

NEW MAGISTRATES ORIENTATION

By Magistrate David Jump
The Ohio Judicial College and the OAM will team up again to present the New Magistrate Orientation from March 21 to 23, at Maumee Bay State Park. All magis-

trates with fewer than two years of service are encouraged to attend. This year's program will include the sessions that have drawn rave reviews from attendees in past years. In addition, this year's pro-

gram will have new topics that are sure to be very beneficial to everyone who attends. New this year is a trial practice component. This will include a simulated trial in which all participants

will preside over part of a mock trial. There is no better way to develop or polish trial skills than to conduct the mock trial. Teams of experienced trial magistrates will present the cases to the court and offer constructive feedback to each participant after the trial.

In addition, the OAM will again sponsor a hospitality suite on Wednesday and Thursday evenings during the seminar. The OAM hospitality suite at New Magistrate Orientation has become the envy of all hospitality suites. It is a wonderful opportunity for new magistrates to speak informally with experienced magistrates in a casual setting while relaxing with great food and drink after a full day of seminars.

Please mark your calendars now so you will be available to attend the New Magistrate Orientation and watch your mailbox for more information. The Ohio Judicial College will mail the registration materials soon. If you are a new magistrate and do not receive the registration materials, please contact the Ohio Judicial College or the OAM for those materials.

NEWSLETTER ARTICLES

This Newsletter is issued on a quarterly basis. All association members are encouraged to submit articles. We want to keep the membership informed of the career advancement or significant personal achievement of our fellow members. If you are aware of newsworthy items such as election or appointment to judicial or other offices please advise me so that it can be included in the next Newsletter. If you were the judicial officer on a significant case, you have a unique perspective on that case and it would be helpful to others practicing in that area for you to share that perspective.

Articles or other items can be submitted to me by Email to Whyrne@co.lucas.oh.us, faxed to my attention at 419-213-6861, or by regular U.S. Mail to Magistrate William A. Byrne, 429 Michigan Avenue, Toledo, Ohio 43604. The deadline for inclusion in the next issue is April 15.



FIRST QUARTER 2007

www.ohiomagistrates.org

2007 SPRING CONFERENCE AT CROWNE PLAZA, CLEVELAND

This is a second reminder to mark your calendars and plan to attend OAM's Spring Conference 2007. OAM returns once again to Cleveland, Ohio, home of the Rock and Roll Hall of Fame and to the Crowne Plaza Cleveland City Centre, site of OAM's very successful 2005 Spring Conference.

This year the conference begins

on Wednesday, April 25, 2007 and concludes on Friday, April 27, 2007, although attendees desiring to arrive Tuesday evening may do so at the conference rate. A single room will cost \$70 per night plus taxes, while the rate for a double room is \$80. OAM has also negotiated a reduced parking rate of \$6 per night and is attempting to negotiate an overflow rate at a

neighboring garage.

OAM plans to offer approximately 9.5 hours of educational offerings, all qualifying for Judicial College credits. On Wednesday, OAM will present a 2.5 hour course on Hearsay Evidence in the morning and a 2.5 hour course on Ethics, Professionalism and Substance Abuse in the afternoon. On Friday, each practice area will offer 2.5 hours of credit. They include from: 1) **Municipal**, a discussion on The Write Stuff: Magistrate Writings moderated by Mag. Tom McDermott for Municipal; 2) **Common Pleas/Appellate**, a two-part discussion with the first on Evidence Rule 702(C) by Professor Jane Campbell for Common Pleas/Appellate and followed by a discussion on sex discrimination, pregnancy and family obligations in the workplace by Professor Ken Kowalski; 3) **Domestic Relations**, a discussion by Drs. Sandra McPherson and Farshid Afsarifar on the Stages of Child Development and a Case Law Review from Gary Gottfried; 4) **Juvenile**, a Legislative and Case Law Update from Mag. Hejmanowski and a discussion from Aimee Thomas-Chutarkoff, LPCC on Juvenile Mental Health: Under-

standing the Common Diagnoses, Treatments and Medications; and 5) **Probate**, a tri-part discussion on Case Law and Legislative Update from Russell Meraglio, Esq., HIPPA/H.B. 144: Physician/Patient & Attorney/Client Issues and UCCJA Considerations in Probate Court.

