



# The Anne Arundel County BARRISTER

The Newsletter of the Anne Arundel Bar Association

December 2017/January 2018

## Dates to remember

FEBRUARY 22, 2018  
**Estate Planning Committee**  
Circuit Court for Anne Arundel County  
Attorneys Lounge  
12:00 p.m.

MARCH 24, 2018  
**Barrister's Ball**  
Navy-Marine Corps Memorial Stadium  
Annapolis, MD  
6:00 – 10:00 p.m.

APRIL 18, 2018  
**Charity Pub Quiz**  
Galway Bay  
Annapolis, MD  
6:30 – 8:30 p.m.

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## AABA New Year's Resolution – Pro Bono!

**H**appy New Year to everyone reading this message. It was a standard, relatively quiet, cheese-fondue-inspired New Year's eve in the Wrobel abode. We all watched Mariah Carey make up for last year's 2017 embarrassment with a pretty solid 2018 performance in Times Square this year, especially considering that it was about 2 degrees or so outside. We are all Mariah fans for about one month every year, when we

play and sing "All I Want for Christmas is You" about 800 times during the month of December. So, we were all pulling for her to do well this time around, and she nailed it. Now we'll forget about her again until next Thanksgiving.

I have more or less given up making New Year's resolutions that don't last, and just resolve now to try to be a better listener, better spouse, better father, and better friend than I was the year before, always with mixed results. But I want to take this opportunity to ask every lawyer reading this to think about being a better lawyer than you were last year, specifically by giving some of your time to someone who really needs it, at no cost, or at a cost substantially reduced from your normal rate of compensation. Now, while this is something we Anne Arundel County practitioners should be thinking about and doing year-round,



*AABA President Steve Wrobel at the AABA Holiday Party with Hon. Thomas Miller III, who oversees the Veterans Docket at District Court in Glen Burnie.*

apparently from a statistical standpoint, that is unfortunately not the case.

As far as pro bono and "low bono" go... we... collectively... aren't setting the charts on fire.

The latest pro bono report for the State of Maryland can be found at (<http://mdcourts.gov/probono/pdfs/probonoreport2016.pdf>). The November 15, 2017, report covers the 2016 year. There is no change from the previous

### President's Message by Steve Wrobel

*Continued on page 4*

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# Practice Notes...

Compiled by Hon. Philip Caroom

**Criminal evidence – inventory search – incompleteness:** Facts - Police stopped defendant for speeding, finding his license and registration suspended. During inventory search, police listed CDS, money, and many electronic devices found, but omitted shoes, dirty rags, tire jack, etc. Holding - The incompleteness of the inventory did not require suppression of evidence found. *State v. Paynter*, -- Md.App. – (9/28/17).

**Crim. law & procedure – Justice Reinvestment Act (JRA):** The Md. Sentencing Guidelines Commission has published updates that show impact of revised penalties – incl. 14 CDS offenses, 38 property offenses reduced, and driving suspended offenses reduced, plus 9 violent or gang offenses increased -- under Md.’s Justice Reinvestment Act, eff. 10/1/17. Also discussed is change in definition to “Corrections options” sentences that will be treated as complying with guidelines although avoiding incarceration. See [http://msccsp.org/Files/Guidelines/JRA\\_penalty\\_revisions.pdf](http://msccsp.org/Files/Guidelines/JRA_penalty_revisions.pdf)

As previously mentioned in Practice Notes, another helpful website also offers index and hyperlinks to each important part of JRA, including: technical VOP penalty limits, “risk assessments” that may be useful for motions to modify sentences, “certificates of rehabilitation” that may be useful for expungement petitions, expanded expungement provisions generally, provisions for retroactive reduction of mandatory minimum drug sentences, presumption of 8-507 drug treatment within 21 days after order. See <http://www.ma4jr.org/jra-index/>

**Civil procedure – Orphans’ Court transmittal of issues and appeals to Circuit Court:** See *Estate of Vess*, -- Md.App.—(9/28/17).

