

MEDINA COUNTY BAR ASSOCIATION

93 Public Square
Medina, Ohio 44256
Medina County Bar Association

www.medinabar.org

330-725-9794



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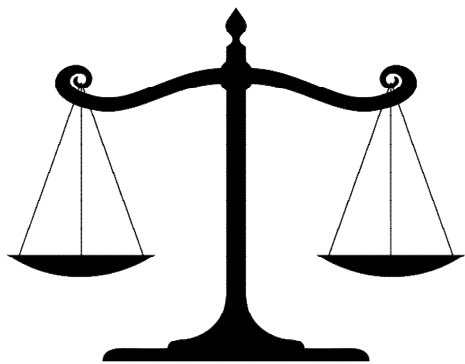
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*Happy
Holidays*

Medina County Bar Association

Our 2019 Executive Team:

President – Monica Russell, Esq.

President-Elect Bradley J. Proudfoot, Esq.

Vice President – Matthew Ameer, Esq.

Treasurer – Michael Callow, Esq.

Secretary – Melissa J. Piszczek Esq.

Executive Secretary – Gina Hotchkiss

Message From Our President

It has been a busy year for the MCBA this year! The highlights:

- We hosted five informative low-cost CLEs for our members with over 125 attendees.
- We were honored to have Sixth District Court of Appeals Judge Alice Batchelder speak at our Law Day Program, which was attended by about 60 people.
- We awarded a \$5,000.00 college scholarship to Brunswick High School Senior Rachel Russo as part of our Law Day Program.
- We presented three beautiful canvas photos of the Medina Square to the Ninth District Court of Appeals to hang in their courthouse. The photos were taken by MCBA Member Bill Young's daughter, Marjorie Young Kennedy and Bill provided a contribution to MCBA's purchase of the pictures.
- At our First Quarter Meeting, the membership approved an Amended Constitution for the MCBA, which had been an ongoing project of the executive committee for 4+ months.
- At our Third Quarter Meeting, we welcomed OSBA President-Elect Judge Linda Teodosio and OSBA Director of Policy and Government Relations Todd Book who provided us with an update on statewide initiatives of the OSBA and current legislative news. At that meeting we passed a Resolution in support of the OSBA's efforts to reverse the BID attorney exemption (see BID article).
- We had a busy and productive Annual Meeting (see Annual Meeting Recap article).
- Through our President-Elect Brad Proudfoot, we actively participated in the Courthouse renovations discussions and kept our members apprised of the status of the project.

I am also pleased to tell you that through my tenure on the executive committee, we have moved the MCBA forward into the digital age. All of our files are now kept in an online file sharing program (no more handing off of boxes from one president to the next as in years past). With our new website forthcoming in 2020 (see Annual Meeting Recap article), you can expect to see more advancements including online annual membership registration and payment of dues, online event registration and payments, and a mobile friendly website design.

As I wrap up my time as President of the MCBA, I want to give a sincere thanks to our President-Elect Brad Proudfoot who has been a great help this past year. The MCBA will be in good hands in 2020. I also want to thank my husband, Magistrate J.R. Russell for also being incredibly supportive of my work with the MCBA.

Sincerely,

Monica E. Russell
2019 MCBA President
General Counsel, Erie Title Agency, Inc.

Annual Meeting Recap

The MCBA held its Annual Meeting on December 6, 2019 at Williams on the Lake. More than 45 members attended.

- ❖ The membership approved a proposal from Daslos Studios LLC and ID Creative Group Ltd for a re-design of the MCBA's website.
- ❖ The membership approved a resolution to encourage the County of Medina to adopt, at minimum, the state fee schedule of \$75.00 per hour for appointed counsel fees as recommended by the Office of the State Public Defender in January of 2019.
- ❖ The membership approved a resolution to encourage the County of Medina to maintain the County Courthouse on the public square.
- ❖ The membership approved the nomination of Attorney Rebecca Clark to the position of Secretary of the MCBA in 2020.



Top Right: President Monica Russell and President-Elect Brad Proudfoot.

Bottom Right: President-Elect Brad Proudfoot updating the membership on the Courthouse renovations.

Bottom Left: Vice President Matt Ameer discussing the Resolution to raise the appointed counsel rate.

2019 Medina County Bar Association Professionalism Award Recipient: Norman Brague

The Medina County Bar Association Professionalism Award was established to recognize an attorney's exceptional dedication to the standards of the profession and further to recognize one who has demonstrated integrity and humanitarian concern within the Medina County community. Professionalism among members of the Medina County Bar has been of concern to us all. All lawyers should have the high standards of our profession reinforced to ensure that they are a regular part of our practice.

At the MCBA's Annual Meeting on December 6, 2019, the MCBA Executive Committee Presented this award to Attorney Norman E. Brague. Mr. Brague has represented the City of Wadsworth as an attorney since 1973. He was appointed as assistant solicitor on October 2, 1973 and elected as solicitor in 1975. The title of the office was changed from solicitor to director of law in 1977. He was re-elected in 1979, 1983, 1987, 1991, 1995, 1999, 2003, 2007, 2011, 2015.

