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February 2022

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# Bar Briefs

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## IN THIS ISSUE:

- 4 **Changing of the Guard on the Bench**  
*By Frank Briguglio, President of Macomb Bar Association*
- 6 **Foundation Scholarships**  
*By Sean Blume, President of Macomb Bar Foundation*
- 8 **2022 Challenge**  
*By Rick R. Troy, Executive Director of the Macomb Bar Association and Macomb Bar Foundation*
- 10 **Circuit Court Corner**  
*By Macomb County Circuit Court Administration*
- 12 **Notch**  
*By Aaron J. Hall, Young Lawyers Section Chair-Elect and Editor-in-Chief*
- 15 **Commissioner's Corner**  
*By Sherrie Detzler, SBM Commissioner District D and Macomb County Bar Foundation Director*
- 17 **Problem Solving Courts**  
*By State Court Administrative Office*
- 18 **Classifieds**



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# Changing of the Guard on the Bench

*By Francesco Briguglio,  
President of Macomb Bar Association*

These last few months have brought along another wave of changes in our Macomb County Judiciary.

We are seeing the retirement of Judge Mark Switalski after over 20 years of service on the Circuit Court bench and many more years of service as a Judge on the 39<sup>th</sup> District Court Bench in Roseville. Obviously, we were all disappointed to have to delay his farewell party because of the current surge in COVID-19 cases.

I, like many other practitioners, have our memories of Judge Mark Switalski's on the bench. Judge Switalski imparted his wisdom on attorneys and parties alike. In his own unique way, he helped calmed the choppy waters that is the Family Division of the Circuit Court.

Mark Switalski's departure from the bench fortunately will not mean an end to his service within the Macomb County Community. Judge Switalski made it clear that he is really going to miss everyone, and he desires to continue the work he enjoys—seeing people and working together to create outcomes that work for the parties. Judge Switalski has entered private practice at Switalski Law and Consulting PLLC to add mediation, arbitration, and special master services to their practice.

I would also like to wish farewell to Judge Kathryn George from the Macomb County Probate Bench. Judge George also served nearly 20 years after being elected to that position. George earned her law degree from the University of Idaho in 1988. She was appointed to the Workers' Compensation Appeal Board by then Governor James Blanchard

and later worked as a general practitioner with an emphasis on probate and family law. Judge George herself was inducted into the Macomb County Hall of Fame for her dedication, service, and contributions to Macomb County. She was a long time Macomb County resident and served the City of Sterling Heights government prior to her ascension to the bench.

There may also be another Judicial vacancy being announced soon as there is a jurist being selected for the Michigan Court of Appeals within the next few weeks. As a result, there may be another judiciary appointment coming within the near future.

With those retirements also come new jurists that feel the call to service. Judge Teri Lynn Dennings has been appointed to replace Judge Mark Switalski on the Circuit Court Family Division bench. This appointment is to complete Judge Switalski's partial term that expires on January 1, 2023, where the position will be up for general election. Prior to receiving her appointment from Governor Whitmer, Judge Dennings worked in the Corporate Sector for Consumers Energy. Hopefully, appropriate celebrations can be arranged soon so we can welcome our newest jurist and other attorneys that might head the call to public service within the next few months of this year.

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# Foundation Scholarships

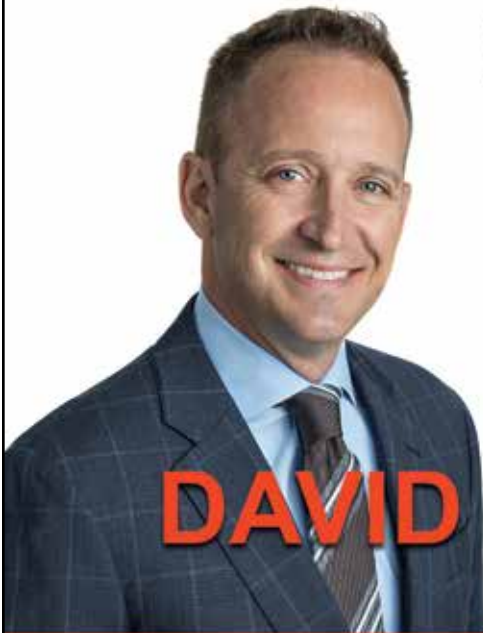
*By Sean Blume,  
President of Macomb Bar Foundation*

