



Volume 45 No. 1  
January 2021



By: Joshua Strickland, Esq.  
LCBA President 2020-2021

### In this Issue:

#### Front Page:

- President's Column

#### Page 2:

- Judge's Column

#### Page 3:

- President's Column
- Judge's Column

#### Page 4:

- Mock Trial
- Law Library News

#### Page 5-6:

- President's Column
- Law Library News

#### Page 7:

- Happy Birthday

#### Page 8:

- Lunch Forum

#### Page 9:

- Financials

#### Page 10:

- Nominations
- Memoriam

#### Back Page:

- Law Day
- Dues Reminder
- Editorial Staff
- Executive Board
- Contact Information

# LAKE LEGAL VIEWS

**“Regard for the Public Welfare is the Highest Law”**

As we turn the calendar into 2021 I hope all of you had an enjoyable Holiday season. 2021 is shaping up to be more like 2020 than many of us would prefer. The COVID pandemic rages on despite vaccines now being available and we have witnessed unprecedented violence with the attack on the U.S. Capitol Building. America's democracy is being tested certainly to the greatest extent since Nixon's resignation and possibly since the Civil War. I am sure many of us were dismayed, saddened, and angered by the violence taking place and the motivations of the violent, extremist mob.

I have been wondering for some time now about radicalization. How are people driven to commit acts of violence for a cause? What drives people to believe that committing acts of violence is the correct or even the only path? There are many scholarly articles on the subject attributing various causes: economic status, ideological beliefs, psychological vulnerability, conditioning, or abuse, and personal or cultural history. Many times these factors combine to radicalize a person. The United States has long had groups we would now define as extremists. The KKK being the most prime and widely known example. Militia groups, secessionists, and various religious cults have taken their turn in the spotlight over the past 25 years.

However, the advent of the internet and, particularly, social media platforms, has been a game changer. The early days of the internet brought message boards and text chat channels that were not always easy to find and difficult to use. These became what is now 8kun (formerly 8chan and 4chan). Facebook and Twitter took the posting element of that type of platform and added predictive algorithms that effectively learn what the user wants to see based off of their input to the site. They then use this data to custom tailor advertising, which is their main goal and money maker, but also shows the user more of what the algorithms predict the user wants to see. Thus Facebook, Twitter and even YouTube have become echo chambers of the viewpoints and opinions that the user already holds. In this way no two user's experiences are the same and the window into the world that Facebook and Twitter show their users becomes a form of augmented reality.

Continued on page 3



*Honorable John O'Donnell  
Lake County Common Pleas Court*

With the advent of the China Virus being thrust upon us in January 2020, courts across the country have struggled with the management of dockets. Nearby counties such as Cuyahoga (with 34 General Division judges) have suspended nearly all in-person activity, holding, by last count, three jury trials since the initial closures in March. In Lake County, jury trials were suspended by Order of the General Division judges on March 13. The Order was lifted on May 4 allowing for the resumption of jury trials.

The struggle has been, and remains, how to manage a docket with the limitations that are in place. There are self-imposed limitations, such as local orders and imposed suggestions by the Chief Justice, and limitations which occur naturally, such as individuals on the docket who suffer from the virus, or who otherwise have medical conditions resulting in an immune compromised system unrelated to the virus.

A defendant charged with a criminal offense has the right to a timely resolution of that offense, particularly when he or she is in jail in lieu of bond. A plaintiff who brings a civil suit for an injury claim has the right to have that claim timely adjudicated. Parties in contractual or other disputes similarly have the right to have their matter timely settled.

The Ohio Legislature, in the spring, tolled the statute of limitations to a certain degree through the end

of July. In addition, the Chief Justice has strongly suggested that the courts utilize R.C. 2945.72(H) when speedy trial time is running short. That provision states as follows: "The time within which an accused must be brought to trial, or, in the case of a felony, to preliminary hearing and trial, may be extended by any one by the following: (H) The period of any continuance granted other than upon the motion, **and the period of any reasonable continuance granted other than upon the accused's own motion.**"

Taking all of the above into consideration, I have modified the way our docket is handled. On the civil side, case management conferences are now held by telephone. Initially, I attempted to conduct settlement conferences by phone, but that turned out to be a miserable failure. When the parties, and particularly, the representatives, were not physically present, the motivation for settlement proved to be slim. The criminal process of in-person pretrials remains the same. In the event that any party or attorney is unable to appear due to their own medical concerns, they are excused and/or their hearing or trial is rescheduled.

