

W I N T E R 2 0 1 1

Update on GTLABA Finances

Corey J. Wiggins, GTLABA Treasurer

As many of you are now aware, the Grand Traverse-Leelanau-Antrim Bar Association ("Association") finds itself in a precarious financial situation. The 2010-2011 fiscal budget estimates income of \$43,850.00 and expenses of \$46,210.00. To date the Association has generated income of \$44,385.00 and has incurred expenses of \$32,870.00. At the time of writing this article the Association has \$27,564.15 in checking and savings. This same time last year, the Association had \$36,466.88 in checking and savings.

For those members who are not aware, the 2010-2011 budget is viewable in the member section of the Association's website at www.gtlaba.org. However, the budget on the website does not reflect budget amendments made by the Board of Governors this past October. In view of this fact, I will outline the Association's major expenses and income sources reflected in the budget amendment. The majority of the Association's expenses are allocated to the manager's budget, including wages for the Executive Director and assistant librarians, which for 2010-2011 is anticipated to be \$20,645. The law library accounts for \$6,300 of the budget with dinners and programs coming in at \$5,000. The Newsletter is allocated \$3,000 and TARS is estimated to have expenses of \$600. Law Day is allocated \$1,500 and postage is estimated to cost \$1,000. The major income sources for the Association are yearly membership dues, TARS dues and referrals, newsletter advertising, photocopier fees and dinners. To date, the Association has taken in \$30,202 in membership

dues, \$2,175 in TARS dues and referrals, \$1,930 from newsletter advertising, \$1,132 from meals and \$1,051 from photocopies made at the law library.

For the last couple of years the rapidly depleting funds of the Association has been on the minds of the members of the Board of Governors and has been discussed at several meetings. A couple of months after the 2010-2011 budget was approved, an emergency Finance Committee meeting was held to review the budget and make recommendations for budget amendments to the Board of Governors. It soon became apparent that the Association would not be able to sustain its current spending levels and budgetary recommendations were presented to the Board of Governors. The Board voted to adopt the recommendations and the 2010-2011 budget was amended accordingly.

By now many of you are aware that the Board of Governors, acting on the recommendations of the Finance Committee, voted to terminate the \$5,000 line-item donation for the legal aid clinic from the budget. Also removed or reduced from the budget were travel expenses for the President and Executive Director, the budget for Law Day and the budget for the two annual dinners. Additionally, the Board decided to charge for alcohol at both annual dinners, change the venue for Law Day and permit advertising in the weekly e-newsletter. The Finance Committee also discussed, but decided against, raising the yearly membership dues and eliminating the free annual dinners. Also

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discussed was the possibility of organizing fundraising events to help offset the direct cost of charitable giving and charging members who RSVP but do not show for the annual dinners. At the time of the budget amendment, it was too late for the Board to implement a policy of charging for no-shows at the recent fall dinner or to organize a 2010 fundraising campaign for charitable giving.

With respect to the legal aid clinic donation, it is important to note that the Board did not vote to cut funding completely for the clinic. The decision made by the Board was to remove the yearly donation from the Association's operating budget and refer the matter to the Charitable Giving Committee. The majority view of the Board was that while the legal aid clinic is a worthwhile cause, it should not have been a budgeted expense, especially given the financial future the Association is facing. The majority

of the Board believed that the legal aid clinic donation should be made from funds the Association has deposited with the Grand Traverse Regional Community Foundation, which as of the last statement was \$10,870.

I truly believe that the financial instability of the Association will be short lived. For the past few years, Association membership has been declining, however, this year has actually seen an increase in membership. Additionally, the Board is in the process of establishing an affiliate member program, which will increase revenues to the Association. Additionally, the Board is always open to ideas from the membership as to how to increase funds and/or save money. Should you have any questions or comments please feel free to contact me at (231) 946-8630 or at corey-jwiggins@gmail.com.

WLA Update submitted by Kimberly Bevill

The Women Lawyers Association continues to broaden its presence in the community through participating in local fundraisers and hosting events.

The WLA participated in the inaugural "Bras for a Cause" fundraiser on October 28, along with 40 other local organizations. The fashion show-type event, hosted by the Northern Michigan Chapter of the Women's Council of Realtors, featured a male member of the group modeling a hand-decorated brazier, which was auctioned off to raise money to support the Munson Healthcare's Women's Cancer Fund.

