



Cass County Friend of the Court

Law & Courts Building, 60296 M-62, Suite 3
Cassopolis, MI 49031
Phone: (269) 445-4436/Fax: (269) 445-4435
Email: FOC@cassco.org

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NEWS/UPDATES FROM THE CASS COUNTY FRIEND OF THE COURT (MARCH 2019)

from the Director, Carol Montavon Bealor

CHECK OUT OUR NEW WEBSITE

Current link: <https://casscourtsmi.org/>



BAXTER THE THERAPY DOG

Cass County Sheriff's Office and Cass County Courts

Please join us for

BAXTER'S

Swearing In Ceremony

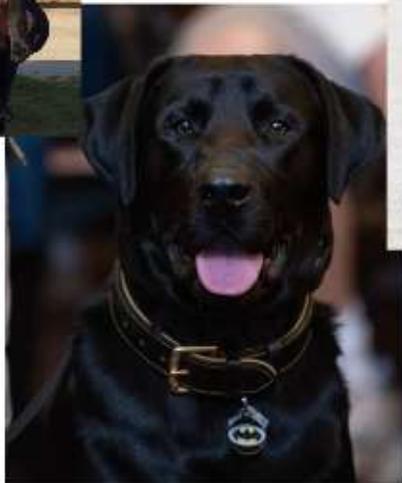
March 26, 2019

3:30 p.m.

Cass County Circuit Courtroom



After 18 months of hard work, Deputy Tim Gondeck and K-9 Baxter, have completed three AKC Title certifications. Baxter will be taking an oath and getting sworn in as Cass County's very first therapy dog for victims in the courtroom.



“What is a Tax Offset?”

By: Sarah Mathews, J.D., Deputy, Cass County Friend of the Court



Every fall, letters go out from the Office of Child Support in Lansing to payers of child support notifying them if their name had been submitted to the Michigan Department of Treasury or the United States Department of Treasury for the purposes of offsetting any tax refund to pay past-due child support. These letters are known as “Pre-Offset Notices.” Tax Offsets often lead to questions for both the payer of child support and the payee. To help lessen the confusion regarding Tax Offsets, the Friend of the Court thought it would be beneficial to share answers to the most common questions received by staff regarding Tax Offsets.

What is a Tax Offset?

If a taxpayer is behind on his or her child support, the taxpayer’s state and federal tax refunds can be intercepted and re-directed to the appropriate state child support agency to pay towards the taxpayer’s child support arrearages. This is known as a “Tax Offset.”

How far behind on child support do I have to be for my tax refund to be used for a tax offset?

Under the Tax Offset Program, for a taxpayer’s federal taxes to be used to offset child support arrearages, the taxpayer must be \$150 or more behind in child support for cases where the family received Temporary Cash Assistance for Needy Families (TANF) from the state and there is a child support arrears owed towards TANF arrears.

If the child support arrears are non-TANF arrears, the taxpayer must be \$500 or more in arrears for his or her federal taxes to be used for a Tax Offset.

For both TANF and non-TANF arrearage cases, the arrears must have accrued under a court or administrative order for support and be verified by the Michigan Child Support Enforcement System (MiCSES) for a federal tax refund to be used for a Tax Offset.

A taxpayer’s state tax refund from the State of Michigan can be used towards a tax offset for child support arrearage if the taxpayer has an arrearage of \$150 or more – regardless of if the arrears are TANF or non-TANF – as long as the arrears accrued under a court order for support.

What if I filed taxes jointly with my spouse?

If you filed taxes jointly with your spouse, your spouse may file an “injured spouse” claim. This is a claim indicating that part of the tax refund was based on your spouse’s income and should not have been used to pay your child support. Form 8379 to submit an injured spouse claim regarding a federal tax refund can be obtained from the IRS’s website.

Forms to submit an injured spouse claim for a State of Michigan tax refund can be obtained from the Michigan Department of Treasury’s Website.

When will the payee receive child support from my tax offset?

This depends on several things. Money from a federal tax offset will be used first to pay overdue support owed to the state and then any remaining money will be sent to the payee. This means it is possible there may not be money left to send to the payee depending on what was owed to the state. Money from a state tax offset

will go to pay current child support and then past due support owed to the individual payee if the payee is not currently receiving TANF.

Payers and payees should both keep in mind though that a transfer of money to the payee may not happen immediately. Under federal law, if the payer filed a joint federal tax return with his or her spouse, the Friend of the Court is required to hold the funds for six months before it can send any money to the payee. This is to allow the payer's spouse time to file an injured spouse claim.

Is there an appeal process?

There is an appeal process for contesting tax offsets. The pre-offset notice sent to the taxpayer prior to having his or her taxes intercepted for at a tax offset provides instructions regarding how to obtain an administrative review of the tax offset.

“Positive Office Culture – One Baby Step at a Time”

By: Carol Montavon Bealor, J.D., Director, Cass County Friend of the Court



In 2013, I left behind my law practice to serve as the Attorney Referee for the Cass County Friend of the Court. As you can imagine, I was a little nervous to be joining a new team taking on a quasi-judicial position making important decisions for families and children. It's a good thing that I didn't know that the Director of the Cass County FOC would be going on administrative leave on the first day I was on the job as the Attorney Referee and that I would be appointed as the new FOC Director two short months later.

