JANUARY/FEBRUARY 2026

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2026 STATE OF THE JUDICIARY

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RES GESTÆ

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CONTENTS

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CONTENTS

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TO OUR 2026 INDIANA SUPERLAWYERS!

John McLaughlin, Tony Patterson and Paul Kruse are all Super Lawyers, with a combined total of 53 years earning this distinction, making this trio of attorneys among the most recognized personal injury attorneys in the state. If a client of yours has been in an accident and needs honest, experienced and trusted representation, we're ready to help you serve them. A free consultation with you and your client is just one call away.

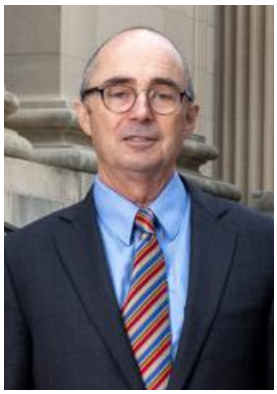
CONTACT US

OUR DUTY TO PROTECT CHILDREN

By John Maley

PRESIDENT'S PERSPECTIVE

We lawyers have unique gifts, responsibilities, and opportunities. We've been blessed with intellectual tools and personality traits to perform extremely well academically, allowing us to graduate from college and law school, then pass a rigorous bar exam and be licensed attorneys. That license comes with significant responsibilities deriving from the U.S. and Indiana Constitutions, Indiana Rules of Professional Conduct, and federal, state, and local laws. Our license and talent provide us with opportunities to make a difference in others' lives, in our communities, and more broadly for society.



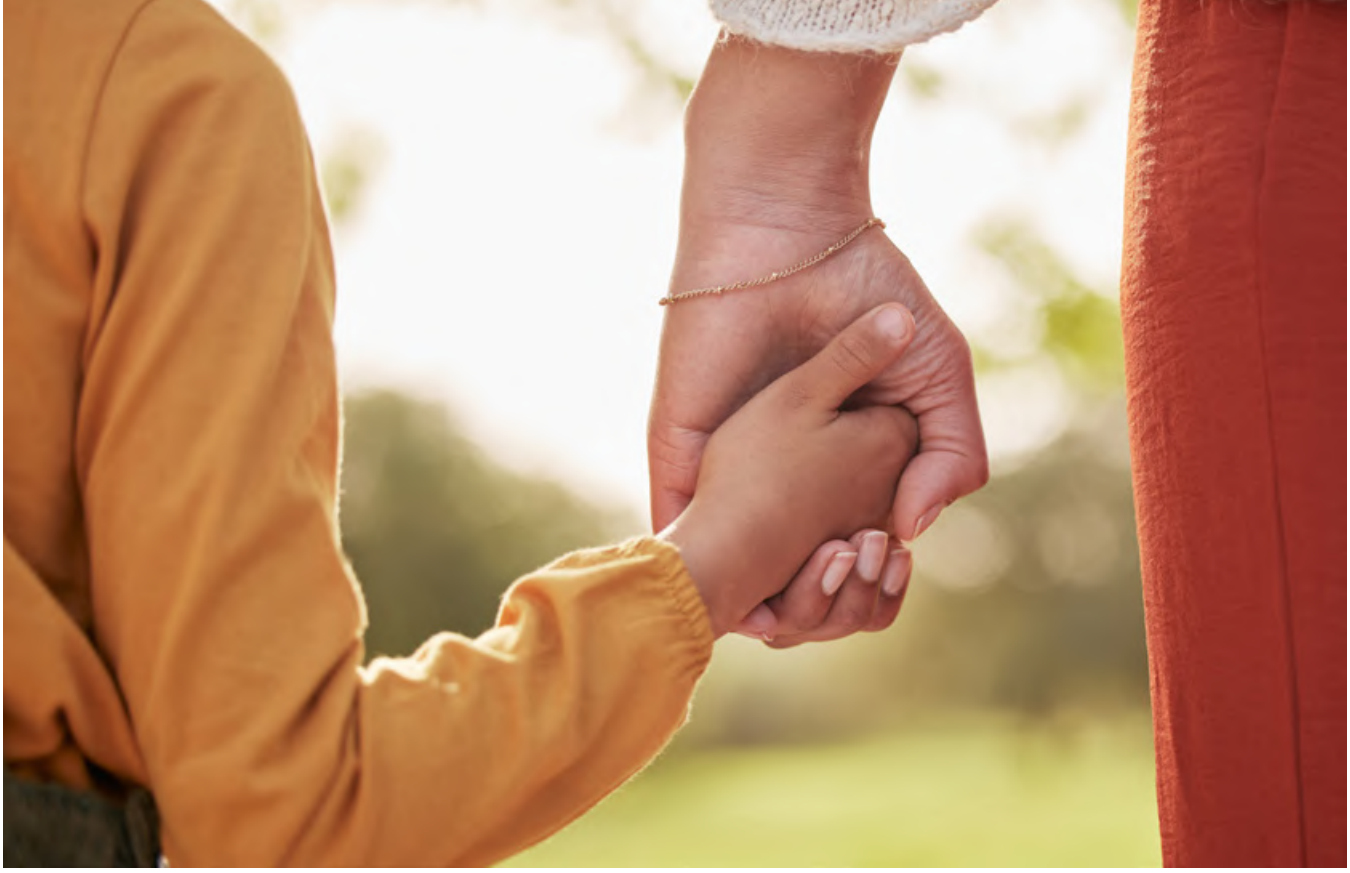
Some among us have chosen to work in the public and private sectors where serving children is part and parcel of every working day. To those in the bar doing so—whether as attorneys for the Department of Child Services, prosecutors enforcing laws protecting children, juvenile court judges, or private practitioners serving children—we owe you all an emphatic *thank you*! But all of us have a unique role to protect children—regardless of our practice specialties or employer—because of our gifts, responsibilities, and opportunities.

DUTY TO REPORT SUSPECTED CHILD ABUSE OR NEGLECT

Beyond common sense and good judgment, by law *every* individual is required by Indiana law to *immediately* report suspected child abuse or neglect to DCS or law enforcement. This includes all of us in the legal profession, plus everyone else. Yet many are unaware of this statutory legal duty. So, in this column and with this wide audience of 10,000-plus Indiana State Bar Association members, my aim is for *all* of us to know this duty, and for *all* of us to be regular advocates and educators to family, friends, neighbors, co-workers, boards, etc. on this critical law that protects Indiana youth.

INDIANA'S DUTY TO REPORT STATUTE

Indiana has a well-written statute addressing the duty to report suspected child abuse or neglect. The express purpose of the statute, Ind. Code § 31-33-1-1, is to: (1) encourage effective reporting of suspected or known incidents of child abuse or neglect; (2) provide effective child services to quickly investigate reports of child abuse or neglect; (3) provide protection for an abused or a neglected child from further abuse or neglect; (4) provide



"Our license and talent provide us with opportunities to make a difference in others' lives, in our communities, and more broadly for society."

rehabilitative services for an abused or a neglected child and the child's parent, guardian, or custodian; and (5) establish a centralized statewide child abuse registry and an automated child protection system.

Pursuant to Ind. Code § 31-33-5-1, "In addition to any other duty to report arising under this article, an **individual** who **has reason to believe** that a **child is a victim of child abuse or neglect shall make a report** as required by this article" (emphasis added). From the outset, the statute is not limited to educators or health care providers, it covers *all* of us ("an individual").

Time is of the essence in this reporting structure. Pursuant to Ind. Code § 31-33-5-4, "A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect **shall immediately make an oral or written report** to: (1) the department (DCS); or (2) the local law enforcement agency" (emphasis added). Further, per Ind. Code § 31-33-5-3, "This chapter does not relieve an individual of the obligation to report on the individual's own behalf, unless a report has already been made to the best of the individual's belief."

The statute further provides in Ind. Code § 31-9-2-101, "'Reason to believe,' for purposes of IC 31-33, means evidence that, if presented to individuals of similar background and training, would cause the individuals to believe that a child was abused or neglected." We, as attorneys with significant background and training, are better able than most to assess if we have a reason to believe a minor (under age 18) was abused or neglected.

PENALTY FOR NON-COMPLIANCE

The statutory duty to *immediately* report is mandatory, not optional. Indeed, it is a Class B misdemeanor to not do so per Ind. Code § 31-33-22-1. Our courts take this seriously. For instance, in *Smith v. State*, 8 N.E.3d 668 (Ind. 2014), a high school principal did not report an alleged rape at school for four hours. He was prosecuted and convicted, which was affirmed by the Indiana Supreme Court, writing "it is not the

school administrator's responsibility to investigate. That responsibility is firmly placed with DCS and law enforcement. The school administrator, under our statutes, is the 'trip-wire' that triggers the investigation and assessment, not the one who undertakes the investigation and assessment."

Attorney discipline is also at risk, of course, for non-compliance with any law. One distinguished attorney was disciplined by public reprimand for efforts to prevent a student and her family from cooperating with DCS and law enforcement in a case with delayed reporting of suspected child abuse. 164 N.E.3d 708 (Ind. 2021). In that case the Indiana Supreme noted but did not decide in the attorney disciplinary setting whether Rule 1.6's duty of confidentiality for client information is overridden by the statutory mandatory duty to report. The court wrote, "We need not resolve today whether attorneys are subject to the Indiana Code's mandatory reporting requirements in connection with information obtained during the course of a representation," noting it is an "unsettled legal matter, upon which reasonable minds can differ and indeed have differed."

HOW TO REPORT

When the duty arises, the report must be made immediately to DCS or law enforcement. The easiest method is to call the DCS Hotline **1-800-800-5556**. The DCS Hotline is always staffed with trained intake specialists and at least one supervisor every shift, 24/7. DCS accepts these reports from people who wish to remain anonymous. DCS will ask who, what, when, where, etc. DCS will ask about what you saw or what the child or another told you. The call is recorded. Statutory immunity exists for making such a report, except for one done maliciously or in bad faith.

"This broad requirement ensures that no child falls through the cracks, and it is the cornerstone of our efforts to protect Indiana's most vulnerable."

Stemming from my involvement in pro bono special education work for youth with special needs through the Joseph Maley Foundation, I have had several situations in which I made this kind of immediate report to DCS. The process is simple, efficient, and effective.

DOES IT MATTER? YES!

One of our distinguished members of the Indiana bar is Adam Krupp, who presently serves in the challenging role of leading DCS. Adam relayed for this column, "In Indiana, mandatory reporting of suspected child abuse or neglect is not limited to professionals; it is an obligation placed on every citizen. If you have reason to believe a child is being harmed, you must report it immediately to Indiana's Child Abuse & Neglect Hotline (1-800-800-5556) or law enforcement. This broad requirement ensures that no child falls through the cracks, and it is the cornerstone of our efforts to protect Indiana's most vulnerable. Good-faith reports are protected, but delaying or deferring to others can put children at further risk and have legal consequences. As Director of the Indiana Department of Child Services, I cannot overstate the critical role of mandatory reporting in preventing and addressing child maltreatment." Indeed, DCS statistics for November 2025 alone show 1,621 substantiated incidents in Indiana of child abuse or neglect!

A personal recent example proves the importance of immediate reporting. One evening my wife and I received a call from a friend who had heard of potential parental child abuse, including some details. We instructed her to immediately contact DCS, which she did, and then confirmed that to us, or we would have had the duty to make the report. DCS promptly investigated, the child was taken for emergency medical care within hours, and the child is now in DCS's protection.