The most significant change has come in the way jury trials are conducted. Four to five weeks in advance of the three-week jury service period, approximately 200 individuals are summoned to appear. Along with the summons is the electronic questionnaire that must be filled out. If a prospective juror expresses concern due to the China Virus, they are excused.

In the days before the China Virus, we would summon 45-50 people to appear for jury selection. For each of the weeks subject to service, 31 jurors are

Continued on page 3

Continued from page 2

notified to appear for jury selection at 8:00 AM. The first 25 listed are seated, sufficiently distanced, in the courtroom, and numbers 26 through 31 are seated in the hallway. If any of the first 25 fail to show, they are replaced with one of the remaining 6. An additional 12 jurors are summoned to appear at 1:00 PM in the event we are unable to seat a jury with the first 25. Thus far, of the 10 jury trials we have held between May 18 and December 17, we have not had to advance to the afternoon pool of jurors. From the commencement to the conclusion of the trial, the jurors remain safely distanced including conducting jury deliberations in the courtroom instead of the jury room.

Jurors are not ordered to wear masks during the trial; however, very few sit without a mask. I inform the prospective jurors in voir dire that the attorneys, parties, and witnesses are ordered to not wear a mask. I explain that jurors need to be able to view non-verbal communication as they evaluate individuals, and the masks defeat that purpose. The exception to that order is the situation where an individual has health concerns which require the use of the face covering.

I believe that it is imperative that the docket moves as practicably as possible. I do not view the indefinite postponement of hearings and, more importantly, jury trials, as reasonable. I believe that the indefinite postponement of the hearings does a disservice to the legal system and necessarily the parties within the system.

Continued from page 1

Recently I was reading an article that equated Facebook to a Doomsday Machine.<sup>1</sup> It is an interesting article with a unique perspective worth the 10 minute read albeit with a political bent. The concept of the Doomsday Machine was a device that would, upon the happening of certain circumstances, automatically result in the destruction of all life on the planet. This idea was first postulated after World War II with the onset of the Cold War when the threat of worldwide nuclear destruction was front and center as a global concern. The idea was that a machine could be designed so that if certain levels of radiation were detected in say a few U.S. cities a signal would be sent to a computer to automatically launch the nuclear arsenal resulting in the end of the world. The idea being that if other world powers knew such a device was in play they would be loath to launch such an attack lest it result in their destruction as well. Fortunately, it was decided that taking human decision making out of the end of the world was an unwise course of action and these Doomsday Machines were not implemented.

The “Facebook as a Doomsday Machine” allegory is tied to the algorithms Facebook uses which are completely automated. The algorithms function automatically from user inputs absent some intentional intervention by Facebook employees. In this way the computer does, essentially, automatically adjust the “augmented reality” that each user experiences.

<sup>1</sup>See <https://www.theatlantic.com/technology/archive/2020/12/facebook-doomsday-machine/617384>

Continued on page 4

Continued from page 3

As a money making device this works extremely well and, I'm sure, is quite attractive to advertiser dollars as people are voluntarily telling Facebook what they like making the sales pitch to advertisers all the easier. However, it also constantly narrows what the user sees in terms of their friend's posts, group and page suggestions, and Facebook content generally. Twitter and YouTube work similarly. We also know that these algorithms can be changed on the fly by Facebook and other social media platforms to highlight or omit what content is seen and by whom. This has been used to put different content front and center and, more recently, to omit certain content generally and from specific individuals.

Facebook has somewhere between 2.5 – 3 billion active monthly users. Let that sink in. That exceeds the 2019 population estimates of China and India combined.<sup>2</sup> That number is over 35% of the world's population and does not include many places where social media is heavily regulated like in China. Facebook is actively using its technology to augment the reality of each of its users for its pecuniary gain. It's important to remember, however, that with social media the users are the products not the customers. Facebook's customers are their advertisers and other businesses that buy Facebook's user data. This incentivizes Facebook to feed its users information that is more likely to cause them to interface with Facebook regardless of whether or not such information is true and accurate.