Inspired by Elle Woods, the main character in the legal spoof movie "Legally Blond," the group held a pizza party to decorate its artful creation. A magenta pink brazier was dripping with a star-spangled patriotic theme by night's end. Local attorney Kyle Trevas graciously volunteered to model on behalf of the WLA at the event. For being such a great sport, Trevas was awarded an honorary membership to the WLA for his participation.

The group was drawn to participate in the event because of its local focus for women. Because of the event's rousing success, the group looks forward to participating in the event again next year.

Even a blizzard couldn't stop the WLA's annual holiday dinner on December 8th. Over 25 members gathered for an evening filled with cheer and jest at Trattoria Stella. Food, friends and a focus on the future was the theme of the evening.

Future plans for the WLA include a speed networking event to be hosted early in 2011, which will be open to the

entire GTLA Bar.

The WLA meets the second Tuesday of every month at noon at rotating local restaurants and is always accepting new members. If you are interested in joining the WLA or have any questions about upcoming events, please contact Sara Mason at mason_saram@yahoo.com.



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Change of Custody: Certainty of Child Custody Orders Thrown into Question by Recent Rulings

Steven W. Paciorka



The state of child custody law is becoming unsettled in northern Michigan due to newly created uncertainty as to exactly what a parent has to show in order to modify a prior custody order.

The Child Custody Act authorizes a trial court to modify child custody orders “for proper cause shown or because of change of circumstances,” and if in the child’s best interests. MCL 722.27(1)(c).

However, in 2004 the Court of Appeals removed the “change of circumstances” requirement in a case involving a parent’s attempt to change a prior custody order that was arrived at by stipulation, rather than by a judicial ruling applying the statutory child custody factors (i.e., “best interest factors”) to evidence given at a hearing. See *Thompson v Thompson*, 261 Mich App 353. The attempted change occurred at trial, and the order sought to be changed was a temporary pre-judgment custody order. Until just recently, it had always been thought that the rule of *Thompson* only applied to temporary, pre-judgment custody orders, and that where the parties’ stipulation was the sole basis for a temporary order, no change of circumstances needed to be shown for such an order to be modified in a pre-trial evidentiary hearing, or at trial itself.

This thinking has been altered in Charlevoix County and Manistee County by the successful application of *Thompson* to stipulated custody orders contained in consent judgments—that is, custody orders arrived at by consent, contained in court decrees that are not contemplated to be temporary at all, such as consent judgments of divorce. The significance of extending *Thompson* from stipulated temporary orders to consent judgments is substantial. The “change of circumstances” requirement is often an impossible burden to overcome for a parent seeking to modify custody. The removal of this requirement makes it far more likely that a custody motion will be given serious consideration by a court. If a change of circumstances is no longer required for a custody order contained in a consent judgment, then a majority of the divorce judgments in this state (a conservative estimate is that 75% of divorce judgments are consent judgments) immediately become more vulnerable to a successful custody challenge.

Parents in the counties above successfully argued that the reasoning in *Thompson*, and another Court of Appeals case—*Greenlee v Davis* (Docket No.285036)—compelled

the extension of *Thompson* to consent judgments. *Greenlee*, decided in 2008, held that the change of circumstances requirement “only applies to cases in which a party is attempting to alter or modify a previous custody order, such that the trial court would be required to reconsider a previous determination of the best interest factors.” *Greenlee* regarded a party’s attempt to modify a stipulated temporary order memorialized in a consent judgment—in that case, a consent judgment of filiation. *Greenlee* affirmed the trial court’s holding that a “consent judgment of filiation was not a valid custody order for purposes of MCL 722.27, such that it was not required to find proper cause or change of circumstances before modifying or amending the order.” *Greenlee* observed that because “nothing in the record indicates that the trial court, before signing the judgment of filiation, considered the best interest factors,” in the subsequent action to modify the custody order therein “the trial court did not reconsider a previous determination of the best interest factors.”

Greenlee relied upon the published opinion of *Thompson*, above. *Thompson* held that a stipulated temporary custody order did not constitute an original custody award pursuant to MCL 722.27(1)(c), and that therefore neither a showing of proper cause nor changed circumstances was required in order to modify such an order. *Thompson* emphasized that as to the temporary order “there was no evidentiary hearing regarding the interest factors.” The parents in Charlevoix and Manistee argued that it was this lack of a consideration of the best interests factors in the first instance which distinguished *Thompson* from a case where the prior order was the product of an evidentiary hearing—*Vodvarka v Grasmeyer*, 259 Mich App 499 (2003). The *Thompson* court itself observed the same: “We note that in *Vodvarka*...the underlying circumstances were different, as the defendant was requesting a reevaluation of the trial court’s prior award of custody and was not seeking an initial evidentiary hearing on custody. In the present case, there was no evaluation. Defendant was waiting for the trial court to make its first evaluation.”