To say I was unprepared for the sheer volume and complexity of information an effective FOC Director needs to know would be an understatement. I could have never tackled the many tasks I face as a FOC Director without the support of my boss, who I am proud to call my mentor and my friend, my Chief Judge, Susan L. Dobrich. But the most important support I've had as a FOC Director has been from my team. I have a team that is dedicated, hard-working, and just a joy to work with. Our team is made up of a diverse set of individuals who come together every day to do their best for the community we serve.

One of the things that became apparent shortly after I became FOC Director in 2013 was the need to build our FOC team and to change the office culture that existed at the time I joined the office. My arrival was met with mixed feelings—and understandably so—staff didn't know if they could trust me and count on me to be the leader that the office needed.

It takes time to build trust and to develop common purpose among staff in order to facilitate positive change. You can't expect it to happen overnight. Instead, you have to lay ground work that will lay a proper foundation for the big changes.

When I arrived to the FOC in 2013, our office was very divided between financial, enforcement and legal team members, each headed up by a different supervisor. This created an us and them mentality in our office. So my two supervisors and I brainstormed and came up with the idea of creating what we call our “Management Team.” Instead of working as a supervisor or FOC Director we would work together as a team making decisions together for the good of all the office. We realized that we had to present a united front to our team in order to establish credibility with them and convince them that we wanted to create a great place to work and a workplace that delivered quality services where all team members were held accountable in a uniform way.

Staff initially didn't know what to think about this new Management Team. Staff watched closely to see how we were going to work together as the Supervisors and FOC Director. Did we mean the things we said about uniform treatment and a positive work atmosphere? Only time would tell.

With the advent of our OnBase Imaging System project, we were able to hire a Deputy FOC who also became part of our Management Team. We did some Management Team strategic planning sessions about the things we wanted to accomplish in our office. Eventually our Management Team grew again to include our Attorney Referee, as a Management Team member, ex officio (since she does not oversee personnel issues such as discipline, performance reviews, etc.).

During our 2017 Management Team strategic planning session, we started talking about the idea of actively take steps to create a more positive office culture. Our Enforcement Supervisor sits on the MERS board and told us how MERS officers had intentionally spent time creating “rules of engagement” to foster a positive office culture within the MERS organization. We liked this idea very much and were excited to think about what we could do to make our office a more positive place to work.

After various brainstorming sessions about how we would roll out a Positive Office Culture Project, the members of our Management Team came up with 4 words that were important and significant to us relative to creating a positive office culture. We then brainstormed what those 4 words actually meant to us as a Management Team. We then took the 4 words created by our Management Team to our all of our staff and asked them to work in groups and come up with 4 additional words (2 from each group).

The work done by our staff was phenomenal. Even more importantly, the investment made by individual team members in working on this project in and of itself helped us move towards a more positive office culture—our team bought into the idea that all of us working collectively together could change our office in significant ways. And our team took what started out as a staff meeting “homework” assignment and took ownership over the project and made it their own.

Once we got our 8 words identified and our draft definitions of what the words meant to all of us, we held another strategic planning session for our whole office during our summer picnic at my home. We brainstormed together and fine-tuned the words we had chosen as well as what each of the words meant to us and our office collectively.

Once we all agreed we could live with the words chosen as well as the working definition for those words, we created laminated posters to hang in the back hallway of our office space. The finished project took my breath away. Seeing the words on brightly colored posters that our whole team spent time choosing and defining simply makes me feel good. And I think it makes staff feel good too.

Our next step in our Positive Office Culture Project has been the creation of a “Praise Project” where staff can nominate other staff members whose attitudes and actions embodying our Positive Office Culture. We are going to recognize staff who are nominated at our monthly staff meetings.

I am so incredibly proud of the work done by my team on our Positive Office Culture Project. We are not done yet—in fact, we are just getting started. But I wanted to share what our office has accomplished so far because I think it is a good reminder of the good that can come from our teams working together for the good everyone. And if you give staff the time and permission to think about how to make things better, they really might surprise you with their creative ideas.

Our office culture did not change overnight. And we are not done changing yet. But I can honestly say that when you walk into our office in 2018, you get a different vibe than you did in 2013. You can feel the positivity. You can feel the joy that we genuinely feel working with one another. Some days you can also feel the frustrations—that is natural with the clientele that we serve. However, in our office, those frustrations are handled together now, and that makes all the difference.

See our Office Culture Signs on the next page.