**MSBA tips:** MSBA’s Bar Bulletin is not available only to members, but is free online. Current items of general interest include: 1) an immigration attorney’s heads-up on Trump INS enforcement policies,

2) pitfalls to avoid when advising clients of the Md. advance health directive law; 3) a checklist on how your retainer agreement “could do so much more,” etc. See <http://www.msba.org/publications/barbulletin/default.aspx>

**All bar association members are invited to contribute Practice Notes as to any legal points or information which might be useful to other attorneys. These should be sent to: Attn.- Hon. P. Caroom, Court House, c/o AABA, P.O. Box 161, Annapolis, Md. 21404, or by email to [pcaroom@gmail.com](mailto:pcaroom@gmail.com).**

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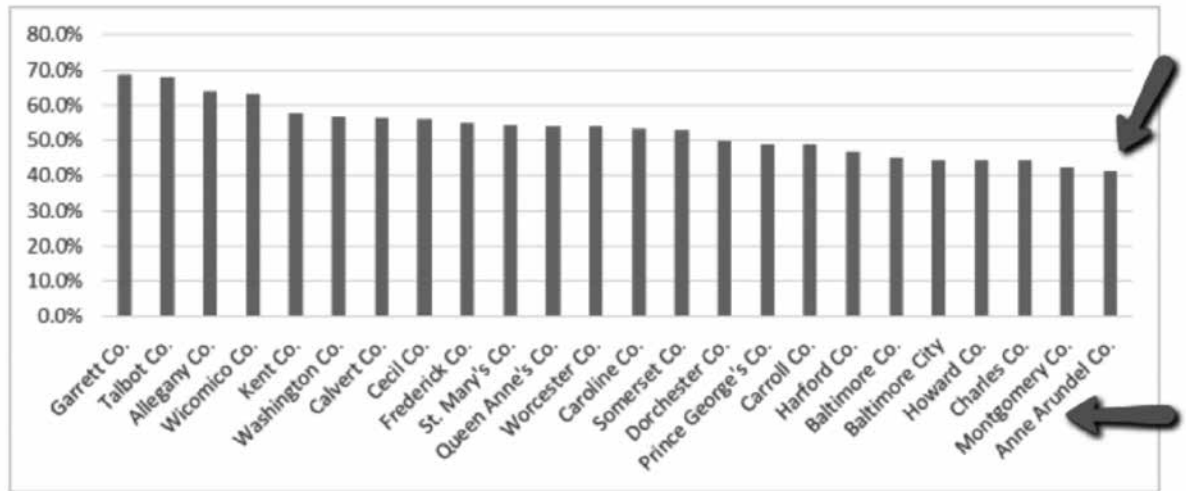
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## President's message, continued

year—Anne Arundel is at the bottom. I am going to assume that if you are a lawyer who has not engaged in pro bono work for some time (and statistically, that's HALF OF YOU OUT THERE!!),

then I have serious doubts you are going to click on the link to read about it. So, I am first going to thank you for reading my monthly message, and now I am going to reprint the lowlights of that

**Chart 3. Percent of Lawyers with Pro Bono Hours by County**



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report as it applies to our beautiful county where we work, live and/or play:

Not much else to say. We are statistically dead-last. This reminds me of when the prosecutor had the PowerPoint closing argument and showed the jury my client's credit card receipts documenting that he was spending money at cafes in the south of France on the same dates (and times) he was supposed to be working at the shipyard docks as a union timekeeper!! All you can really hope for at that moment is "On to the next slide!" So now I'll show you the good news for our county, such as it is (See table 8 below).

Hey, we rallied to jump to Number 22 out of 24! Brutal, but not dead-last.

All is certainly not lost. I want to take this moment to congratulate and recognize this year's AABA Pro Bono Award winner, Ms. Carole Brown for her substantial contributions of her time and personal resources to those in need. Thank you for your example Carole. And the statistics do indicate

that in terms of sheer numbers, we are still a pretty generous bunch with our time. One out of every six Anne Arundel County practitioners (or about 219 of us!!) is contributing more than 50 hours of pro/low bono service. Thank you!! (50 hours per lawyer is the aspirational goal set forth by the Court of Appeals). Another two out of six (over 400!!) are contributing their time and services to this effort, albeit less than 50 hours per year. Thank you as well for getting involved!! But that leaves about 600 or so Anne Arundel County lawyers standing on the sidelines. That number is simply too large (by about 600), and we need to fix it.