After writing last month's article highlighting the Bar Foundation and all of its various activities, I thought it would be a great idea to deep dive into just one of those categories: Scholarships. I was doing some preparation for a Bar Foundation Board meeting with Rick Troy recently, and he asked me if I realized that the Bar Foundation had given out upwards of \$150,000 in scholarships. I knew that we gave multiple scholarships each year, but I really had not thought about the cumulative total. With that as a background, I want to provide some details of the different scholarships the Bar Foundation awards each year, including the donors, the recipients, and the eligibility criteria.

Currently, the Bar Foundation annually awards three \$3,000 scholarships: The Kimberly M. Cahill Leadership Memorial Scholarship, The Philip F. Greco Memorial Scholarship, and The Trustee Law School Scholarship. All three scholarships are open to second or third year law students with each one having a slightly different focus. The scholarships are as follows:

- The Kimberly M. Cahill Scholarship was founded through contributions to the Kimberly M. Cahill memorial Fund and honors the memory of Kimberly M. Cahill, who passed away January 21, 2008. The scholarship is awarded to a student who

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demonstrates outstanding qualities of leadership and the ability to inspire and effectively lead others to a defined objective. The recipient must also demonstrate a need for financial assistance and have a 3.0 GPA or higher.

- The Philip F. Greco Memorial Scholarship originates from the contributions of Emil E. Cardamone and continues through the generous contributions of Attorneys Title Agency, Greco Title Division, and honors the memory of the late Philip F. Greco, Esq. The scholarship is awarded to a student who demonstrates a commitment to serve or contribute to the Macomb County legal community, has a need for financial assistance, and who has a 2.5 GPA or higher. Special consideration is given to the non-traditional law students.

- The Trustees Law School Scholarship is funded through the annual contributions of the Foundation Trustees. The scholarship is awarded to a student who demonstrates a commitment to serve or contribute to the Macomb County legal community, has a need for financial assistance, and who demonstrates high academic achievement.

The Foundation Board has an ongoing committee that is tasked with collecting and reviewing applications. The first step each year is for the committee to get the information out to law firms and law schools in order to maximize exposure. The com-



*2019 Scholarship Recipients and presenters.*

mittee then has the difficult task of selecting from the pool of applicants the student that most closely fits the eligibility criteria for each different scholarship. Once selected, the recipients are guests of honor at Bar Foundation Gala where they receive their award along with a lot of praise. While the Gala had to be curtailed during Covid, rest assured that plans are already being made to continue this tradition towards the end of 2022.

The list of past recipients is much too long to reprint here, but you can find the list posted in the Bar Foundation section at [MacombBar.org](http://MacombBar.org). If you review the list, and maybe if you scroll far enough back through the years, I guarantee that you will see some familiar names.

The one thing the Scholarship Committee could use your help with is spreading the word about the scholarships. Applications are due by March 17, 2022, and we would appreciate your help in directing any eligible law student to submit an application for any of the available scholarships. Then the Scholarship Committee will do their work and we will look forward to seeing you at the 2022 Gala where the scholarships will be awarded.





# 2022 Challenge

*By Rick R. Troy, Executive Director of the Macomb Bar Association  
and Macomb Bar Foundation*

Dear Macomb Bar Member,

I have a challenge for you.

As you may be aware, Macomb Bar members Laura Polizzi and Steve Steinhardt spearheaded the 2021 Macomb Bar Foundation's Feed Those in Need Project. They reached out to dozens of attorneys, friends and local businesses to put together over \$6,000 in meals, personal care items and clothing that benefited hundreds of people. First and foremost, thank you Steve and Laura for your efforts, and thanks to all that contributed their money and time.



