DECEMBER 2025

INDIANA STATE BAR ASSOCIATION

RES GESTÆ

MEMBER JOURNAL

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RES GESTÆ

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In Memoriam

We remember the following members of the Indiana State Bar Association who passed away in the last year:

Hon. Cynthia Ayers, April 19, 2025
Hon. Roger Bradford, June 15, 2025
Thomas Brooks, Jr., January 21, 2025
Earl Brown, Jr., March 18, 2025
C. Jack Clarkson, January 10, 2025
Jessie Cook, March 17, 2025
Patrick Donoghue, June 27, 2025
Bruce Embrey, April 8, 2025
Michael Forsee, August 14, 2025
John Fuhs, May 29, 2025
Sue Ann Hartig, November 2, 2024
Fred Jones, November 8, 2024
Philip Kappes, April 13, 2025
Barton Kaufman, December 3, 2024
John Kautzman, October 20, 2025
Maria Andreevna Kazakova, May 30, 2025
Hon. Robert Kennedy, October 12, 2024
Douglas Kinser, July 20, 2025
Hon. James Kirsch, December 19, 2024
Timothy Klingler, May 8, 2025
David Kolbe, April 12, 2025
Hon. Michael Kramer, March 28, 2025
Tom Krochta, February 4, 2025
Thomas Lemon, March 26, 2025
Robert McKinney, September 29, 2024
Timothy McLaughlin, October 19, 2024
Jeanne Miller, March 22, 2025
George Ponton, March 20, 2025
Paul Poracky, May 5, 2025
William Powers, June 20, 2025
Gary Price, March 14, 2025
Steven Ripstra, December 13, 2024
Barry Rooth, March 15, 2025
John Scales, March 4, 2025
David Schneider, April 27, 2025
Christopher Smith, July 16, 2025
Joseph Striewe, March 5, 2025
Blair Williams Todt, January 13, 2025
John Trimble, July 2, 2025
Barry Wallack, August 5, 2025
Ron Warrum, July 28, 2025
Hugh Watson, November 3, 2024
Robert Welsh, January 19, 2025
Daniel Wille, March 12, 2025
James Williamson, February 9, 2025
Richard Yarling, October 19, 2024

*As of October 31, 2025. We strive to honor all members but recognize that we may have missed some individuals. If you'd like to notify us of a member's passing, please email communications@inbar.org.

INDIANA STATE BAR ASSOCIATION

HELP US GROW

By John Maley

PRESIDENT'S PERSPECTIVE

Writing this after our October annual meeting, I am inspired by the passion of our many members in attendance from across Indiana. All areas and practice sectors were represented, including solo-small firms, mid-size and large firms, in-house counsel, government attorneys, paralegals, and federal and state judges, including Chief Justice Loretta Rush.

These active members are great representatives of our noble profession and our Indiana State Bar Association as we start our 130th year. Your association—a voluntary member-based organization—now includes more than 10,000 diverse members. As the largest legal organization in Indiana, your ISBA works to find solutions to members' professional challenges, connect them with others in the profession across the state, and advocate on behalf of the profession. We are an independent voice of the Indiana legal profession and are enriched by the quantity and quality of our members.

Yet despite our strong membership ranks, including in comparison to other voluntary state bar associations across the nation, almost half of our sisters and brothers in the bar are not fellow members of the ISBA. Collectively we can grow our ranks, benefiting us all individually and our legal system in Indiana broadly.

A CALL TO ACTION

Many of us joined the ISBA and/or our local bar associations at the suggestion, invitation, or even the direction of a colleague. Such outreach has led thousands of us to more rewarding and enjoyable careers. However, in these post-pandemic years where hybrid work has become more common and lunch with fellow lawyers less frequent, it is less common for our peers, particularly our younger lawyers, to receive the historical invitation to join our association.

So, I call upon all our readers to take action and help us grow by serving as an ambassador of your association. And I offer three simple tasks for action:

First, take two minutes to identify a few lawyers you know well, whether down the hall from you, your opposing counsel in court matters, or prior classmates. Put their names on a Post-it note or schedule a computer reminder to follow-up.

Second, ask each one this week in person, by phone, or email: "I'm an Indiana State Bar Association member, are you?" If "no," talk with them about joining, and share how the ISBA has benefitted you. Let them know how easy it is to join at www.inbar.org.

If they are already a member, thank them and talk about your respective experiences

"However, in these post-pandemic years where hybrid work has become more common and lunch with fellow lawyers less frequent, it is less common for our peers, particularly our younger lawyers, to receive the historical invitation to join our association."

with the ISBA. Ask them to recruit a friend to join.

Third, if you work with any paralegals, encourage them to join. Many are unaware they can be members. They benefit greatly from ISBA programs, including continuing legal education and service opportunities.

KEY BENEFITS TO MEMBERSHIP

For your purposes in maximizing your own membership, and likewise in encouraging others to renew or join us for the first time, consider the following five ways to maximize membership. These are distilled from our website and an 11-point brochure prepared by ISBA Associate Executive Director/ Membership Director Carissa Long (clong@inbar.org for questions).

1. **Mentorship**: The ISBA offers Mentor Match, a one-year program for new attorneys in their first three years of practice. Mentors receive 12 hours of CLE, and mentees receive six hours of applied professionalism credits. Separately, Mentor City is an online tool for ISBA members to self-match. (I'm mentoring several mid-career members because of connecting through Mentor City; easy, convenient, and rewarding). Learn more about both programs at www.inbar.org/mentorship.
2. **Sections and Committees**: Some of the most significant collaboration within the ISBA occurs at our sections. Examples include Appellate Practice; Business Law; Family & Juvenile Law; General Practice, Solo & Small Firm; Litigation; and Probate, Trust & Real Property. Each offers excellent CLE, networking, and service leadership opportunities.

   Likewise, our committees are very active and impactful, including, for instance, our Legal Ethics, Well-Being, and Women in Law committees. These are great ways for lawyers across Indiana to come together with a common interest and purpose.

3. **CLE**: The ISBA offers outstanding CLE programming, both live and virtually. Speaking opportunities are regularly available, and niche subjects are offered for attendees. All ISBA members receive unlimited access to our on-demand CLE library, with new programs added regularly.

4. **Legal Research/Decisis**: Members of the ISBA have access to Decisis for free. This is an intuitive, efficient, and reliable legal research platform. Members praise its functionality, ease-of-use, and breadth.

5. **Events and Networking**: Among many other additional benefits, one of the most valuable is the ISBA's offering of multiple events throughout the year in different areas of Indiana. Our professional staff, led by Director of Events & Sponsorships Ashley Higgins, are excellent at planning and executing impactful events. We specialize in facilitated, open concept, activity-based, and cohort-structured events. Among our top recurring events are the Solo & Small Firm Conference, the Paralegal Symposium, the Associate Empowerment Series, and the Annual Meeting.

Final Call: Please join me in serving as an ambassador for our association and our noble profession. With your help, we can grow our association yet further and enrich the legal careers of more of our colleagues. If Carissa or I can help you in these efforts, please contact us at clong@inbar.org or jmaley@btlaw.com. Cheers.

"Please join me in serving as an ambassador for our association and our noble profession. With your help, we can grow our association yet further and enrich the legal careers of more of our colleagues."

ISBA UPDATE

By Res Gestae Editor

BUILD CONNECTIONS, SHARE KNOWLEDGE, AND GROW TOGETHER: ISBA'S MENTORSHIP PROGRAMS

Earlier this year, ISBA introduced new mentorship resources and a self-matching program to help legal professionals of all ages find guidance, connect with peers, and build lasting professional relationships.

ISBA'S MENTORSHIP PROGRAMS

ISBA provides two key mentorship programs, Mentor Match and Mentor City, as well as several informal opportunities through sections and committees, events, and more.

Mentor Match pairs a new Indiana attorney with a seasoned practitioner for a structured, more traditional mentorship program with a built-in curriculum. The mentee receives their applied professionalism credit upon completion of the year-long program, while the mentor receives 12 hours of CLE. Matching of mentors and mentees is currently paused, but the program will fully relaunch next year with new content.

Mentor City is ISBA's new online mentorship platform designed for flexibility and self-control. Members can create a profile outlining their goals, areas of expertise, and/or skills they'd like to develop; browse available mentors by practice area and specialized skills; then self-match to connect virtually or in person. Whether you are exploring a new practice area, navigating professional challenges, or prepping for retirement, Mentor City allows you to connect with members on your own terms.

ON THE HORIZON

ISBA's work in mentorship will continue to grow. Staff is refreshing the content and delivery of Mentor Match and will fully reopen the program next year.

Meanwhile, opportunities within Mentor City continue to expand. A new *Spaces* feature allows members to create topic-based groups where they can share resources, exchange experiences, and engage in meaningful discussions. The first of these—Moms Offering Moms Support (M.O.M.S.), formed in partnership with the Indiana Supreme Court Office of Behavioral Health—is accepting applications now. M.O.M.S. is a supportive group for law students and legal professionals who identify as mothers or expectant mothers and who want to connect with others balancing the rigors of a demanding career with the challenges and joys of motherhood. The group will meet once a month over Zoom, starting in January. Visit inbar.org/mentorship to learn more and join.

HOW TO GET STARTED

More than 150 members have already joined Mentor City as mentors and/or mentees, and there's always room for more.

ISBA is especially seeking mentors who can share their knowledge and guidance in areas like networking, career development, marketing and business development, and law practice management. The program currently has only one mentor for every 0.8 mentees, meaning there's an ongoing demand for members willing to share their time, knowledge, and experience. (Not sure if you're "mentor material"? The short answer is "you definitely are," but if you need extra motivation, check out inbar.org/mentor-material.)

If you are interested, visit inbar.org/mentorship for instructions on joining Mentor City, resources for building effective mentorship relationships, and the latest updates.