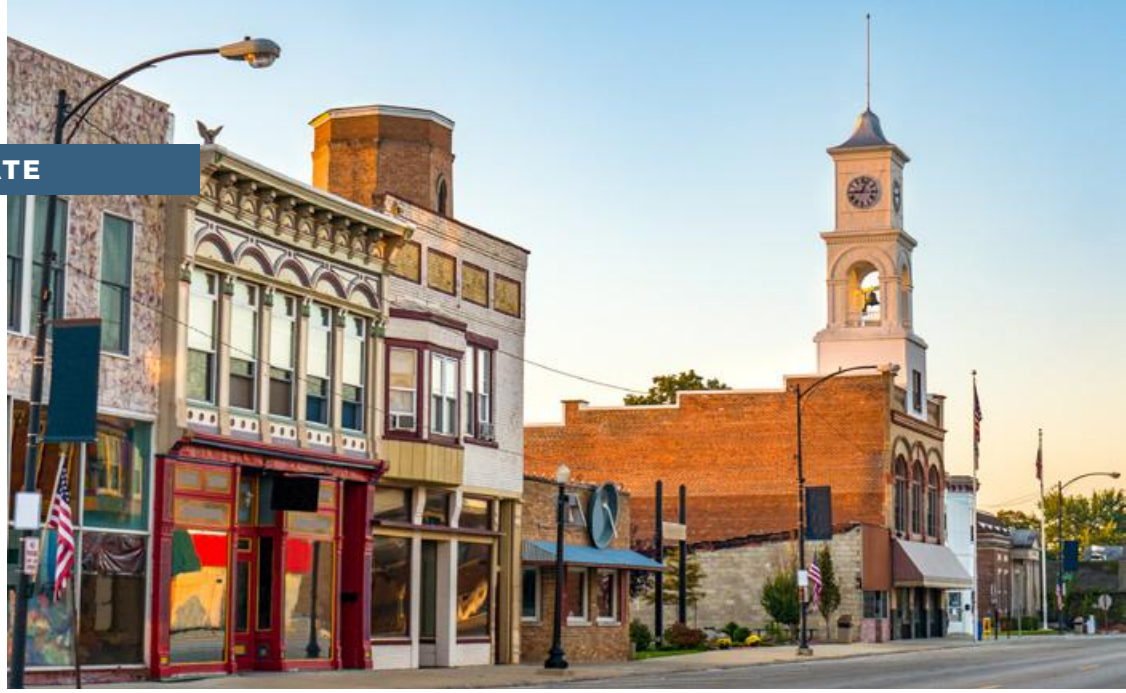
CALL TO ACTION

As members of this noble legal profession, I call upon us all to do three things to help protect our Hoosier minors. *First*, put the DCS Hotline number in your phone contacts: **800-800-5556**. *Second*, immediately report as the law requires if you have reason to believe a minor is the victim of abuse or neglect. *Third*, educate others on this critical duty. It is incumbent upon us to lead in the protection of children. As the Preamble to our Rules of Professional Conduct state: "Lawyers play a vital role in the preservation of society."

If you have questions, comments, or would like to discuss, please contact me at jmaley@btlaw.com or call me 317.432.5509(c).

ISBA UPDATE

By Christine Cordial



LAUNCH OR GROW YOUR FIRM WITH ISBA'S RURAL PRACTICE ACADEMY

Indiana's attorney shortage touches every corner of the state, with more than half of our counties meeting the American Bar Association's definition of a legal desert. Nowhere is this challenge felt more acutely than in rural communities. When legal services are unavailable or stretched thin, the consequences ripple outward: Hoosiers struggle to find representation, local courts face increasingly crowded dockets, and the few lawyers in these areas are often called upon to serve multiple counties at once.

At the same time, rural practice presents a meaningful opportunity for attorneys to make a lasting impact. As several practitioners shared in the December 2025 issue of *Res Gestae*, the personal and professional fulfillment that comes with serving these communities can balance out the challenges. But it's crucial that lawyers have the tools, connection, and confidence to build sustainable practices in the areas where they're needed most.

That's the goal of the ISBA's Rural Practice Academy (RPA)—a structured, yearlong cohort program designed to help prepare and support lawyers who want to launch their own firm, on their terms, in a rural or underserved community. Running July 2026 through June 2027 and featuring a mix of in-person and virtual programming, the RPA will deliver practical training, mentorship, and local connections to help practitioners establish successful, community-focused solo or small firm practices.

IS THIS PROGRAM RIGHT FOR YOU?

Whether you're a recent law school graduate with dreams of hanging a shingle in your hometown, an associate taking over for a retiring small firm owner, an established rural solo looking to enhance your practice management skills, or an experienced urban practitioner ready for a change of pace, the RPA can help you take your next career step. You might be a good fit for the program if you:

- Aspire to start (or take over) a solo or small firm practice in Indiana.
- Want to serve rural or underserved communities while building a sustainable practice.

- Are eager to learn business and practice management skills that will help your firm thrive.
- Value mentorship, peer support, and real-world guidance as you launch or grow your practice.
- Are motivated to make a lasting impact in your community through your work.

You don't need a detailed business plan yet—just the drive to create a practice that works for you and the people you serve.

WHAT YOU'LL GAIN FROM THE RURAL PRACTICE ACADEMY

- Training on essential business and practice management skills.
- Connection to a statewide community of lawyers, mentors, and local leaders.
- One-on-one mentorship from experienced practitioners.
- Access to ISBA tools, CLE credits, and practical guidance.
- Resources to build a practice that expands access to justice where it's needed most.

READY TO GET STARTED?

Applications for the RPA are due March 13. To apply or for more information about the program, including session dates and curriculum, visit inbar.org/RPA.

If you have questions about the RPA or other work related to rural practice, or if your firm/organization would like to financially support this program, contact RPA Director Christine Cordial at ccordial@inbar.org.

Special thanks to the RPA's premier partners, LexisNexis and the ISBA Solo & Small Firm Conference.

Indiana Bar Foundation, Inc.

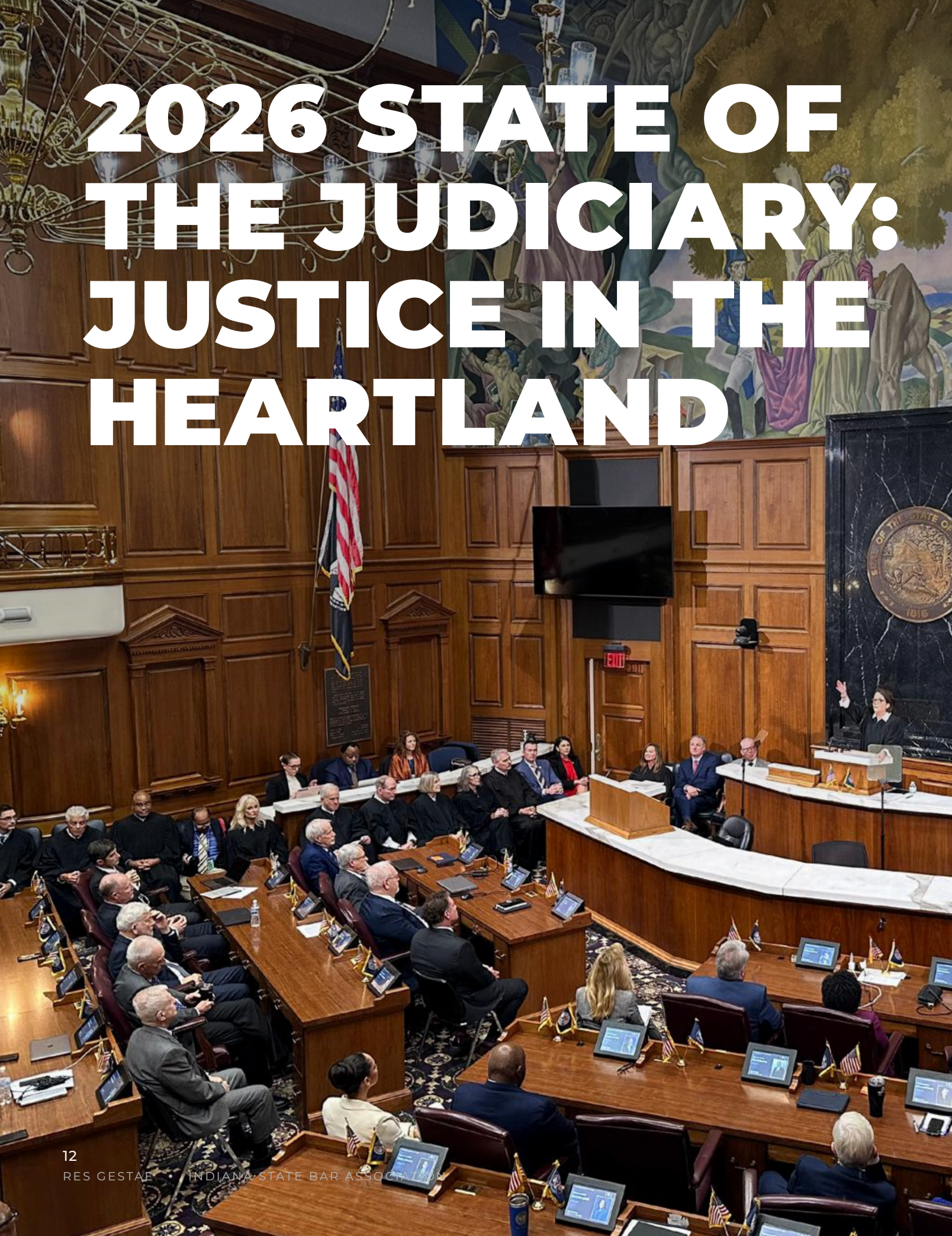
Schedules of IOLTA Activities

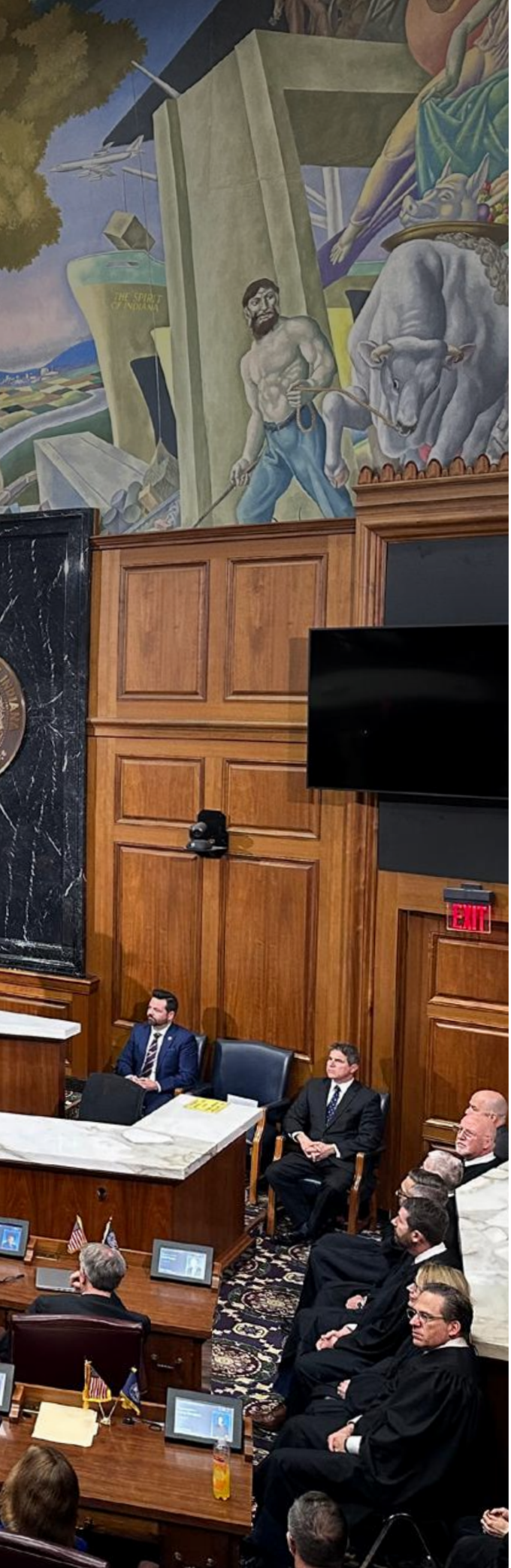
Year Ended June 30, 2025

Pursuant to Indiana Court Rule 1.15, an audited financial statement of the Indiana Bar Foundation's IOLTA program for the prior year is published in this issue of Res Gestae.