Wait for it...the challenge is coming.

One of the lessons learned through the process of putting together the Feed Those in Need Project is that the need is more than just food and clothing. When one of our Board members delivered 130 meals to a nearby shelter a heartfelt conversation began. The shelter's director made it very clear that the number one need that the people they serve is – legal services.

Almost there...please keep reading.

*According to Legal Services Corporation's 2017 report Documenting the Justice Gap in America, of the estimated 1.7 million civil legal problems for which low-income Americans seek LSC-funded legal aid, 1.0-1.2 million (62%-72%) received inadequate or no legal assistance. That means for every 100 problems for clients served by LSC programs, between 62 and 72 of the problems are unable to receive the help they need.*

*State studies consistently show a higher percentage (80%) of the civil legal needs of the eligible population are not being met. A recent study by the Boston Bar Association found that in Massachusetts civil legal aid programs turn away 64% of eligible cases. Nearly 33,000 low-income residents in Massachusetts were denied the aid of a lawyer in life-essential matters involving eviction; foreclosure; and family law such as cases involving child abuse and*



*domestic violence. People seeking assistance with family law cases were turned away 80% of the time.*

Source: Legal Services Corporation website

Our friends at Lakeshore Legal Services do everything they possible can to help bridge the gap of legal services in southeast Michigan, but, as the director of the aforementioned shelter clearly stated, the need is great.

Maybe you are not aware, but the Macomb Bar has administered a Lawyer Referral and Information service for decades. There are two primary objectives of this service. The first is to provide citizens information regarding legal processes. The second is to monetize referrals for the benefit of Macomb Bar members such as yourself. EVERY DAY we answer calls from the public as they try to navigate the legal landscape. Every call is different which makes intake a lot like fielding grounders. Some are straight up slow rollers and are easy to field. Others take a hard hop that test our knowledge and stress our referral sources. The point is, we do this every day and we know first-hand that the need for legal services is great. We also know that not all calls can be monetized.

I turn away at least one person every day that truly needs help. I just do not have anyone to refer them to because they are of modest means. The reality is that people are in dire need of housing, some need to distance themselves and their children from ugly and dangerous situations, others just need some clarification on simple legal issues.

Here we are, recognizing that the need for legal services is overwhelming. Yet, as an organized bar we have failed to initiate any project to address it.

So, here comes “The Challenge.”

I challenge you to sign up to take two phone calls from the Macomb Bar in 2022. Just two phone calls. The ask is not to take on their case (that would be up to you), but just take their phone call, listen and give them advice. Yes, I know, you do this already. Every relative, neighbor, and former classmate calls you for legal advice. I get it. But the desperate needs are the callers to the bar that are reaching out for a life line. Five to fifteen minutes of your time stretched over an entire year. That’s the challenge.

To accept the challenge, call (586) 468-2940 or email me at RTroy@macombbar.org and I will put your name on a list. I will place two boxes next to your name. When those boxes are filled you will have completed the challenge. 100 bar members taking two phone calls equals 200 life lines in 2022. Better yet, let’s get the list to 180 so that we can help someone every day of the year.

### **Macomb Bar Leadership**

Perhaps you are ready for a bigger challenge? Have you considered running for a position on the Board of Directors? Letters of interest for nomination to appear on the ballot for Director positions, which are 3-year terms, are due by February 11, 2022. If you miss that deadline, there is a petition deadline of March 17, 2022. The petition process allows you to obtain ten member signatures to appear on the ballot for election. If you have any questions about the process or the roles and responsibilities of board members, please call me, or call a board member.

### **TopGolf 2022**

Last year we sold out and it was a lot of fun. March 3, is the date for this year’s event. If you prefer the feel of real grass, reserve Monday, June 20, for the Macomb Bar Golf Outing at Greystone Golf Club.