So what, you may ask. They're entitled to make money off of something that folks clearly want. It's a free market! The issue is that this augmented reality on a mega scale of billions of users appears to be contributing to the spread of not just false, misleading, or confusing information but, has created false realities leading, at least in part, to the violence that we saw at the Capitol and that we have seen elsewhere in the world.<sup>3</sup> One's perception of reality is surprisingly malleable. If presented with the same thoughts, opinions, views, and "facts" over and over again, regardless of bent, as Facebook is programmed to do automatically and efficiently, a person's worldview becomes what they constantly see. Many people only consume their "news" through social media, particularly when powerful people or people they respect are saying that other forms of media are not to be trusted. Worse yet Facebook and Twitter both actively suggest other people, pages, and groups based off of what you are already liking. This is how folks are drawn down the rabbit hole to QAnon conspiracy theories, militia group propaganda, and, apparently, traitorous plots to kill elected officials and destabilization of the U.S. government.<sup>4</sup> The danger is not just domestic or right wing extremists. Terror groups of all sorts have used social media for recruitment and coordination since their invention constantly seeming to stay one step ahead of

<sup>2</sup>2019 Population estimates: China 1,433,783,686; India 1,366,417,754. See [https://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_population\\_\(United\\_Nations\)](https://en.wikipedia.org/wiki/List_of_countries_by_population_(United_Nations))

<sup>3</sup>See <https://www.nytimes.com/2018/10/15/technology/myanmar-facebook-genocide.html>

<sup>4</sup>See <https://www.nbcnews.com/news/crime-courts/fbi-nypd-told-capitol-police-about-possibility-violence-riot-senior-n1253646>

Continued on page 5

Continued from page 4

internal regulators and government agencies. The difficulty in addressing these problems are only highlighted by the fact that these social media platforms business model is designed to build consistent and even obsessive use, not to educate the user.

You may use Facebook, Twitter, and other social media and have a gut reaction that this is all hogwash. You're not being manipulated. You are fully aware of what is going on. I believe you. The problem is that many people, even if just a very small percentage of the 3 billion Facebook users, apparently are influenced. Given the arrests from the Capitol riot, these are people from all walks of life. Some highly educated. Some very successful. Some former military and law enforcement. These people are not the "fringe" – they are your neighbors. How were they driven to commit such acts? This will be revealed in the courts and in scientific journals for years to come, but defense attorneys for those charged are already laying blame on President Trump.<sup>5</sup>

For my two cents, it is beyond time that these social media companies that market "reality" and peddle in "truths" all to generate more data be regulated as we regulated the telegraph, then the newspapers, radio stations, telephone providers and television outlets. Currently social media companies are statutorily immune from liable claims based on the information that their users post on the site. Some countries have mandated that Facebook regulate itself imposing steep financial penalties if they fail to do so to. Germany and Australia have such laws. Other countries and the EU are considering laws directed at social media companies solely on extremist content again threatening steep financial penalties. Perhaps it is time to change social media companies' immunity either by abolishing it entirely lumping them in with newspapers and television or modify it so that these companies must clearly delineate that which is personal user opinion from those things peddled as "news" and fact.

Asking Facebook to police itself and vet the information they tell their users is "news" or fact would be a great step, however, to a company making money off of 3 Billion users, monetary fines may just be a slap on the hand. Only threatening the business model of these companies will produce any real effect. Let Facebook make its money, but it must be upfront with how it is engaging in manipulation and how its algorithms function. Maybe Facebook should let users opt out of the algorithmic augmented reality even if it comes with a monthly or annual fee. I am sure there are many legitimate ways to balance these concerns, but something needs to be done.

---

<sup>5</sup><https://www.kansascity.com/news/politics-government/article248518380.html>; <https://thehill.com/regulation/court-battles/534037-attorney-of-firefighter-charged-in-capitol-riot-says-trump>

Continued from page 5

Objective truth underpins our civil discourse and the totality of our society and democracy. When truth is manipulated on a mega scale for any one group's benefit – left, right, or corporate – we all lose. Facebook wants to have its cake and eat it too. It wants you to believe what it shows you but doesn't want any of the responsibility for how it chooses what content you see. What if each person saw a different version of the nightly national news broadcast tailored to what the television station knew for a fact you wanted to see or the front page of the Sunday paper only had articles the paper knew you would like and agree with? I think we would all agree that such a reality would be problematic.

