

# SPRING 2013 NEWSLETTER

## GTLABA Proudly Presents



### Annual Spring Dinner

Thursday May 9th 5:30 to 9 pm  
Top Of The Park Restaurant  
Dinner, Award and Voting

Cocktails and reception at 5:30  
Call to order at 6 pm

Greetings from GTLABA President, Deborah Rysso  
Pro-Bono Award presented by LEAP  
Nominations/Voting for 2013-2014 Officer and  
Governor Board Positions  
Recognition of State Bar of Michigan President,  
Bruce Courtade.

*Contact April Sala at [admin@gtlaba.org](mailto:admin@gtlaba.org) if interested in  
Attending or for more info. Registration for  
Spring Dinner available on our website  
[gtlaba.org](http://gtlaba.org) on the Homepage under Events/CLE.  
Space is limited for these events.*

***Dinner is free to Members and \$30 for Non\_Members  
Cash Bar Only..No Credit Cards Accepted***

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### WLA Update

WLA continues to volunteer every month at the WRC with the Family Law Clinic and Free Legal Clinic.

WLA is hosting Law Day's annual movie event at The State Theatre, 11am showing of 12 Angry Men.

WLA is seeking a new President; someone with plenty of time and connections to continue to keep WLA strong.

Please contact jkloet@shrr.com for any WLA comments, thoughts or questions.



Women  
Lawyers  
Association

A COMMITTEE OF THE GRAND TRAVERSE  
LEELANAU & ANTRIM BAR ASSOCIATION

### Bar Association Newsletter

Editors & Committee Co-Chairs: Lea Ann Sterling, Christopher Carol and Jo Bullis. Published Quarterly. Kindly mail articles and information to GTLABA by **Friday June 7th** for publication in the **Summer 2013** issue. Questions or comments should be directed to Lea Ann Sterling at las@sterlinglawoffice.net, Christopher Carol at clc.law.office@gmail.com or Jo Bullis at jbullis@wrcgt.com.

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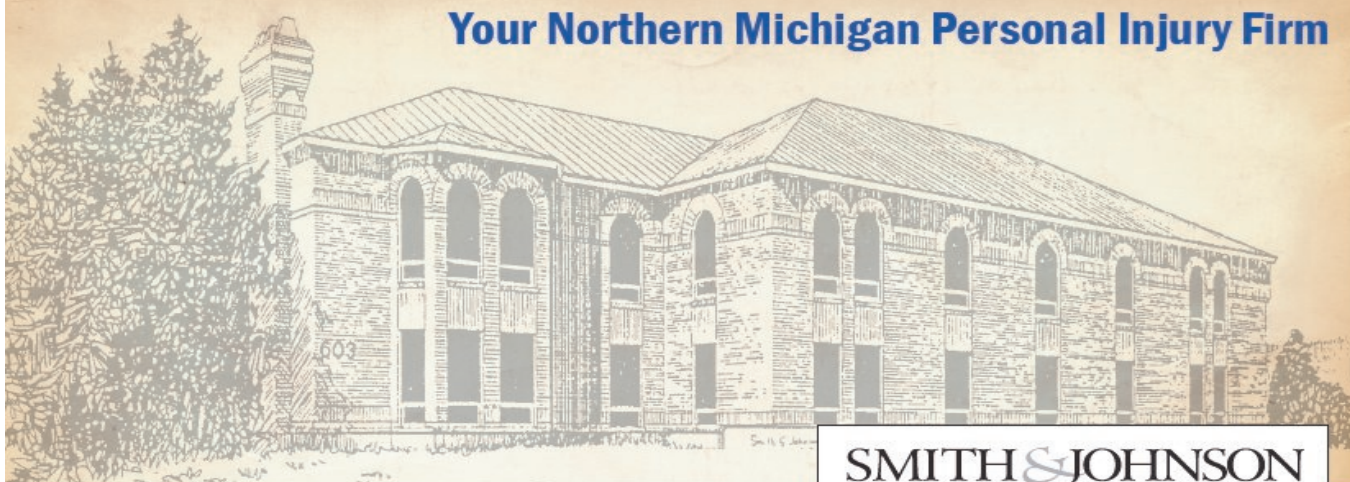
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### **SUCCESSION PLANNING FOR THE SOLO PRACTITIONER**

**Heather Dykstra**

You breathe a sigh of relief ... you have finally completed your estate plan. You feel confident that your new will, trust, durable power of attorney and patient advocate designation will protect your loved ones in the event of your death or disability. Unfortunately, as solo practitioners often do, you have overlooked a very important issue in your planning ... your legal practice. This oversight will not only create additional complications for your personal representative\trustee, but you may also be violating your ethical responsibilities to your clients through your delinquency or inadequacy in planning.