# Circuit Court Corner

*By Macomb County Circuit Court Administration*

## Welcome Judge Dennings

The 16th Judicial Circuit Court is pleased to announce that Gov. Gretchen Whitmer has appointed Teri Lynn Dennings to replace retiring Judge Mark Switalski on the Circuit Court Bench. Ms. Dennings has been appointed to fill a partial term expiring on January 1, 2023. To fill out the remainder of the term, she will run for reelection in November of 2022.

Ms. Dennings earned her Juris Doctor from Wayne State University Law School, and her Bachelors Degree in Political Science and African American Studies at Eastern Michigan University. Ms. Dennings is currently the Employment and Employee Benefits Attorney for Consumers Energy. Prior to this role, she worked in private practice at Deldin Law, PLLC, Miller Cohen, PLC, and Kitch, Drutchas, Wagner, Valitutti & Sherbrook, PC. She is a member of the Macomb County Bar Association, Women Lawyers Association of Michigan, Black Women Lawyers Association of Michigan, and Alpha Kappa Alpha Sorority, Inc.

Chief Judge Biernat stated, “On behalf of the entire Circuit Court Bench, I want to extend a warm welcome to Judge Dennings. I believe her experience and dedication to an accessible justice system will serve the citizens of Macomb County well. Congratulations, Judge Dennings!”

## Welcome Referee Wright

Jacqueline R. Wright has been a practicing attorney for the past 26 years specializing in family and juvenile law. She received her undergraduate degree in accounting from Wayne State University and her Law Degree from the University of Detroit Mercy Law School. She has been in private practice, maintaining an office in downtown Mount Clemens, her entire career.

Her practice has primarily centered on domestic issues, i.e. divorce, custody, support and parenting time and she has also spent considerable time representing parties (both adults and children) in juvenile matters. She looks forward to bringing her knowledge of both domestic and juvenile law and how they interact to the Friend of the Court.



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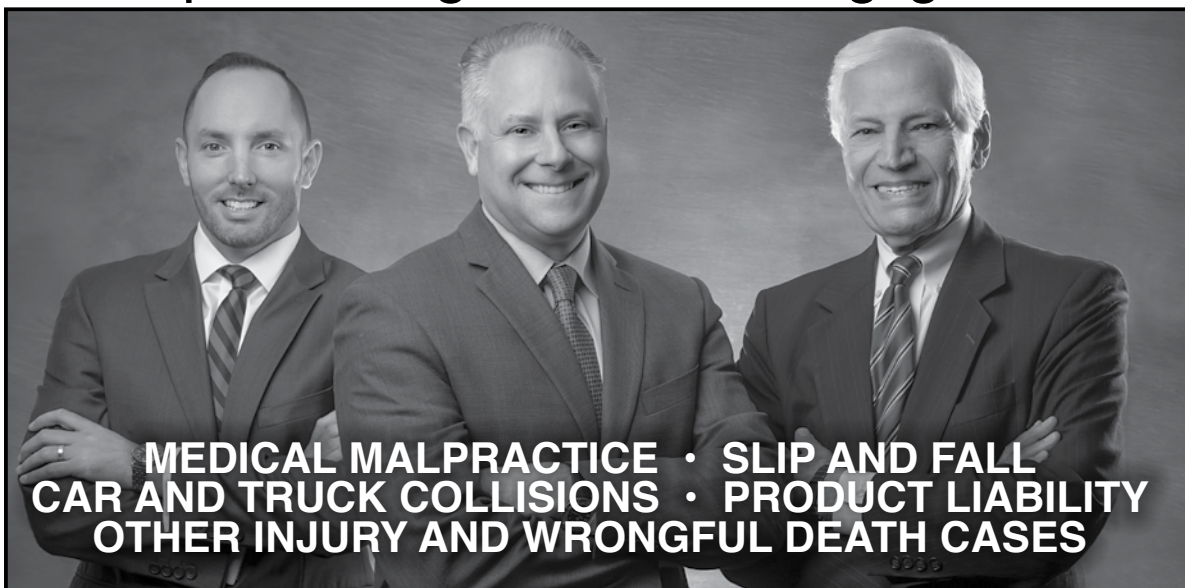
Super Lawyers, a Thomson Reuters business, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. From left to right: Donald Gasiorek, 15 years selected; Paul Hines, 9 years; Sam Morgan, 15 years; Patrick McCauley, 14 years; Greg Jones, 5 years, Rising Star Designee; David Kotzian, 15 years, Top 100 Designee; David Greco, 9 years; Angela Mannarino, 5 years, Rising Star Designee.