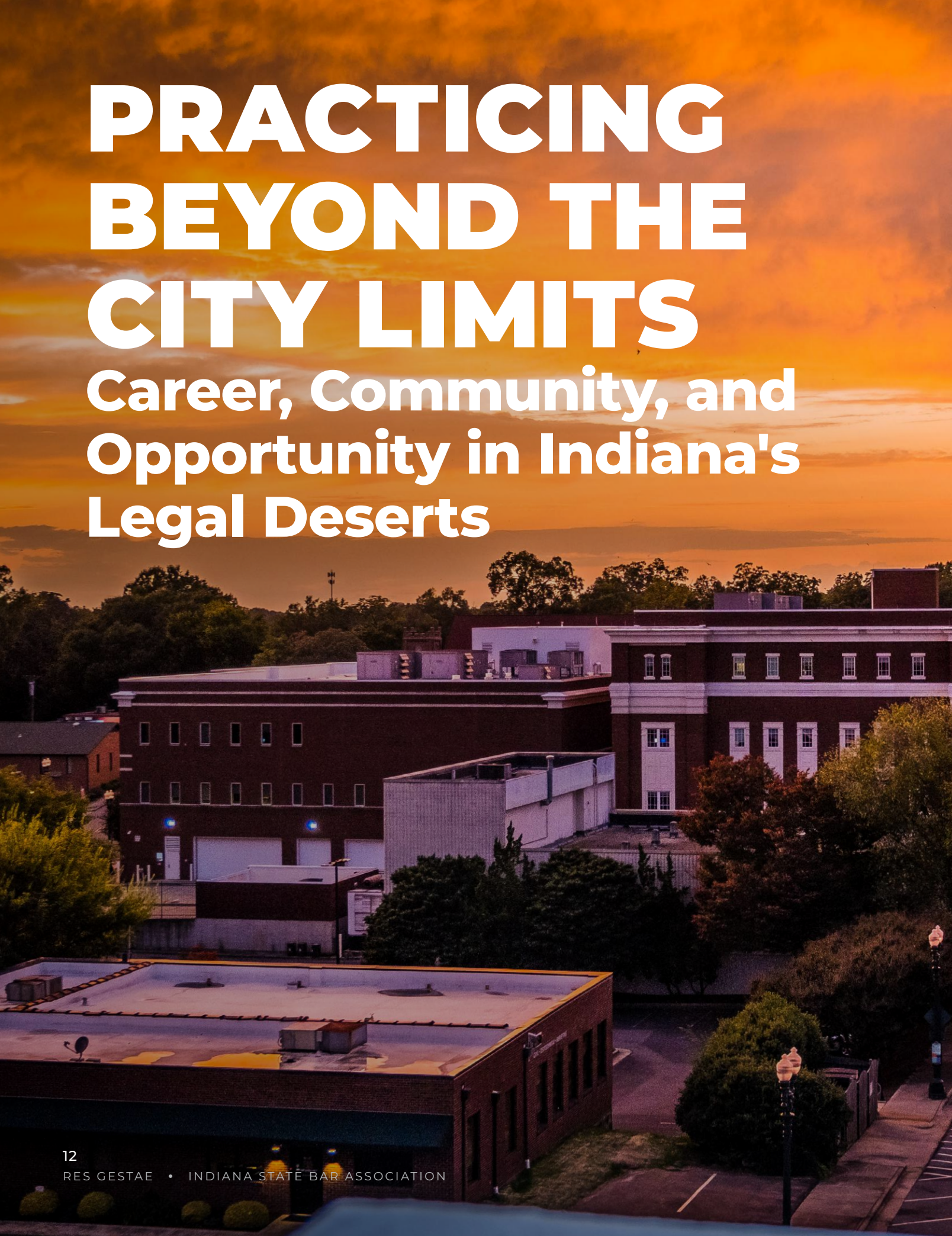
Not ready to commit to a short- or long-term mentorship? You can also get involved through any of the following opportunities:

- **Ambassador Program**: Help new members feel welcome and familiarize them with relevant ISBA offerings. Visit inbar.org/ambassadorprogram.
- **Join a Section or Committee**: Meet others across the state in your practice area and have meaningful conversations about topics important to your practice. Visit inbar.org/sections-committees.
- **More ISBA content**: Discover ISBA on-demand CLE and *Res Gestae* articles that cover everything from mentorship tips to professional development, generational trends and differences, imposter syndrome, and more. Visit inbar.org/mentorship.

Every ISBA member has something to offer and something to learn. Through mentorship, you can share your knowledge, expand your network, and help strengthen Indiana's legal profession. If you have any questions about ISBA's mentorship programs, contact ISBA Director of Career Enrichment Rebecca Smith at rsmith@inbar.org or 317-639-5465.

PRACTICING BEYOND THE CITY LIMITS

Career, Community, and Opportunity in Indiana's Legal Deserts



FEATURE

By Christine Cordial

Every generation of lawyers inherits its own version of Atticus Finch: that enduring symbol of integrity, community, and quiet conviction in a small town. Though his story was set in another time and place, his ideal continues within attorneys who build their practices close to home, serve as steady voices in their neighborhoods, and keep the promise of legal representation alive where it's needed most. The rural practitioner in Indiana is not a one-size-fits-all stock character, and no two communities are truly the same, but many share a common professional landscape.

To better understand the realities of that landscape, the ISBA asked practitioners who live and work in rural deserts to share their perspectives.[1] They were asked to comment on what drew them to practice in their smaller communities, what keeps them there, and what challenges they face amidst a statewide shortage of attorneys. Their responses are highlighted throughout this article and reveal a complex picture full of contradictions: a scarcity of practitioners but no shortage of work, tightly connected communities that can feel both supportive and limiting, a vocation that offers professional freedom and deep responsibility all at once. But their insights are incredibly valuable as we work to educate attorneys who may be considering a transition to rural practice.

BIG OPPORTUNITIES IN SMALL COMMUNITIES

Across Indiana, the geography of justice is uneven. The ongoing attorney shortage is well documented, with more than half of Indiana's counties being classified as a legal desert by the American Bar Association's standards.[2] As a whole, the state averages 2.3 lawyers per 1,000 Hoosiers, falling short of the national average of 3.9 per 1,000. Most of Indiana's attorneys are concentrated in urban areas like Indianapolis and its surrounding counties, leaving many smaller communities underrepresented.[3] Compounded by retirements outpacing new arrivals in many of these communities, this shortage often results in an abundance of work with too few practitioners to do it all. It can also lead to a surplus of unrepresented clients who must either appear in court pro se or travel to neighboring areas to find a lawyer.

"Rural/small town/small county practice is not for the faint of heart. It can be a hustle and a grind, and you really have to learn how to balance work and taking care of yourself and putting yourself first (I still am struggling with that one). There are days that you get frustrated, and then you will get a call or an e-mail from a client saying thank you, how grateful they are, a life update with a baby picture of their grandchild that they could not wait to talk to you about, or any genuine moment, and you remember your why, and you move forward to the next day."

- Chelsea Crawford, Clinton County -

This steady stream of work can be taxing. The practice of law is inherently demanding, and that stress is magnified when only a handful of attorneys shoulder an entire region's legal needs. This can result in long hours, demanding workloads, and financial risks—attorneys must determine how to balance a manageable caseload with the need for consistent income. And in close-knit rural areas, there is often a sense of guilt when they simply don't have the capacity to take on a client, no matter how much they *want* to help.

Yet for those who do choose to practice in a rural community, the rewards are tangible. The work is steady, the relationships are deep, and the chance to make a difference is immediate. Chelsea Crawford, a solo attorney serving her native Clinton County, reflects, "I think the sky is the limit for those working in rural practice. You are always in demand, and there is always work to be had. Your practice may not look exactly what you thought it might, but you can make it your own and build relationships in the community that will last farther than the time you were ever practicing law."

Many rural attorneys find it necessary to diversify their areas of practice to serve the community at large rather than specializing in a singular kind of law as they might do in a metropolitan firm. This broader focus allows for flexibility and an expanded client base, which some say makes it easier for them to attract business. Additionally, young lawyers often have the benefit of direct client contact earlier in their careers than their counterparts in bigger firms, strengthening not only their grasp on the practice of law, but also their connections to their neighbors.

A smaller community can also open the door to bigger opportunities for rural attorneys—both to deepen their expertise and to broaden the services they provide. Christen Commers Smith, a solo attorney in Randolph County, finds that practicing in a legal desert has helped widen the scope of her legal proficiency: "I was previously in a multi-attorney firm in a college town. I was the least experienced associate, so I did the grunt work that may have been done by support staff in other firms. I did not get much experience in court. Moving to a multi-attorney firm in a rural county, I was completely immersed in the entire legal process, and I gained so much from doing every facet of the work. Now owning my own firm, I see the business side of a firm and how to balance that with practicing law."

One attorney in Marshall County compares his current practice to his previous role in a bigger city: "I found that my ceiling was greatly limited and that it was harder to develop my network of contacts to develop new business opportunities. Now, working for myself in a smaller community, the sky's the limit for my financial prospects. There is real opportunity to build whatever practice you want in a rural area."

Not every rural attorney is a generalist, however. Many say that the increased need for legal services gives practitioners the ability to craft the type of practice they want over time. Jeff Hawkins, whose Sullivan County firm focuses primarily on estate, trust, and elder law, says, "I think the most surprising thing I discovered immediately after law school was the broad variety of practice opportunities and experiences that I thought only existed in larger communities. Today, rural communities are so starved for legal services that a young lawyer can build a profitable practice in almost any substantive practice area."

INDEPENDENCE AND CONNECTION IN RURAL PRACTICE

Indeed, the promise of independence and flexibility is one of the great appeals of rural practice—and also one of its challenges. When asked about their work-life balance, many rural practitioners touched on long hours and heavy caseloads but said that setting their own schedules provides them the freedom to integrate their personal lives into their practice. Scott Bieniek, a solo attorney who moved to Putnam County in large part because it is a legal desert, found Greencastle to be a welcoming community that offered a number of benefits beyond the professional prospects of being one of only a handful of attorneys in town: "I drop my children off at

"It's harder to maintain anonymity in a rural community than in a larger city. However, the 'big duck in a small pond' dynamic makes word-of-mouth a powerful legal services marketing tool."

- Jeff Hawkins, Sullivan County -

school every morning. I am able to take days off to chaperone field trips, or get fields ready as their coach. I cannot imagine doing those things if I still worked at a large firm in Indianapolis."