<p style="text-align: center;">Guidance</p> <p>Encourage feedback regarding assignments, agendas, policy or procedural changes in order to effectively conquer any unexpected challenges or obstacles through positive communication and problem solving.</p> <p>We take pride in being a positive advocate to each other giving guidance and support along the way.</p> <p>We can help guide one another in order for our office to work collaboratively as a team, yet providing the tools and communication to each other in order to excel.</p>	<p style="text-align: center;">Accommodating</p> <p>The willingness to actively engage in skill development, modifications to tasks/procedures through coordination, communication, and cooperation in order to achieve the best functionality within the workplace.</p> <p>Our team can count on each other's abilities, knowledge, and willingness to help one another complete any task or challenge.</p> <p>We strive to be helpful and considerate to each other's individual needs and concerns.</p>	<p style="text-align: center;">Receptive</p> <p>We assume positive intent and guard against negative assumptions in all interactions.</p> <p>We welcome opinions different than our own and actively listen to all suggestions/feedback.</p> <p>We take ownership of our strengths and weaknesses.</p>
<p style="text-align: center;">Ethical</p> <p>Doing things right, going above and beyond, making every effort to do things for others the way we would want things done for us.</p> <p>Our professional behavior always reflects the integrity of the Friend of the Court.</p> <p>Knowing the difference between what is ethical and what is simply legal.</p> <p>Being actively mindful against differential treatment amongst staff or towards clients (never playing favorites).</p> <p>Our intent is to meet everyone on their level.</p>	<p style="text-align: center;">Cass County FOC Office Culture</p> <p style="text-align: center;">We are: ACCOMMODATING EFFICIENT RESPECTFUL ETHICAL RECEPTIVE</p> <p style="text-align: center;">We provide: GUIDANCE</p> <p style="text-align: center;">We act with: INTEGRITY</p>	<p style="text-align: center;">Efficient</p> <p>TIMELY: responding to clients in a timely manner.</p> <p>PROCESS: adjusting procedures to adapt to change.</p> <p>APPROACHABILITY: being able to talk to each other openly on issues or processes we do not understand.</p> <p>TECHNOLOGY: assisting in our completion of everyday tasks.</p> <p>ORGANIZATION: how one's organizational system may be their roadmap to success.</p> <p>PERSONAL PRIDE: our drive to want to help and do better for our clients. What motivates you?</p> <p>PROCESS + TIMELY (ACCOUNTABILITY) - NEGATIVITY = EFFICIENT</p>
<p style="text-align: center;">Integrity</p> <p>We all set the example:</p> <p>We embody our office culture in all interactions.</p> <p>We do what is right even when no one is looking.</p> <p>We uphold the truth by being honest with ourselves and others.</p> <p>We focus on solving problems - not blaming ourselves or others.</p>	<p style="text-align: center;">Respectful</p> <p>We value each other.</p> <p>We embrace every individual's contributions to our team and actively encourage each other to build a more cooperative and successful culture.</p> <p>We engage in open, honest, and kind communication and address differences in a positive and respectful manner.</p>	<p style="text-align: center;">Intentional</p> <p>We are intentional that our words, actions, and attitude reflect our culture.</p> <p>We are intentional in holding ourselves and others accountable to support our culture.</p> <p>We are intentional in acknowledging our strengths and weaknesses and trusting our team when we need support.</p> <p>We are intentional in helping the office succeed by sharing expertise and insight in a collaborative and professional manner.</p>

CHECK OUT OUR JOBS BOARD OUTSIDE THE FOC REFEREE HEARING ROOM

Be sure to check out the FOC job board! Currently there are postings for the following employers:

Red Robin	Kroger	Creative Foam
Sonic	Meijer	Area Wide Protective
Tigg's Canteen Services, Inc.	Big Lots!	Niles Steel Tank
TouchPoint Support Services	Target	Flexco Products
Portillo's	Tractor Supply	Michigan Milk Producers
Red Robin	The Home Depot	Forest River
Rally's	Wayne Pipe & Supply	Special-Lite
Steak 'n Shake	Burlington Coat Factory	GreenStream Company
Taco Bell	Actia Corp	Three Rivers Department of Public Services
Texas Roadhouse	Headers Auto	Big C Lumber
Burger King	North American Forest Products	The Menne! Milling Company
Five Guys Burgers & Fries	Oaklawn Psychiatric Center, Inc.	Great Lakes Forest Products
Bob Evans	QMP, Inc.	Thompson Thrift Development
Jimmy John's	Hahn Systems	Cass County COA
Culver's	Mishawaka Furniture	Upstream Waters Landscape
Qdoba	Hertz	Silver Stone Landscaping
Pizza Hut	OnStaff USA	Asplundh Tree Expert
Applebee's	Kalamazoo Metal Recyclers	New Image Building Services
Red Lobster	EG Workforce Solutions	Bailey's Automotive Services
Noodles & Company	River Bend Hose Specialty	Auto Park Ford Sturgis
GameStop	Postle Aluminum	

Those looking for a job are encouraged to check out:

[Indeed](#)

<https://www.indeed.com>

Job Search by Indeed. Search millions of jobs from thousands of job boards, newspapers, classifieds and company websites on indeed.com

[Monster.com](#)

<https://www.monster.com>

Monster is your source for jobs and career opportunities. Search for jobs, read career advice from Monster's job experts, and find hiring and recruiting advice.

[Snagajob](#)

<https://www.snagajob.com>

Thousands of companies are hiring right now. Start your job search today!

[Craigslist Southwest MI Jobs](#)

<https://swmi.craigslist.org/search/jjj>

Craigslist provides local classifieds and forums for jobs, housing, for sale, services, local community, and events.

[Craigslist South Bend Jobs](#)

<https://southbend.craigslist.org/search/jjj>

Craigslist provides local classifieds and forums for jobs, housing, for sale, services, local community, and events.

MEET ONE OF OUR CASS COUNTY FOC TEAM MEMBERS
FINANCIAL CASEWORKER TRACIE KURIATA



I started with the FOC in February of 1997 as the Accounting Clerk. In 2000, I was promoted to the Financial Caseworker position that I currently hold today. The Accounting Department today is known as the Financial Case Management Department, which is more fitting for what we do.