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# Nudge

By Aaron J. Hall, Young Lawyers Section  
Chair-Elect and Editor-in-Chief

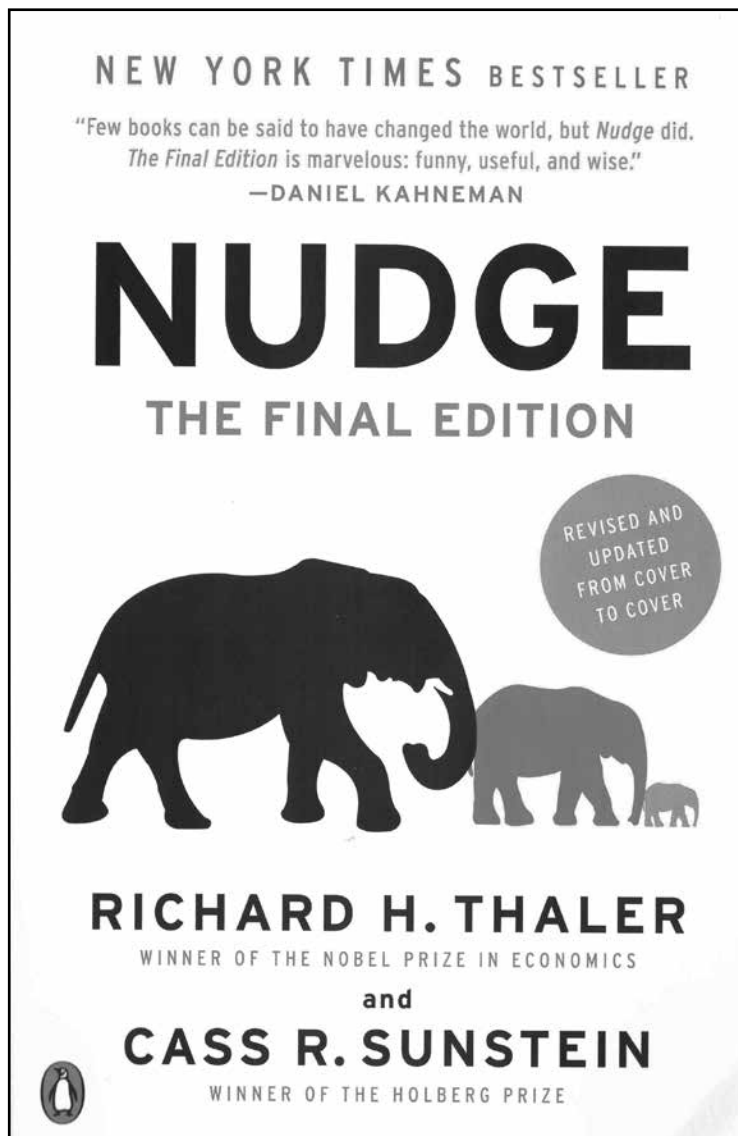
During the height of the 2008 economic crisis, University of Chicago economist and Nobel Laureate Richard H. Thaler and Harvard Law School professor Cass R. Sunstein published *Nudge: Improving Decisions About Health, Wealth, and Happiness*. Our world has substantially changed since the Great Recession. In August 2021, the pair published an updated and nearly totally revised version of the text with a new title, *Nudge: The Final Edition*. A friend recently recommended the new version of the book to me, and now I highly recommend it to you.