But in counties in which there are often more cornfields than colleagues, the independence of rural practice can lead to isolation, with practitioners feeling removed from the resources that larger cities may provide. As attorneys age out of the profession, it can be hard to find regional mentors in a certain practice area. Some report that it's difficult to compete with the higher salaries a large firm can offer when trying to attract associates and support staff. When an attorney can't take on a client (for any number of reasons, including conflicts of interest that tend to be more prevalent in smaller communities), finding another firm nearby to refer cases often proves complicated. Rural practitioners also struggle with being physically distant from courthouses, in-person trainings, and sometimes their clients.

Technology has eased some of that solitude—remote hearings, online CLE, and virtual mentoring platforms have made it easier to engage beyond county lines—but the need for connection is especially high among rural attorneys. Perhaps because of this shared

challenge, local bar associations are a cornerstone of rural practice. They provide a professional network of support and advice, access to CLE and social events, and a platform to take on leadership roles within the community.

The ISBA also has a number of resources available for rural attorneys:

- **Rural Practice Hub** (inbar.org/RuralPracticeHub) offering programming, materials, and other information to help practices in legal deserts thrive, like ISBA's forthcoming Rural Practice Academy.
- **On-demand CLE Library** (inbar.org/OnDemand) featuring dozens of virtual programs available anytime.
- **Mentorship Opportunities** (inbar.org/Mentorship) to help practitioners build connections and navigate the complexities of the legal profession.

SUSTAINING A PRACTICE IN RURAL COMMUNITIES

Top of mind for those practicing (or considering practicing) in a rural community is the economic sustainability of running a firm there. Generally, rural counties offer a more affordable cost of living than urban areas, but the market also dictates lower billable rates for lawyers. "Most litigants will struggle to pay for an attorney here," notes Christen Commers Smith (Randolph County). "I am undervaluing my work's true value in the name of getting clients." Solo practitioners aren't the only ones affected by their rural economies. Richard Kinnett, a paralegal at the Montgomery County Prosecutor's Office, feels the financial constraints of his region: "The county refuses to pay anything higher than the lowest average market wage for the surrounding counties."

As Chelsea Crawford (Clinton County) explains, "You can make a good living practicing in a rural area, but it is likely not going to be what you make in a larger city. I practice solo with no employees and work from home, meeting with clients in town in conference rooms. The tradeoff is that I do not have high overhead, but I may not have as high of a caseload to make higher amounts of money since I am the only one managing all of the work."

Daniel Taylor, partner at a small firm in Montgomery County, notes that while clients may have less spending power in rural communities, the fact that lawyers are so in-demand in these legal deserts still allows them to build lucrative practices: "I do not have large corporate clients like some urban firms have, but I have many small business and small industrial clients. This affects the hourly rates that can be charged, but there is less intensity of competition for the good clients."

To some, it all comes down to striking the right balance for themselves, their families, and the clients in their communities. And that's different for every individual, in every practice area, in every town. Having the freedom to build the practice that they want, that suits their needs, is a major factor in what keeps rural practitioners grounded. Huntington County small firm attorney Adrian Halverstadt shares: "You can always make more money somewhere else, regardless of where you are working now. What is 'enough' for you? You can earn a decent living, pay your student loans, and provide for a family here and actually be able to enjoy it."

The flexibility of rural practice also allows many attorneys to take on additional contract roles—public defender, prosecutor, guardian ad litem—to help diversify their revenue base and grow their skillsets. Michelle Woodward, a small firm attorney in Lawrence County, recommends: "New attorneys should also consider working in a prosecutor and/or public defender office. The experience gained is invaluable." According to Christen Commers Smith (Randolph County), this is part of what makes rural practitioners so integral to their communities: "We do it all. In my rural county, almost every attorney here acts as a public defender in some capacity."

Still, even with a broad focus and client base, recognizing the economic realities of their locality means that maintaining consistent revenue can be a challenge for these attorneys. When considering rural practice, it may help to examine the data. Things like cost of living, average billing potential, and community demographics are crucial factors in determining whether a practice can be sustainable. Here are four online tools that can provide some guidance:

- **Hoosiers by the Numbers** (hoosierdata.in.gov): Powered by STATS Indiana and the Indiana Department of Workforce Development, this is a comprehensive source for labor market information at the state and local level. Use the interactive map at the bottom of the homepage to access analyses of Economic Growth Regions (EGRs), or groups of counties across the state. Each EGR also features an IN Depth Regional Profile (bit.ly/RegionalProfiles)

	LAWYERS, JUDGES, AND RELATED WORKERS (2024)		LEGAL SUPPORT WORKERS (2024)	
COUNTIES	NUMBER	MEDIAN ANNUAL SALARY	NUMBER	MEDIAN ANNUAL SALARY
REGION 1: Jasper, Lake, LaPorte, Newton, Porter, Pulaski, Starke	1,090	$157,421	650	$50,641
REGION 2: Elkhart, Fulton, Kosciusko, Marshall, St. Joseph	650	$138,333	420	$47,307
REGION 3: Adams, Allen, DeKalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Wells, Whitley	790	$116,938	690	$50,557
REGION 4: Benton, Carroll, Cass, Clinton, Fountain, Howard, Miami, Montgomery, Tippecanoe, Tipton, Warren, White	440	$109,679	290	$45,762
REGION 5: Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, Shelby	4,360	$138,947	4,080	$48,079
REGION 6: Blackford, Delaware, Fayette, Henry, Jay, Randolph, Rush, Union, Wayne	270	$122,544	140	$40,753
REGION 7: Clay, Parke, Putnam, Sullivan Vermillion, Vigo	240	$135,130	160	$46,289
REGION 8: Brown, Daviess, Green, Lawrence, Martin, Monroe, Orange, Owen	370	$132,735	210	$47,860
REGION 9: Bartholomew, Dearborn, Decatur, Franklin, Jackson, Jefferson, Jennings, Ohio, Ripley, Switzerland	250	$126,129	180	$46,527
REGION 10: Clark, Crawford, Floyd, Harrison, Scott, Washington	250	$126,584	250	$47,700
REGION 11: Dubois, Gibson, Knox, Perry, Pike, Posey, Spencer, Vanderburgh, Warrick	520	$127,441	370	$47,363

Table One: Wage Data for Indiana's Economic Growth Regions. Source: Indiana Department of Workforce Development's Hoosiers by the Numbers.

with statistics related to that region's population, labor force, housing market, and more.

- **MIT Living Wage Calculator** (bit.ly/LivingWageCalc): The Massachusetts Institute of Technology estimates what households nationwide must earn to support their basic needs. The calculator is available for each county in Indiana, allowing users to compare and contrast the cost of living across different types of communities. (Consider using this calculator alongside the EGR wage data in **Table One** to get a rough estimate of the cost of living versus median salaries in the legal industry for each county.)
- **ISBA Career Center Insights** (jobs.inbar.org/career-insights): Use the ISBA's Career Center, a free tool available to all members, to discover average wage information and job opportunities in a given area.
- **USDA Rural Development Grants** (rd.usda.gov): The U.S. Department of Agriculture offers loans and grants for homes and businesses that may provide support to those looking to relocate and/or open a practice in a rural community.

"When I was just out of law school, I believed that practicing in a rural area would mean some lost opportunities. After 39 years, I think my thinking as a law student was wrong. I have enjoyed my practice very much and provided a very good life for my family. I believe that my quality of life is much better than it would have been in an urban community."

- Daniel Taylor, Montgomery County -

BUILDING COMMUNITY, BUILDING A PRACTICE

As is the case anywhere, rural living has its economic pros and cons. Clients may not be able to pay higher billable rates, but office rental and housing costs are generally lower than in larger cities, and grants may be available to assist with relocation or startup expenses. Limited legal services in the community may mean higher workloads for rural attorneys, but it can also make it easier for firms to grow a client base with long-term engagement. Even seemingly small perks, like short commutes, free parking, and lighter traffic, contribute to the quality of life that keeps so many practitioners rooted in their hometowns.

More than anything, though, rural attorneys seem to find value in the connectedness of and the impact that their practice and presence can have on their communities. The "big-fish–little-pond" effect of lawyering in a small town can have its drawbacks: privacy can be scarce, reputations loom large, and the pressure of constant visibility can be exhausting. But ultimately, the closeness of rural communities is what allows practitioners to plant their roots and grow their practices. Caroline Brinster previously practiced in Portland, Oregon, and is now a managing associate at the Dubois County office of a large global firm: "In Jasper, the client base tends to be more relationship-driven, with long-term engagements and repeat business being common. While the pace and volume may differ from urban practice, the consistency and trust built with clients here often leads to steady, reliable work."

Chelsea Crawford (Clinton County) values the camaraderie and solidarity of her local bar: "Our legal community looks out for and supports one another. I know that I can pick up the phone at any time and call another attorney and ask for help or resources on a question that has been bugging me. Or I can

"I have the opportunity to work on projects that make major impacts on this community. I am very proud of the changes made within it over the last 17 years. I look forward to all that is ahead"

- Adrian Halverstatdt, Huntington County -

refer clients without hesitation if it is a case I cannot take on. We all support each other in the best way we can, and I have appreciated that sense of community within our county since I began practicing."

In tight-knit populations, where everybody seems to know each other, attorneys can quickly build connections and find meaningful ways to contribute to their neighborhoods, even outside of the legal field. Like Daniel Taylor (Montgomery County), many feel a deep responsibility to their neighbors and their wellbeing: "The people in my community are great and make it a good place to live and work. I believe that my community should be better because I live and work here. It is very important to me and my law firm that we contribute our time, money, and talents to community organizations." Jeff Hawkins (Sullivan County) echoes: "I see my role as a provider of scarce legal resources and leadership skills that enhance the quality of life I share with the fellow citizens of my community."

Sebastion Crider, who practices at a small, established family firm in Henry County, shares: "I have always taken an extremely strong interest in participating in my community. Being a local attorney has helped to take that to

> **"Don't underestimate the opportunities available in a smaller community. You'll likely have the chance to take on meaningful work early in your career, build strong relationships with clients and colleagues, and become deeply involved in the community. That visibility and responsibility can accelerate your growth in ways that aren't always possible in larger markets."**
>
> - Caroline Brinster, Dubois County -

the next level. I have become very involved in the revitalization of our historic downtown, which has been extremely fulfilling and calls me to remain here indefinitely."