Is Facebook a Doomsday Machine? Should it simply be removed? Is social media simply too dangerous to society to exist? Probably not, but it is past time we stop ignoring the problems that social media creates and contributes to and look for a workable solution. These services are being weaponized and it is society as a whole that is the victim. Commonsense regulation is needed, in some form, to address these issues.

Finally, it goes without saying, but for clarity, these thoughts and opinions are my own and not necessarily those of the Lake County Bar Association.

## **LAKE COUNTY LAW LIBRARY NEWS**

The Lake County Law Library physical location remains closed at this time due to the pandemic situation. The Library is still offering services remotely. Please contact the librarian for assistance at [lawlibrary@lakecountyohio.gov](mailto:lawlibrary@lakecountyohio.gov) or leave a voice mail message at 440-350-2638. We're happy to assist you with reference questions and case look up, both virtually and in person by appointment.

Due to budgetary constraints from the pandemic, we have had to scale back some of our print title subscriptions. In addition, we no longer offer print titles for public use at the Willoughby Court, and the public Westlaw service at that location is no longer available after January 31<sup>st</sup>. Westlaw terminals are still available for public use at the Law Library once we re-open for business.





Ann Bergen	1-Jan
Mirela Turc	1-Jan
Kevin Goodman	3-Jan
Ralph Lustrì	4-Jan
Edmond Turk	7-Jan
Paulette Balin	10-Jan
Ben Aveni	10-Jan
Clancy Strader	11-Jan
Judge Parks	13-Jan
Erik Walter	13-Jan
Joseph Weiss Jr.	17-Jan
Lauren Gardner	17-Jan
Celina Colombo	19-Jan
Margaret McDevitt	19-Jan
Judge John O' Donnell	19-Jan
Daniel Rudary	22-Jan
Maryann Zaky	22-Jan
Patrick Perotti	25-Jan
Gary Rosenthal	25-Jan
Joseph Szeman	25-Jan
Mark Palermo	26-Jan
David Szabo	26-Jan
Jeff Black	27-Jan
Charles Deeb	28-Jan
Lawrence Hupertz	29-Jan
Richard Perez	29-Jan
Howard Bernstein	31-Jan
Gerald Walker	31-Jan

## DOWNTOWN PAINESVILLE

FULL-TIME OR OCCASIONAL

OFFICE OR CONFERENCE ROOM AVAILABLE

Arrangements Negotiable

FORBES LAW LLC 440.739.6211

## AVAILABLE OFFICE SPACE

Law Offices of Murray & Black

38109 Euclid Avenue, Willoughby, Ohio

Downtown Willoughby

Private Parking, Cost Sharing, Receptionist Provided

Call Jeff at (440) 946-5297

## LEGAL PROCESS & LOCATOR SERVICES

Experienced - Attorney Referrals

**Daniel F Ponstingle**  
8373 Mentor Avenue  
Mentor, Ohio

(216) 255-3325

## OFFICE SPACE-DOWNTOWN WILLOUGHBY

The Willoughby Professional Building

38052 Euclid Avenue, Willoughby, OH

537 Sq. Feet / First Floor

Call: Bob Boyd (440) 918.1733

## **LUNCH FORUM**

**HELLRIEGEL'S INN**  
**\*1840 Mentor Avenue\*Painesville\***

**Wednesday, March 31, 2021**

**“Finding Fraud & Tips for Detection & Prevention”**

Presented by: John Stark

**11:00 a.m. - 12:00 noon: Registration and Lunch Buffet**

**12:00 noon - 1:00 p.m.: CLE - Speaker Presentation**

**Members: \$20.00---Non-Members: \$35.00**

**1.0 hour(s) CLE**

Call to register at 440-350-5800 or reply by email to [bethany.hess@lakecountyohio.gov](mailto:bethany.hess@lakecountyohio.gov)

Make checks payable to: LAKE COUNTY BAR ASSOCIATION. Credit Cards are also accepted.  
 Application has been made to the Supreme Court of Ohio Commission on CLE for 1.0 hour professionalism credit.

