spouse's separate property.



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September 12, 2025 | 9:00 AM
REGISTRATION CODE: TBA

SKILLS TRAINING 101 (IN PERSON)

September 18, 2025 | 9:00 AM
Oakland County Bar Association | Bloomfield Twp.
REGISTRATION CODE: TBA

**BEHIND THE LENS: UNCOVERING THE TRUTH
WITH BODY-WORN CAMERAS (ZOOM)**

September 26, 2025 | 12:00 PM
REGISTRATION CODE: TBA

EVIDENCE BOOT CAMP E (IN PERSON)

October 3, 2025 | 9:00 AM
Macomb County Public Defender Office | Mount Clemens
REGISTRATION CODE: TBA



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Ransomware Doesn't Wait

A Michigan Business's Wake-Up Call

By Cheyenne Harden, CEO, Cyber Protect, LLC



At 8:00 a.m. on an ordinary Monday morning, staff at a small Michigan business arrived to find something very wrong.

The internet wasn't working. The business's management system was unresponsive. Emails wouldn't send. As panic set in, someone noticed a strange message on their desktop: a ransom demand. All their files—client records, documents, billing data—had been encrypted overnight. They were locked out of their own systems!

The owner's first call was to their longtime IT person. But instead of stepping in, the response was abrupt: "I don't have time for this. Call someone else!"

That's when the firm reached out to my firm, unsure of what was happening. The owner on the phone told us, "Our internet is down—we just need someone to take a look."

But as we began asking questions, it quickly became clear that this was not a simple connectivity issue. The symptoms pointed to something far more serious. Within minutes, we identified the telltale signs of a **ransomware attack**—likely triggered around 3:00 a.m. and now fully in control of the business's servers, workstations, and data.

At first, the owner hesitated. "Do we really need someone onsite?" they asked. "Can't this just be fixed remotely?" But in this situation, remote access was not an option. The attackers had encrypted the entire environment. Sensitive client data had likely been exfiltrated. Immediate, onsite intervention was the only path forward.

When we arrived, the extent of the disaster became clear:

- The business was running unsupported Windows servers and workstations.
- Backups were more than four months old—and had never been tested.
- There was no endpoint detection, no modern antivirus, and no centralized monitoring.
- Staff believed they had cloud backups, but none could be located.
- A key storage device had partially failed, making data recovery impossible.

This wasn't just a breach—it was a complete operational failure. The business couldn't serve clients, meet deadlines, or access its files. Worse, confidential client data was now in the hands of cybercriminals, triggering regulatory obligations and ethical concerns.

What Legal Professionals Must Understand

Cybercriminals increasingly target small and mid-sized law firms—not because they're high-profile, but because they're **underprotected**. Outdated systems, untested backups, and the absence of real-time threat detection create ideal conditions for ransomware to spread undetected.

This case is a stark reminder: if your firm is relying on free tools, default settings, or unverified cloud services, you're not protected—you're **exposed**.

Stay Secure

Protect your legal practice with proactive cybersecurity strategies tailored to the realities of the modern law office. Look for services that include:

- Fully managed, **tested backup and recovery solutions**
- Enterprise-grade **endpoint detection and response (EDR)**
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Don't just respond to emergencies—prevent them!

Final Thought: Don't Wait Until It's Too Late

This business's story could have ended very differently—with validated backups, proper monitoring, and endpoint protection. Instead, it ended with lost data, days of downtime, and a permanent stain on the firm's reputation.

Sadly, findings like the story above is actually the norm for many law firms in Michigan.

If you're not sure whether your cybersecurity is where it needs to be—**now is the time to find out**.

Because Prevention is Cheaper Than Remediation!

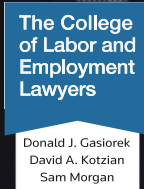


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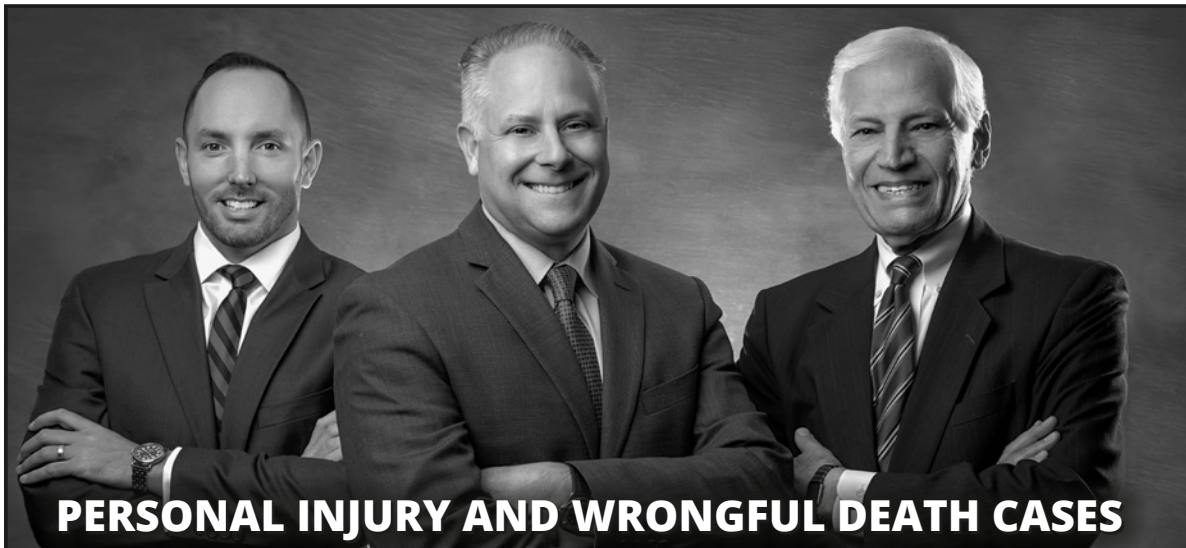
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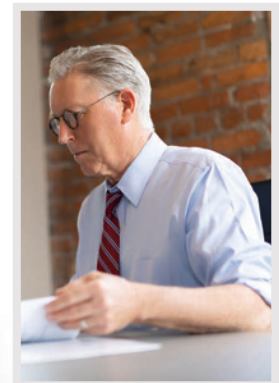
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