GUIDANCE FOR NAVIGATING RURAL PRACTICE

Taken together, these stories reflect the tensions at the heart of rural practice. It's a complex landscape of abundance and scarcity, freedom and isolation, service and strain. So, what advice would rural attorneys give to those considering practicing in these communities?

1. **Just do it**. Many urged young attorneys or seasoned practitioners looking to return to their small-town roots to take the leap into rural practice. Building a practice can lead to satisfying work and meaningful community impact.
2. **Get involved**. Rural attorneys' service goes beyond the office or courtroom. Community leadership and involvement help build reputation and purpose.
3. **Be entrepreneurial**. With a shortage of attorneys, many practitioners must hang their own shingle and offer a diversified practice to best meet the needs of their clients.
4. **Build and embrace relationships**. Long-term client and colleague relationships can be deeply rewarding. Personal connections often impact an attorney's success within the community.
5. **Be realistic and understand the tradeoffs**. Rural practice can be a grind—it requires patience and persistence to establish trust and a client base. Earnings may be lower than in urban settings, but the cost of living, lifestyle, community integration, and work-life balance are often much more fulfilling.

CARRYING THE TRADITION FORWARD

Practicing law in the 21st century may not look the same as it did in 1930s Maycomb County, Alabama, but small-town Indiana attorneys still carry the legacy of Atticus Finch: showing up every day for the communities that need them. Rural practice is not always glamorous, and it is not without challenges, from economic pressures to social dynamics. But it is also a deeply meaningful endeavor for those who serve their hometowns.

Whether you're an established practitioner in a small community or an attorney, paralegal, or law student considering practicing in a rural area, the ISBA is here to help. Visit inbar.org/RuralHub or contact Christine Cordial, ISBA's Director of Justice Initiatives, at ccordial@inbar.org for information and resources to help you thrive.

ENDNOTES

1. The ISBA solicited input, via survey, from members who practice in Indiana counties that meet the ABA's definition of a legal desert (any area with less than one attorney per 1,000 residents). Some responses have been edited for length and clarity.
2. *Commission on Indiana's Legal Future*, Indiana Judicial Branch, https://www.in.gov/courts/admin/legal-future/.
3. *ABA Profile of the Legal Profession 2024*, https://www.americanbar.org/news/profile-legal-profession/.

OVERHAUL OF AMERICA'S FEDERAL STUDENT LOAN SYSTEM: BANKRUPTCY ALTERNATIVES FOR DEFAULTED STUDENT LOANS

By Mark S. Zuckerberg and Amanda K. Quick

On July 4, 2025, President Trump signed the One Big Beautiful Bill Act (P.L. 119-21) (act) into law, marking a historical overhaul to America's federal student loan system. The act is set to have a profound impact across the country, as a record 42.5 million borrowers owe an estimated $1.661 trillion in student loan debt.[1] The act provides for numerous changes to federal student loans, including more stringent borrowing limitations, a significant reduction in repayment options, and the elimination of loan forgiveness plans. Earlier this year, the U.S. Department of Education's Office of Federal Student Aid (FSA) resumed collections on its defaulted federal student loans after a five-year collections hiatus during the COVID-19 pandemic. Nearly five million borrowers are currently in late-stage delinquency on their student loan payments, and these defaulted borrowers now face potential wage garnishment, seizure of tax refunds, and the loss of other federal benefits. Collections are expected to be a significant financial blow to borrowers who are already living paycheck-to-paycheck due to inflation, rising consumer debt, high interest rates, government layoffs, escalating trade tensions, and fears of a recession. The timing of FSA's move to resume collections on student loans is expected to drive an increase in bankruptcy filings. Fortunately for borrowers, bankruptcy provides viable options for managing burdensome debt, including federal student loans.

CHANGES TO THE FEDERAL STUDENT LOAN PROGRAM

The act sets forth a number of significant changes to the federal student loan program which must be navigated by both seasoned and new borrowers. One of the most notable changes under the act is the reduction of repayment plans for new borrowers, which will reduce the number of viable plans from seven to two. The remaining plans include (1) the standard plan and (2) the repayment assistance plan (RAP). The standard repayment plan requires new borrowers to make fixed payments for a term of 10 to 25 years, depending on the balance. The plan provides

"Students working toward earning a professional graduate degree, such as a medical or law degree, will have their annual borrowing capped at $50,000 per year."

borrowers with a larger aggregate amount of student loans to qualify for a longer repayment period. The second repayment plan available under the act is the RAP. This is a type of income-based repayment plan intended for borrowers with lower income levels that may not be able to afford the inflexible monthly payments mandated under the standard repayment plans. Both current and new borrowers will have the option to utilize RAP plans.

Despite the elimination of other income-based repayment plans, RAP is intended to provide several benefits to borrowers. First, RAP will waive any interest that is left after a borrower makes their monthly payment. As a result, borrowers will no longer see their balances grow over time despite timely payments, which was a downside of prior income-based repayment plans. RAP will also extend loan forgiveness to borrowers after 30 years, or 360 qualifying payments. The act also provides a third repayment option to borrowers who take out student loans prior to July 1, 2026. The income-based repayment (IBR) plan will still be available to these qualifying borrowers. One of the reasons IBR shall remain an option is that it was created by Congress and codified into law. IBR caps payments at 15% of borrowers' discretionary income for loans older than July 2014 and 10% of discretionary income on newer loans. IBR will most likely remain a viable option for those with older loans because pre-2014 student loans qualify for loan forgiveness after 25 years. However, borrowers should be aware that the Department of Education (DOE) has temporarily stopped processing loan forgiveness under IBR plans due to pending legal action, according to a statement from DOE Deputy Press Secretary Ellen Keast. But the DOE has stated that loan discharges will eventually resume and any payments made by borrowers after they are eligible for loan forgiveness will be refunded.[2]

One of the most notable changes in the act is the elimination of SAVE plans which previously provided the most generous repayment plan to borrowers. Nearly 7.7 million student loan borrowers are currently enrolled in SAVE plans and have faced months of uncertainty about the future of their repayment plans. On August 1, 2025, interest once again began to accrue, but since these plans are currently enjoined, required monthly payments are still on hold. Under the act, student loan borrowers in SAVE plans must move to a different repayment plan by July 1, 2028. Prudent borrowers are

advised to change repayment plans before this date to avoid their loan balances ballooning with interest. However, the new repayment plans created under the act will not be ready to launch for another year, leaving borrowers in further limbo regarding their repayment options.

Another major change in the act sets forth new borrowing limits beginning on July 1, 2026. These changes will impact graduate students and parents, but not undergraduate borrowers. Starting next year, graduate students will be capped at borrowing $20,500 per year with a lifetime graduate school loan limit of $100,000. Students working toward earning a professional graduate degree, such as a medical or law degree, will have their annual borrowing capped at $50,000 per year. However, these students will have their lifetime borrowing limit increased from $138,500 to $200,000. New borrowing limits are also being placed on parents and others who qualify for parent PLUS student loans. PLUS loans will now be capped at $20,000 per year and a total of $65,000 per child. The act also sets forth new lifetime borrowing limits of $257,500 per person for both undergraduate and graduate student loans.

In addition to the changes set forth in the act, on May 5, 2025, the federal government restarted collections on defaulted student loans. During the unprecedented COVID-19 pandemic, a moratorium on student loan payments and collections was put into place by the federal government in March 2020. As of the end of the second quarter in 2025, 11.3% of federal student loans were in default.[3] The government will resume collections through its Treasury Offset Program (TOP) which allows the government to withhold various federal payments, including up to 100% of federal tax refunds, 15% of federal salaries, 15% of Social Security and Railroad Retirement benefits, 25% of federal retirement payments, 100% of payments to vendors, and 100% of travel payments for federal employees. It could also affect up to 100% of some state payments, for states that have reciprocal agreements with the federal government.[4] Use of TOP to collect on defaulted student loans is nothing new or groundbreaking—in fact, it was employed prior to the pandemic for years to collect on defaulted student loans and other debts owed to the federal government.

"The historic changes to the federal student loan system, as well as the recommencement of collections on defaulted student loans, occur as bankruptcy filings across all Chapters of the Bankruptcy Code have seen increases in the number of filings."

BANKRUPTCY RELIEF FOR FINANCIALLY STRAPPED BORROWERS

The historic changes to the federal student loan system, as well as the recommencement of collections on defaulted student loans, occur as bankruptcy filings across all Chapters of the Bankruptcy Code have seen increases in the number of filings. For years, bankruptcy filings were on the decline due to a myriad of federal aid programs and forbearance periods during the COVID-19 pandemic. However, bankruptcy filings rose 11.5% during the 12-month period ending June 30, 2025, with non-business bankruptcy filings rising 11.8%.[5] This represents a similar rate of increase in filings as shown in previous quarterly reports.

The benefits of bankruptcy filing cannot be overstated for borrowers facing collection, lawsuits, and who are seemingly otherwise without options. Bankruptcy provides a feasible tool for managing student loan debt and, in some cases, a partial, contingent, or full discharge of student loans may be possible.

At its core, one of the fundamental principles of the Bankruptcy Code is the promise of a "fresh start" through the discharge of debts. Upon the filing of a bankruptcy petition, the automatic stay under Bankruptcy Code § 362 immediately goes into effect. The automatic stay acts as a temporary injunction enjoining creditors from collection efforts. This effectively gives debtors breathing room from wage garnishment, the seizure of Social Security benefits and tax refunds, lawsuits, and other collection attempts by creditors. Creditors that violate the automatic stay face contempt of court and may be ordered to pay damages.

The recommended type of bankruptcy filing depends on numerous factors, including household income, the amount and type of debt owed, and whether a debtor is trying to cure a default on secured loans such as a home mortgage or vehicle loan. Chapter 7 bankruptcy is referred to as the liquidation Chapter of the Bankruptcy Code. In Chapter 7, debtors are able to discharge most, if not all, of their debts. However, non-exempt assets are required to be turned over to the bankruptcy

trustee to be sold, with the proceeds used to pay creditors. Chapter 7 bankruptcies usually only take a few months, and at the end a debtor is granted a discharge of his or her debts permanently enjoining creditors from collection efforts.