The central premise of the book is how to utilize a “choice architecture” to help us make better decisions for ourselves, our families, and our society. The book covers a vast array of topics, from the simple design decisions for kitchen appliances

to climate change and methods on how governments can encourage more of us to become organ donors. Is the Department of Motor Vehicles the best place to sign up for this? Think about your mood while you’re there. The authors suggest a better atmosphere, perhaps when we register to vote or file our taxes. For those of you who enjoy learning about behavioral economics, there are terrific chapters on the issues with mortgages, smart disclosure, taxes, and the benefits of automatic opt-in provisions for retirement planning. One of the most interesting updates throughout the new edition of the book deals with the COVID-19 pandemic:

Perhaps the most basic principle of good choice architecture is our mantra: Make It Easy. If you want to encourage some behavior, figure out why people aren’t doing it already, and eliminate the barriers that are standing in their way. If you want people to obtain a driver’s license or get vaccinated, make it simple for them, above all by increasing convenience.

A thematic element of *Nudge* is the dynamic of Nudge vs. Sludge. “Sludge” is common in government, law, and healthcare. “[I]f



you want to discourage some behavior, make it harder by creating barriers.” We encounter sludge all the time. Have you ever tried to cancel an online newspaper subscription, gym membership, or cable service only to find out that you must call a customer service representative? Your call will be answered in the order it was received. Worse yet, airports have become more and more sludge-ridden. Thank goodness for the TSA PreCheck program, which the authors consider a “genuine sludge buster” saving hundreds of millions of hours per year in passenger time. “Many organizations appear to make this asymmetry between the ease of joining and the pain of leaving an important part of their business model.” The authors also cite sludge in voting, immigration, applying for government benefits, and COVID-19 vaccine appointments. All these systems contain sludge.

Regardless of intent, sludge decreases and discourages voter participation. Nefariously motivated communities throughout the country willfully “forbid voting by mail and early voting, and reduce the number of polling stations.” Once people arrive at a polling location, these communities then “make people spend hours in line before they can vote.” For someone to receive government benefits or even schedule a COVID-19 test or vaccination, they are required to navigate a convoluted website and answer questions that many with advanced degrees consider confusing.

Sludge is not always odious. Calories and nutritional information are boldly printed on every food product. The government imposes “sin taxes” on what it deems to be a vice. Cigarettes contain a huge capital lettered warning from the United States Surgeon General. Maybe there should be a similar nudge at fast food windows. The checks and balances system of our government intentionally makes meaningful change difficult to ensure that it is truly the will

of the people. The judicial system is deliberate in its judgments.

If you want to improve anything in 2022, *Nudge* perfectly frames how to examine our own choice architecture. Specifically to the YLS demographic, our self-imposed nudges of financial responsibility will be immensely beneficial the sooner we act (oh, the wondrous power of compounding). While it is tempting to purchase (or worse yet, lease) that slick new car, first make sure you’re sufficiently contributing to your retirement plan. The idea of saving more tomorrow or on some undeclared future date is a losing proposition. Pensions are dead. There is a great chapter on nudges for 401(k) contribution default investment elections. Dogecoin is not a plan. And if you just said, “What retirement plan?” skip the Tesla.

Technological advances naturally nudge industries to move forward. But nothing has violently nudged the legal profession quite like COVID-19. If you did not know how to Zoom or eFile prior to the pandemic, you learned quickly. SCAO’s guidance on courtroom operations over the last two years contained nudges for our profession to become safe given the ongoing public health crisis and ultimately far more efficient. Attorneys now have more flexibility which benefits docket backlog and most importantly their clients. Instead of wasting your day in traffic, your travel time is determined by how well you navigate Zoom. Who’s in the market for a fax machine?

*Nudge* is perfectly crafted by the authors, with short subchapters that you can read in the virtual waiting room, but it’s also compelling enough to plow through 100 pages in one sitting. It’s an incredible book, and I hope I’ve nudged you to read it.

### Young Lawyers Section Board of Directors

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# Commissioner's Corner

*By Sherrie Detzler, SBM Commissioner - District D and Macomb County Bar Foundation Director*

Thank you again for your support in putting me in this position to serve you and our colleagues in Macomb and St. Clair Counties.