REVENUE		
IOLTA revenue	$	4,747,705
Total revenue		4,747,705
EXPENSE		
Administrative expense:		
Co-employment/payroll, taxes, and employee benefits		104,402
Office supplies and leased equipment		2,217
Professional fees		43,785
Meetings		16
Membership dues		8,833
Telephone		651
Total IOLTA administrative expense		159,904
Net IOLTA income	$	4,587,801

2026 STATE OF THE JUDICIARY: JUSTICE IN THE HEARTLAND





FEATURE

By Hon. Loretta H. Rush

On January 14, 2026, Chief Justice Loretta Rush addressed the Governor and a joint session of the Indiana General Assembly for her twelfth annual State of the Judiciary address. To watch a recording of the address, visit in.gov/courts/supreme/state-of-judiciary/2026/. Photography for this article, including cover art, was provided by the Indiana Supreme Court.

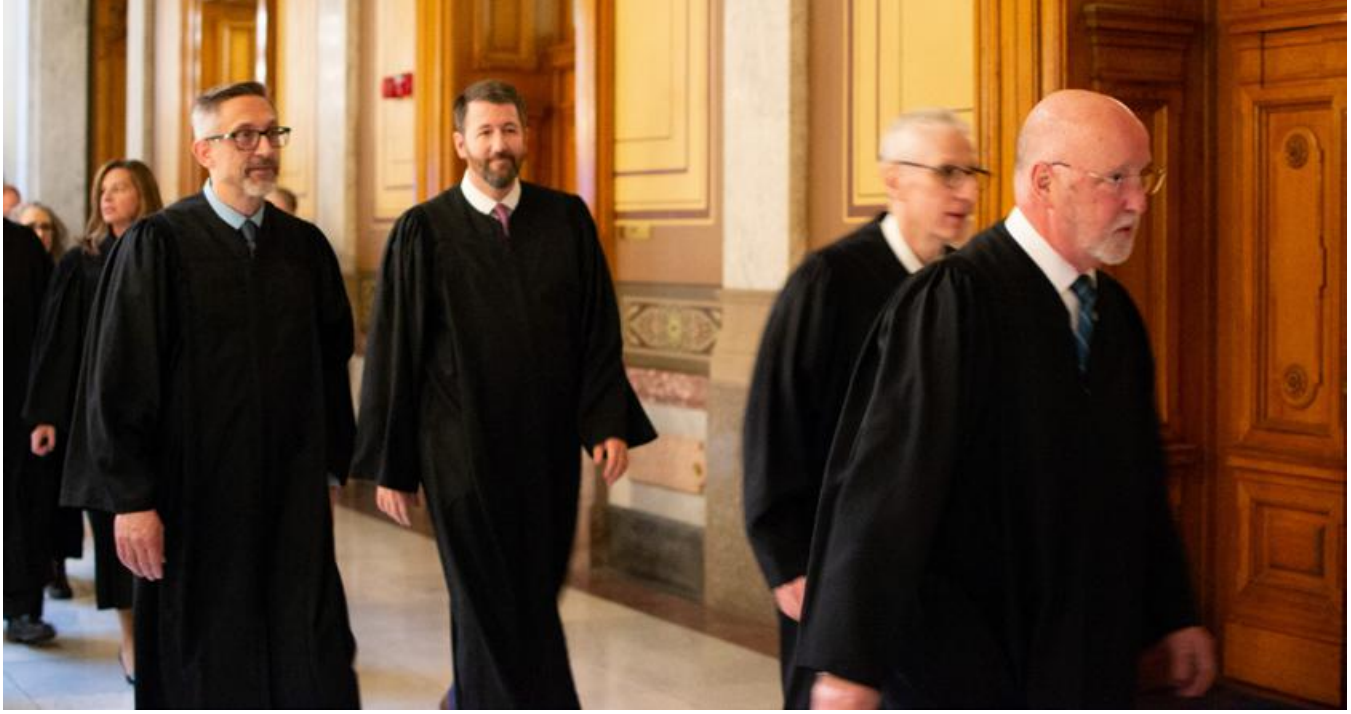
Thank you for the warm welcome to the 2026 State of the Judiciary, which I've titled "Justice in the Heartland." As we came together today, you saw paintings of all 92 courthouses. Across Indiana, our courthouses rise from the center of our communities like quiet sentinels of justice—beautiful, enduring reminders that laws are not only written in books but lived out in places where people come seeking relief and resolution.

Attorney Doug Church, along with the Indiana State Bar Association, curated this remarkable collection of Hoosier courthouse paintings. Doug calls them our "secular cathedrals." It's a fitting description—they lift our eyes upward and remind us that justice is a public promise that is both visible and tangible. Thank you, Doug and the ISBA.

From our earliest frontier days, these courthouses were more than brick and limestone—they were declarations of what Indiana aspired to be. They reassured settlers that in uncertain times, the rule of law would bring peace, stability, and fairness. Courts made it possible for families to take root and for businesses to dream bigger, knowing that disputes would be resolved not with violence or fear, but through reason and civility.

In recent years, my updates have focused on technology, innovation, case management, behavioral-health initiatives, and specialty courts. Each one strengthens the foundation of justice, but the work itself is carried out by people.

So, this twelfth time I stand before you as your Chief Justice, I want to highlight two groups of people who stand in our courthouses every day: prosecutors and public defenders. While these public servants sit on opposite sides of the courtroom as rivals, they are also allies in their shared duty to resolve disputes under the rule of law. Their work is at the center of the



"While these public servants sit on opposite sides of the courtroom as rivals, they are also allies in their shared duty to resolve disputes under the rule of law. Their work is at the center of the constitutional balance between accountability and liberty."

constitutional balance between accountability and liberty. It's what allows us to enjoy life in a safe and fair society.

Please join me on a tour across our state to see how some of the more than 1.1 million cases a year are resolved in those magnificent courthouses of our Hoosier Heartland.

PUBLIC SAFETY

What better place to start than along the banks of the Wabash River? In Cass County, the prosecutor, public defender, pretrial director, and judge agree on a shared philosophy: implement what is best for the community they love.

They've committed to a transformational, evidence-based pretrial program. That means, after a person is arrested, pretrial decisions are driven by a primary goal: public safety. Judge Lisa Swaim, a former respected prosecutor herself, explains that bail decisions are not just a check-in. In her words, "I have to feel comfortable with public safety. I get a full report, criminal history, housing, stability, employment. And still, I don't make a pretrial decision until I meet and talk with the person face to face and give both the prosecutor and the public defender a chance to weigh in."

Beyond each side arguing their position for individual cases, they also shared their thoughts on the overall program. For Public Defender Sheryl Pherson, the in-courthouse program addresses a defendant's core needs. She says it "focuses on public safety with voluntary treatment and supportive services."

Prosecutor Noah Schafer is blunt. He says, "I distrust any tendency of reform that gives people a hug and turns them loose." He says this "program works because it employs the time-tested pillars of criminal justice: accountability, personal responsibility, and mercy."

And Pretrial Director Hillary Hartoin keeps track of the results. Since 2022, the program has produced 95% court attendance, a 90% arrest-free rate, and an 86% reduction in pretrial detention.

So what's the price tag? Fair question.

It's nearly $6 million in savings for Cass County because they've reduced jail bed costs, eliminated 408 years of incarceration, prompted treatment, and prioritized public safety.

As we navigate our way southeast to the Ohio River, we see that same spirit of partnership in Dearborn County. The justice team there also focuses on community safety. And for them, that means having people with lived experience as part of the solution. They accomplish that through a program called IRACS, Integrated Reentry and Correctional Support. It puts mental health and peer recovery specialists in the county jails. Prosecutor Lynn Deddens calls the program "a game changer." She says, "people need someone to help guide them out of the system, otherwise it is a revolving door."

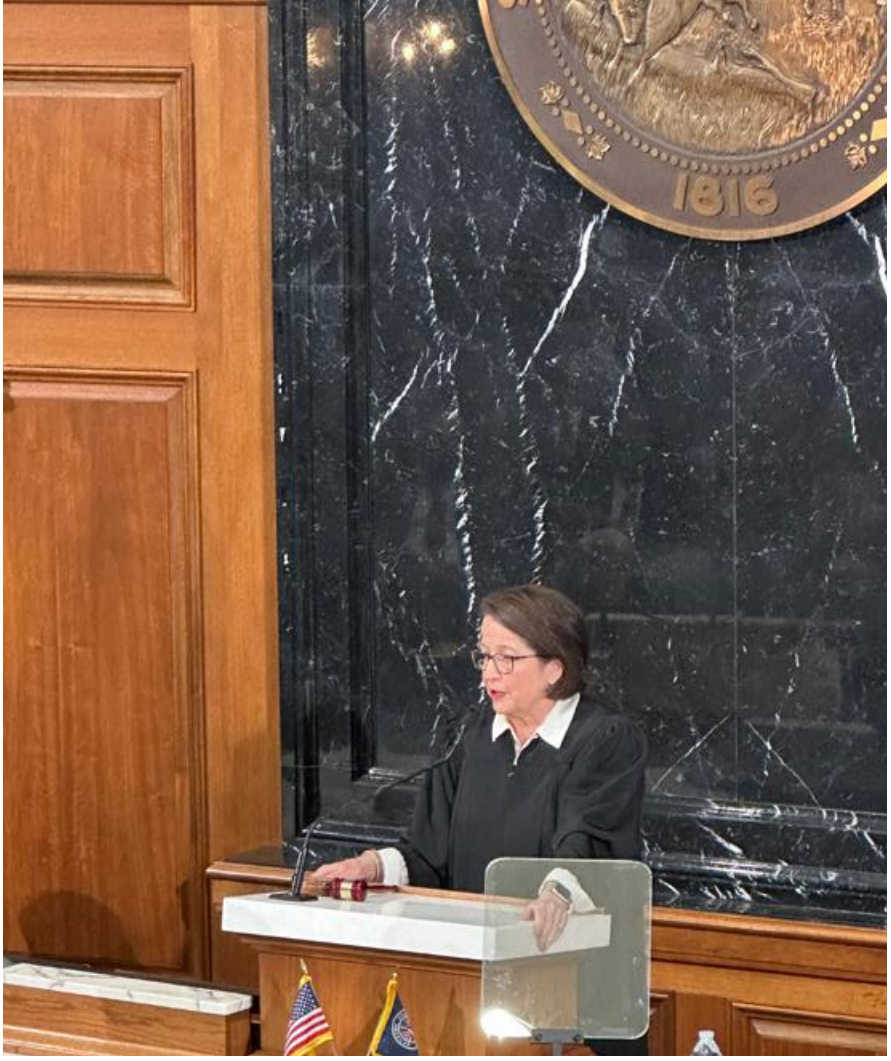
Judge Aaron Negangard agrees. He's a former public defender, prosecutor, and defense attorney, and he says the justice system needs as many tools as possible to handle each case on its own merits. He has a practical message for us, "People are going to get out of jail. We want them to come out better." He is so right.