Managing the Tax Offset program is one of my responsibilities. This entails answering questions regarding the tax income tax refunds that we intercept from payers of support who are delinquent. Some payments will go into an exceptions hold on the account. I review those payments and determine whether we need a signed authorization to apply the payment to the payer's support obligation or if we need to refund it back to the taxpayer. I also investigate the pre-intercept report on why a child support payer's case was rejected from the tax-offset program. I make any necessary corrections and or adjustments as appropriate, so that the IRS will accept the case. I also do administrative reviews, as required, for the tax-offset program when a payer files an objection to the notice of intent to intercept.

In the FOC, we work on a statewide computer program referred to as, "MiCSES" (Michigan Child Support Enforcement System). The system has fifty-nine types of holds it uses to capture payments when the nightly batches run. Payments that hit a snag during the nightly processing are placed on hold. I work these holds every day and work the cases to move the money to distribute. Some of the more common holds are finding clients that have had money refunded to them and their check has been voided, i.e. bad address or a stale dated check. I process requests to MiSDU for payments that may need special distribution. I manually disburse the bench warrant and/or bond monies collected in our office. A deposit of payments that have been reconciled with MiCSES has to be done before it can be applied to a client's case. All regular payments go to our centralized collection unit in Lansing. We accept bond or contempt payments in our office. I manage the disbursement of these payments.

Client service and communication are key in our office. I handle many calls with child support payers and payees inquiring about account information. If requested, I will perform detailed audits of support accounts. In our office, you must be proficient in using several different computer programs so you can access the information you need to enter, retrieve, and modify case information as necessary. Some of these programs are systems like MiCSES, Info-Trac, Bridges, Data Warehouse, and On Base.

One of the many computer systems we interface with is Bridges - the system used by DHHS. We use their program information for keeping certification and decertification dates for payees who go on or off assistance as that activity affects where their child support is routed. I am cross training now to learn more of the Foster Care side of our system, which also interfaces with DHHS.

In the past year, I have been assisting to back up the Order Entry process. I have become very familiar with converting UCSO's and Judgment of Divorces into the MiCSES program.

On the enforcement side, I enter new employers for support payers. I generate income-withholding notices, such as new, modifications, terminations and/or lump sums on bonuses or large benefits that a payer may be entitled too. I review and identify cases requiring support enforcement action by sending out a non-compliance letter to the employer or referring it to the Enforcement Department for further action.

After all the years I have worked for Cass County FOC, I can say I still enjoy my job! The learning is endless with all the different systems and ongoing updates. It is a challenging yet rewarding job. I love working with all the great people in the FOC.

RECENT LEGAL CASES OF INTEREST

***Marik v Marik**, Mich App (7/2018)(Published): Concluding that the trial court erred in failing to conduct a full evidentiary hearing, determine whether an ECE existed, and address the MCL 722.23 factors, the court vacated the order denying the defendant-father's school change request. It also found that remand was required as to his request to modify parenting time because the trial court failed to determine if an ECE existed, let alone whether a modification would change it.

<http://www.michbar.org/file/opinions/appeals/2018/072418/68370.pdf>

Moreno v Zank, US Court of Appeals 6th Cir. (7/2018)(Published): [This appeal was from the WD-MI.] Holding that the "proper remedy for the initial kidnapping to Ecuador was a Hague Convention petition filed in Ecuador, subject to applicable limitations and defenses, rather than the self-help remedy of (in effect) later re-kidnapping back to" the U.S., the court reversed and remanded.

http://www.michbar.org/file/opinions/us_appeals/2018/071918/68327.pdf

Hamden v Marrow, Mich App (7/2018)(Unpublished): Holding that the trial court committed clear legal error in refusing to conduct a de novo hearing on defendant-father's timely objection to the referee's recommendation on his motion to modify parenting time, the court vacated the trial court's orders and remanded for a de novo hearing. <http://www.michbar.org/file/opinions/appeals/2018/071718/68325.pdf>

Amromin v Amromin, Mich App (7/2018)(Unpublished): Rejecting plaintiff-mother's claims that the trial court failed to make independent findings on the statutory best interest factors and erred in adopting the referee's findings and recommendations, the court affirmed the order granting defendant-father's motion for a change of custody of the parties' children.

<http://www.michbar.org/file/opinions/appeals/2018/071918/68357.pdf>

Rozmiarek v Rozmiarek, Mich App (7/2018)(Unpublished): The court held that the trial court did not abuse its discretion in ruling that the child's (G) hearsay statements were not excited utterances, or err in denying defendant-father's motion to change custody. It concluded that he failed to show that the trial court's findings on the challenged best interest factors were against the great weight of the evidence and thus, he did not establish that clear and convincing evidence supported that a change was in G's best interests. The court also rejected his claim that the trial court was obligated to award him sole custody because the parties could not agree on certain issues.

<http://www.michbar.org/file/opinions/appeals/2018/071918/68348.pdf>

Sternaman v Sternaman, Mich App (7/2018)(Unpublished): Holding that the trial court's order denying defendant-father's motion to change custody and parenting time was proper, the court affirmed.

<http://www.michbar.org/file/opinions/appeals/2018/073118/68457.pdf>

***Parks v Niemiec**, Mich App (9/2018)(Published): The court held that the trial court properly denied defendant-father's motion to discharge unpaid child support, albeit for the wrong reason.