On Thursday, the Judicial College will present its own courses on Electronic Legal Research in the morning (2.75 credit hours) and Decision Writing in the afternoon (2.75 credit hours). You must register and pay the Judicial College separately for Thursdays course.

Last, as always, I hope you will take time to network with colleagues and enjoy the food, camaraderie and ambiance offered at the many social events that are planned.

As conference chair of the 2007, do not hesitate to send your suggestions on activities of interest or about how we can improve your conference experience, be it hotel accommodations or educational topics. My e-mail address is kroll@lakecountyohio.gov.

So, mark your calendars and see you April 25-27, 2007 in Cleveland, Ohio.

NEW MAGISTRATE'S LIABILITY COVERAGE IS HERE

The OAM and the Ohio Bar Liability Insurance Company (OBLIC) have been working together to provide Magistrate's Professional Liability Insurance coverage that is tailored to the needs of Magistrates and reasonably priced. As a result of these efforts, the new application has been approved and the rate and coverage options are being finalized. The applications can be completed now and OBLIC has approval to issue policies that have coverage effective dates starting March 1, 2007. This is also the date most of the current policies provided by Sheehan Hutchison Keenan would renew.

Generally, coverage options will include deductibles ranging from \$0.00 up to \$25,000.00. Coverage limit options include approximately 15 different limits and will range between \$100,000.00 / \$300,000.00 and \$1,000,000.00 / \$2,000,000.00. Additionally, you will be able to choose between options where the cost of providing representation reduces the available coverage or where the cost of representation

does not impact upon the available coverage limits. As noted in the last newsletter, the policy will also provide coverage and representation in disciplinary proceedings.

OBLIC is finalizing the rate and coverage sheets so that they are easy to read and understand, but here are some examples of coverage rates: For an OAM member with 100/300 coverage limits, \$0.00 deductible and with representation costs not reducing the limits, the annual premium will be approximately \$523.00. For a Non-OAM member, the same policy would be approximately \$654.00 annually. If you increase the limits to 250/500, the OAM rate will be approximately \$675.00 annually and the Non-OAM rate will be \$844.00 annually. At almost any coverage level, deductible or representation cost option, the discount received for being a member of the OAM exceeds the cost of the OAM membership.

A copy of the Application and the applicable rate sheets are available on the OAM webpage.

OAM 2007 SPRING CONFERENCE REGISTRATION FORM

Please fill out completely and return with your check payable to: **The Ohio Association of Magistrates**
2079 West Fifth Avenue
Columbus, Ohio 43215

CONFERENCE RATE: \$175

[Includes seminar materials, Wednesday reception (cash bar), Thursday cocktails (cash bar) and dinner, Friday breakfast buffet, lunch, all breaks and OAMs hospitality suite]

Payment enclosed _____ Check being processed & will be forwarded _____

Registrant remains liable until payment is received.

NAME _____ Sup. Ct. Reg. No. _____

COURT _____ Daytime Phone No. (____) _____

ADDRESS _____ FAX No. (____) _____

Check which CLE you will attend:

___ Wed. Hearsay/Evidence (2hrs.) ___ Wed. PM Ethics, Prof. & Sub.Abuse (2.5hrs.)

___ Fri. AM (2.75hrs.) **Circle your practice area:** DR MUNI JUV PROB CP/APP

___ Fri. PM Rulings on Objections under the Civil Rules (2hrs.)

Do you have a special needs request?

Conference meals you plan to attend: ___ ALL ONLY THOSE CIRCLED BELOW:

Wed. Evening Welcome Recep. Thurs. Cocktails Thurs. Dinner Fri. Breakfast Fri. Lunch

Will a spouse/guest accompany you? Yes ___ No ___ If yes, circle & add to total.