Forty-three-year-old Aaron Spaulding is running Dearborn County's IRACS. He has been through that revolving door since he was 13 years old, including six years in prison. He doesn't want to see others take that same path. Now, ten years into recovery, he's leading Dearborn County's award-winning six-person IRACS staff. Working in the jail, he's connecting with inmates to help them get services and develop a plan, so when they do leave jail, they don't go back to the same lifestyle. He says, "Now I am empowered to be part of the change instead of part of the destruction."

Aaron knows the public is skeptical, so he too keeps track of county data. Since 2022, there have been 1,600 jail participants, and 80% of them have not reoffended.

YOUR SUPPORT

Local justice teams working together to make their communities safer, healthier, and more resilient are doing so with your support. To ensure effective results for every community, statewide structures connect and strengthen local efforts. There are three such programs that you have made possible that I want to highlight today. Trial court judges are here from across the state because we cannot thank you enough for your staunch support of our Hoosier justice system.



INjail

First, you asked us to build a comprehensive statewide jail management system—and we're delivering! Thanks to your funding just last year, INjail is already live in nine counties with twelve more in the works. And 29 other counties are interested. Law enforcement will tell you, INjail will give real-time jail information on all defendants while connecting criminal justice systems.

It's the first in the nation. It's made in Indiana, for Indiana, and it can be in every county in the state to implement your policy decisions and enhance public safety.

A special thank you to Senators Brown and Mishler, and to Representative Thompson. We also thank our sheriffs for their collaboration. And representing them today are Sheriffs' Association Past-President Bob Goldsmith and Executive Director Steve Luce.

High-Tech Crime Unit

Second, counties across the state increasingly confront a new reality in investigating criminal cases—complicated digital evidence. Through your funding, Indiana prosecutors have formed ten High-Tech Crime Units, operating as regional hubs to investigate cybercrime, collect digital evidence, and assist in prosecutions or exonerations.

In just over three years, the units have assisted in over 10,000 cases and examined more than 16,000 digital devices. From smartphones to cloud storage, technology allows us to reveal the truth swiftly. Justice delayed is justice denied, and these units return evidence to investigators in an average of 17 days—an unprecedented pace and proof of technology accelerating justice.

Collaboration: Local JRAC

Third, the local JRAC statute you passed just three years ago is already proving to be effective. It's a way for thousands of justice stakeholders throughout our Hoosier Heartland to understand the vital role they play in ensuring public safety resources are used wisely.

For a pioneering example, let's head to Grant County where Judge Mark Spitzer and his justice partners are implementing your legislation.

They formed a team of judges, prosecutors, public defenders, probation officers, jail staff, law enforcement, victim advocates, local officials, and others who come together to make decisions grounded in data and research. Their process allows justice professionals to understand how the decisions they make have a ripple effect throughout their community. Sometimes they need jail beds, sometimes it's electronic monitoring, and sometimes it's treatment. But whatever the case requires, the tools are not limitless.

Their collaboration through JRAC has reduced unnecessary detention, improved supervision outcomes, and strengthened public safety. Their efforts are so effective that they train statewide. Thank you, Grant County team, including Judge Spitzer, County Council President Greg Kitts, and Director Melissa Stephenson.

I can't imagine three stronger initiatives to support public safety. All justice system professionals join

"With support, Savannah received treatment, secured housing, found employment, reunited with her children, and just passed the test to be credentialed as a community health worker. 'This program didn't just change my life,' she said. 'It saved it.'"

me in thanking you for funding INjail and the High-Tech Crime Units and implementing local JRACs.

TRUANCY

Our journey continues to Madison County where Prosecutor Rodney Cummings, just last year, handled 2,000 felonies, 4,000 misdemeanors, 5,000 traffic citations, 500 juvenile delinquency petitions, and hundreds of other cases. He's proud of his reputation as being tough on crime. So with so much going on, why would he dedicate limited resources to preventing truancy?

Because he knows kids who don't graduate high school are eight times more likely to get locked up as adults. Often 80% of incarcerated adults are high school dropouts. And each dropout costs taxpayers an estimated $300,000 over a lifetime in lost taxes, incarceration, and services.

Prosecutor Cummings, Chief Deputy Prosecutor Andrew Hanna, and Investigator Mitch Carroll are leading a remarkable absenteeism program. It connects families with counseling, mental health support, and intervention planning.

As a child from a challenging background, including time in foster care and having attended 27 schools, Prosecutor Cummings knows firsthand that education opens doors. His program ensures that children have a chance to learn, grow, and succeed.

Having spent many years on the juvenile bench in Tippecanoe County, I also believe combating truancy is critical. Guess why my truancy court started at 7:30 a.m. on Thursday mornings? To get families out of court and back to work and school. It works. And in Madison County, their program is resulting in more kids in the classroom. Thank you, Prosecutor Cummings.

COMMUNITY

Well, speaking of Tippecanoe County, Deputy Prosecutor Elyse Madigan stands as a shining example of how prosecutors strengthen the communities they serve. She prosecutes murder, domestic violence, neglect, and aggravated battery—and she serves on the State Child Fatality Review Committee. Through this collaborative work, she addresses child deaths, gun safety, child health, flu prevention, car seat clinics, and juvenile suicide prevention. Each day she asks: Which deaths are preventable? What resources would have made the difference? In her own words, her community is her client. Thank you, Prosecutor Madigan.

PUBLIC DEFENDERS

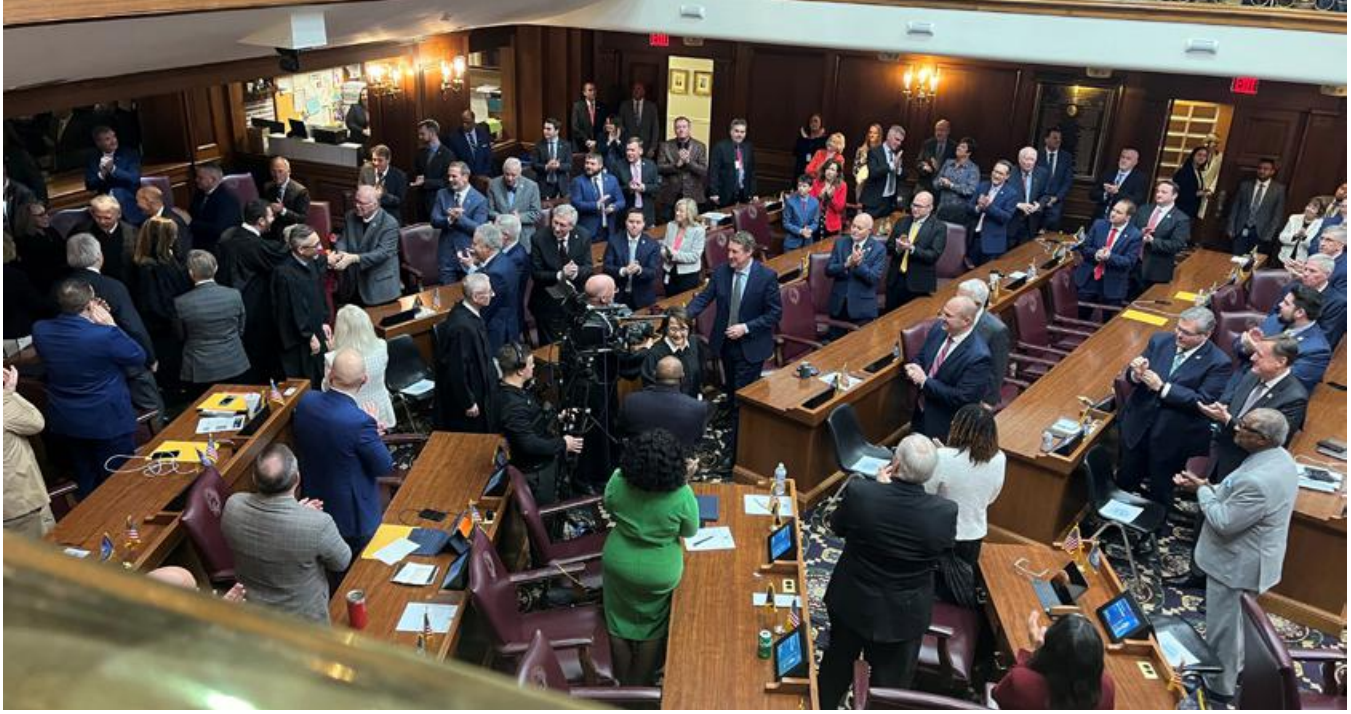
Our tireless public defenders safeguard the constitutional promise that every Hoosier is entitled to be heard and represented when the stakes are highest. For a Vigo County woman, that moment came when she faced losing her children.

Savannah Harvey was hopeless, homeless, and separated from her children when she met her public defender, Katie Butwin, and parent advocate, Janet McBride. A pilot program of the Commission on Court Appointed Attorneys helps parents navigate the child-welfare system. It connected the three.

The longer a child lingers in the system without permanency, the longer their lives are upended. The sooner parents understand what they need to do and take advantage of services, the quicker children can be reunited with their families or placed in a permanent home such as through adoption.

For Public Defender Butwin, other child-welfare cases would just go on and on—circle around the problem. But not Savannah's. With support, Savannah received treatment, secured housing, found employment, reunited with her children, and just passed the test to be credentialed as a community health worker. "This program didn't just change my life," she said. "It saved it."

Vigo County is proud to show these child-welfare cases are closing on average 65 days sooner, children are spending 70 fewer days in out-of-home care, and reunification is increasing by 14%. The Vigo County Council is now funding three new positions for this initiative. The numbers reflect a broader truth: when we equip parents with public defenders and the tools they need, families find their footing, children



"To conclude, all these examples I've shared today affirm a central truth: the work of our judiciary—to keep the legal system in balance, ensure public safety, and resolve conflicts peacefully—is more than a profession."

return home sooner, and justice fulfills its highest purpose.

Heading to the shores of Lake Michigan takes us to beautiful Valparaiso. The Porter County courthouse is one of the newer Heartland gems. And inside, we find public defenders like Mitch Peters.

Judge Jeff Clymer says, "Certain residents are alive because of Mitch. He is instrumental in the mental health restoration court, representing clients in mental health commitments and requests for emergency detention, and he cares deeply about those with substance use disorders."

Mitch knows his clients and he knows they need structure, connection, programming, and a safe place to stay while they work to resolve various issues—including trauma—that brought them into the system. And so, he worked with his community, including securing private funding, to open a series of halfway houses and a homeless shelter to meet that need. His efforts have saved taxpayer money by ensuring that expensive state-funded institutions are not filled with people who can be safely supervised and rehabilitated in their community. Mitch helps people find a pathway out of the system and into a peaceful and productive life. Thank you, Mitch.

ATTORNEY SHORTAGE

As we celebrate these successes, we face a deepening crisis—a growing shortage of the very people who are champions of these victories: attorneys. Specifically, prosecutors and public defenders who, as you can see, are central to public safety.

Indiana ranks 43rd in the number of lawyers per capita. Two Hoosier law schools have closed in the last decade—drastically reducing our pipeline to new lawyers. And now, some counties have as few as five attorneys.

To address this issue, the Commission on Indiana's Legal Future spent months of thoughtful work. Judge Nancy Vaidik and Chief Administrative Officer Justin Forkner led the efforts. Recommendations include pilots for innovative legal-service models, exploration of new licensure pathways, and incentives for lawyers to serve in rural counties.