So how do we fix this? In today's "Google it" world, I think it's pretty easy to get started. There are multitudes of organizations that need lawyers to assist. Many of these organizations offer free CLEs to lawyers who would then be willing to take on a case. A Google search of "pro bono lawyer opportunities in Maryland" yields plenty of results: There is the Pro Bono Resource Center

**Table 8. Percentage of Full-time Lawyers with 50 or More Pro Bono (PB) Hours by County**

Ranking	County	Number of FT lawyers	No pro bono hrs.	Less than 50 PB hrs.	50 hrs. or more PB hrs
1	Somerset Co.	12	25.0%	16.7%	58.3%
2	Caroline Co.	20	35.0%	25.0%	40.0%
3	Talbot Co.	90	21.1%	40.0%	38.9%
4	Queen Anne's Co.	56	35.7%	26.8%	37.5%
5	Dorchester Co.	22	36.4%	27.3%	36.4%
6	Garrett Co.	25	28.0%	36.0%	36.0%
7	Cecil Co.	68	27.9%	36.8%	35.3%
8	Worcester Co.	74	36.5%	31.1%	32.4%
9	Carroll Co.	163	30.7%	39.9%	29.4%
10	Wicomico Co.	131	26.0%	45.8%	28.2%
11	Calvert Co.	87	27.6%	44.8%	27.6%
12	Frederick Co.	274	32.5%	40.9%	26.6%
13	Harford Co.	262	40.1%	34.4%	25.6%
14	Kent Co.	32	34.4%	40.6%	25.0%
15	Washington Co.	131	38.2%	39.7%	22.1%
16	Prince George's Co.	1,350	44.7%	33.3%	22.0%
17	Montgomery Co.	3,600	48.4%	30.7%	20.8%
18	St. Mary's Co.	68	33.8%	45.6%	20.6%
19	Allegany Co.	74	29.7%	51.4%	18.9%
20	Baltimore City	4,129	50.1%	31.7%	18.2%
21	Baltimore Co.	2,696	48.2%	33.8%	18.0%
<b>22</b>	<b>Anne Arundel Co.</b>	<b>1,289</b>	<b>50.4%</b>	<b>32.6%</b>	<b>17.0%</b>
23	Howard Co.	786	47.5%	36.1%	16.4%
24	Charles Co.	105	43.8%	41.9%	14.3%

## President's message, continued

of Maryland (<https://probonomd.org>), the Maryland Volunteer Lawyer Service (<https://mvlslaw.org>), and closer to home, the Chesapeake Legal Alliance ([www.chesapeakelegal.org](http://www.chesapeakelegal.org)) and Maryland Legal Aid's Annapolis Office ([www.mdlab.org](http://www.mdlab.org)). Of particular note is a regular CLE that is offered on Veterans Benefits, with the request that attendees take on at least one veteran client and assist in them in securing the benefits they are entitled to for their service to our country. This is something I encourage you to take on this year as we focus on serving those who have served our country, either through pro bono opportunities such as this, or with our Veterans Court. If you are a veteran, and would like to become a Veteran Mentor, please come to the training offered every month, on the fourth Monday of the month, 6:00 p.m., at the Vet Center at 100 Annapolis Road in West Annapolis. You will then be eligible to act as Veteran Mentor at the Veterans Docket in Glen Burnie that occurs every month.

Also, the Local Pro Bono Committee for Anne Arundel County is conducting an online survey to learn more about pro bono service in our county, including the reasons why many attorneys do not participate in pro bono service. If you have a moment, I encourage you to take the survey at <https://goo.gl/forms/aYxQdTGojpCwx0Cw2> so that this local committee can acquire data that will help them boost pro bono participation in our county.