<http://www.michbar.org/file/opinions/appeals/2018/091818/68685.pdf>

Thompson v Henze, Mich App (9/2018)(Unpublished): Concluding that the trial court's findings on the individual best-interest factors were supported by the great weight of the evidence and thus, its determination that they favored plaintiff-mother was properly supported, the court held that it did not abuse its discretion by awarding her custody. <http://www.michbar.org/file/opinions/appeals/2018/091118/68655.pdf>

RECENT LEGAL CASES OF INTEREST

Holmes v Holmes, Mich App (9/2018)(Unpublished): Holding that the trial court's findings on best interest factors (b), (f), and (h) were against the great weight of the evidence, the court reversed the divorce judgment's grant of sole legal and primary physical custody of the parties' children to defendant-father, and remanded. <http://www.michbar.org/file/opinions/appeals/2018/091118/68651.pdf>

Corbett v Corbett, Mich App (10/2018)(Unpublished): Holding that the trial court erred by modifying a parenting-time order without first making any factual findings, the court reversed the trial court's order granting defendant-father's motion and remanded for further proceedings. <http://www.michbar.org/file/opinions/appeals/2018/100918/68830.pdf>

***Nadimpali v Byrraju**, Mich App (10/2018)(Published): Holding that the trial court did not abuse its discretion in vacating its prior registration of a California child-custody determination under the UCCJEA, the court affirmed. <http://www.michbar.org/file/opinions/appeals/2018/100918/68809.pdf>

Mozader v Mozader, Mich App (10/2018)(Unpublished): The court held that the trial court did not err by awarding defendant-ex-husband the parties' former marital home. <http://www.michbar.org/file/opinions/appeals/2018/100918/68823.pdf>

Royce v LaPorte, Mich App (10/2018)(Unpublished): The court held that defendant-mother did not show that the trial court erred by entering the 3/17 and 9/17 orders denying her motions for increased parenting time. Also, as to the apportionment of the GAL's fees, the doctrines of law of the case, res judicata, and collateral estoppel did not apply. <http://www.michbar.org/file/opinions/appeals/2018/100918/68810.pdf>

Doin v Vogel, Mich App (10/2018)(Unpublished): The court affirmed the trial court's order denying defendant-father's motion for sole legal custody of the parties' child and for modification of plaintiff-mother's parenting time, holding that he did not meet the threshold of showing proper cause or a change of circumstances (COC). <http://www.michbar.org/file/opinions/appeals/2018/101118/68851.pdf>

Lechner v Lechner, Mich App (10/2018)(Unpublished): While the court concluded that the trial court's findings on the MCL 722.31(4) factors were not against the great weight of the evidence, it held that the trial court erred in failing to analyze whether the proposed change in domicile was in the child's (H) best interests by clear and convincing evidence. <http://www.michbar.org/file/opinions/appeals/2018/101618/68891.pdf>

DeVries v DeVries, Mich App (10/2018)(Unpublished): The court concluded that the trial court clearly erred in reviewing and resolving the referee's recommendations as to findings of contempt and imposing sanctions against plaintiff-mother and defendant-father's objections. <http://www.michbar.org/file/opinions/appeals/2018/101618/68888.pdf>

Thomas-Perry v Perry, Mich App (10/2018)(Unpublished): The court held that the trial court did not err by denying plaintiff-ex-wife's motion to vacate or modify the arbitration award and, instead, granting defendant-ex-husband's motion to confirm it. <http://www.michbar.org/file/opinions/appeals/2018/101618/68884.pdf>

***Taglieri v. Monasky**, US Court of Appeals, 6th Circuit (Published Opinion): Under deferential review, the court affirmed the district court's determination that the parties' child's "habitual residence" was in Italy, where the parents of the child (who was too young to be acclimatized) showed a "shared parental intent" to live in Italy. http://www.michbar.org/file/opinions/us_appeals/2018/101718/68894.pdf

RECENT LEGAL CASES OF INTEREST

***Luna v Regnier**, Mich App (10/2018)(Published): The court held that the trial court did not err by suspending defendant-mother's parenting time, but found that the trial court should conduct periodic hearings to determine whether reinstating her parenting time would be in the children's best interests. <http://www.michbar.org/file/opinions/appeals/2018/101818/68896.pdf>

Guyette v Cornell, Mich App (10/2018)(Unpublished): Holding that the trial court did not err in finding that the child had an ECE with defendant-mother and in applying the clear and convincing standard of proof, or in its findings on the statutory best-interest factors, the court affirmed the order granting her sole physical custody of the parties' children (E and L). <http://www.michbar.org/file/opinions/appeals/2018/102318/68945.pdf>

Becker v Becker, Mich App (10/2018)(Unpublished): Holding that the trial court did not clearly err in its factual findings or abuse its discretion in awarding defendant-ex-husband modifiable spousal support of \$1,000 a month for 5 years, the court affirmed the parties' divorce judgment. <http://www.michbar.org/file/opinions/appeals/2018/102318/68942.pdf>

Derkin v Tersigni, Mich App (10/2018)(Unpublished): The court affirmed the trial court's judgment as to custody but remanded for the ministerial task of correcting the custody order to reflect the grant of joint physical custody. <http://www.michbar.org/file/opinions/appeals/2018/102318/68941.pdf>