Two of your legislative initiatives last session also grew from this work. One created Indiana's first public-service scholarship program for future prosecutors and public

defenders. The other broadened who may serve as municipal legal counsel. An enormous "thank you" to Senators Carrasco, Glick, and Taylor and to Representatives DeLaney and Steuerwald—for their leadership.

As mentioned, at the center of this progress was CAO Justin Forkner—a decorated Army Captain who led multiple missions in Iraq and Afghanistan, who returned only to finish first in his law school class. He brought that leadership grounded in integrity, humility, and purpose to the courts. For the last eight years, Justin spearheaded improvements and has been our trusted advisor. He's now beginning the next chapter of his career, and we are profoundly grateful for the many ways he strengthened the shared mission of justice in Hoosier Heartland courts.

PRO BONO

As we've been confronting the attorney shortage, attorneys throughout the state have been lending a helping hand to make sure those courthouse doors remain open to all. The importance of community and access to justice is embedded in the oath we all took as Hoosier attorneys. This is reflected in the 8,000 Indiana lawyers that contributed nearly 250,000 hours of legal work at no charge last year. From eviction to expungement, family matters to financial, justice is not a distant possibility—it's now often accessible through a nearby computer screen. Through Indiana Legal Help, our justice system now offers free legal information and easy-to-use forms in every county through 150 kiosks located in libraries, county buildings, and health centers.

And there are in-person clinics too. At one such clinic in Vanderburgh County, volunteer attorneys discovered an elderly couple drowning in medical debt. This, combined with dementia-related issues, made navigating bill payment a nightmare. It's a good thing they came in for help.

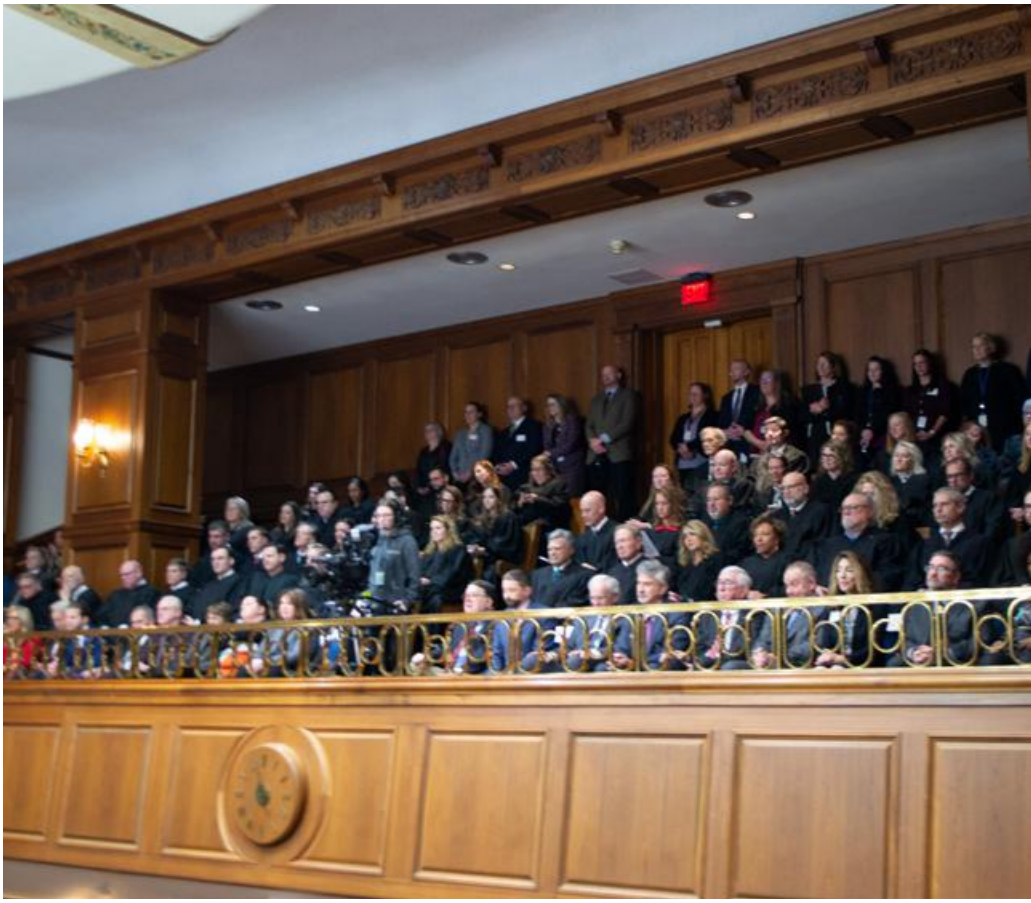
This couple was about to lose the vehicle they needed to get to medical appointments. Two volunteer lawyers, Katherine Rybak and Anne Butsch, agreed to assist them. Anne is also a former physician. These lawyers made it possible for the couple to successfully navigate their legal issues. We would like to thank all volunteer attorneys, legal aid organizations, and the Indiana Bar Foundation, represented today by Abbie Bush, for providing help to Hoosiers in need.

CONCLUSION

To conclude, all these examples I've shared today affirm a central truth: the work of our judiciary—to keep the legal system in balance, ensure public safety, and resolve conflicts peacefully—is more than a profession. It is a calling.

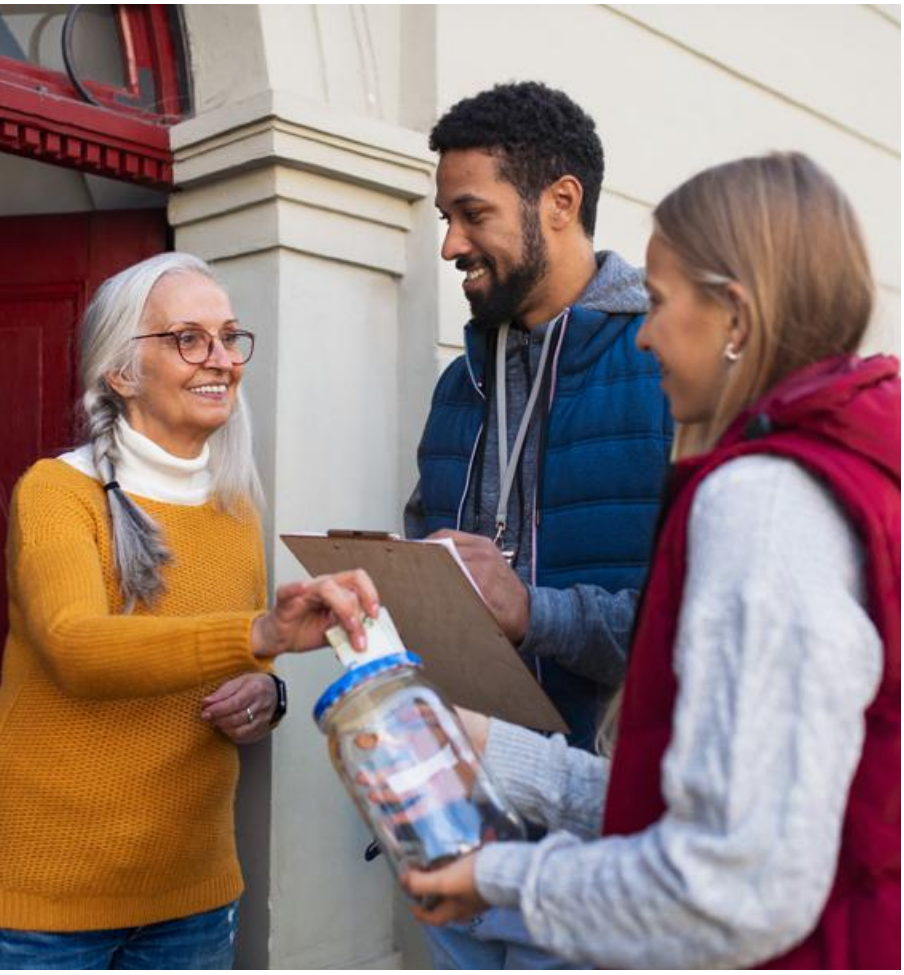
So, next time you pass by that breathtaking courthouse in your own county, consider a moment of solemn thanks for the people who have accepted that calling. Think of the public servants in that building—judges, prosecutors, and defenders—who work every day to safeguard liberties, uphold justice, and ensure that every Hoosier lives in a community grounded in fairness, dignity, and peace.

Thank you. And may God continue to bless our great state.



HELPING CLIENTS TURN WEALTH TRANSFER INTO LASTING COMMUNITY IMPACT

By Clark Collier, CAP



As older generations of Hoosiers plan their estates, they are contributing to the largest wealth transfer in history. How will it serve their communities?

Reports of philanthropy's death may have been not only exaggerated, but also backwards.

Once adjusted for inflation, total U.S. charitable giving is up more than 175% over the last 40 years (from $214 billion in 1984 to $592 billion in 2024).[1]

So, what's all the fuss about? Well, though charitable giving is breaking records, these massive totals come from fewer, older individuals.

One likely explanation is the much-vaunted "Great Wealth Transfer." Recent estimates show a $124-trillion wealth exchange is underway in America, lasting until 2048.[2] That sum represents the largest accumulation of wealth in human history. How those assets will be directed in our society is a major discussion in households, charitable organizations, and, increasingly,

"Recent estimates show a $124-trillion wealth exchange is underway in America, lasting until 2048."

the offices of estate planners and other advisors.

At the same time, a 2025 pullback in federal grant funding to nonprofits is adding urgency to a shrinking donor landscape. Many nonprofits find they suddenly have a greater reliance on private philanthropists they have yet to meet. Who will make the introductions?

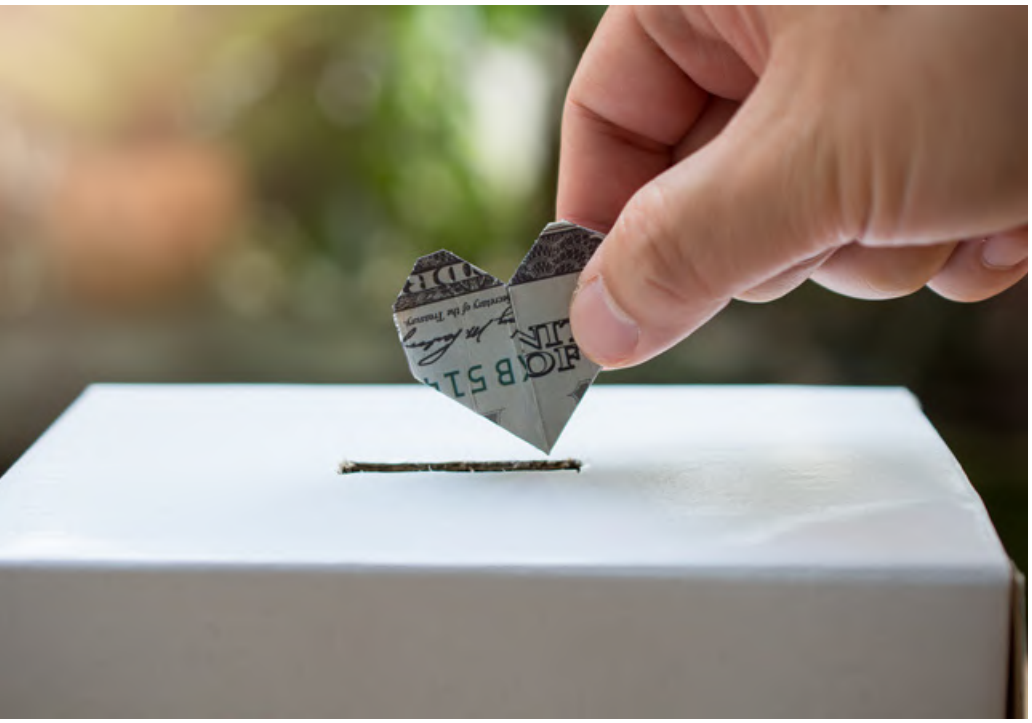
These unanswered questions and competing trends are all reshaping the role of philanthropy within the estate plan.