At this time of year, we are pulled in various directions and the volunteer opportunities are endless. What you may not know is that there are opportunities with the SBM SOLACE Program---both to volunteer and to request assistance.

SOLACE: Support Of Lawyers and Legal Personnel All Concern Encouraged.

SOLACE is a program that helps deliver meaningful and compassionate support to members of Michigan's legal community and their immediate families in critical need because of a sudden, catastrophic illness, injury, or event. Without regard to income or assets, all Michigan judges, lawyers, court personnel, paralegals, legal assistants, legal administrators, law students, and their immediate families are eligible to request help through SOLACE. The help provided to members of Michigan's legal community in need is completely voluntary and based entirely on the goodwill of other members of the legal community that are willing and able to help. Participation in SOLACE is completely confidential.

If you are a member of Michigan's legal community and you are experiencing a hardship, the SOLACE Team is here to help. Please fill out the SOLACE will be in touch with you within 48 hours. You're not in this alone. Members of Michigan's legal community who want to help please send an email to SOLACE@michbar.org and they will be connected to the member in need.

Peace be with you, your family, and our entire community,

Kindly,  
Sherrie



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# Problem Solving Courts

*By State Court Administrative Office*

Problem-solving courts (PSCs), or treatment courts, combine intense supervision and monitoring with treatment for substance use disorders (SUD) and/or mental illness. Models for various types of treatment courts have undergone much scrutiny through research to determine which components result in positive change among offenders graduating from a treatment court. **They were developed to address the underlying reasons why offenders continually return to crime.** For example, offenders suffering with drug or alcohol addiction might not benefit from jail or a standard probationary term when they are not required to engage in treatment for their SUD. Similarly, offenders with untreated mental illness do not benefit from jail or other punitive measures when their mental illness goes unaddressed or even unrecognized. **Ignoring the reasons people commit crime often results in a return to crime.**

Prior to the creation of PSC's, criminal justice and behavioral health treatment had operated separately, with little interaction or compatibility between them. The fields traditionally had little communication, and when they did, they were speaking different languages. There were not enough reasons for having interdisciplinary education between the two, which is resulted in courts not understanding addiction and mental illness or the therapies required to treat these illnesses, and therapists not understanding traditional criminal justice processes such as how jail sanctioning is determined. Enter PSCs and a different way of doing business!

Treatment courts specialize in making these two parallel fields interdependent by requiring treatment services as part of probation orders to address and treat the behaviors that are leading to crime. **Thus, court personnel and**

**therapists work together as a team,** bridging the gaps in understanding and learning about the fields of the other and communicating regularly to ensure participants are compliant and progressing in their treatment. Participants in a treatment court must attend therapy, many review hearings in court, and frequent and random drug testing to determine abstinence and medication compliance. **Participants are also held accountable for their actions and are subjected to a higher level of monitoring and supervision than the standard probationer.** Home and employment checks by law enforcement, probation officers, or case managers are conducted, as well as frequent probation and/or case manager appointments. Rewards are given for positive behaviors, such as breakthroughs in treatment, helping in the community or fellow participants, finding employment, or simply making it through a day without the use of drugs or alcohol. Program sanctions are immediately imposed when a PSC participant is not engaging, is not compliant, or is not meeting achievable goals. All of these components, and how they are provided on an individual basis, are guided by **evidence-based practices.**

## FORENSIC POLYGRAPH EXAMINATIONS

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**Macomb County Bar Association**

40 N. Main St., Suite 435

Mt. Clemens, MI 48043

MacombBar.org

# TOPGOLF TOURNAMENT

**Thursday, March 3, 2022**  
**6pm-9pm • TopGolf Auburn Hills**

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## 3 Hours of Unlimited Tournament Play, Food & Fun!

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Register at [Macombbar.org](http://Macombbar.org) or by calling (586) 468-2940. Online payment link will be provided during registration or mail a check to Macomb Bar Association • 40 N. Main St. • Mt. Clemens, MI 48043.

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