In whatever way you decide to help, please first decide this year to **get involved** in helping the less fortunate, and give some of your time as an attorney. I think now more than ever we all need to collectively enhance our profession's reputation, and I know we can do better than the last Pro Bono report says we are doing in Anne Arundel County.

We are also announcing the 2018 Barrister's Ball in this issue. It is taking place on Saturday March 24, 2018 at the Navy-Marine Corps Stadium in Annapolis. More on that in the next issue!

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The Honorable Daniel M. Long recently retired after over thirty years of distinguished public service. Judge Long served as Judge for the Circuit Court of Somerset County for twenty-six years, during which time he served as Circuit Administration Judge and County Administrative Judge. Prior to his appointment to the bench, Judge Long was elected as a Member of the Maryland House of Delegates, where he served admirably for seven years while also maintaining a successful private law practice in Somerset and Worcester Counties. Judge Long is a Recipient of the Judge Anselm Sodaro Judicial Civility Award from the Maryland State Bar Association, and he was selected as 2015's "Judge of the Year" by the Litigation Section of the Maryland State Bar Association. Judge Long now brings this exemplary record of service and achievement to The McCammon Group to serve the mediation, arbitration, and special master needs of lawyers and litigants throughout Maryland and beyond.



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# AABA Members Bring Christmas Cheer to Local Children

December is our favorite month of the year at the AABA. That's when our office is transformed into Santa's workshop, as our generous members fill every corner with festive bags, gifts and bicycles for the Angel Tree Program. Thank you to all who contributed Angel Tree gifts this year. The program is sponsored each year by the AABA, the Circuit Court for Anne Arundel County, and the Office of the Clerk of the Circuit Court. Through your generosity, we were able to share Christmas joy with 35 children from 11 families. On Tuesday, December 19, all gifts were delivered to our partners at the Anne Arundel Department of Social Services, which distributes the gifts to local families in need.

*Hon. Mark Crooks and Bob Duckworth, Clerk of the Circuit Court, display some of the toys and gifts that were donated to local children through the Angel Tree Program.*





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## A Final Farewell to Members We Lost in 2017

In 2017, our membership said a final farewell to several active and loyal members of the AABA, including three past presidents. Their presence is greatly missed in our legal community and our condolences go out to the family members, friends and colleagues who are without their loved ones.

### **Melvin Hirshman**

**September 24, 1931 - September 11, 2017**

Melvin Hirshman served as Bar Counsel to the Attorney Grievance Commission of Maryland for nearly 30 years (1981 – 2010). He is a past president of the National Organization of Bar Counsel, and a long-time member of both the AABA and the MSBA. Hirshman was a graduate of the Washington College of Law of the American University and of American University. He also served in the Navy as a corpsman at Bethesda Naval Hospital from 1955 until 1961.

### **William Kirk**

**September 23, 1928 - April 21, 2017**

William Kirk served as AABA president in 1974. He also was a member of the Maryland State Bar Association for 57 years. He received his undergraduate degree from Carlton College and his law degree from the University of Michigan Law School.

### **Hon. Eugene Lerner**

**December 18, 1931 - November 23, 2017**

Judge Lerner was an AABA member for 60 years and served as its president in 1976. He served on the Circuit Court for Anne Arundel County from 1979 until his retirement in December 2001, but continued to serve as a retired judge until just before his death in November. Judge Lerner was born in Annapolis and served as the Ward 8 alderman on the City Council and as the city attorney from 1969 – 79. He served in the U.S. Army from 1954 to 56 and earned his undergraduate degree from the University of Maryland, followed by his law degree from the University of Baltimore School of Law.



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**Roger Perkins****1943 - October 26, 2017**

Roger Perkins was an AABA member for more than 40 years and served as its president in 1984. He also served as president of the Maryland State Bar Association (1992-1993), as a member of the Maryland Appellate Judicial Nominating Commission, and as Assistant City Attorney for the City of Annapolis. He also practiced as a principal in his own firm in Annapolis for 34 years, retiring in 2010. He received his B.A. from Pennsylvania State University and his Juris Doctor degree from the George Washington University Law School.