HOW THE GREAT WEALTH TRANSFER REWRITES THE PLANNING CONVERSATION

Cerulli Associates projects that about $18 trillion worth of the transfer will go to charity, with the remainder going to heirs.[3]

In most cases, these donors are Baby Boomers (born between 1946 and 1964), whose wealth reflects decades of market gains, home appreciation, retirement savings, and business growth.[4] More than any other generational cohort before them, old age is forcing them to confront the question: "How will our remaining wealth contribute once we no longer need it?"

As philanthropy shifts from an afterthought or a line item to a more intentional family endeavor, these clients are taking a more direct interest in how their giving shows up in the community. They want to know if a portion of their wealth can sustain the local food banks that saw their neighbors through the pandemic or contribute to the scholarship



> **"In Indiana, that combination of a broader philanthropic base, generational philanthropic impact, and a well-established nonprofit ecosystem creates a historic opportunity for anyone wishing to plan a more significant legacy in the Hoosier state."**

funds working to achieve a more upwardly mobile Indiana.

That is especially true for married couples. Most of the wealth transfer will pass first through the hands of surviving spouses—95% of whom Cirulli Associates estimate are women.[5] For that reason, estate planners must consider who is invited into the discussion.

It is important to note this could present a shifting dynamic in goals. Consider this: The Lilly Family School of Philanthropy found that "Millennial, Boomer, and older… women are more likely to give in general and to secular causes than their male counterparts."[6]

Bringing together both spouses into discussions about legacy gifts, charitable priorities, and the vehicles used to give is no longer just best practice. It is an essential step in crafting plans that will endure as wealth passes to spouses and younger generations.

DAFS AND THE LOCAL ADVANTAGE OF COMMUNITY FOUNDATIONS

For some clients, especially those who have lived mostly in one state or community, they want to make as significant an impact as possible locally.

Against this backdrop, donor-advised funds (DAFs) have emerged as one of the most popular tools for incorporating philanthropy into estate and tax planning.

DAFs are largely sponsored by either national financial firms or local community foundations. For Indiana, the latter route is often taken simply due to the state's early adoption of and explosive growth in community foundations; the statewide total of these groups increased from about 12 in 1990 to 94 by 2016.[7] Today, there's at least one such foundation serving every Hoosier county.

A donor-advised fund at a community foundation offers the accessibility and simplicity clients appreciate in a DAF, but with a distinctly local expertise. Staff at a foundation also live in the community they serve. Consequently, they have personal knowledge of which nonprofits have strong track records, where gaps in services exist, and how local conditions are evolving.

For example, when a client wants to support infant and maternal health in Indianapolis or housing affordability in Hamilton County, a community foundation moves beyond a database search to discussions with specific individuals and organizations; they consult local data or fund it where it does not yet exist; they assess current initiatives and effective partnerships.

For some of those planning an estate, administrative fees are a surprising point of differentiation, favoring the local foundation. Unlike national institutions, fees at a community

foundation underwrite more local charitable activity, like more grantmaking, data collection, and community convenings.

For clients who care about their region's long-term health, it is often compelling to know that even the overhead associated with a donor-advised fund is reinvested closer to home.

CRISIS AND OPPORTUNITY

Taken together, the growing need among nonprofits and the ongoing Great Wealth Transfer point toward a philanthropic future that is both more in-demand and more effective.

With changes to tax law taking effect this year, many more taxpayers will find they have both a financial and a communal reason to claim at least some charitable giving;[8] this could potentially broaden a shrinking donor base. Meanwhile, older Americans and spouses will continue to steward the greatest concentration of private wealth the world has ever seen.

Women, in particular, are poised to become central philanthropic decision-makers as surviving spouses and primary wealth holders. When their voices are fully included in planning conversations, the resulting charitable plans may reflect a wider range of priorities, from human services and education to cultural amenities and neighborhood-level investments.

In Indiana, that combination of a broader philanthropic base, generational philanthropic impact, and a well-established nonprofit ecosystem creates a historic opportunity for anyone wishing to plan a more significant legacy in the Hoosier state.

Clark Collier is CICF's director of giving strategies, working with individuals, families, and their advisors to structure meaningful and impactful philanthropy. As a Chartered Advisor in Philanthropy (R), Clark provides gift planning support and counsel to the CICF Collaborative and nonprofit organizations throughout the region. He previously served as a philanthropic advisor for CICF and in development roles for both local and global organizations.

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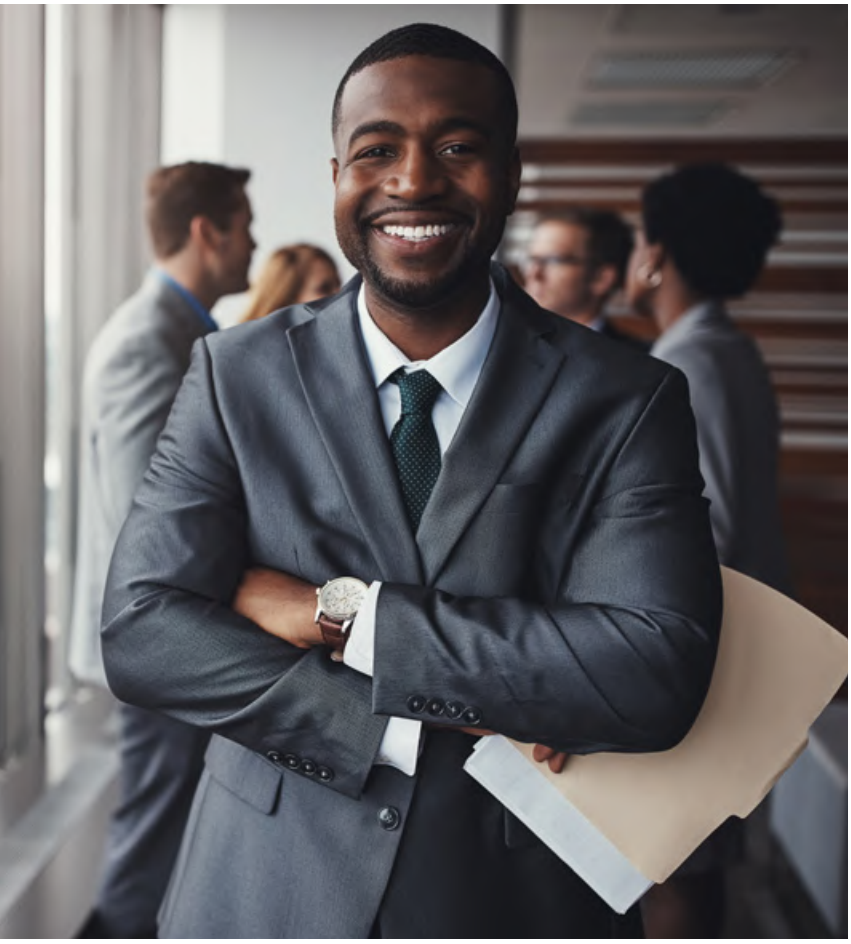
LEVELING UP FOR LAWYERS: WHY PROFESSIONAL DEVELOPMENT AND BAR ASSOCIATION INVOLVEMENT MATTER FOR YOUNG ATTORNEYS

By Will Amberger

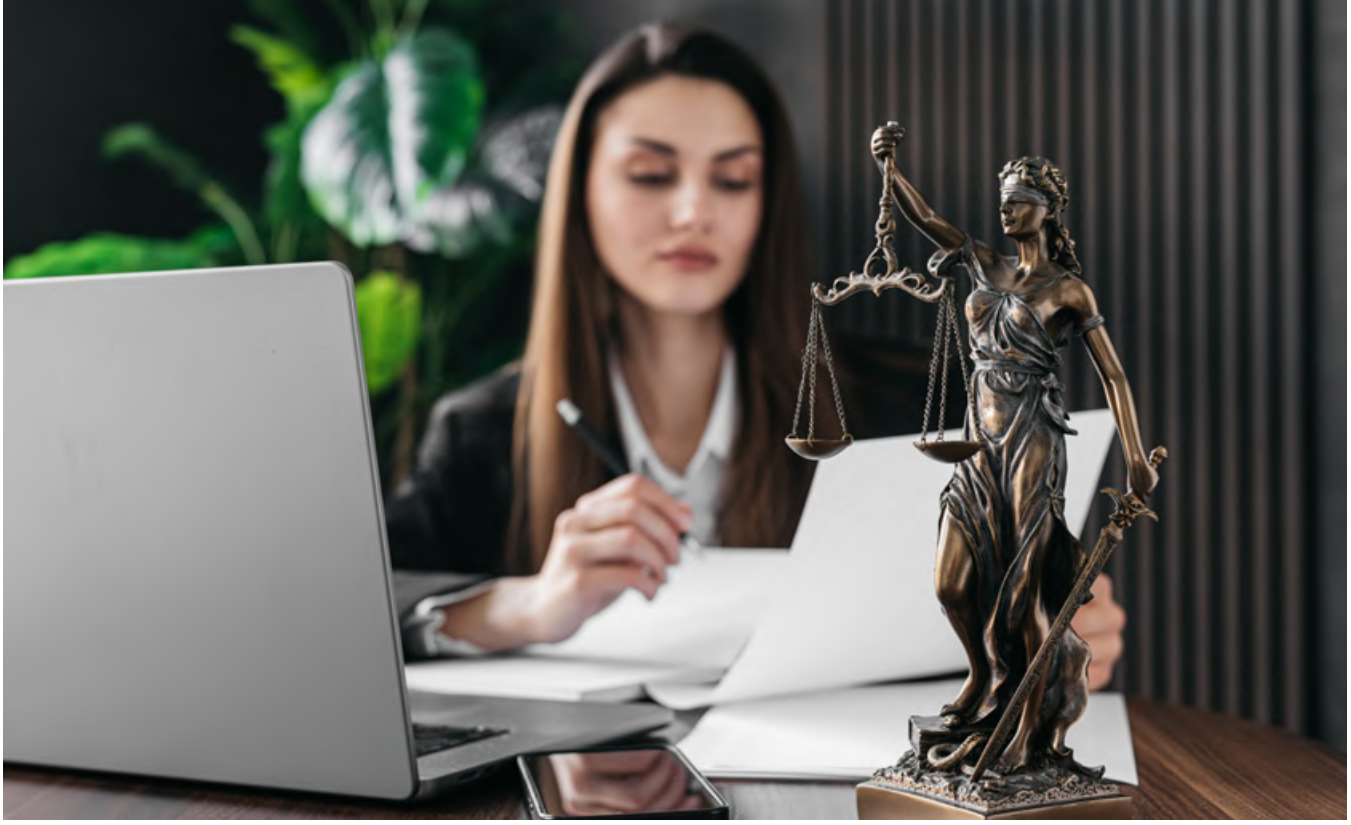


Entering the legal profession is both exhilarating and nerve-racking. For many young attorneys, the early years are a balancing act spent learning the practice, building a book of business, and trying to maintain personal well-being while handling the demands of the job. Amidst all this, one of the best investments you can make isn't just working hard, it's investing in yourself and the bar.