It was successfully argued above that the extension of *Thompson* to stipulated custody orders contained in final judgments was appropriate, on the grounds that a stipulated custody order contained no substantive difference between stipulated temporary custody orders and stipulated custody orders contained in consent judgments, the same analysis should be applied to both, the result being that a change of circumstances would no longer be required to change the custody provisions of a final judgment where the judgment

As noted above, the repercussions of this change could be immense. The current state of affairs is untenable, as previously well-settled child custody law is being thrown into disarray, with splits developing amongst the various circuits of the state. In the meantime, custody orders that might have previously been considered to be “untouchable” are vulnerable to modification by parents who no longer need to show a change of circumstances in order to move forward with their motion. Moreover, it may be some time before the Court of Appeals is presented with a proper case to resolve this ambiguity. As an affected parent, the most prudent course of action at this time may be to seek a legal “check up” of any controlling custody order, and obtain counsel from an attorney experienced with these new developments in the law.

Steven Paciorka is an associate with Sterling Law Office and specializes in the areas of family law, bankruptcy, and criminal. He lives in Northport with his wife Jennifer and their two children Ivan and Ingrid.



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Thank You Third Level Legal Clinic Donors

As noted in Corey Wiggins' cover story, the GTLA Board of Directors voted to eliminate funding for the Third Level Legal Clinic from its operating budget. While plans were being laid to continue clinic funding via the bar association's charitable giving fund and other fund raising efforts, emails regarding the funding changes prompted Enrico Schaefer at Traverse Legal PLC to issue a challenge to the local legal community: Traverse Legal would contribute \$1,000 to the Third Level Legal Clinic if the remaining \$4,000 was pledged by December 21st. In a tremendous show of support, the challenge was met, and \$5,100 was presented to Ken Homa, Executive Director of Third Level, on December 29th with the promise of more to come.

The GTLA Bar Association is grateful to everyone at Traverse Legal for spearheading this campaign and to the following donors who have pledged to Third Level so far:

Anonymous (3) * Mardi Black * Brandt Fisher Alward & Roy, PC * Law Office of Maura N. Brennan, PLC
Chris Bzdok * Jerry Colligan * Michael H. Dettmer * Donovan/Scott Law, PLC
LaSusa Law Offices * James M. Olson * William Rastetter * Rosi & Gardner, PC
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Jennifer Tang-Anderson * George R. Thompson * Traverse Legal, PLC * Robert P. Tremp, PLC
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Jay Zelenock Law Firm PLC * Michael Zipser * Zirnhelt, Bowron & Wiggins, PLC

Developing and Managing the 12-Month Marketing Plan

Ursula Rozanski



In my last article I wrote about developing and managing the firm's marketing budget. This article will focus on developing and managing the 12-month marketing plan. Each of the steps described here, while detailed, should be adapted to your own style and productivity level, using the management tool of your choice. The idea is to develop a manageable marketing plan that helps you to: (1) schedule your firm's marketing activities, (2) track the related marketing activity expenses against your marketing budget, and (3) prioritize the marketing opportunities for future planning purposes by comparing the results to the expectations.

STEP 1 – Identify the planning tool (automated or paper) that you will be using to manage and update the marketing plan. I would recommend a tool like Microsoft Excel which allows you to combine text and a calculator to describe the planning component and track its related expense.

STEP 2 – Using your planning tool, develop a space for each month of the 12 months that you will be planning. Then add columns for the marketing activity (i.e. activity name/description, the approximate day the month of the activity, duration of the activity, location, a contact for the activity, any related expenses for the activity, comments, status, and a "unique trackable ID" for each individual activity which will allow you to compare it to other marketing activities) components that you want to track and manage.

STEP 3 – Identify the marketing activities in which your firm is presently engaged (networking memberships, media buys such as radio and print ads, speaking engagements, community activities, contributing writer, pro bono, teaching, etc.). Then input each marketing activity into the appropriate month in your 12-month calendar, loading the details in the appropriate columns. If your tool has a calculator then each month should have a total marketing expense number, otherwise total each month's column of expenses to arrive at that month's scheduled marketing activity expense total.

STEP 4 – Once you have completed scheduling the details of your present marketing activities into the columns of each month of your marketing plan, calculate the total marketing expenses for all 12 months and compare the total against your marketing budget.