Alternatively, Chapter 13 bankruptcy involves a reorganization of debt with a debtor required to enter into a three to five year long monthly payment plan approved by the Bankruptcy Court. One of the biggest advantages of Chapter 13 bankruptcy is the binding of creditors to a confirmed repayment plan. Chapter 13 gives debtors the ability to make a consolidated, affordable monthly payment toward debt which is based upon a debtor's household income and expenses. As in Chapter 7, debtors are granted a discharge upon the successful completion of a Chapter 13 plan.

STUDENT LOAN DISCHARGES IN BANKRUPTCY

Despite the promise of a "fresh start" by the Bankruptcy Code, a fresh start is not equal between all debtors. Student loans have been historically difficult to discharge as they are one of the enumerated exceptions to discharge in the code. Specifically, Bankruptcy Code § 523(a)(8) provides an exception to discharge of government-backed and private student loans, unless a debtor can demonstrate that excepting such debt from discharge would impose an undue hardship on the debtor and the debtor's dependents.[6] The term "undue hardship" is not defined in the Bankruptcy Code, and courts are split on the standard to apply in determining a request for discharge of student loans.

The Seventh Circuit Court of Appeals has adopted the majority approach in defining "undue hardship" as originally set forth by the Second Circuit in *Brunner v. New York State Higher Educ. Serv., Corp.*[7] The three-pronged test requires the debtor to show that (1) the debtor cannot maintain, based on current income and expenses, a "minimal" standard of living for herself or her dependents if forced to repay the loans; (2) additional circumstances exist indicating that this state of affairs is likely to persist for a significant portion of the repayment period for the student loans; and (3) the debtor has made good faith efforts to repay the loans. The debtor has the burden of establishing each element by a preponderance of the evidence.[8] Recently, the Seventh Circuit cautioned against applying the multi-factor *Brunner* test so restrictively as to overtake the language of the statute itself, which requires only "undue hardship."[9] Other courts have interpreted this as softening the "certainty of hopelessness" under the second prong of the *Brunner* test.[10]

The case *In re Roth*[11] is illustrative of the hurdles faced by student loan borrowers in dischargeability proceedings. *Roth* involved a Chapter 7 debtor (debtor) who had attended Butler University's pharmacy program. Unfortunately, the debtor struggled academically and was dismissed from the program. In May 2018, the debtor initiated an adversary proceeding in which he was eventually able to reduce his $80,000 in student loan debt to $10,000 to be paid over 15 years. Thereafter, the debtor's student loan payments totaled just $55 per month, but it was noted he had accrued significant legal fees in the course of litigation. He subsequently filed another adversary proceeding to discharge the balance of his student loan debt under Bankruptcy Code § 523(a)(8). DOE filed a motion for summary judgment, which was ultimately granted by Judge Graham.

The Bankruptcy Court found the DOE was not entitled to summary judgment in its favor under the first prong of the *Brunner* test. Although the debtor was employed at the time of the decision, based on his current budget, it was determined he could

not maintain a minimal standard of living if forced to repay the student loans. Under the second prong, the Bankruptcy Court found the debtor had not demonstrated "additional, exceptional circumstances" that made repayment of the student loans improbable. Under the third and final prong, the Bankruptcy Court was unable to conclude the debtor made a good faith effort to repay his student loans. Judge Graham noted the amount of legal fees incurred by the debtor over the years toward student loan-related litigation struck the Bankruptcy Court as disproportionate. In fact, a significant portion of the debtor's budget since 2018 had gone toward paying his hefty attorney fees. The court noted it was not per se bad faith for a debtor to incur legal fees, but the debtor refused to consider a student loan repayment program. Further, the debtor had not made a single payment to the DOE while opting instead to pay down his attorney fees. Therefore, the Bankruptcy Court concluded the debtor failed to demonstrate a genuine issue of material fact as to the third prong under *Brunner*. Accordingly, the DOE's motion for summary judgment was granted.

CONCLUSION

The systemic overhaul of the federal student loan system has left millions of Americans with questions regarding their student loan payments, eligibility for repayment programs, and loan forgiveness. Borrowers now face extended repayment terms, the termination of loan forgiveness programs, and the resumption of collections by the Department of Education. Bankruptcy offers debtors a "fresh start" and provides feasible alternatives for student loan borrowers who suddenly find themselves facing wage garnishment, lawsuits, and the seizure of tax refunds. Although student loans have been historically difficult to discharge in bankruptcy, new guidance from the federal government has helped to facilitate settlement of dischargeability proceedings in recent years. Even in cases in which student loans are not subject to discharge, the automatic stay provides financial breathing room for borrowers facing pressure from creditors. A bankruptcy discharge of other types of debt will also free up funds for student loan borrowers to enter into feasible repayment plans. Bankruptcy professionals are able to provide invaluable insight and assistance to borrowers as they attempt to navigate this unchartered territory, with the ultimate goal of securing borrowers the "fresh start" promised by the Bankruptcy Code.

ENDNOTES

1. Melanie Hanson, *Student Loan Debt Statistics*, Education Data Initiative (Aug. 8, 2025), https://educationdata.org/student-loan-debt-statistics.
2. Aurthur Jones, II, *With Student Loan Forgiveness under IBR Temporarily Paused, What It Means for Millions of Borrowers*, ABC News (July 25, 2025), https://abcnews.go.com/Politics/student-loan-forgiveness-paused-ibr-plan-means-millions/story?id=124000486.
3. Melanie Hanson, *supra*.
4. Alison Durkee, *Trump Resumes Defaulted Student Loan Collections Today-Impacting Millions of Borrowers. Here's What to Know*, Forbes (Apr. 29, 2025), https://www.forbes.com/sites/alisondurkee/2025/04/29/trump-admin-resumes-defaulted-student-loan-collections-may-5-impacting-millions-of-borrowers/.
5. *Bankruptcies Rise 11.5 Percent Over Previous Year*, United States Courts (July 31, 2025), https://www.uscourts.gov/data-news/judiciary-news/2025/07/31/bankruptcy-filings-rise-115-percent-over-previous-year.
6. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 278 (2010) ("the bankruptcy court must make an independent determination of undue hardship…even if the creditor fails to object or appear in the adversary proceeding").
7. *Brunner v. New York State Higher Educ. Serv., Corp*, 831 F.2d 395 (2d Cir. 1987).
8. *Grogan v. Garner*, 498 U.S. 279, 291, 111 S.Ct. 654, 112 L.Ed.2d 755 (1991); *see also In re Roberson*, 999 F.2d 1132 (7th Cir. 1993).
9. *Krieger v. Educ. Credit Mgmt. Corp.*, 713 F.3d 882, 884-85 (7th Cir. 2013).
10. *Manion v. Modeen* (In re Modeen), 586 B.R. 298, 303-04 (Bankr. W.D. Wis. 2018).
11. *In re Roth*, Case No. 17-04109-JJG-7, Adv. Proc. No. 20-50056 (Bankr. S.D. Ind. Apr. 27, 2022).

TOO FAST, TOO EASY

By Adam Mueller, Fran Quigley, Megan Stuart, and Judith Fox

Indiana is in an eviction crisis. Each year, nearly 70,000 eviction cases are filed in our state's courts, affecting more people annually than live in the state's third-largest city. Worse still, households with children under the age of five are the most likely to face eviction.

When discussing reforms to address this crisis, much of the attention has been directed at the legislative and executive branches of Indiana government. But our courts bear significant responsibility as well.

As we write in our new report, *Too Fast, Too Easy: How Indiana Courts are Fueling Our Eviction Crisis*,[1] eviction cases in Indiana are rushed through at extraordinary speed. And the stakes for families and children could not be higher.

Evictions are the legal proceedings landlords typically use to resolve disputes in leases (like unpaid rent). But unlike most legal disputes, which move slowly and allow for careful consideration, tenants are often given only a few days' notice before their hearing. Many hearings last less than five minutes. Families facing the loss of their homes, one of the most impactful decisions a court can make, are not served well by our legal system.

The consequences ripple far beyond the courtroom. Evictions destabilize families, cause children to suffer educational and health setbacks, and push many Hoosiers into unsafe or exploitative housing.

The stain of an eviction filing often follows tenants for years, making it harder to secure future housing even if the case was dismissed. In practice, the courts have become a driver of homelessness, family trauma, and community instability.

Through court rules of procedure, Indiana judges have the opportunity, and the responsibility, to correct course.

In our report, we propose the following reforms, practical steps to slow down the process, ensure greater balance, and restore public confidence in the courts as fair and impartial arbiters:

- **Give tenants more time to prepare**. Eviction hearings should not be rushed. Courts should provide a meaningful window, at least three weeks, for tenants to respond before a case moves forward. That timeline mirrors the time to respond to other civil filings.
- **Require mediation before eviction**. Landlords and tenants should have the chance to work out disputes, with court-supported mediation both before a case is filed and before a judgment is entered. Again, this reform mimics requirements in many other types of civil matters.
- **Protect tenants in unsafe housing**. Tenants should be allowed to pay rent into a court escrow account if their landlord fails to maintain safe and livable conditions, ensuring accountability and preventing evictions.
- **Keep eviction filings private until resolved**. Records should remain confidential until a final judgment is made, preventing tenants from being unfairly blacklisted for cases that may be dismissed.

By embracing these reforms, Indiana's courts can show that fairness to all parties, not speed or convenience, is the core value of our state's legal system.

ENDNOTE

1. Fran Quigley, Megan Stuart, Judith Fox, and Adam Mueller, *Too Fast, Too Easy: How Indiana Courts are Fueling Our Eviction Crisis*, available at https://www.indianajusticeproject.org/housing-justice.

CRIMINAL JUSTICE NOTES

By Joel Schumm

SEPTEMBER CASES ADDRESS INTIMIDATION, NEGLECT, CREDIT TIME

During September, the Indiana Supreme Court issued no majority opinions in criminal cases, while the Court of Appeals issued opinions addressing intimidation, neglect, and pretrial credit time. The column concludes with statistics highlighting the decreasing number of criminal opinions from the Indiana Supreme Court.