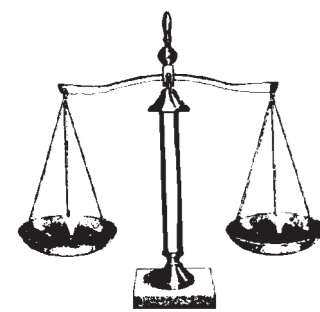
Wed. Evening Welcome (\$20/person) Thurs. Cocktails & Dinner (\$35/person)
Fri. Breakfast (\$17/person) Fri. Lunch (\$20/person)

TOTAL: \$175 + _____ = \$ _____

Will you play golf? Check if yes ___ and e-mail your intent to kroll@lakecountyohio.org

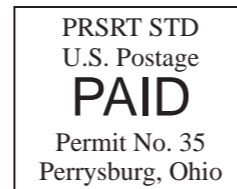
Are you interested in visiting these sites (at your expense but at a group/reduced rate)?

___ Wed. evening tour of Rock & Roll Hall of Fame



OHIO ASSOCIATION OF MAGISTRATES

2099 West Fifth Avenue
Columbus, Ohio 43212
www.ohiomagistrates.org



FEDERAL TAX LAW CHANGES FOR 2007

By Magistrate Barbara Porzio
Medina County Common Pleas

Each year the IRS adjusts the amount of the personal exemptions, the standard deductions and other tax provisions to keep pace with inflation. A complete rundown of the changes can be found in Revenue Procedure 2006-53, which is available on the IRS Web site. Here is a listing of the most commonly used provisions:

The value of each personal and dependency exemption is \$3,400, up \$100 from 2006.

A taxpayer may lose part of the benefit of the exemption if his adjusted gross income is above a certain amount. The amount at which the phaseout begins depends on the person's filing status. For 2007, the beginning and ending phaseout amounts are:

Filing Status	Adjusted Gross Income Beginning of Phaseout	Adjusted Gross Income Maximum Phaseout
Single	\$156,400	\$278,900
Married filing jointly and Surviving spouse	\$234,600	\$357,100
Married filing separately	\$117,300	\$178,550
Head of household	\$195,500	\$318,000

The standard deduction for taxpayers who do not itemize deductions on Schedule A of Form 1040 is higher. The amount depends on the individual's filing status, whether he is 65 or older or blind and whether an exemption can be claimed by another taxpayer.

The basic standard deduction amounts for 2007 are:

Single - \$5,350
Head of household - \$7,850
Married taxpayers filing jointly - \$10,700

Married taxpayers filing separately - \$5,350
The maximum amount of 2007 wages subject to the social security tax (6.2%) has increased from \$94,200 to \$97,500. For the Medicare Tax (1.45%), all covered wages are subject to the tax.

Beginning January 1, 2007 the allowable deduction for the standard mileage rate for the cost of operating a car for business purposes is 48.5 cents a mile.

The maximum amount of the earned income credit is \$2,853 for parents living with one qualifying child and \$4,716 for parents living with two or more qualifying children.

The amount a taxpayer can earn and still qualify for the earned income credit in 2007 is:

For those who have one qualifying child, a parent must earn less than \$33,241;

For those who have two or more qualifying children, a parent must earn less than \$37,783;

For those who have no qualifying

children, the taxpayer must earn less than \$12,590.

For 2006, Congress passed a temporary increase in the Alternative Minimum Tax exemption amount, (\$62,550 for joint filers and \$42,500 for unmarried persons). This increase will expire in 2007 when the AMT is scheduled to fall back to 2000 levels, i.e., \$45,000 for joint filers and \$33,750 for single filers. According to the Urban Brookings Institute Tax Policy Center, in 2007 three-fourths of married couples with two children having income between \$75,000 and \$100,000 will owe the AMT.

For 2007, the amount of the Hope

or lifetime learning credit is phased out if the taxpayer's modified adjusted gross income (MAGI) is between \$47,000 and \$57,000 (\$94,000 and \$114,000 for a joint return). A person cannot claim an education credit if his MAGI is \$57,000 or more (\$114,000 or more for a joint return). This is an increase from the 2006 limits of \$45,000 and \$55,000 (\$90,000 and \$110,000 if filing a joint return).