The American Bar Association, through the Standing Committee on Ethics and Professional Responsibility, issued Formal Opinion 92-369 entitled "*Disposition of Deceased Sole Practitioner's Client Files and Property*," which provides in part as follows:

To fulfill the obligation to protect client files and property, a lawyer should prepare a future plan providing for the maintenance and protection of those client interests in the event of the lawyer's death. Such a plan should, at a minimum, include the designation of another lawyer who would have the authority to review client files and make determinations as to which files need immediate attention, and who would notify the clients of their lawyer's death.

Your will and/or trust should designate another licensed attorney to serve as an "*Assisting Attorney*." Your *Assisting Attorney* would have the responsibility of protecting your clients' interests in the event of your death or disability, including, but not limited to, overseeing the transition of your clients to another competent attorney as your *Assisting Attorney* does not represent your clients. An *Assisting Attorney* will also provide a smooth transition for your loyal associates and support staff. An "*Assisting Attorney Agreement*" should accompany your estate planning documents to clearly define the role and obligations assumed by the *Assisting Attorney*. Your durable power of attorney should also identify your *Assisting Attorney* as one with complete discretion to oversee and handle all matters related to your practice.

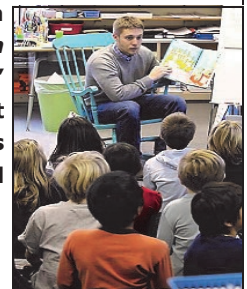
As attorneys, we owe a fiduciary and legal duty of competence to our clients to protect their interests and perform legal services competently. Competence includes the mental and physical ability to perform legal services competently. It's not a big stretch for a plaintiff's legal malpractice counsel to argue that disability or death are foreseeable events which create a lawyer's duty of care to protect their clients from the aftermath of disability or death. Risk management is important, but most of us are motivated by our genuine concern that our clients not suffer through absolute chaos if we are suddenly disabled or die. We are also motivated by our desire to protect our loved ones from headaches and the worry of winding up a law practice at a time when they may be feeling emotionally and financially vulnerable, are grieving or are incapable of making business decisions.

If you are the sole owner of your practice, don't put it off! If you don't handle estate planning issues, contact an estate planning attorney for an appointment today!

***Heather Dykstra Esq. is the owner of Heather Dykstra PLC. She has over thirteen years of legal and financial expertise and brings her clients a wealth of experience in probate, estate planning, trust administration and litigation, and business planning. Heather is also very active in the Grand Traverse community serving on the Executive Board for the Women's Resource Center and the Board of Directors for the Traverse Health Clinic. She can be reached at [\(231\) 409-3359](tel:2314093359) or at her office located in the historic Old Munson Hall adjacent to the Grand Traverse Commons.***

#### **YLA Report by Brace Kern**

On Friday, January 18, 2013 the GTLABA-YLS volunteered to assist the United Way of Northwestern Michigan by attending local elementary schools to educate the children on Dr. King's message of judging a man not by the color of his skin, but on the content of his character. The next day, YLS member **Brian Hall** appeared on the cover of the Traverse City Record Eagle reading Dr. Seuss's "The Sneetches" to kindergarten, 1<sup>st</sup> grade and 2<sup>nd</sup> grade children at Eastern Elementary School. YLS member Matt Hanley also read "The Sneetches" to preschool, kindergarten and 1<sup>st</sup> grade children at Westwoods Elementary School, while YLS Chairman **Brace Kern** conducted activities in diversity, equality and respect with 4<sup>th</sup> and 5<sup>th</sup> grade children at Cherry Knoll Elementary School.



Email GTLABA YLA rep Brace Kern at [Bkern@ddc-law.com](mailto:Bkern@ddc-law.com)



## Heard in the Halls



**John DiGiacomo** founded **Revision Legal**, which was then acquired by the Lansing-based law firm Newburg Law. John has joined Newburg Law as a partner and they have opened a new office at 227 Lake Ave. John was also recently appointed to the Traverse City Downtown Development Authority Board and the History Center of Traverse City Board.