WHY PROFESSIONAL DEVELOPMENT IS CRUCIAL

1. **Keeping Pace with Legal Change**

   Law evolves. Whether it's new legislation, shifting case law, changing ethics requirements, or emerging technology, you must stay current. In Indiana, continuing legal education is mandatory. Under Indiana Admission and Discipline Rule 29, attorneys are required to complete a minimum of six hours of CLE each year and 36 hours over each three year period.[1] And at least three hours in each period must be related to ethics or professional responsibility.[2] These credits provide great opportunities to learn about changes affecting the legal landscape and how we should respond to them.



"Good ethical practice bolsters your reputation, reduces malpractice risk, and builds trust with clients, judges, and colleagues, all of which are essential as you build your practice and personal brand."

2. **Professionalism and Ethical Standards**

   Developing habits of professionalism is essential early in a legal career. Indiana law requires that newly admitted attorneys complete a six-hour applied professionalism course during their first three year education period.[3] This is not just another box to check—it's intended to impart the values, relationships, ethics, and character expected of lawyers. Good ethical practice bolsters your reputation, reduces malpractice risk, and builds trust with clients, judges, and colleagues, all of which are essential as you build your practice and personal brand.

3. **Skill Building Beyond Law School**

   Law school provides the theoretical foundation, but it doesn't teach many of the practical lawyering skills necessary for success. Many essential skills, like trial strategy, negotiation, client management, marketing, and others come only through practice. Professional development—through CLE, mentoring, and workshops—gives you the opportunity to build and sharpen these skills. And the opportunities are endless. For example, the Indiana State Bar Association and the Indianapolis Bar Association frequently offer a variety of in-person CLEs as well as a plethora of on-demand CLEs covering essential skills for lawyers.

4. **Differentiation and Long-Term Career Growth**

   Being known as someone who takes professional growth seriously can set you apart. Leadership roles and business opportunities become more accessible if you show up, learn, and engage. Over time, involvement in bar functions and speaking or writing opportunities can enhance your personal brand and open doors to more challenging cases, more responsibility, and judicial or governmental appointments. Some bar associations even offer leadership development programs to help cultivate the next generations of lawyer leaders.[4]

"Active engagement in professional development and bar associations shapes not just what kind of lawyer you are, but what kind of legal community and justice system you help create."

5. **Well-being, Support, and Community**

   The law demands much from us. Young lawyers often struggle with workload, expectations, and sometimes isolation. Being active in bar associations and seeking out mentors can help you find support, implement work-life boundaries, and gain practical advice from those who have been there. Additionally, many bar associations provide resources for mental health, wellness, and peer support.[5]

GETTING MORE FROM YOUR BAR ASSOCIATION INVOLVEMENT

It's one thing to be a member, it's another to be actively engaged. Here are ways to maximize your involvement:

1. **Join early**: Young Lawyers sections and local bar associations sometimes have lower cost or even free membership, targeted programming, and immediate peer networks. And affinity groups like the Women in the Law Division are great ways to connect. It's easier to build relationships now than later when life happens and obligations multiply.
2. **Volunteer and participate**: Volunteer for committee work, pro bono clinics, education programs, and other bar association functions. Taking on small visible roles (e.g., helping organize events or speaking at forums) helps build your brand and your practical skills while introducing you to new people and opportunities.
3. **Seek mentorship**: Use formal mentorship programs, like IndyBar's Indy Attorneys Network[6] or ISBA's Mentor Match,[7] and informally reach out to attorneys you admire. You can do this via email, or by connecting virtually through programs like ISBA's Mentor City. Mentors can help with navigating common practice pitfalls, courtroom procedure, client relationships, and work-life balance.

4. **Attend leadership training**: Programs like the ISBA's Leadership Development Academy help you think beyond just casework. These programs teach you to lead teams, manage stress, engage with the community, and see how the legal system fits into and shapes the bigger picture. Those leadership skills are useful whether you aim to partner in a firm, go solo, or serve in public interest.

5. **Specialize**: If there are certified specialization programs, pursuing them can differentiate you. They're often voluntary but can signal competence and dedication.

6. **Stay consistent with CLE**: Don't wait until deadlines; instead, keep a plan. Each year, aim for useful, interesting programs, not just easy credits. Try to integrate into your CLE plan ethics, professionalism, and practice management topics, beyond just the procedural or doctrinal credits you need.

7. **Network intentionally**: Getting to know judges, senior attorneys, peers, and local bar leaders can help when you need advice, referrals, or visibility. Bar events, caseloads, pro bono work, and even informal gatherings all create connections that matter down the road.

CONCLUSION

For young attorneys, professional development and bar association involvement are not just "nice extras," they are keys to a successful, sustainable, and fulfilling legal career. Staying licensure-compliant and fulfilling minimum requirements is one thing, but going beyond that is what sets you apart. Active engagement in professional development and bar associations shapes not just what kind of lawyer you are, but what kind of legal community and justice system you help create.

If you're new to the profession, consider mapping out a two- or three-year plan: identify a mentor, seek leadership and mentorship opportunities, earmark CLEs that build necessary skills, and find at least one role in your bar community. Starting small now leads to big dividends later and levels up your lawyering.

Will Amberger is an associate in Krieg DeVault's Litigation and Dispute Resolution Services Practice. Prior to joining Krieg DeVault, Amberger worked as an associate for a national law firm and as a judicial law clerk for the Honorable Cale J. Bradford of the Indiana Court of Appeals. Outside the office, he is involved in IndyBar, the ISBA, the Wabash Club of Indianapolis, the Crohn's and Colitis Foundation - Indiana Chapter, and Indianapolis Bishop Chatard High School Wrestling.

ENDNOTES

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3. *Id.*
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6. *See Indy Attorneys Network*, IndyBar, https://www.indybar.org/?pg=IndyAttorneysNetworkMatchProgram.
7. *See ISBA Mentorship*, Indiana State Bar Association, https://www.inbar.org/page/mentorship.

J IS FOR JUSTICE BUT NOT JUST US: A WEEK IN THE LIFE OF A FAMILY COURT JUDGE

By Hon. Geoffrey A. Gaither

I am a family court judge, tempered by experience, tested by fire, and sustained by faith. I was assigned to the bench in 1995 as a magistrate in Indianapolis juvenile court—wide-eyed, idealistic, and convinced that justice could fix what was broken. Thirty years later, the eyes are still open, but now they see deeper. I've learned that the law can't heal the world, but it can help people start again.

Each week in family court has its own rhythm. Monday, Tuesday, and Wednesday hum like a blues riff; Thursday beats like a drumline; and Friday leans toward gospel. Beneath every note runs the same bassline—the judicial queue. The queue is the heartbeat of modern judging: an endless stream of new cases, motions, and pleas for orders. It grows by the hour, a digital reminder that justice is never done, only due. Every judge I know wrestles with the same tension—balancing what happens in open court with what waits unseen in that glowing electronic inbox. Thankfully, I don't do this alone. My long-time court reporter—whom I call "she who must be obeyed"—keeps the train on the rails. She tracks the calendar, rescues lost orders, and politely saves me from my own forgetfulness. Without her and my fearless, fierce staff, the courtroom would run on chaos and caffeine.

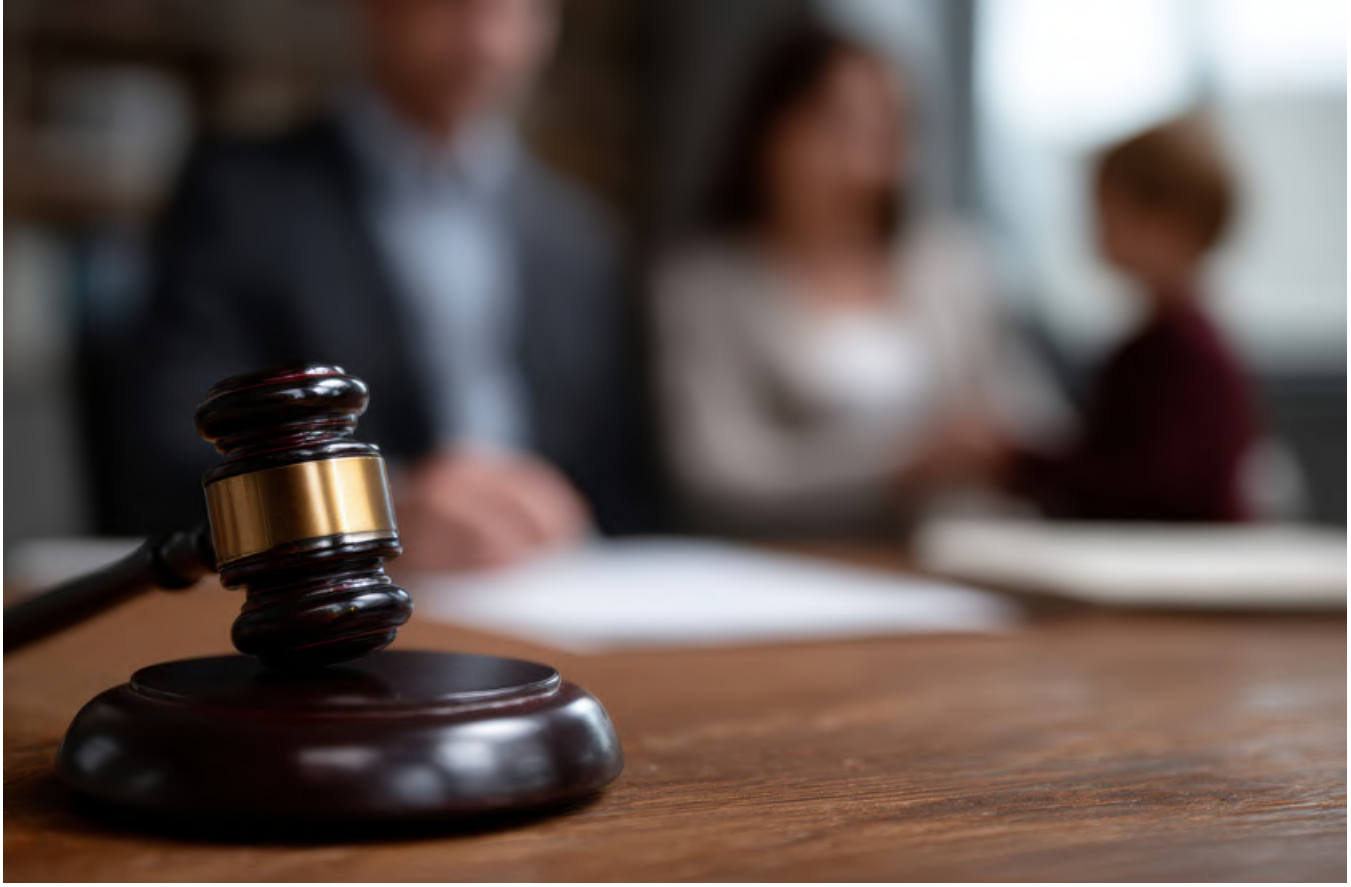
"The modern judge has two benches—one made of wood, the other made of pixels."

MONDAY AND TUESDAY: WHERE'S THE LOVE?

Mondays and Tuesdays are for divorces, paternities, guardianships, and adoptions—the daily music of love undone. Couples who once planned futures now divide the past. I listen to their voices, heavy with fatigue, anger, revenge, resentment, regret, and sometimes grace. The law can distribute assets, but it can't divide emotion. Then come the paternity cases—young parents navigating adulthood. Some arrive determined to do right; others hope the test sets them free. I remind them fatherhood isn't punishment—it's purpose. The law can assign a name, but only love can define a parent. Then come the guardianships, termination of parental rights, and adoptions—the finality of cases that should represent happy endings. A foster parent becomes a forever family. A grandmother gains legal authority for the grandchild she's been raising all along. There are tears, laughter, balloons. In a courthouse built on heartbreak, these are the rare days when joy fills the record. By day's end, I am drained but grateful. My court reporter smiles knowingly; she's seen it all. We close the courtroom, but not the calling.