Beauchamp v Beauchamp, Mich App (10/2018)(Unpublished): The court held that the trial court's findings of fact did not constitute clear error, and it did not abuse its discretion in awarding spousal support. Also, given defendant-ex-husband's history of sales producing a profit, along with the appraisal of plaintiff-ex-wife's expert in the field of marijuana plant street valuation, the trial court did not err in valuing the marijuana grow operation. Finally, while assets earned after the judgment of divorce are no longer appropriately considered marital property, the trial court did not hold that income defendant would earn after the judgment derived from sales associated with the 17 appraised marijuana plants was a marital asset to be divided. <http://www.michbar.org/file/opinions/appeals/2018/102318/68938.pdf>

In re Hammond, Mich App (11/2018)(Unpublished): The court held that the trial court did not abuse its discretion by granting the DHHS's motion for relief from judgment, and that res judicata did not apply. <http://www.michbar.org/file/opinions/appeals/2018/110118/69005.pdf>

In re WJH, Mich App (11/2018)(Unpublished): Holding that petitioner-maternal grandmother waited too long to request court review of the adoption decision, and that she provided no authority for the proposition that a best-interests analysis was appropriate, the court affirmed. <http://www.michbar.org/file/opinions/appeals/2018/110818/69022.pdf>

Sivils v Sivils, Mich App (11/2018)(Unpublished): Holding that the trial court erred by ignoring clear language in the parties' divorce judgment and making the division of marital debt a nondischargeable duty, the court vacated the trial court's order and remanded. <http://www.michbar.org/file/opinions/appeals/2018/110818/69018.pdf>

Bowman v Bowman, Mich App (11/2018)(Unpublished): The court held that because the record supported the trial court's conclusion that plaintiff-Luke Bowman did not reside in Michigan for the required residency period, the trial court did not err by dismissing his 2016 complaint for divorce. <http://www.michbar.org/file/opinions/appeals/2018/111518/69055.pdf>

RECENT LEGAL CASES OF INTEREST

Cox v Cox, Mich App (11/2018)(Unpublished): The court could not conclude that the trial court abused its discretion in ruling that the money plaintiff-ex-wife (Maryjane) withdrew from the principal of her inheritance was income. Also, given the trial court's careful consideration of the issue of the computation of child support, the court held that the trial court did not abuse its discretion in denying her motion for reconsideration. Further, it did not abuse its discretion in finding that attorney fees in the amount of \$1,000 were warranted, but additional fees were not. <http://www.michbar.org/file/opinions/appeals/2018/111518/69040.pdf>

In re Baby Girl T, Mich App (11/2018)(Unpublished): Holding that five of the seven applicable factors did not favor respondent-father, the court concluded that the trial court did not err in determining that it was not in the child's best interests to grant respondent custody, and that the trial court properly terminated his parental rights under MCL 710.39(1). <http://www.michbar.org/file/opinions/appeals/2018/112718/69140.pdf>

Struyk v Schwehofer, Mich App (11/2018)(Unpublished): Holding that the trial court was within its discretion in giving limited weight to the testimony of an expert (L), that its physical and legal custody determinations were not against the great weight of the evidence, and that there were no evidentiary errors, the court affirmed its custody and parenting time rulings. The court also concluded that it lacked jurisdiction to review the order finding defendant-father in criminal contempt. <http://www.michbar.org/file/opinions/appeals/2018/112718/69119.pdf>

Brown v. Brown, Mich App (11/2018)(Unpublished): The court held that the trial court did not abuse its discretion by denying defendant-mother's motion to set aside the parenting-time provision in the parties' judgment of divorce. <http://www.michbar.org/file/opinions/appeals/2018/112718/69135.pdf>

Wimmer v Montano, Mich App (12/2018)(Unpublished): The court held that the trial court properly denied defendant-ex-husband's motion to modify spousal support given the nonmodifiable spousal support provision in the parties' consent divorce judgment. It also upheld the award of attorney fees to plaintiff-ex-wife under MCR 3.206(D)(2)(b), and the imposition of sanctions against defendant for frivolous filings. Further, the trial court did not abuse its discretion in granting plaintiff's motion for protective orders and in issuing an injunction imposing requirements on defendant's court filings. Finally, it did not err in denying two of defendant's motions without oral argument. <http://www.michbar.org/file/opinions/appeals/2018/120418/69191.pdf>

Adams v Adams, Mich App (12/2018)(Unpublished): Holding that the trial court did not err by failing to award plaintiff-ex-wife spousal support, but that it did err by failing to make explicit factual findings as to the best-interest factors, the court affirmed in part, vacated in part, and remanded. <http://www.michbar.org/file/opinions/appeals/2018/120618/69205.pdf>

Ainsworth v Dunkel, Mich App (12/2018)(Unpublished): Holding that there was sufficient evidence to establish a change in circumstances or proper cause, the court reversed the denial of defendant-mother's motion to modify a prior child custody order, and remanded. <http://www.michbar.org/file/opinions/appeals/2018/121118/69235.pdf>

Kubacki v Kubacki, Mich App (12/2018)(Unpublished): The court held that the trial court did not err by finding that defendant-father failed to satisfy his burden of proving that proper cause or a change in circumstances existed sufficient to warrant revisiting the children's custodial arrangement. However, it also held that remand was required for a reevaluation of his request for a change in parenting time in accordance with the applicable standards. <http://www.michbar.org/file/opinions/appeals/2018/121118/69230.pdf>