INDIANA COURT OF APPEALS

INTIMIDATION CONVICTION REVERSED FOR LACK OF COMMUNICATION OF TRUE THREAT

In *Lester v. State*, No. 25A-CR-44, 2025 WL 2611752 (Ind. Ct. App. Sept. 10, 2025), the defendant sent a Snapchat direct message to a group of about twenty others with whom he exchanged "dark humor" messages. The message was a selfie with a bathroom shower behind him and included the caption: "Now that I've showered and washed my sins away I can go and shoot up a preschool." *Id.* at *1. Snapchat flagged the message and notified the FBI, which contacted local police. *Id.* Lester was later charged with and convicted of intimidation.

Intimidation requires the state to prove that the defendant communicated a threat, among other things. Ind. Code § 35-45-2-1. The statute further defines "threat" as an expression by words or action of an intention to unlawfully injure the person threatened or another person. I.C. § 35-45-2-1(c)(1). Whether a statement is a threat is an objective question for the trier of fact.

In *Lester*, the appellate court focused primarily on communication, which requires that the statement was "transmitted in such a way that the defendant knows or has good reason to believe the statement will reach the victim." 2025 WL 2611752, at *2. Lester sent the message to a private Snapchat group of about twenty individuals, but there "was no evidence that anyone in that Snapchat group had a connection to any preschool." *Id.* at *3. Although law enforcement considered the message a "credible threat," no one from "the nearby preschool—or for that matter any preschool—who was in fact placed in fear by the message." *Id.*

Finally, the court rejected the state's reliance on the reach the online message in a public forum could have because "Lester did not post the message to a public forum and, rather, sent it directly to a private Snapchat group." *Id.* at *4. Thus, although the message was "inappropriate and disturbing," the state presented insufficient evidence to support an intimidation conviction. *Id.*

NEGLECT CONVICTION UPHELD BASED ON CHILD'S SUICIDE

In *Dirig v. State*, No. 25A-CR-119, 2025 WL 2656376 (Ind. Ct. App. Sept. 17, 2025), the defendant was convicted of Level 1 felony neglect of a dependent for the suicide death of his girlfriend's son. The offense requires proof that he knowingly or intentionally placed the boy in a situation that endangered the boy's life or health, resulting in his death. Ind. Code § 35-46-1-4(a)(1), (b)(3).

The state made the requisite showing of "a subjective awareness of a high probability that he had placed [the boy] in a dangerous situation" when the defendant locked the boy in his room for more than an hour without supervision. *Id.* at *4. The defendant knew that the boy's emotionally reactive episodes presented suicide risks, including that the boy "had made repeated references to and had engaged in repeated behaviors relating to suicide-by-strangulation." *Id.* The defendant knew that he and the boy's mother needed to make the house safe from strangulation risks. The boy "was not to be left alone in his room for more than a few minutes and was to be monitored during that time." *Id.* Nevertheless, he left the boy with "implements" in the room with which the boy "could strangle himself." *Id.* Although suicide may be unpredictable in some instances and "suicide by children under ten is statistically rare in the United States," the court concluded "the risk here was evident, and Dirig knowingly disregarded it." *Id.*

The appellate court also rejected Dirig's argument that his actions or inactions were neither the cause-in-fact of the boy (T.C.'s) death nor the proximate cause of his death. Rather, it found "for Dirig locking an emotionally reactive T.C. in a room by himself with strangulation implements and without any supervision, T.C. would not have died. And, given T.C.'s medical and behavioral histories and Dirig's awareness of those histories, T.C.'s death was imminently foreseeable." *Id.* at *5.

DEFENDANTS CANNOT BE DENIED PRE-SENTENCING CREDIT TIME FOR FRIVOLOUS FILINGS

In *Jones v. State*, No. 24A-CR-2608, 2025 WL 2691067 (Ind. Ct. App. Sept. 22, 2025), the trial court found the defendant in direct contempt of court and deprived him good time credit on several occasions because of his pro se filings while being represented by counsel.

The parties agreed on appeal that the deprivation of credit time was error. A defendant is entitled to credit time for each day spent in confinement awaiting trial or sentencing. Ind. Code § 35-50-6-3. Defendants **incarcerated in a penal facility** may be deprived of good time credit for bad behavior and conduct violations, or if the court determines that a civil claim brought by a defendant is frivolous, unreasonable, or groundless. I.C. § 35-50-6-0.5; I.C. § 35-50-6-5. But pretrial sentence jail time credit "is a matter of statutory right, and trial courts generally have no discretion in awarding or denying such credit." *Jones*, 2025 WL 2691067, at *4.

Because Jones was statutorily entitled to credit time while awaiting sentencing, the trial court was without discretion to deprive him of credit time as a sanction for filing pro se pleadings. The case was remanded for the trial court to calculate and award the correct amount of credit time. *Id.*

INDIANA SUPREME COURT

CRIMINAL OPINIONS FROM THE INDIANA SUPREME COURT ARE INCREASINGLY RARE, BUT JUSTICES ARE WRITING DISSENTS WHEN DENIALS ARE 3-2

In September the Indiana Supreme Court issued its annual report for the fiscal year ending June 30, 2025, noting that it issued only six criminal transfer opinions in the 12-month period.[1] That number has been steadily declining in the past decade, but six is a record low. See the charts on the next page.

The number of cases in which transfer was sought has also declined over the past decade, but the second chart shows that the small number of criminal transfer opinions is also at a historically low percentage of the court's criminal docket. Instead of granting transfer in well over 5% of criminal cases a decade ago, the justices have taken less than 2% of criminal transfers in the past two years.

Put another way, criminal case litigants had about a 1 in 50 chance of their petition to transfer being granted, while civil litigants saw a grant rate of nearly 14% (about 1 in 7) during the same period.[2]

Although the court issued no majority opinions in criminal cases in September, justices on the losing

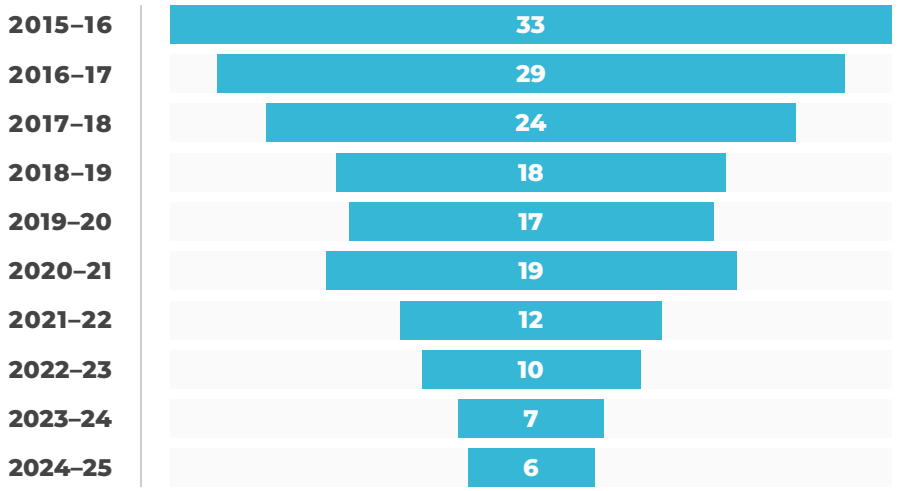
side of 3-2 votes penned powerful dissenting opinions in September.

The justices denied transfer 3-2 in *Lee v. State*, 265 N.E.3d 522 (Ind. 2025), a case involving a 14-year-old tried as an adult for murder and sentenced to the advisory term of 55 years. Justice Molter, joined by Chief Justice Rush, dissented. He reiterated that appellate review of sentences under Rule 7(B) is intended, in part, to "identify some guiding principles for trial courts and those charged with improvement of the sentencing statutes." *Id.* at 523.

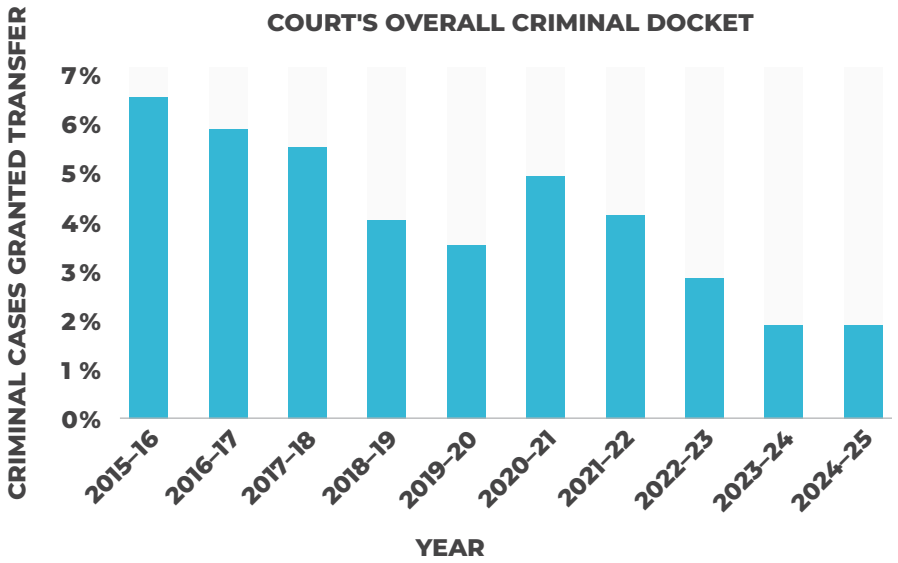
In their view, the case offered an opportunity to identify guiding principles for sentencing those convicted of committing murder in their youth, a topic on which current precedent sends "two conflicting messages": (1) sentencing adults who commit murder and sentencing youths who commit murder both begin at the same starting point: the 55-year statutory advisory sentence and (2) "[s]entencing considerations for youthful offenders…are not coextensive with those for adults," so "both at initial sentencing and on appellate review it is necessary to consider an offender's youth and its attendant characteristics." *Id.* at 523-24 (citations omitted) As to the second point, "children lack maturity and have an underdeveloped sense of responsibility;" "they are more vulnerable to negative influences and pressures;" and "their character is less developed than that of adults." *Id.* at 524 (citation omitted).