For the complete text of all of the 2007 Tax Facts, including the 2007 tax rate schedules, send an e-mail to Magistrate Barbara Porzio at BPorzio@MedinaCommonPleas.com.

JUVENILE SECTION REPORT

By Tammy Richardson,
a Chairperson

Mental health has become a huge issue in the juvenile court system. Whether you preside over delinquency matters or dependency/neglect/abuse cases, the mental health of children and their parents is almost always a concern. In children, how are we as magistrates able to distinguish between developmentally appropriate behaviors and actual diagnosable mental illnesses? Certainly sometimes kids

are just being kids. Other times, therapy and medication is absolutely necessary and can change a child's life.

Please join me on April 27, at the OAM Spring Conference as a representative from Summit Psychological Associates will discuss common diagnoses, medications and treatment for children. The Juvenile Law Section also welcomes Magistrate David Hejmanowski who will provide a case law and legislative update.

UPDATE ON THE SEX OFFENDER CPO

By Coleen Hall Dailey

At the close of last session, the General Assembly passed and Governor Taft signed, as an emergency measure, SB 260. By making it an emergency measure, the bill became effective immediately.

One of the better provisions is that it now splits the civil protection order available if the petitioner is an alleged victim of a sexually oriented offense between the stalking cases (for non-family members) and the domestic violence cases (for family or household members).

Also added in the same bill was a modification of 3109.04(F). Apparently the legislature did not believe that we as magistrates would consider whether or not a parent of any member of the parent's household had pleaded guilty to a sexually oriented offense when determining the allocation of parental rights, so this is now added as a factor. I understand the UCCJEA affidavit is being modified by the Domestic Violence Task Force, however, you may wish to modify your own until the new forms come out.

FINPLAN FOR MAGISTRATES

By Magistrate Barbara Porzio

FinPlan Divorce Planner® is a computer program which calculates the tax savings generated by the allocation of the dependency exemption as well as the tax consequences of the payment of spousal support. This software is also especially useful for magistrates who establish child support because it calculates the child care credit correctly on the support worksheet. The owner of the program, Thomson West, is offering FinPlan Divorce Planner free of charge to all magistrates and judges in Ohio, with the understanding that its use will be restricted to court personnel.

O.R.C. §3119.82 requires that the court designate which parent may claim the children as dependents whenever it issues, modifies, reviews or otherwise reconsiders a child support order. The statute provides that the court must consider any net tax savings, the relative financial circumstances and needs of the parents and children, the amount of time the children spend with each parent, the eligibility of either or both parents for the federal earned

income tax credit or other state or federal tax credits, and any other relevant factor. The determination of the net tax savings from claiming a dependency exemption is very complicated because variables include the Earned Income Credit, Dependent Care Credit, Education Credits and the Child Tax Credit. FinPlan does the calculation for you.

If you received the 2006 version of FinPlan, Thomson West will send you a copy of the 2007 version automatically. This should arrive before the end of February. If you would like to receive the Divorce Planner software at no cost, send an e-mail to MaryJo.Webb@Thomson.com. The e-mail must include your name, the name of the court, the address of the court, your phone number, your fax number, and your e-mail address. You will receive a form by fax or mail, which you must sign and return to Thomson West.

If you have any questions about the program, or if you would like training on how to use it, contact Magistrate Barbara Porzio at 330-764-8736 or BPorzio@MedinaCommonPleas.com.

NEWS AROUND OHIO

This column features personal and professional news that is of interest to magistrates around Ohio. If you have news that would be of interest to other magistrates or information you think others should have, please send the information to the OAM District Representative for your appellate district so that they may include the news and information in their reports.