### LEAP

**The Law Enhanced Access Project (L.E.A.P.)** will present the annual **Pro Bono Service Award** at the May 9th Spring Dinner. Since 2004, L.E.A.P. has supported the expansion of access to free legal assistance to women who are domestic violence survivors and the working poor in the five county region, by coordinating four different legal clinics and services staffed by volunteer attorneys, paralegals and laypersons. L.E.A.P. receives its funding from the Three Generations Circle of Women Givers, a local charitable organization that supports projects which that promote the economic self-sufficiency and well being of women and girls.



**Smith Haughey Rice & Roegge** is pleased to announce that attorney **Kate E. Flewelling** has joined the firm's Traverse City office. Kate practices in the areas of business and corporate law, construction law and real estate, and health law.

Kate primarily represents businesses, individuals, and health care providers. Her work experience has provided her with a strong background in the area of real estate. She has focused on the representation of purchasers and sellers of commercial buildings, tenants of office space, and other parties involved in development projects, joint ventures, and restructuring of commercial real estate loans. Additionally, Kate has been professionally recognized for spending a great amount of her time representing pro-bono clients.

Kate is licensed to practice law in the state courts of Michigan, Illinois, and New York. She earned a J.D. from New York University School of Law in 2005 and a B.A. from Northwestern University in 2002, graduating *Cum Laude* at both universities.

**Smith Haughey Rice & Roegge** is pleased to announce that attorney **R. Jay Hardin** received a verdict on behalf of his client for \$650,000, one of the largest jury awards in Leelanau County's history. Jay represented client Colton Brooks, who was injured in a tractor accident while working voluntarily on a cherry farm.



In the summer of 2011, 17-year-old Brooks received little to no training before operating the cherry catcher (tractor) at Stanton Orchards. A brake on the cherry catcher failed while Brooks was on a hill. This caused him to lose control and the 4,000-pound tractor slammed into a tree, pinning Brooks against it. Brooks' leg was broken, and he has experienced additional complications since the accident. He is expected to undergo more surgery in the future. Brooks' award is intended to cover past and future health care costs and past and future pain and suffering.

Jay Hardin is an attorney in Smith Haughey's Traverse City office. For 20 years, he represented health care providers in the defense of medical malpractice claims. Now, he uses his vast medical knowledge and trial skills to benefit his clients involved in personal injury, wrongful death, and other plaintiff's cases.



The Family Law Clinic is in need of volunteer attorneys. With a few more volunteers, the time commitment would be 2 or 3 clinics per year. The clinic is a cooperative effort of the GTLABA and its Pro Bono Committee, GTALP, Legal Services of Northern Michigan and the Women's Resource Center-Grand Traverse Area. If interested, please contact Mary Kavanaugh-Gahn at [kavagahn@lsnm.org](mailto:kavagahn@lsnm.org).

### **Please Note: The Family Law Clinic**

**will meet May 16, 2013 (3<sup>rd</sup> Thursday) rather than the 2<sup>nd</sup> Thursday because of the GTLABA Spring Dinner**

The clinic will resume its regular, monthly schedule in June.

When: Second Thursday of the month 7pm except July

Where: Women's Resource Center 720 S. Elmwood TC

*The clinic is presented in cooperation with the 13<sup>th</sup> Judicial Circuit, Family Division, Grand Traverse – Leelanau – Antrim Bar Association and its Pro Bono Committee, Legal Professional's Association, Legal Services of Northern Michigan, and the Women's Resource Center – Grand Traverse Area*



Sterling Law Office has relocated its main office to 13919 S. West Bay Shore Drive, Suite 209, Traverse City, Michigan 49684. The firm has also relocated its Empire office to 11470 S. Leelanau Highway (M-22), Suite 107, Empire, Michigan 49630 and its Gaylord office to 100 W. First Street, Gaylord, Michigan 49735. One phone number, however, [231-486-0559](tel:231-486-0559), reaches all four attorneys—Lea Ann Sterling, Wendy Bailey, Steven Paciorka, and Heather Zang—at all three locations.