As the attorney for the City of Wadsworth, Mr. Brague has prosecuted a wide range of misdemeanor criminal cases and has appeared on numerous cases in the Court of Appeals of the Ninth Appellate District. He has won cases in the Ohio Supreme Court upholding the constitutionality of the Ohio reckless operation statute and upholding the authority of a municipal corporation under then existing law to prohibit the sale of beer within a zoning district. As director of law, Mr. Brague spends much of his time advising city officials on a wide variety of legal issues related to the many varied aspects of city operations.

Past recipients of the Professionalism Award: Dennis Paul, Robert Bux, and Steve Brown.



Dd



Norman Brague and Tom Morris (Mr. Morris presented the award to Mr. Brague).

*General Assembly reversers stance on attorney exception to the
Business Income Deduction*

In July, the General Assembly passed a budget bill which contained a provision that prevented attorneys from benefitting from the Business Income Deduction (“BID”) which provides an exemption from state income tax on the first \$250,000 of income for pass-through entities. The Ohio State Bar Association launched a vigorous campaign to change this law. At the MCBA’s Third Quarter Meeting, the membership passed a resolution to support the OSBA’s efforts. In November, the Governor signed off on a law which repealed this exemption so that attorneys can continue to enjoy the use of the BID.

Years in Practice Recognition

At the MCBA’s Holiday Party, the following attorneys will be honored with Years in Practice Plaques:

- ❖ 50 Years: Jim McIlvane
- ❖ 40 Years +: James Amodio, Jack Arnold, Norman Brague, Robert Bux, Dale Chase, Marie Miro Edmonds, James Kimbler, James Palmquist, Gerald Piszczek, John Porter, David Riehl, Ronald Stanley, William Thorne, and William Young.



Criminal Law Updates from LEA One (lea.one) **Bruce-Lan Barnad, JD, LLM**

United States v. Romero 10thCIR 5SEP2019

A Las Cruces police officer arrested Manuel Romero for obstructing an officer in violation of New Mexico Statute 30-22-1(D) because he failed to immediately comply with the officer's request that he submit to a pat-down search. During the search incident to arrest, the officer discovered a stolen firearm in Romero's backpack. Romero was charged with one count of being a felon in possession of a firearm, and one count of knowingly possessing a stolen firearm. Romero moved to suppress the firearm. Romero argued in his motion that the firearm should have been suppressed because the officer had neither: (1) reasonable suspicion to conduct the pat-down search; nor (2) probable cause to arrest Romero for obstruction. The district court denied Romero's motion.

The Tenth Circuit reversed, agreeing with Romero's latter argument that there was insufficient probable cause to support an arrest under section 30-22-1(D). The court concluded that Romero did not refuse to obey Officer Dollar's commands in any way that could constitute unlawful "resistance" under section 30-22-1(D). Thus, the search of the backpack could not be supported as a search incident to arrest. The matter was remanded for further proceedings.

United States v. Haldorson 7thCIR 23OCT2019

Haldorson, a fireworks enthusiast and a drug dealer, was arrested on his way to a second controlled buy. Along with drugs, officers found three pipe bombs in his car. He was charged with several counts related to drugs, explosives, and a firearm. Haldorson unsuccessfully moved to suppress evidence based on Fourth Amendment violations and was convicted on four counts a seven-count indictment. Haldorson was sentenced to 192 months of imprisonment.

The Seventh Circuit affirmed, upholding the denial of the motions to suppress. The court held that probable cause that was based on the first "controlled buy" three weeks earlier supported the arrest. Furthermore, the court found that emergency exigent circumstances existed for the warrantless search of his bedroom. There was a legitimate concern that other homemade explosive devices were in Haldorson's bedroom and were dangerous to others.

United States v. Ross 11thCIR 29OCT2019

Defendant appealed the denial of his motions to suppress evidence found in two separate, warrantless searches of his motel room. A gun was discovered in the first search, and drugs and associated paraphernalia were discovered in the second search.

Regarding the first search, the Eleventh Circuit held that defendant did not "abandon" his motel room when he ran. Accordingly, he had Fourth Amendment standing to challenge the officers' initial entry and the ensuing protective sweep, which they conducted within 10 minutes of his flight. The court ruled that this entry into the motel room was reasonable because the officers had warrants for the defendant's arrest and the officers reasonably believed that defendant was in the room and thus they had authority to enter the room to execute the arrest warrants, to conduct a limited protective sweep (Buie sweep), and to seize the gun found in plain view under the Plain View Seizure doctrine.

Regarding the second search the court held that defendant lost any reasonable expectation of privacy in his room at checkout time. Since the officers carried out the second search with the consent of hotel management after 11:00 a.m., the defendant did not have Fourth Amendment standing to contest the search. Accordingly, the court affirmed the district court's judgment.



MCBA 2019



Top Left: MCBA Law Day Scholarship Recipient Rachel Russo and Judge Alice Batchelder
Top Right: Judge Alice Batchelder and President-Elect Brad Proudfoot
Bottom Left: Carla Boyle Small from Community Legal Aid presents Volunteer of the Year award to Michele Sherrin
Bottom Right: President-Elect Brad Proudfoot, Judge Kevin Dunn, President Monica Russell



President Monica Russell and Member Bill Young present photos of the Medina Square to the judges of the Ninth District Court of Appeals.