Rudd v Averill, Mich App (12/2018)(Unpublished): The court affirmed the trial court's decision on plaintiff-ex-husband's motion for judicial disqualification, reversed in part the trial court's decision on his motion for litigation costs, contempt sanctions and contempt proceedings, and remanded for an evidentiary hearing on costs and attorney fees. <http://www.michbar.org/file/opinions/appeals/2018/121818/69296.pdf>

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Mikho v Mikho, Mich App (12/2018)(Unpublished): Holding that the trial court erred in denying defendant-wife's motion to set aside the default judgment of divorce because the entry of the judgment was inconsistent with the MCRs, the court reversed and remanded. <http://www.michbar.org/file/opinions/appeals/2018/121818/69270.pdf>

Williams v Williams, Mich App (12/2018)(Unpublished): Because the trial court failed to make the requisite findings of fact in holding that plaintiff-ex-husband was in direct criminal contempt, the court had "no means by which to review the propriety of its decision." <http://www.michbar.org/file/opinions/appeals/2018/122018/69309.pdf>

Argel v Argel, Mich App (12/2018)(Unpublished): The court held that the trial court did not err by denying defendant-father's motion for a change in custody. <http://www.michbar.org/file/opinions/appeals/2018/122018/69328.pdf>

Schiller v Schiller, Mich App (12/2018)(Unpublished): The court dismissed plaintiff-ex-wife's appeal of the trial court's order denying her motion for a protective order precluding defendant-ex-husband from deposing her attorney because the appeal was moot as the deposition had already occurred. <http://www.michbar.org/file/opinions/appeals/2018/122718/69348.pdf>

Deutsche Bank Nat'l Trust Co. v Slan, Mich App (12/2018)(Unpublished): Holding that defendant-ex-wife failed establish that her alleged dower rights, the statute of frauds (SOF), or her homestead rights were a meritorious defense to plaintiff's claim to quiet title in this mortgage dispute arising from defendants' divorce, the court affirmed the judgment for plaintiff. <http://www.michbar.org/file/opinions/appeals/2018/122718/69347.pdf>

In re RC, Mich App (1/2019)(Unpublished): Concluding that the record supported the trial court's findings, the court held that it did not commit clear error in applying the standard of review or in ruling that the MCI superintendent's reasons for denying petitioner-aunt consent to adopt the child (RC) were arbitrary and capricious. <http://www.michbar.org/file/opinions/appeals/2019/010319/69376.pdf>

Dean v Dean, Mich App (1/2019)(Unpublished): Because the ex parte order suspending defendant-mother's parenting time with the parties' son had been rescinded, the court dismissed her appeal as moot. <http://www.michbar.org/file/opinions/appeals/2019/011019/69392.pdf>

Zalewski v Zalewski, Mich App (1/2019)(Unpublished): The court held that while the trial court did not abuse its discretion in denying defendant-ex-husband's motion to terminate spousal support or in awarding plaintiff-ex-wife attorney fees, it did so in denying his request that child support be reviewed and recalculated because he established reasonable grounds for a review. Further, he adequately set forth a claim for change of the physical custody of the parties' remaining minor child and the trial court should have determined whether a change in circumstances existed. The court denied his request for remand to a different judge. <http://www.michbar.org/file/opinions/appeals/2019/011519/69406.pdf>

Kimball v Pearson, Mich App (1/2019)(Unpublished): After a second remand, the court affirmed the trial court's order that the parties share joint legal and physical custody, concluding that the trial court did not err in its factual findings after conducting the hearing on remand as directed. <http://www.michbar.org/file/opinions/appeals/2019/011519/69397.pdf>

In re AMR, Mich App (1/2019)(Unpublished): The court held that the trial court properly terminated respondent-father's parental rights to the child under the Michigan Adoption Code. <http://www.michbar.org/file/opinions/appeals/2019/011519/69420.pdf>

Roydes v Roydes, Mich App (1/2019)(Unpublished): The court held that a change of circumstances and proper cause were established for purposes of MCL 722.27(1)(c), and that the trial court did not adequately weigh and consider the children's living situation and the events that occurred after defendant-father took them to Wisconsin. <http://www.michbar.org/file/opinions/appeals/2019/011519/69412.pdf>

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Noble v Noble, Mich App (1/2019)(Unpublished): Noting that defendant-ex-husband stipulated to the provision he challenged on appeal, and that the trial court awarded him exactly what he had sought (his business and the accounts, equipment, inventory, and tools that went with it), the court affirmed the divorce judgment.

<http://www.michbar.org/file/opinions/appeals/2019/011719/69452.pdf>

Moore v Moore, Mich App (1/2019)(Unpublished): The court held that the trial court did not err by establishing a parenting-time schedule. It also held that plaintiff-mother was entitled to sanctions based on defendant-father's frivolous appeal. <http://www.michbar.org/file/opinions/appeals/2019/011719/69449.pdf>

***Burnett v Ahola**, Mich Supreme Court (1/2019)(Order): In an order in lieu of granting leave to appeal, the court reversed the Court of Appeals judgment (see e-Journal # 68618 in the 9/7/18 edition), vacated the trial court's opinion and order, and remanded to the trial court, holding that neither waiver nor estoppel applied. Child custody & parenting time; The Revocation of Paternity Act (ROPA) (MCL 722.1431 et seq.); Waiver; Landelius v. Sackellares; Estoppel; Jones v. Chambers.