The OAM District Representatives are:

- District 1 – William Melvin, Hamilton County Juvenile Court
- District 2 – Kimberly Stump, Greene County Domestic Relations Court
- District 3 – Jonathan Starn, Hancock County Common Pleas Court

SECOND DISTRICT REPORT

By Magistrate
Kimberly Metzler Stump
2nd District Representative

Greetings from the Second District. Our district has seen a few changes since I last reported. As I reported in the last newsletter, Magistrate Tim O'Connell of the Montgomery County Common Pleas Court, General Division, was elected to the bench in November 2006 as a Montgomery County Common Pleas Court Judge. He took office in January of this year. As of now, his replacement has not yet been announced. Magistrate Nadine Ballard, also of the Montgomery County Common Pleas Court, General Division, is leaving the bench for a position in the Attorney General's Consumer Protection Division. Her current position also remains temporarily unfilled. In November 2006, the Greene County Domestic Relations Court hired Cynthia Martin to fill the vacancy left by Magistrate Kristen Kelly. Cynthia began full time at the beginning of January. Fairborn Municipal Court Magistrate, Beth Root, is running for Fairborn Municipal Court Judge. It appears that she will have a contested primary in May 2007.

I have not heard of any other changes in our district. Sometimes I don't hear much about the other Courts in our District, so if I have missed any changes, I apologize. Please keep me up to date if you have any updates or want information about the Board activities.

SEVENTH DISTRICT REPORT

By Magistrate Mark Huberman
Seventh District Representative

Things have been relatively quiet in our eight county Seventh District with very little change in Magistrate personnel.

With the addition of Wade Smith, the Mahoning County Common Pleas Court now has five (5) full time Magistrates which also include Eugene Fehr, Dominic DeLaurentis, Tim Welsh and Dennis Sarisky.

The Mahoning County Domestic Relations Court continues to have four (4) full time Magistrates which include Mark Huberman, Deborah Kaufmann, Don Hepfner and Heidi Petruska. Heidi also functions as Staff Attorney.

The Mahoning County Juvenile Court has three (3) full time Magistrates consisting of Anthony D'Apolito, Donna McCullum and Ted Ferris and five (4) part time Magistrates which include Richard White, Sam Amendolara, Mark Latas, and Jeralyn Mercer Goldberg. At the end of December, Jeff Limbian returned to the private practice.

The Mahoning County Probate Court has one (1) full time Magistrate, Richard Burgess, and three (3) part-time Magistrates which include Richard Machuga, Gary Philibin and Vincent Wloch.

The Youngstown Municipal Court

TWELFTH DISTRICT REPORT

By Magistrate Michael Finney
Twelfth District Representative

In an on-going effort to make the Clermont County Domestic Relations Court more consumer friendly, Judge Michael Voris recently opened a new computer-based Kiosk to assist litigants. The Kiosk will select proper forms to be completed for a Civil Protection Order. Once the proper form is

selected, the litigant will be asked specific questions by the Kiosk application. The litigant (user) will answer these questions by using either the keyboard, pointing device or touch screen depending on the answer required. Once the form is completed, it can be printed from the Kiosk. This process will also save the litigants and staff time.

THIRD DISTRICT REPORT

By Magistrate Jonathan Starn
Third District Representative

As a result of Judge Robert Cupp of the Third District Court of Appeals becoming Justice Cupp of the Ohio Supreme Court, there have been a number of changes in the District (primarily in Hancock County). Judge Cupp has been replaced by Judge Vern Preston. Judge Preston moves to the Court of Appeals from Findlay Municipal Court where he had been serving for over 10 years. Congratulations to Judge Preston on his appointment!

Additionally, as a result of Judge Preston being appointed to the Third District Court of Appeals, a vacancy was created in Findlay Municipal Court. The Governor has appointed Robert Fry as the new judge in this

Court. Judge Fry has been the County Prosecutor in Hancock County for many years and was an assistant prosecutor prior to becoming prosecutor. Congratulations to Judge Fry on his appointment!

Finally, John Willamowski will be sworn in as Judge on the Third District Court of Appeals on February 9. Judge Willamowski was elected in November 2006 to take the seat of retiring Judge Tom Bryant. Judge Willamowski practiced out of Allen County and had been a State Representative for several terms. Congratulations again to Judge Willamowski!

If you have other news or things of interest for the OAM and its members, please contact me. You may call me or email me. jpstarn@co.hancock.oh.us.