## **LUNCH FORUM**

**HELLRIEGEL'S INN**  
**\*1840 Mentor Avenue\*Painesville\***

**Wednesday, April 28, 2021**

**“ Issues in Title Insurance and Real Estate Conveyances”**

presented by:  
**Benjamin Aveni, Esq.**

**11:00 a.m. - 12:00 noon: Registration and Lunch Buffet**

**12:00 noon - 1:00 p.m.: CLE - Speaker Presentation**

**Members: \$20.00---Non-Members: \$35.00**

**1.0 hour(s) CLE Professional Conduct**

Call to register at 440-350-5800 or reply by email to [barassociation@lakecountyohio.gov](mailto:barassociation@lakecountyohio.gov)

Make checks payable to: LAKE COUNTY BAR ASSOCIATION.  
 Credit Cards are also accepted at the door or on our website at [www.lakecountyohiobar.com](http://www.lakecountyohiobar.com)



**LAKE COUNTY BAR ASSOCIATION  
FISCAL YEAR JUNE 1, 2020-MAY 31, 2021**

**FISCAL YTD BALANCE SHEET  
FISCAL YTD AS OF November 30, 2020**

**ASSETS**

Total Current Assets	\$ 118,208.58
<b>TOTAL ASSETS</b>	<b>\$ 118,208.58</b>

**LIABILITIES & EQUITY**

Total Current Liabilities	<u>3,157.76</u>
---------------------------	-----------------

**EQUITY**

Retained Earnings	149,042.46
Net Income	<u>- 33,991.64</u>
<b>TOTAL EQUITY</b>	<u>115,050.82</u>

<b>TOTAL LIABILITIES AND EQUITY</b>	<b><u>118,208.58</u></b>
-------------------------------------	--------------------------

**FISCAL YTD PROFIT & LOSS  
JUNE 1, 2020 THROUGH November 30, 2020**

**INCOME**

402-Dues	2,375.00
404-Interest Income	37.24
405-LLV Ads	747.00
407-Notary Fees	10,225.00
408-Referral Fees	4,160.00
409-Weekly Lunch	1,095.00
410-Miscellaneous Income	912.00
412-Golf Outing	20,380.00
413-Seminar	
424-Procrastinator	200.00
441-GAL	<u>1,125.00</u>
Total Seminar	1,325.00
429-Website Listing	<u>3,325.00</u>
 Total Income	 44,581.24

**EXPENSE**

601-Accounting Fees	1,285.00
604-Bank Charges	416.82
608-Flowers & Memorials	195.10
609-Golf Outing	15,314.90
611-Employee Retirement	1,500.00
613-Insurance-Health	7,205.00
622-Lunch Payments	1,271.29
624-Membership(COSE/CHAMBER)	675.55
625-Miscellaneous Expense	360.00
628-Notary Costs	343.05
631-Office Expense	3,892.58
634-Office Supplies	535.40
637-Payroll Taxes	2,681.86

639-Postage Machine Rental	526.21
642-Seminar	
656-Procrastinator's	25.00
672-GAL	<u>25.00</u>

Total 642-Seminar	50.00
-------------------	-------

643-Telephone Yellow Pages	540.00
644-Settlement Week	25.00
646-Travel Reimbursement	42.55
647-Rent	5,869.02
648-County Telephone	9.15
649-Supreme Court Trip Expense	2,800.00
650-Wages	22,545.79
651-Wages—Part Time	10,673.97
680-Annual Meeting Expense	114.49

Total Expense	<u>78,872.88</u>
---------------	------------------

Net Ordinary Income	<u>-34,291.64</u>
---------------------	-------------------

## Other Income

500-Bar Foundation Dues	<u>300.00</u>
-------------------------	---------------

Total Other Income	<u>300.00</u>
--------------------	---------------

Net Income	<b><u>\$ -33,991.64</u></b>
------------	-----------------------------

**OFFICE SPACE AVAILABLE****Carrabine & Reardon****7445 Center St.,****Mentor, OH 44060****TERMS OF OFFICE****EXPENSE SHARING ARRANGEMENT****NEGOTIABLE****CONTACT:****JIM REARDON @ 440-974-9911**

## Lake County Attorneys Title Agency, LLC

*“Providing exceptional real estate title and settlement services since 2003”*



**41 East Erie Street  
Painesville, Ohio 44077  
(440) 357-1901 Tel. (440) 357-1902 Fax  
baveni@csalawgroup.com**

### **Principals:**

**Benjamin L. Aveni Anthony J. Aveni**

### **NOMINATING COMMITTEE**

The Nominating Committee is accepting names of applicants who would like to be considered for a position on the Executive Board in preparation for the Annual Meeting in June 2021.