**Ron Prass****December 10, 1963 - January 5, 2017**

AABA member Ron Prass spent twenty years as an intellectual property attorney. He served as a U.S. Patent Examiner in the U.S. Patent and Trademark Office, then entered private practice. Ron eventually founded his own firm, Prass, LLP, which he operated until his death. He was a graduate of the U.S. Naval Academy and served as both a Naval Flight Officer and as Aviation Engineering Duty Officer during his tenure of service. He earned his Master of Science degree from Troy University and his law degree from Washington College of Law at American University.

**Julian B. Stevens Jr.****August 22, 1932 - October 29, 2017**

Julian “Joe” Stevens served as the State’s Attorney for Anne Arundel County from 1967 – 1971, then pursued his own private law practice. He retired after a successful legal career of more than 30 years. He was a member of the AABA and the Maryland Criminal Defense Attorneys’ Association. He received his law degree from the University of Maryland School of Law, then joined the United States Air Force. He continued his service with the Maryland Air National Guard in the Judge Advocate General Corps after completing his active duty commitments and retired as a full Colonel. During his career, he received the United States Meritorious Service Medal from President Ronald Reagan, the Maryland Distinguished Service Medal, and the Maryland Meritorious Service Medal.

**William Turc, Sr.****July 31, 1945 - November 2, 2017**

Bill Turc was an AABA member for 44 years. He obtained his law degree from the University of Baltimore School of Law in 1969. He worked in private practice in Glen Burnie for 43 years. He was a member of the Maryland House of Delegates, the Stoney Creek and Roland Terrace Democratic Clubs, and the Democratic Central Committee.

**Robert Zarbin****June 24, 1961 - July 8, 2017**

Bob Zarbin’s career as a trial lawyer spanned nearly three decades. He served for over 10 years as board member of the Maryland Association for Justice (MAJ), and was ultimately elected to its Presidency. He also served as president of the Council of Presidents for the American Association for Justice (AAJ) and as member of the Board of Directors of the James C. Cawood American Inn of Court. He earned his undergraduate degree from Loyola College (Baltimore) and his law degree from Loyola University College of Law (New Orleans).

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# The AABA Continued to Grow in 2017

The Anne Arundel Bar Association extends a warm welcome to the new members who joined the association in 2017. We look forward to your involvement in our programs and events. The new members are listed below by name, firm, city and email address.

Complete contact information for all of our members can be found in the online directory on the AABA website at [www.aabar.org](http://www.aabar.org). Be sure to log into your member account first to access members-only features, such as search for a member by practice area.

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# Estates and Trusts Matters

By Fred Franke, Jr.

The Court of Appeals recently upheld the Circuit Court for Anne Arundel County (Judge Dennis Sweeney specially assigned) which granted summary judgment in a caveat case. (*Castruccio v. Est. of Castruccio*, \_\_\_ A.3d \_\_\_ (August 2017). [Full disclosure: we briefed and participated in oral argument for one of the winning appellees and, indeed, represented this appellee/legatee throughout the litigation. This litigation is ongoing.]

The caveator challenged the will on every possible front, and after every other basis failed, she claimed that the witnesses to the will had to sign the same sheet of paper that the testator signed, or a sheet of paper physically attached to the page with the testator's signature. If this is indeed Maryland law, a lot of existing wills are probably in jeopardy.

The caveator's argument was based on a 1921 case that involved a one page will with the purported witnesses signing on the outside of an envelope containing the one page will. The Court of Appeals held that such a rule could not, and should not, be extended to apply to the signature pages of a multi-page will.

The court decision begins by reciting the statutory requirements for valid will execution. These requirements have remained virtually unchanged since 1798. The basic rule is that the testator must sign, and two witnesses must each sign in the presence of the testator. In the *Castruccio* case, there was an attestation clause above the witnesses' signatures that, although not perfectly crafted, would be sufficient to trigger the presumption that the will was validly executed. Once this presumption is triggered the caveator must carry the burden of showing by clear and convincing evidence that the facts in the attestation clause are untrue. In the *Castruccio* case, whether or not the attestation clause was properly crafted was irrelevant given the testimony of the surrounding circumstances of the due execution of the will.