The dissent concludes by proposing the following guiding principle: "While the advisory sentence is the starting point, youth status presumptively warrants a sentence lower in the statutory range, although aggravating circumstances may overcome the presumption." *Id.*

NUMBER OF CRIMINAL TRANSFER OPINIONS ISSUED BY INDIANA SUPREME COURT EACH YEAR



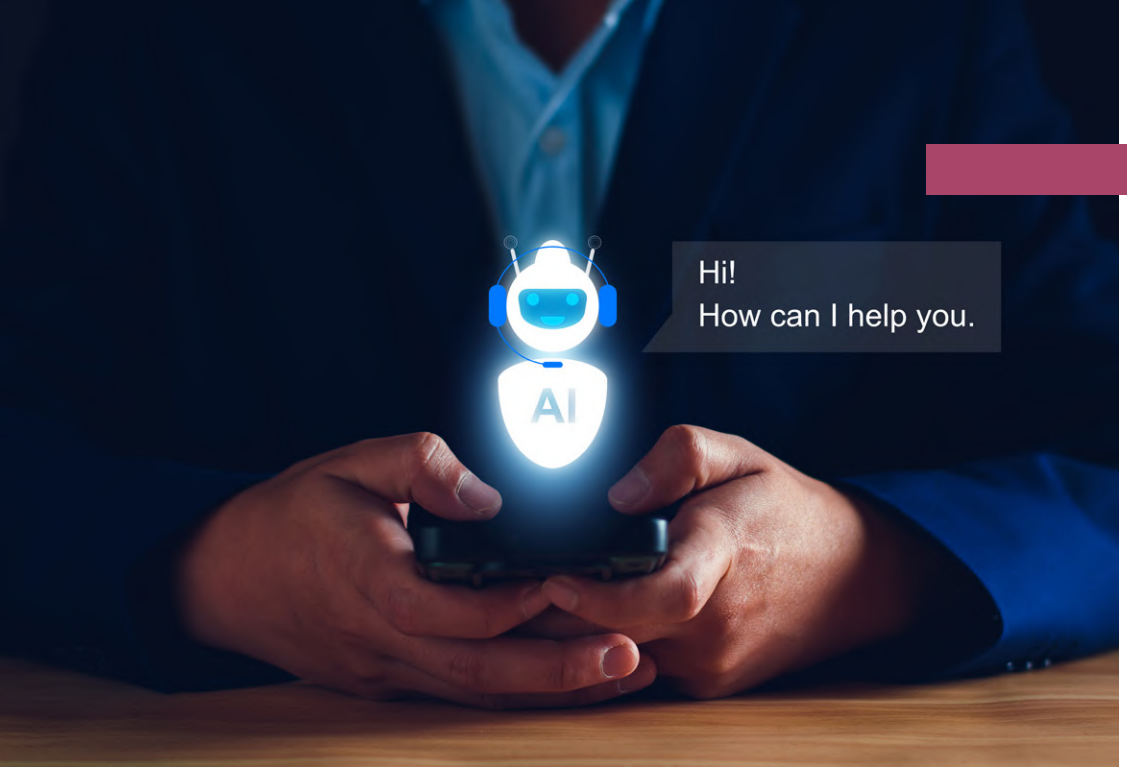
PERCENTAGE OF CRIMINAL TRANSFERS GRANTED IN COURT'S OVERALL CRIMINAL DOCKET



Second, in *M.H. v. State*, 265 N.E.3d 525 (Ind. 2025), the court denied transfer 3-2 with Chief Justice Rush, joined by Justice Goff, dissenting in a published order. They opined the trial court committed fundamental error by placing a child in the Department of Correction based on an alleged violation of his court-ordered placement without holding any evidentiary hearing or hearing any evidence to support the modification of the dispositional order. *Id.*[3]

ENDNOTES

1. The court's annual reports are available at https://www.in.gov/courts/supreme/annual-reports/.
2. According to page 13 of this year's report, the Indiana Supreme Court issued 35 civil transfer petitions out of a total of 251 civil cases.
3. Appellate Rule 2(G) defines criminal appeals broadly to include juvenile delinquency and other types of cases like infractions. However, the court's annual report counts juvenile delinquency appeals as civil matters.



ETHICS

By Cari L. Sheehan

SAFELY AND EFFECTIVELY USING GENERATIVE AI IN LEGAL PRACTICE

"How can we safely and effectively use generative AI in legal practice?" This question has become a focal point of modern professional discourse and one of the most debated topics among attorneys today. The release of ABA Formal Opinion 512 on July 29, 2024, marks a pivotal moment in the ethical conversation surrounding generative artificial intelligence (GenAI) in law. The opinion clarifies the parameters for responsible use and heightens practitioner awareness regarding both the opportunities and risks presented by this rapidly evolving technology.

ETHICAL FOUNDATIONS AND CORE DUTIES

Since the publication of Formal Opinion 512, lawyers have been compelled to reexamine how GenAI intersects with long-standing professional duties, including competence under Rule 1.1; confidentiality under Rule 1.6; supervisory responsibilities under Rules 5.1 and 5.3; billing and fees under Rule 1.5; client communication under Rule 1.4; truthfulness and candor under Rules 3.3, 4.1, and 7.1; and anti-bias and professional misconduct provisions under Rule 8.4(a), (d), and (g). Among these, confidentiality and truthfulness present the most pressing challenges in the GenAI context. Publicly available AI platforms are not designed to preserve confidentiality; they are often "self-learning," store user inputs, and may transmit data through unknown third parties. This introduces significant risks to client secrets and privileged information. Moreover, no GenAI platform guarantees the accuracy of its outputs, and most user agreements explicitly assign responsibility for

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accuracy to the user. Accordingly, attorneys must avoid using public-facing GenAI tools for matters involving client-specific facts or substantive legal work unless adequate safeguards are in place. Such safeguards include contractual confidentiality assurances, technological protections such as closed models, oversight mechanisms, and informed client consent.

CLOSED SYSTEMS AND EQUITY IN ACCESS

In response to these challenges, many firms have invested in closed-circuit, enterprise GenAI platforms that maintain confidentiality within the "four walls" of the firm. These systems significantly mitigate risk and are rapidly becoming the gold standard among larger firms. But what about smaller firms or solo practitioners who cannot afford enterprise-level systems? How can they remain competitive while staying compliant?

Public-facing GenAI tools can still provide tremendous value when used appropriately. No firm, regardless of size, wants to be left behind as others adopt increasingly powerful technologies. GenAI tools are especially effective for general or non-representational tasks such as drafting forms, checklists, FAQs, marketing materials, educational resources, blog posts, and client alerts, or developing training materials and social media content. Attorneys should think of GenAI as a well-trained intern or junior associate—helpful for generating ideas and first drafts but requiring supervision and verification before any output reaches a client or public audience. When used in this capacity, public-facing GenAI can enhance efficiency and creativity without compromising ethics, providing an accessible alternative to expensive enterprise versions. GenAI should serve as the starting point, not the ending point, of the lawyer's work.

THE ETHICAL INTERSECTION OF GENAI, DIGITAL MEDIA, AND MODERN ADVERTISING

One of the most promising and ethically manageable areas for public GenAI use is in advertising and client engagement. As client communication increasingly migrates online, attorneys face both competitive pressures and regulatory scrutiny. Tools such as ChatGPT are transforming how legal professionals create and disseminate marketing and educational content. However, these advances exist within a uniquely regulated framework. All advertising—digital or otherwise—remains subject to the Rules of Professional Conduct, particularly those governing misleading statements, solicitation, and attorney-client formation. The convergence of rapid technological innovation with traditional ethical constraints presents both unprecedented opportunity and complex risk. Lawyers must ensure that any GenAI-assisted content adheres to truthfulness requirements, avoids misleading implications, and undergoes proper editorial review before publication. Rule 7.1 prohibits attorneys from making false or

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misleading communications, and this duty extends fully to GenAI-generated media. Rule 7.2 governs the form and content of advertising, mandating the disclosure of identifying information and applicable disclaimers, while Rule 7.3 carefully circumscribes permissible solicitation practices. Compliance therefore encompasses not only the content of the message but also the manner, timing, and targeting of communication. These rules, once tailored to print and television, now explicitly encompass all digital and social channels—including websites, blogs, and platforms such as TikTok.

GENAI IN BLOGS, TIKTOK, AND SOCIAL MEDIA

The integration of GenAI into blogs allows for unprecedented productivity and consistency in content creation. However, attorneys must thoroughly fact-check all AI-generated drafts, ensuring that no material misstatements are present and that all required disclaimers—such as "Advertising Material"—are conspicuously included where appropriate. Blogs must also distinguish between educational legal analysis and communications designed to solicit business. When blogs serve in part as attorney advertising, they are subject to all professional rules requiring accurate identification of the author or firm and verification of all claims presented. Similarly, attorneys employing video-based platforms such as TikTok face the challenge of delivering engaging, authentic content while observing all professional limitations. Educational and entertaining videos should be paired with clear disclaimers. Statements regarding experience, case outcomes, or practice areas must be carefully vetted to avoid any implication of false expertise or guarantee of results. The best practices mirror those established for traditional legal advertising: Every public message must be evaluated using the same ethical lens, regardless of the medium. Moreover, the inherently viral nature of platforms like TikTok, Instagram, and YouTube amplifies any misstatement or ethical lapse, heightening the risks of even inadvertent violations of Rules 7.1 and 7.2. Client confidentiality remains paramount. No GenAI-generated or original content should contain information that directly or indirectly identifies clients or ongoing matters without express, informed consent. Finally, compliance is an ongoing process. As new technologies emerge, attorneys must regularly audit their marketing practices, update disclaimers, train staff on evolving rules, and monitor all GenAI-driven content for continuing compliance. Recordkeeping of all distributed advertisements remains a regulatory mandate, with documentation requirements clearly set forth in both state and ABA commentaries.