The Executive Board consists of a President, Vice-President, Treasurer, Secretary, Past-President, 3 Trustees (3 year terms), the District 18 Representative and also the Board of Governors Representative. The board meets monthly on the second Friday of each month to review the business of the association, financials, coming events and how to handle situations such as the COVID-19 pandemic.

If you have any questions regarding these positions, please contact a current board member or the bar association office.

Thank you for your support of the Lake County Bar Association.

### **MEMORIAM**

Attorney Robert C. Biales passed away on December 31, 2020

His funeral was held on Tuesday January 5, 2020 at the Lakeview Cemetery in Cleveland Ohio at 2 pm.





# Benedict

INSURANCE

BONDS · SURETY & FIDELITY  
COMPLETE INSURANCE SERVICES

87 South St. Clair St., Painesville, Ohio 44077

Phone: (440)354-4308

Fax: (440)354-3101



## CARVER FINANCIAL SERVICES

Your Vision.  
Our Priority.

You have clarity on your life goals. You know the lifestyle you want to lead and the legacy you want to build. It's our job to help get you there.

At Carver, your vision lives at the center of everything we do.



We are here  
**for you.**

*Securities offered through Raymond James Financial Services Inc. Member FINRA/SIPC. Investment advisory services are offered through Raymond James Financial Services Advisors, Inc. Carver Financial Services, Inc. is not a registered broker/dealer and is independent of Raymond James Financial Services.*

7473 CENTER STREET | MENTOR OH 44060

CARVERFINANCIALSERVICES.COM

440 974 0808



Lake County Bar Association  
Courthouse West Annex  
25 North Park Place  
Painesville, Ohio 44077

ADDRESS SERVICE REQUESTED



*God Bless America &  
Protect Our Troops*

## Law Day 2021 Theme:

# 'Advancing the Rule of Law Now'

The ABA Division for Public Education has announced the theme for Law Day 2021: "Advancing the Rule of Law Now." This theme is intended to remind everyone that in times of calm and in times of unrest,

"we the people share the responsibility to promote the rule of law, defend liberty, and pursue justice."

### MEMBERSHIP RENEWAL

It's that time of year for renewing your membership in the Lake County Bar Association and Lake County Bar Foundation.

Payment can be made on our website at [www.lakecountyohiobar.com](http://www.lakecountyohiobar.com) .

If you would rather pay by check, please mail to Lake County Bar Association, P.O. Box 490, Painesville, OH 44077. We still have regular mail pick up even though we are closed.

Thank you for your support and Stay Healthy!!

#### Lake Legal Views Editorial Staff:

Editor ..... Stephanie Landgraf  
Judicial Coordinator ..... Judge John Trebets  
LCBA Executive Director ..... Ruth Ann Shultz  
Administrative Assistant.....Bethany Hess

#### **2020-2021 LCBA Executive Board:**

President ..... Joshua J. Strickland  
Vice President .....Pamela Kurt  
Treasurer .....Lori Kilpeck  
Secretary ..... Stephanie Landgraf  
Past President .....Michael P. Germano  
Trustee .....Katie Christman  
Trustee.....Hon. Richard Collins, Ret.  
Trustee .....John P. Rogers  
District 18 Board of Governors.....  
DENNIS COYNE  
District 18 Representative...  
ANNA M. PARISE

Lake County Bar Association  
Courthouse West Annex  
P.O. Box 490  
Painesville, Ohio 44077  
(440) 350-5800 or (440) 350-2180  
Fax: (440) 350-2298

[www.lakecountyohiobar.com](http://www.lakecountyohiobar.com)  
[barassociation@lakecountyohio.gov](mailto:barassociation@lakecountyohio.gov)

Lake Legal Views is a publication of the Lake County Bar Association. Opinions expressed in articles in Lake Legal Views are those of the authors and do not necessarily reflect the views of the staff of Lake Legal Views or the officers and members of the Lake County Bar Association.