The thrust of the Court of Appeals case had to do with the proposition that the witnesses must sign on the same sheet of paper as the testator or on a sheet physically attached to it. The Court of Appeals supported the common-sense rule stated

by Judge Sweeney in the Circuit Court decision that "the focus should be on a more holistic inquiry about whether the document purporting to be the will holds together as the unitary document completed by the testator and signed by the witnesses rather than an inquiry that at a certain point some or all of the pages were mechanically affixed to each other." *Castruccio v. Estate of Castruccio*, Case No. 02-C-13-181345 at 11 (Cir. Sept. 23, 2014). The Court of Appeals in *Castruccio* did not break new ground but, instead, embraced the settled law in Maryland and elsewhere dating back hundreds of years.

This case serves as a reminder that lawyers should use best practices when overseeing the execution of a will, including using care in drafting attestation clauses. However, there is no blanket requirement that the pages of a Will be mechanically attached or fastened together at the time of execution.

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# Hit the Links at the Spring Golf Tournament

**Monday, April 23, 2018**  
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**9:00 a.m. Shotgun Start**

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The registration fee covers greens fees for the day of the tournament as well as cart, breakfast, lunch, prizes, refreshments and more. **The tournament is limited to 100 golfers and registration is first-come, first-served, so remember to register early.** The cost is \$130 (\$140 after April 16).

A portion of the proceeds raised will be donated to the support the community services provided by the Anne Arundel County Bar Foundation (AACBF). The AACBF was created in 1990 to foster and maintain the honor and integrity of the profession of the law. Over the years, it has provided much needed legal assistance to the underserved, and more recently, has made charitable gifts and contributions to community-based agencies.

## 2018 Spring Golf Tournament • Registration Form

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**When:** February 27, 2018; 6 – 8 p.m.

**Where:** Room 100, Center for Applied Learning and Technology (CALT) Bldg.

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**Speakers:** James D. Milko, Esq., Maureen Glackin, Esq., & Angela Magruder, Esq.