STEP 5 – If your marketing plan total expenses fall below the total marketing budget that you've developed you can: (1) set the difference amount aside as a reserve to use for new marketing opportunities that arise during the next 12 months, or (2) look for other marketing opportunities and input those new opportunities into your marketing plan with the related expenses, or (3) review, prioritize and schedule marketing opportunities that you have set aside from previous marketing plan development work, but did not schedule due to those opportunities being of a lower priority, or due to a lack of marketing budget funds for those opportunities.

STEP 6 – If your marketing plan total expenses are more than the marketing budget that you have established, you can: (1) prioritize the present marketing activities in which your firm is engaged according to some set of pre-established marketing priorities that are important to your firm, setting aside the lower priority activities and thus bringing the expenses in line with your established marketing budget, or (2) increase your marketing budget to support the marketing plan that you have just developed keeping in mind that you should have a reserve amount for new marketing opportunities that may arise during the next 12 months and with the expectation that the ROI from these activities will cover the increased marketing expense.

STEP 7 – Managing the marketing plan against the marketing budget (keeping them synchronized) can include such activities as: (1) measuring the effectiveness and the ROI of each marketing activity against other marketing activities, against the expectations that you have set for the results (the "unique trackable ID" can be used to facilitate this process) and for future planning purposes, (2) replacing a scheduled marketing activity in your marketing plan with a new higher ROI marketing opportunity, (3) reviewing and updating the plan consistently and on some scheduled basis, (4) comparing and contrasting marketing opportunities and expenses, as the firm's economic situation changes, (5) using the marketing budget and the marketing plans as mission critical management tools to further the growth and economic stability of the firm.

TIP – If 12 months of market plan scheduling poses a challenge, consider scheduling the firm's marketing plan three or four months at a time until the scheduling effort becomes more predictable due to it being based more upon prior history and results, rather than probability. Using this approach would require that the marketing budget amount allocated to the marketing plan be prorated according to the number of planning months that you decide you want to schedule in your marketing plan (i.e. if the marketing plan

schedule in your marketing plan (i.e. if the marketing plan is scheduled on a three month interval, then approximately 25% of the marketing budget could be allocated to the plan).

Ursula Rozanski is Managing Principal/President of Rozanski & Associates, Inc. (www.rozanskiandassoc.com), a Michigan-based management consulting / resources provision firm for solo and small to medium enterprises, and in particular professional services firms. The company was established in 1995 and incorporated in 2001. Ursula can be reached via email at urozanski@rozanskiandassoc.com, or by phone at 989-225-2570. Copyright 2010, Rozanski & Associates, Inc., All rights reserved.

What is the Traverse Bay Children's Advocacy Center?

Shelley A. Kester

The Traverse Bay Children's Advocacy Center is a non-profit organization, based upon a national model, designed to bring an end to child sexual and physical abuse. The TBCAC provides intervention for child abuse victims, coordination of community resources for the child and parents, and therapy for the child victimized by sexual and physical abuse at no charge to the victim or their family. Community education and prevention is delivered through the Tri-County Coalition for the Prevention of Child Abuse, the founding organization for the TBCAC.

The TBCAC's mission is to protect children by providing prevention and multi-disciplinary intervention in the investigation, assessment and treatment of child sexual and physical abuse in an environment that is child sensitive, supportive and safe.

Goals of the TBCAC are: To consider, first and foremost, what is best for the child, while respecting and ensuring the rights of the accused; To improve cooperation among professionals and agencies to develop a common goal of properly and effectively investigating child abuse cases; To reduce the trauma to child abuse victims by providing child-appropriate facilities and responses, as well as providing continuing support to victims and their families.

Too often in our current system, a child is asked to repeat over and over the story of their victimization. This can revictimize a child and cause the child to feel they may not be telling the story correctly because they are asked to repeat it again and again. The TBCAC seeks one forensic interview, recorded and video-taped, monitored by close-circuit television by the multi-disciplinary team to protect the child from harm caused by multiple interviews and in a child-sensitive setting, rather than the back of a police car or state agency office.

TBCAC serves Leelanau, Grand Traverse and the Grand Traverse Band of Ottawa Chippewa Indians with the hope of expanding. Since June, the Center has served 78 children and their families in our community.

To learn more about the Center and ways you can

help, please check its website (www.traversebaycac.org) or contact the Center's Executive Director, Brooke Nettz at (231) 929-4250.