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### Seeking New Employment

**Transactional attorney with 5 years experience in real estate, commercial litigation, bankruptcy, and estate planning is seeking immediate employment with a firm in Northern Michigan.**

**Originally from Traverse City, I am licensed in Michigan, New York, and New Jersey.**

**Please contact David L. Dockery, Esq. at [davedocery5@gmail.com](mailto:davedocery5@gmail.com) for resume, references, and writing sample.**



## APPEALS

Maurice A. "Mike" Borden is accepting civil action appeal referrals. He has successfully represented businesses and individuals in the Michigan Court of Appeals and Supreme Court and in the Sixth Circuit Court of Appeals. He can be reached at:

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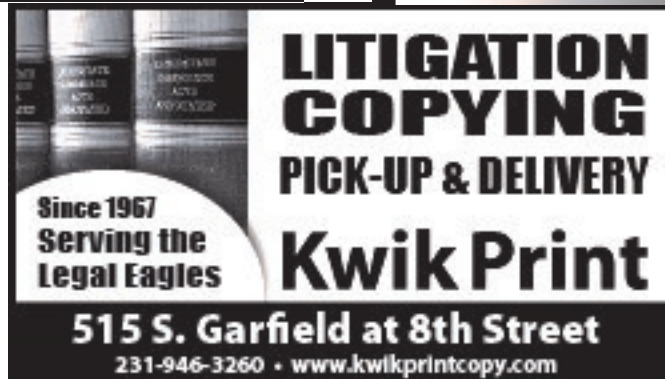
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## Paternity/Non-Paternity

## Of Child Born or Conceived During Marriage

Occasionally, there is a claim by the parties to a divorce matter that a child born or conceived during the parties' marriage is not the husband's child. Michigan law provides a rebuttable presumption that a child born or conceived during a marriage is legally the child of the husband.

The presumption can be overcome by presentation to the court of **clear and convincing evidence** that the child is not the husband's child. *Serafin v Serafin*, 401 Mich 629 (1977)

The clear and convincing evidence that the court will require is either 1) the sworn testimony of the mother, the husband **and** the alleged biological father that the child is not a product of the marriage but is the child of the alleged biological father, or, if the alleged biological father is not available or not willing to testify to his paternity of the child, then, 2) genetic test results, demonstrating that the husband is **excluded** as the father of the child.

In the case of a pregnant wife and a claim that the wife's unborn child is not a product of the marriage, generally, absent exigent circumstances, the final hearing and entry of a judgment will be postponed until after the birth of the child so the clear and convincing evidence described above can be presented to the court.

**Dawn M. Rogers**

**Friend of the Court**



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## Top 25 Things You Did Not Know...

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### **25 Things about David Dockery**

1. I was born and raised in Traverse City, Michigan.
2. I love to eat peanut butter directly out of the jar. It's even better on top of vanilla ice cream with chocolate syrup. I've been told it's not a meal....
3. I am a huge "Trekkie" but not to the point where I would go to a convention.
4. I went to the University of Michigan for my Bachelor's and Master's degrees in Organ Performance and Church music.
5. My father is Don "Doc" Dockery and worked at Golden Shoes in Traverse City for over 35 years.
6. I attended my senior year of high school at the Interlochen Arts Academy.
7. Although I practice law and live in the New York City region, I miss northern Michigan a lot. I am actively seeking to move back home.
8. My family is very active at Trinity Lutheran Church in Traverse City, my uncle Dan Dockery is the school principal and my mom Mary taught there for several years.
9. I love to ski, particularly cross country.
10. One of my favorite places to walk is around Mud Lake.
11. I can never get enough of Sleeping Bear dunes yet I haven't had the courage yet to go all the way down the huge sand cliff on Lake Michigan.
12. One of my favorite things about practicing law is getting to know my clients and their families.
13. I still play the organ at a church.
14. One day I would like to become involved in local community government, maybe even run for office.
15. My wife Alison is from southern New Jersey so I have become an adopted Phillies fan, but I don't think I can safely tell her I'm still a Tigers fan at heart.
16. I go crazy for Michigan football, my car has Michigan stickers and plates and I am an unashamed Wolverine. Go Blue!
17. It takes me about an hour and two cups of strong coffee to get my day going but I love getting up early. Partly because I need the time to wake up!
18. I love beer and homebrew frequently.
19. Doing projects around the house help me relax.
20. A lot of people ask me how I went from being a musician to a lawyer. Although the answer is somewhat complicated, I love being a lawyer and cannot imagine doing anything else.
21. There's nothing better than fall in northern Michigan. One of my favorite memories as a child was going to Underwood's for fresh cider and donuts.
22. I love teaching and public speaking and try to do so whenever I can.
23. One of my favorite places to visit is Key West; it's where I proposed to my wife on Valentine's Day!
24. I have a wild sense of humor and I try to make even the most mundane things entertaining.
25. I always tell everyone around me that everything is better in Michigan!