**When:** April 2018 (date to be scheduled); 6 – 8 p.m.

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	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
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<b>GLEN BURNIE ANNAPOLIS</b>	<b>5</b> 1/4 2/2 3/3 4/1 SCPS EAR TVM LMR 1/1 2/2 3/3 4/4 5/5 JPM TJP VJ DMM HRD	<b>6</b> 1/4 2/2 3/3 4/1 SCPS TVM JPM EAR 1/1 2/2 3/3 4/4 5/5 HRD VJ DMM TJP LMR	<b>7</b> 1/1 2/2 3/3 4/4 TVM JPM SCPS EAR 1/1 2/2 3/3 4/4 5/5 DMM HRD VJ TJP LMR	<b>8</b> 1/1 2/2 3/3 4/4 EAR TVM LMR SCPS 1/1 2/2 3/3 4/4 5/5 VJ DMM JPM TJP HRD	<b>9</b> 1/1 2/2 3/3 4/4 LMR SCPS VJ TVM 1/1 2/2 4/4 5/5 TJP EAR VJ HRD
<b>GLEN BURNIE ANNAPOLIS</b>	<b>12</b> 1/4 2/2 3/3 4/1 LMR SCPS TJP TVM 1/1 2/2 3/3 4/4 5/5 EAR DMM JPM HRD VJ	<b>13</b> 1/4 2/2 3/3 4/1 SETT JPM LMR TVM SCPS TJP 1/1 2/2 3/3 4/4 HRD VJ DMM EAR	<b>14</b> 1/1 2/2 3/3 4/4 TJP TVM LMR JPM 1/1 2/3 3/2 4/4 5/5 VJ HRD DMM SCPS EAR	<b>15</b> 1/1 2/2 3/3 4/4 TVM TJP VJ LMR JDL - LEAVE 1/1 2/2 3/3 4/4 5/5 SCPS HRD DMM EAR JPM ADC 1 (AM ONLY) Schools in Court No Civil Docket in AM	<b>16</b> 1/1 2/2 3/3 4/4 FA HRD VJ LMR 1/1 2/2 3/3* 4/4 5/5 EAR FA VAM DMM JPM *SS ONLY!
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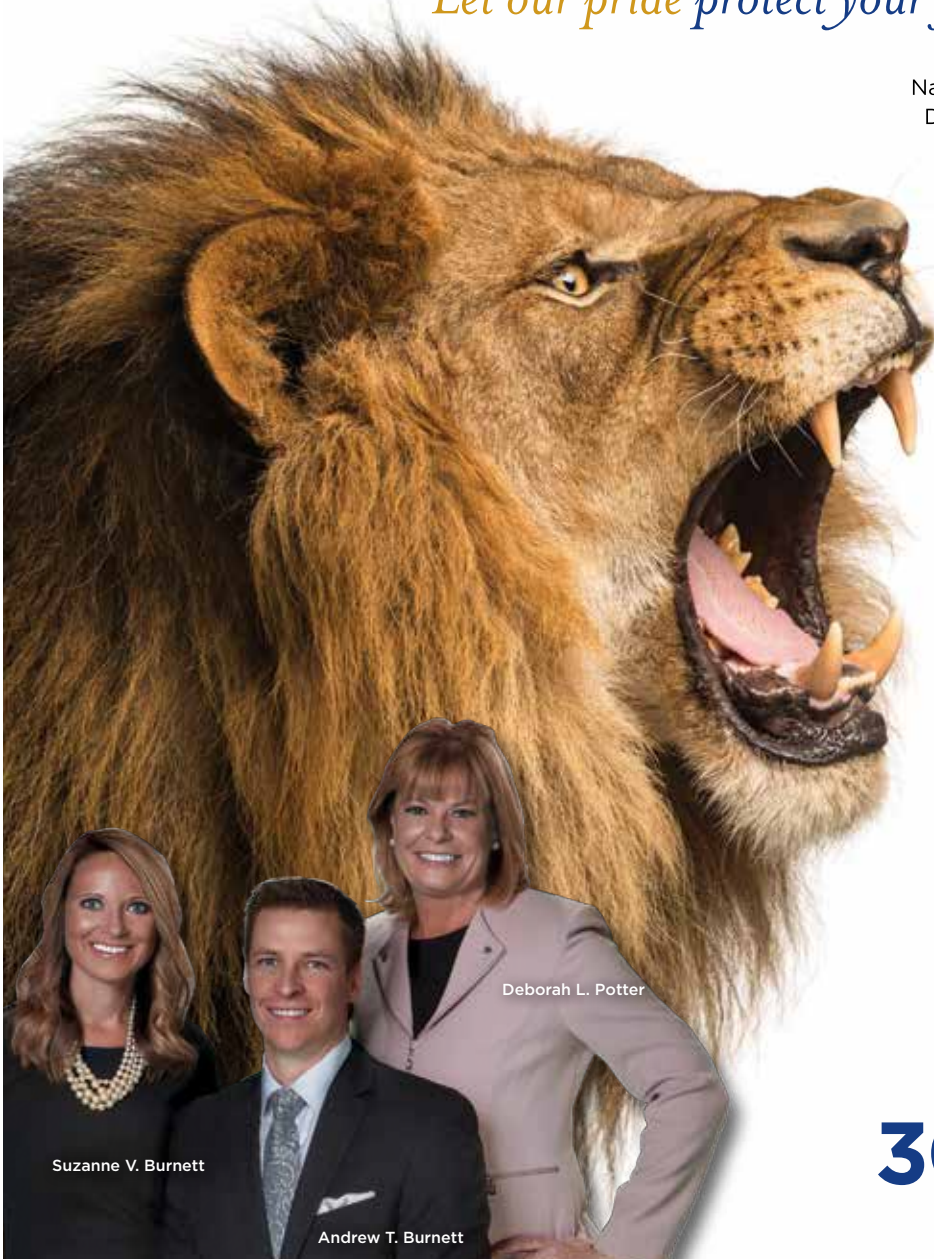
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