CONCLUSION: BALANCING PROMISE AND PROFESSIONALISM

Generative AI heralds a new era in legal advertising and communication, from blogs and newsletters to TikTok and beyond. The promise of efficiency, creativity, and reach must be balanced by a renewed commitment to professional integrity and compliance with ethical rules. Attorneys who embrace GenAI responsibly—critically reviewing content, upholding client confidentiality, and consistently framing outreach within the contours of the Rules of Professional Conduct—will be best positioned to benefit from the technology's transformative potential. When used wisely, GenAI can empower lawyers to better inform the public, expand access to legal knowledge, and advance the profession's highest standards of service and trust.

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CIVIL LAW UPDATES

By Jenny Buchheit, Rani Amani, and Abby DeMare

SEPTEMBER CASES DISCUSS JURY'S ROLE AS "JUDGE OF EVIDENCE," MORE

In September 2025, the Indiana Supreme Court decided one civil case, while the Indiana Court of Appeals issued 15 published civil opinions.

INDIANA SUPREME COURT

EMPHASIZING JURY'S ROLE AS THE "EXCLUSIVE" JUDGE OF EVIDENCE, COURT AFFIRMS CONCLUSION THAT EVIDENCE DOESN'T ESTABLISH PEDESTRIAN WAS CONTRIBUTORILY NEGLIGENT AS A MATTER OF LAW, AND JURY'S VERDICT IN FAVOR OF PEDESTRIAN IN SUIT AGAINST INDYGO WASN'T CLEARLY ERRONEOUS

In *Indianapolis Public Transportation Corp. d/b/a IndyGo Public Transportation v. Norma Jean Bush*, 2025 WL 2640911 (Ind. Sept. 15, 2025), an intoxicated pedestrian trying to board an IndyGo bus fell into the road as the bus pulled away from a stop, was run over, and later died of his injuries. His mother brought a wrongful death suit against IndyGo, asserting negligence. During the subsequent jury trial, IndyGo moved for judgment on the evidence, and later, after the jury returned a verdict for the

estate, filed a motion to correct error after the trial court rejected its argument that the pedestrian was contributorily negligent as a matter of law. The court affirmed.

The court first clarified that an appellate court reviews motions to correct error made under T.R. 59(J), as was made here, *de novo*, as they are akin to a review pursuant to T.R. 50(A)—i.e., "both rules mandate that the motion be granted when there is insufficient evidence under the law to support a verdict" (citations and quotations omitted). Here, when considering the evidence before the jury, the court determined there were reasonable inferences that the pedestrian was not contributorily negligent as a matter of law. The court noted this was a "close case," but it was not its role to stand in place of the factfinder. The court emphasized the attentiveness of this particular jury to the evidence, that the jury was properly instructed, and presumed the jury followed the instructions. Justices Slaughter and Massa dissented, concluding the evidence pointed only to the pedestrian's contributory negligence, meaning the court should either deny transfer or summarily affirm the Court of Appeals' opinion (which reversed the trial court's denial of IndyGo's motion to correct error in a 2-1 decision).

INDIANA COURT OF APPEALS

- *Burgess v. Bd. of Zoning Appeals for Town of Utica*, 2025 WL 2599876 (Ind. Ct. App. Sept. 9, 2025) (Pyle, J.) (dismissing appeal from denial of use variance for church construction where petitioner filed judicial review more than 30 days after zoning board's vote, reasoning board's decision occurred at conclusion of May 3 hearing rather than later adoption of written findings, making petition untimely under I.C. § 36-7-4-1605).
- *Lopp v. Lopp*, 2025 WL 2656253 (Ind. Ct. App. Sept. 17, 2025) (DeBoer, J.) (reversing trial court's division of marital estate in dissolution proceeding where court deviated from presumption of equal division without valuing entire estate or considering all statutory factors, reasoning findings were incomplete and deficient, and directing court to recalculate and articulate reasons for any unequal division).
- *In re Adoption of Au.S.*, 2025 WL 2680007 (Ind. Ct. App. Sept. 19, 2025) (Felix, J.) (reversing adoption court's denial of grandparents' motions to intervene and correct error where adoption was finalized, reasoning jurisdictional priority of custody action created extraordinary circumstances justifying permissive intervention, and adoption court abused its discretion by denying intervention without hearing); (Tavitas J., concurring with separate opinion) (noting grandparents were entitled to intervention as of right in adoption proceedings given pending custody case, criticizing parties' failure to disclose custody action as "gamesmanship," and warning such conduct may implicate attorneys' duties of candor and fairness to tribunal).
- *Lawson v. McClendon-Campbell*, 2025 WL 2679851 (Ind. Ct. App. Sept. 19, 2025) (Najam, S.J.) (affirming trial court's denial of post-trial motions for remitter of verdict and judgment notwithstanding the verdict, finding defendants liable for damages sustained by plaintiff in motor vehicle collision, reasoning ample evidence supported large award for plaintiff's pain and suffering, and sufficient evidence related to defendants' fault as the "but for" cause to support the jury's verdict).
- *Thomas F. Noons and Raymond W. Sanders v. First Merchants Bank*, 2025 WL 2679908 (Ind. Ct. App. Sept. 19, 2025) (Foley, J.) (reversing trial court's grant of summary judgment in favor of First Merchants in foreclosure action, reasoning entry of summary judgment was premature because guarantors' time to respond to First Merchants' motion had not yet expired when case was removed to federal courts, which suspended and tolled applicable filing deadlines in state court until case was remanded).
- *Cingel v. Ferreri*, 2025 WL 2680017 (Ind. Ct. App. Sept. 19, 2025) (Felix, J.) (affirming trial court's award of custody arrangement, denial of Cingel's request for relocation, and denial of motion to correct error, reasoning that Cingel, appearing pro se, waived her arguments due to noncompliance with Appellate Rule 46 upon identifying citations to nonexistent legal authorities in briefing, and otherwise finding no basis for reversal on the merits).
- *Indiana Housing & Cmty. Dev. Auth., et al. v. Blanchard, et al.*, 2025 WL 2699366 (Ind. Ct. App. Sept. 23, 2025) (Tavitas, J.) (2-1) (reversing trial court's grant of preliminary injunction to enjoin termination of IERA2 because plaintiffs lack standing under AOPA, and thus cannot demonstrate a likelihood of success on their

claim, and reversing trial court's certification of a class, finding the class, as defined, is not sufficiently definite); (Felix, J., concurring in result with separate opinion) (concurring in reversal of preliminary injunction, but because plaintiffs' AOPA claims challenge a rule not subject to judicial review, as opposed to an order, and concurring in reversal of class certification, but because AOPA does not allow for class-wide relief in challenging an agency action); (Vaidik, J., dissenting) (concluding plaintiffs are challenging the denials of their applications for rental assistance that is an "order" subject to review, and finding no blanket prohibition on class actions under AOPA and no abuse of discretion in trial court's certification of the class).

- *City of Bloomington v. Cnty. Residents Against Annexation, Inc.*, 2025 WL 2714916 (Ind. Ct. App. Sept. 24. 2025) (Weissman, J.) (affirming trial court's order halting annexation of two areas adjacent to the city, finding statutory requirements for annexation had not been met and rejecting city's argument that trial court misconstrued requirements).
- *BioConvergence LLC v. Eddy*, 2025 WL 2714652 (Ind. Ct. App. Sept. 24, 2025) (Mathias, J.) (affirming trial court's award of attorneys' fees and costs after lengthy litigation between the parties, remanding for calculation of appellate attorneys' fees, all of which were authorized by the parties' agreement).
- *Davidson v. Hammond*, 2025 WL 2726745 (Ind. Ct. App. Sept. 25, 2025) (Crone, S.J.) (reversing judgment of small claims court, concluding court erred in determining Davidson waived right to jury trial and remanding with instructions).
- *Blanchard v. HRC Hotels, LLC d/b/a TownePlace Suites by Marriott Fort Wayne North*, 2025 WL 2739077 (Ind. Ct. App. Sept. 26, 2025) (Vaidik, J.) (trial court properly denied Blanchard's motion for judgment on the evidence on issue of liability, finding sufficient evidence to support jury's determination that Blanchard was negligent, and court did not abuse its discretion by intervening in witness examination, where Blanchard's counsel was asking variations of the same questions the witness had already answered); (Bailey, J., concurring in part and dissenting in part) (concurring trial court didn't abuse its discretion when intervening in witness examination but dissenting from majority's conclusion that trial court properly denied Blanchard's motion for judgment on the evidence).
- *Beaver Gravel Corporation, et al. v. Valdovich, et al.*, 2025 WL 2750398 (Ind. Ct. App. Sept. 29, 2025) (Weissmann, J.) (affirming trial court's reversal of BZA's grant of variance to Beaver Gravel to operate a sand and gravel mine due to absence of evidence supporting BZA's finding of an unnecessary hardship, a statutory requirement to support approval of a variance, because property could be put to other conforming uses).
- *Bryan Builders, LLC v. Cincinnati Cas. Co.*, 2025 WL 2778494 (Ind. Ct. App. Sept. 30, 2025) (Vaidik, J.) (affirming trial court's grant of summary judgment in favor of subcontractor and sub-subcontractor, and their insurers, where construction agreements incorporated AIA standard contracts into their master agreement, which delegated insurance responsibilities to each of the parties and contained a subrogation waiver, which ultimately barred contractor's claim for reimbursement of repair costs for fire at the project site).
- *NIPSCO Indus. Grp. v. N. Ind. Pub. Serv. Co. et al.*, 2025 WL 2779251 (Ind. Ct. App. Sept. 30, 2025) (Scheele, J.) (affirming IURC's approval of NIPSCO's TDSIC Plan and related cost increases, reasoning NIPSCO provided specific justification for extraordinary inflation-driven cost overruns and IURC gave specific approval under I.C. § 8-1-39-9(g), rejecting Industrial Group's arguments that approval was blanket, unjustified, or failed to separately address indirect costs and AFUDC).
- *Brown v. Charles Sturdevant Post of Am. Legion Post #46*, 2025 WL 2775661 (Ind. Ct. App. 30, 2025) (DeBoer, J.) (affirming summary judgment granting Legion title to fenced parcel behind its building by adverse possession, where Legion erected fence in 2013, added patio, and exercised exclusive use for over 10 years, rejecting owners' argument that duration had to run against a single record owner and finding any error in admitting commander's affidavit harmless).

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