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Bar Association Newsletter

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Heard in the Halls



Wendy K. Bailey, an associate with Sterling Law Office was one of the panel speakers at the November 3, 2010 meeting of the Leelanau Unit of the League of Women Voters, Grand Traverse Area. The program topic was "The Migrant Worker in Leelanau County".

James C. Baker, of Smith & Johnson, Attorneys, P.C., was recently elected President of the Board of Directors of Third Level Crisis Intervention Center at its annual meeting in October. He has been a Director of Third Level for several years. Prior to his legal career, Jim worked with at-risk youth in Chicago and Sydney, Australia.

John Cartwright, grandson of Judge Parmius (Parm) Gilbert, donated a plaque to accompany the former judge's window plate which is on display in the Law Library. Judge Gilbert also served as Traverse City's first City Attorney (1895-1900), as well as Prosecuting Attorney and Circuit Court judge (1929-1945.)



Corinne Galusky has joined the law firm of Bethany C. Warner & Associates in Traverse City. Ms. Galusky received her BA in Business from Western Michigan University, her MBA from the University of Detroit-Mercy, and her JD (cum laude) from Wayne State University.

Before relocating to Northern Michigan, Ms. Galusky worked in the Securities, Finance and Governance section of DTE Energy Company's Legal Department and for Dykema Gossett PLLC. Ms. Galusky can be reached at (231) 922-8028 or cgalusky@warner-law.com.



The Jay Zelenock Law Firm PLC is pleased to announce that Mrs. **Kathryn Halbert** has joined the Firm as a law clerk. Mrs. Halbert was born and raised in Traverse City and is a 1998 graduate of Traverse City Central High School. She is a graduate of Michigan State University and The George Washington University Law School, where she was awarded the prestigious Presidential Merit Scholarship. She is a member of Zonta and the Chamber of

Commerce Young Professionals, where she serves on the membership committee.

Lee Hornberger, with the Arbitration and Mediation Office of Lee Hornberger, was the featured speaker at the October 20th Community Mediation Services annual dinner and awards ceremony in Gaylord, Michigan. His presentation focused on ethics in mediation.

Linda Marsh Raetz was chosen by the Grand Traverse Area Legal Professionals as "Boss of the Year". In their nomination, Ms Raetz's staff described her as, "someone who provides a pro-

fessional work environment, yet is light hearted and able to laugh at life. She makes a point of showing her support staff her appreciation and values her staff's opinions. She has a big heart and gives 110% to her clients, friends, church and family."

Rachel Brochert Roe is now Assistant General Counsel at Munson Healthcare. She can be reached at rroe02@mhc.net or 231-935-5899.

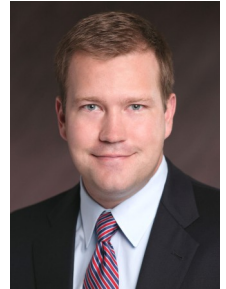
Kent Rozycki moved to new offices at 223 Lake Ave, Traverse City 49684. His telephone number is 231-932-2400 and his email is kentrlaw@gmail.com.

The law firm of **Smith Haughey Rice & Roegge** is pleased to announce the hiring of a three new attorneys in its Traverse City office.



Scott Gordon practices in the areas of commercial litigation, insurance litigation, insurance coverage, transportation and no-fault law, construction litigation, and personal injury law. He holds a bachelor's in music degree, magna cum laude, from Cornerstone University and a Juris Doctor, summa cum laude, from Michigan State University College of Law.

Jeremy Nastoff practices in the areas of bankruptcy law, banking and finance law, and real estate law. He holds a bachelor's degree, cum laude, in accounting and business administration from Lake Superior State University and a Juris Doctor, cum laude, from Thomas M. Cooley School of Law.



Lindsay Weber practices in the areas of trusts and estates, probate litigation, family law, adoption law, real estate law and business law. She holds a bachelor's degree, cum laude, in political science from Albion College and a Juris Doctor, cum laude, from Michigan State University College of Law. Lindsay also serves as the GTLA Bar Association's CLE Committee chair.

Renee Stout was selected "Legal Professional of the Year" by the Grand Traverse Area Legal Professionals. Renee is employed at the Jay Zelenock Law Firm where she serves as receptionist, legal assistant, paralegal, and bookkeeper. She has been employed in the legal field for over 26 years. She is a past president of GTALP and currently serves as the editor of the monthly newsletter, and executive advisor. She also maintains her certification as a Professional Legal Secretary (PLS) and Certified Professional Paralegal (PP). Renee has traveled throughout the country teaching seminars to legal support professionals.



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