Welcome GTLABA's newest member, David Dockery. David currently practices law in New York/New Jersey and is actively seeking to move back to his home town of Traverse City.

David was born and raised in Traverse City and his immediate family still live in town and are active in the community





**Thank you to the following Estate Attorneys for their support and participation in 2013 Law Day clinics:**

**Diane Huff, Luke Pickelman, Peter Shumar, Jeff Wingfield, Deborah Rysso and Heather Bruce.**



### **Third Level Crisis Free Legal Aide Clinic Statistics for February 2013**

<b><u>Number of Persons Served</u></b>	<b><u>Demographics</u></b>	<b><u>County</u></b>	<b><u>Legal Concern</u></b>
<b>33</b> clients seen and <b>3</b> Cases Assigned to attorneys	21 Female	27 Gr. Traverse	7 Custody
	12 Male	1 Leelanau	4 Divorce
	Btwn 18-72	1 Benzie	7 Landlord/Tenant
	26 White	1 Antrim	6 Collections
	1 Asian	2 Kalkaska	1 Bankruptcy
	1 Hispanic		1 Wills/Estate
	5 Native American		1 Consumer/Finance
			2 Other Family
			2 Individual Rights
			1 Contract
			<b>1</b> Miscellaneous

**Thank you to Meagan Belden, John Tilley, Keith Theisen, Nathan Miller, Linda Marsh-Raetz, Corey Wiggins and Aaron Bowron for volunteering their time.**



**Presidents Article****Deborah Rysso****President's Message**

**As the GTLABA year comes to a close and a new election will be held in the next few weeks, I**

**would like to take a moment to reflect on what a wonderful opportunity it is to serve on the Board of Governors of the GTLABA.**

**I have served on the board in various capacities for about six years. I have met many more attorneys than I have through any other organization, so its networking value is incomparable.**

**I learned what are priorities in our legal community, particularly when it come to filling pro bono needs.**

**I have learned that our lawyers are smarter and nicer than lawyers in many other communities. And, importantly, I have discovered that our lawyers are always willing to help.**

**I encourage anyone interested in serving on the board to contact the GTLABA. We have many opportunities for you to get involved. The time commitment is small, but the rewards are very large.**

**I have enjoyed serving as president, and I thank everyone for all of their help and support this year.**



Thank you Deborah for serving as our 2013-2014 GTLABA President. It has been a real pleasure to work with you . Thank you for your ideas and concepts you offered the Board and this membership.



## Law Day Update 2013

### ABA 2013 Law Day Message

*The promise of equality under the law is what has made America a beacon to other nations. It is a pledge clearly set forth in the Declaration of Independence and in the opening words of the Preamble of the Constitution, "We the People." It is, in the words of Abraham Lincoln, the proposition to which our nation is dedicated.*

*The year 2013 marks the 150th anniversary of the issuance of the Emancipation Proclamation. In 1963, during the Proclamation's centennial, Rev. Dr. Martin Luther King Jr. stood in front of the Lincoln Memorial and called upon our nation to live up to the great promise, enshrined in its founding documents, of equality for all. Five decades later, the inspirational words of Dr. King's "I Have a Dream" speech continue to resonate and challenge us to live up to our national ideal of equality under the law. The legacy of the Civil Rights Movement can be seen in the strides that have been made against discrimination based on race, gender, ethnicity, national origin, religion, age, disability, and sexual orientation.*

*This year's Law Day theme, "Realizing the Dream: Equality for All," provides an opportunity to explore the movement for civil and human rights in America and the impact that it has had in promoting the ideal of equality under the law. It will provide a forum for reflecting on the work that remains to be done in rectifying injustice, eliminating all forms of discrimination, and putting an end to human trafficking and other violations of our basic human rights.*

*As Dr. King pointed out in his Letter from a Birmingham Jail, "Injustice anywhere is a threat to justice everywhere."*

This year GTLABA celebrated Law Day with several free Estate Planning clinics offered to area seniors in conjunction with The Senior Center. Our annual Law Day Luncheon was once again held at the Governmental Cafeteria. Derek Bailey was our keynote speaker and The Liberty Bell was presented to Donna Hornberger. Law Day 2013 was officially proclaimed by our Mayor, Michael Estes and his staff. Thank you to GTALP volunteers Renee Stout and Jodi Velez.

**Law Day 2013 Photos on next page...11**

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