<http://www.michbar.org/file/opinions/supreme/2019/012319/69674.pdf>

Tacey v Tacey, Mich App (1/2019)(Unpublished): The court held that the trial court clearly erred by failing to identify and apply the proper standard of proof (clear and convincing evidence) when determining whether it was in the children's best interests to change schools. It further erred in not interviewing them to determine whether they were capable of stating their reasonable preferences and in its findings on factor (j), the primary factor on which it relied.

<http://www.michbar.org/file/opinions/appeals/2019/012419/69690.pdf>

Norwood v Norwood, Mich App (1/2019)(Unpublished): Holding that the trial court's finding that proper cause existed to justify a review of custody, and its findings on the challenged statutory best interest factors were not against the great weight of the evidence, the court affirmed the order granting plaintiff-father sole legal custody and primary physical custody of the parties' child. <http://www.michbar.org/file/opinions/appeals/2019/012919/69705.pdf>

Robinson v Marculewicz, Mich App (2/2019)(Unpublished): Holding that the trial court abused its discretion when it declined, at the *de novo* hearing, to admit or consider new test results concerning the parties' child's speech in a child custody proceeding, the court vacated and remanded for a *de novo* hearing.

<http://www.michbar.org/file/opinions/appeals/2019/020519/69726.pdf>

Kwek v Kwek, Mich App (2/2019)(Unpublished): The court held that defendant-father could not meet the easier Shade standard to support modifying the parenting-time schedule, and did not show proper cause or a change of circumstances justifying a determination that the right-of-first-refusal (RFR) parenting-time condition in the divorce judgment no longer served the child's best interests.

<http://www.michbar.org/file/opinions/appeals/2019/020519/69724.pdf>

Peck v Peck, Mich App (2/2019)(Unpublished): The court held that the trial court properly granted permanent sole legal and physical custody to plaintiff-father and continued to limit defendant-mother's parenting time to two hours of weekly visits supervised by a therapist. It found no error in the trial court's assessment of the best-interest factors, which the trial court found overwhelmingly favored plaintiff. Thus, it had no ground to interfere with the trial court's ultimate custody decision. Finally, given the passage of time and the lack of any relationship between the judge who took over the case and defendant, disqualification was not warranted under MCR 2.003(C)(1)(e).

<http://www.michbar.org/file/opinions/appeals/2019/020719/69744.pdf>

Sadro v Roggenbuck, Mich App (2/2019)(Unpublished): Holding that the trial court's finding that parenting time with plaintiff-father would endanger the child's emotional and mental health was not against the great weight of the evidence, the court affirmed the order denying his motion to reinstate his parenting time and affirmatively suspending it. The court also rejected his claim that suspending parenting time without ordering reunification therapy amounted to a de facto termination of his parental rights. <http://www.michbar.org/file/opinions/appeals/2019/020719/69742.pdf>

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Agarwal v Agarwal, Mich App (2/2019)(Unpublished): The court affirmed the division of marital property between plaintiff-ex-husband and defendant-ex-wife in the judgment of divorce.
<http://www.michbar.org/file/opinions/appeals/2019/021219/69760.pdf>

Vanderhoff v Vanderhoff, Mich App (2/2019)(Unpublished): The court held that the trial court did not err by denying plaintiff-mother's motion to change the domicile of the parties' daughter from Michigan to Texas.
<http://www.michbar.org/file/opinions/appeals/2019/021219/69786.pdf>

Chudzinski v Finlayson, Mich App (2/2019)(Unpublished): The court held that plaintiff-father failed to show that the trial court abused its discretion in granting defendant-mother's motion to modify parenting time. As to the trial court's award of grandparenting time to the intervenor-maternal grandmother, while the court rejected plaintiff's constitutional challenge to MCL 722.27b(4)(b), it agreed that granting her grandparenting time was an abuse of discretion. <http://www.michbar.org/file/opinions/appeals/2019/021219/69779.pdf>

Bloom v Ogilvie, Mich App (2/2019)(Unpublished): The court held that defendant-father was afforded sufficient due process. Also, the trial court's order requiring him to comply with the recommendations from the psychological evaluation was not the equivalent of an order compelling involuntary mental-health treatment. Finally, the record did not show actual bias or prejudice on the part of the trial court.
<http://www.michbar.org/file/opinions/appeals/2019/021219/69775.pdf>

Estate of Meadows v Meadows, Mich App (2/2019)(Unpublished): While it rejected defendant-ex-wife's claim that the trial court lacked subject-matter jurisdiction, it held that the trial court's order that proceeds of her now deceased ex-husband's pension payable to her be placed in a trust account of plaintiff's (his estate) attorney violated ERISA's anti-alienation provision. <http://www.michbar.org/file/opinions/appeals/2019/021419/69800.pdf>

Gallagher v Gallagher, Mich App (2/2019)(Unpublished): Holding that the award was inequitable and thus, that the trial court abused its discretion in awarding plaintiff-ex-wife spousal support 37 years after the parties' consent divorce judgment was entered, the court vacated the order.
<http://www.michbar.org/file/opinions/appeals/2019/022119/69861.pdf>