SIXTH DISTRICT REPORT

By Magistrate Carol Hargreaves
Sixth District Representative
TRIAL AND ERROR

The Appellate court, *In the Matter of Lynette T vs. Terrance C. Jr.*, found that the trial court was without jurisdiction to order the CSEA to reimburse the obligor after he was determined not to be the father. It determined that the CSEA is simply a conduit for the transfer of support to the Office of Jobs and Family Services ... In the *Matter of Ronald H. and Ricaris H.*, the Court found that a trial court may not proceed to disposition without a conclusion of law finding the child to be dependent, neglected or abused. The trial court can not correct its entry by way of a *nunc pro tunc* entry when it is an attempt to place into the record an order or finding which it intended or might have made but in fact was not made ... *State of Ohio, ex rel., Jean-Paul Lemerand, Relator, vs. Judge David E. Woessner*, the Court found that, where the trial judge had dismissed a complaint for declaratory judgment and a motion to vacate a prior order involving a consent judgment entry

related to a parent's right to move the child to Wisconsin, the relator's motion for a *writ of prohibition* to stay further proceedings concerning the best interest of the child could be granted because both the denial of the declaratory judgment and the denial of the 60(B) motions were final appealable orders. The court agreed that it should hear arguments concerning "whether the best interest of the child standard supplants enforceability of contractual agreements- specifically with reference to the residency of the child." Upon the filing of the *writ*, the judge had divested himself of jurisdiction to proceed to trial on the merits of the right to move the child ... and in *Garner vs. Garner*, it determined that, where there is an incomplete record of the proceedings, it must presume the regularity of the proceeding and affirm the lower court's decision.

Judge Dennis Parish was defeated in his bid to retain the appellate seat to which he was appointed. He has accepted a position as assistant director and legal counsel for the Wood County CSEA.

EIGHTH DISTRICT REPORT

By Magistrate Nancy McMillen
Congratulations to Judge

Thomas O'Malley! Judge O'Malley was a member of OAM as a part time Magistrate in Lakewood Municipal Court. Last fall he ran for Juvenile Court, easily besting his opponent. Judge O'Malley began his legal career in 1981 as an Adult Probation Officer. He then became an Assistant County Prosecutor in 1986. He prosecuted everything from drug cases to aggravated murder. In August of 1990 he became a part time Magis-

trate, balancing that with private practice.

Judge O'Malley says he ran for Juvenile Court after hearing negative things about the Court. He is hoping to change the public perception. He went on to say "I have also learned how much a Judge depends on his Magistrates to keep the Court and their dockets running smoothly. I know that as a Judge I will never take the work of Magistrates for granted. I just hope that the Judge's seminars are as much fun as the Magistrates' seminars."



OHIO ASSOCIATION OF MAGISTRATES MEMBERSHIP FORM

(If you are already a member ... please give this to a non-member friend)

MEMBER ANNUAL DUES\$125.00

Members are entitled to all the rights and privileges granted by the Association, including the receipt of the Quarterly Newsletter.

YES, I WANT TO BE A MEMBER OF THE OHIO ASSOCIATION OF MAGISTRATES! ENCLOSED IS MY CHECK FOR MEMBERSHIP, MADE PAYABLE TO THE OHIO ASSOCIATION OF MAGISTRATES.

MAGISTRATE _____

COURT _____

MAILING ADDRESS _____

TELEPHONE (____) _____ FAX (____) _____

E-MAIL _____

FULL-TIME OR PART-TIME MAGISTRATE _____

DATE OF ADMISSION TO BAR _____

DATE APPOINTED MAGISTRATE _____

Check area(s) of practice: _____ Check your choice of committee(s): _____

Common Pleas Juvenile Practice and Procedure Education

Court of Appeals Domestic Ethics Nominating

Probate Municipal Program

I authorize the above information to be included on the OAM Web site

I do not wish to be on the OAM Web site

Please list only the following identifying information about me on the OAM Web site

How did you hear about the Association? _____

Return with your check to: Ohio Association of Magistrates
c/o Thomas F. Shutt
2079 West Fifth Avenue
Columbus, Ohio 43212