WEDNESDAY: DOES ANYBODY REALLY KNOW WHAT TIME IT IS?

Wednesday mornings are devoted to dual-status youth—children who need the protections offered by the child welfare system and the accountability offered by the youth justice system. They carry two unfortunate labels: dependent and delinquent. They remind us that systems designed to help can sometimes collide. Around the courtroom sit lawyers, caseworkers, therapists, and mentors, all asking the same question: What does this child need to heal? The answers vary—structure, stability, mercy—but the mission is the same: restoration. Later come the undocumented youth—young people seeking safety through Special Immigrant Juvenile Status but sometimes finding the door to deportation. Their courage humbles me. Many have crossed borders alone, fleeing violence, fighting human traffickers and uncertainty. For them, justice isn't abstract—it's survival. Afternoons bring protective orders, where fear meets resolve. Survivors stand before the bench, voices shaking but steady, reclaiming control over their lives. Each order I grant feels like a new declaration of freedom. By evening, I might trade my robe for a stadium seat—cheering on a high-school athlete who once stood in my courtroom or attending a college graduation for a former CHINS youth. The work continues long after the docket ends. By late Wednesday, the queue grows again.



"After three decades, I've learned that justice has a rhythm. It's not found in statutes or sentences—it's found in people."

While I'm ruling on one case, twenty new ones arrive. Each digital file holds a story waiting to be heard.

THURSDAY: KEEP YOUR HEAD TO THE SKY

Thursday starts early and stretches late. The morning docket covers youth still living at home. The afternoon belongs to those in custody—young people wearing the uniform of consequence. I remind them, "You are not your worst day. You are still somebody's child." Sometimes that truth lands, sometimes it drifts, but I keep saying it. When is waiver to the adult system the most effective response to juvenile delinquency? Can we treat this youth with community-based services or is the big school with the little name the right thing to do? Can there really be a correction without a connection? Between hearings, I glance at the queue. It's fuller than ever. New petitions, new motions, new cries for attention. The modern judge has two benches—one made of wood, the other made of pixels.

FRIDAY: A HOUSE IS NOT A HOME

Fridays are for Children in Need of Services (CHINS)—the emotional core of family court. Parents fighting addiction, children yearning for stability, grandparents stepping back into parenthood. These cases are heavy, but sometimes hope breaks through—a mother finishes treatment, a father keeps his promise, a child goes home. Finally, Friday afternoon arrives. A time dedicated to no court hearings. Just a judge alone with my queue, coffee, and quiet resolve. A time for John Coltrane, Miles Davis, and mountains of emails. Time to take a deep breath until the next crisis arises…which is any minute now.

SATURDAY: FLY LIKE A BIRD

Saturday is supposed to be for rest, but the work follows me into the world. Some mornings I am doing home projects and listening to jazz, letting the week fall away. Other days, I officiate weddings, watch graduates cross the stage, or speak

at youth events and neighborhood gatherings. Sometimes I attend funerals—reminders that not every story finds redemption in time. And often, I find myself back in the bleachers, watching a systems-impacted youth once in front of me score a touchdown or sink a jump shot. Those are the unseen verdicts—the quiet affirmations that accountability, when paired with compassion, can yield new beginnings.

SUNDAY: FEELIN' STRONGER EVERYDAY

Sunday morning is my sanctuary. Church. Football. Couch time. I think about the week behind me, and ahead—the divorces, the youth, the guardianships, the survivors. And yes, I think about the queue—still there, still growing, still humming with human need. Each file represents a life in motion, each motion a plea for clarity, each name a reminder of why I started this journey in 1995.

CODA: FUNNY HOW TIME FLIES

After three decades, I've learned that justice has a rhythm. It's not found in statutes or sentences—it's found in people. Programs come and go. My courtroom is both drum and altar: a place where accountability finds tempo and mercy finds melody. From Monday's divorces to Friday's dependency cases, from the swelling queue to my tireless staff, from the bright-eyed magistrate I use to be, to the tempered judge I've become, the song remains the same: resilience. So, I robe up each Monday, ready once more. Because somewhere in this city, another family, another child, another story is waiting for justice—and it's not for just us.

Judge Geoffrey A. Gaither is a Family Court judge in the Marion Superior Court.

CRIMINAL JUSTICE NOTES

By Ruth Johnson and Jack Kenney

POST-CONVICTION REPRESENTATION, APPEAL WAIVERS IN PLEA AGREEMENTS, AND MORE

The Indiana Court of Appeals decided 20 published criminal cases in October and November, and the Supreme Court issued two significant criminal decisions. This note focuses on the Supreme Court decisions, which address access to post-conviction representation and appeal waivers in plea agreements. A summary of noteworthy Court of Appeals decisions follows.

INDIANA SUPREME COURT

GAP IN POST-CONVICTION RULE RESULTED IN DENIAL OF JAIL INMATE'S ACCESS TO STATE PUBLIC DEFENDER

In *Elzey v. State*, No. 24S-CR-436, 2025 WL (Ind. Nov. 20, 2025), the Supreme Court confronted a gap between statutory law and court rules about post-conviction representation. Kortney Elzey was serving his sentence in the Huntington County Jail when he filed a pro se post-conviction relief petition and requested that it be forwarded to the Office of the State Public Defender. The trial court denied his request based on Post-Conviction Rule 1(2), which requires forwarding only if "the indigent petitioner is incarcerated in the Indiana Department of Correction." Because Elzey was in a county jail, not the DOC, the rule did not require forwarding.

Elzey argued that Indiana Code § 33-40-1-2(a) entitled him to representation. That statute requires the state public defender to represent people "confined in a penal facility" or "committed to the department of correction" who are financially unable to employ counsel. In an opinion by Justice Massa, the court held that "penal facility" encompasses county jails, not just DOC facilities. The court noted Ind. Code § 35-31.5-2-232 defines "penal facility"

to include "county jail, penitentiary, house of correction, or any other facility for confinement of persons under sentence." The word "or" separates the two categories, meaning inmates in both have access to the state public defender. Reading the statute to limit representation to DOC inmates would render "penal facility" superfluous. Moreover, the statute uses "shall," which is mandatory.

Despite this holding, the court found no reversible error because the trial court correctly followed the rule as written. The court acknowledged "an inadvertent gap" arising from Indiana's mid-2010s criminal justice reforms, which shifted Level 6 felony offenders from the DOC to county jails. The gap exists because court rules cannot change substantive statutory law. The court cited *Sanders v. State*, 401 N.E.2d 694, 695 (Ind. 1980), noting that state public defender referral is crucial for "orderly and coherent prosecution of the claim." The court referred the matter to its Rules Committee for amendment "with all deliberate speed" while noting the state public defender retains discretion to decline meritless claims under both statute and rule.

Chief Justice Rush concurred in part and dissented in part. While agreeing Elzey had the statutory right to representation, she found reversible error in the trial court's handling of the matter. The trial court didn't merely decline to forward the petition—it affirmatively denied Elzey's request for counsel and instructed him to proceed without a lawyer. Chief Justice Rush argued this confusing order likely deterred Elzey from seeking help directly from the state public defender, as it would be unreasonable to expect an unrepresented litigant to contravene a court order declaring him ineligible for representation.

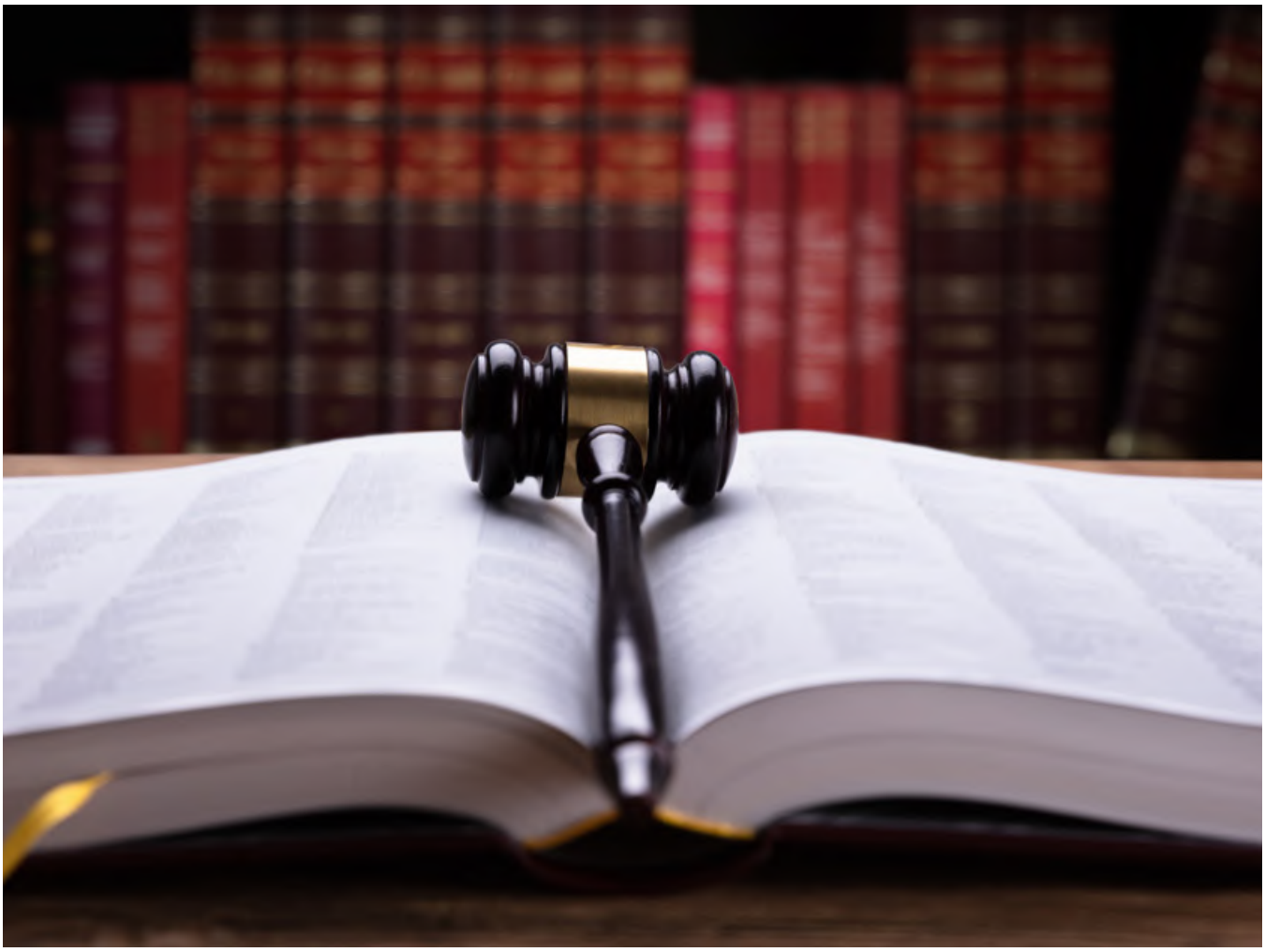
CHALLENGE TO TRIAL COURT'S CONSIDERATION OF SENTENCING FACTORS BARRED BY PLEA AGREEMENT'S APPEAL WAIVER

In *Anderson v. State*, 269 N.E.3d 817 (Ind. 2025), the Supreme Court narrowly defined what constitutes an "illegal" sentence that cannot be waived. After stabbing her boyfriend with a boxcutter, Kimberly Anderson entered a plea agreement that waived her right to appeal any sentence within the agreement's terms, including the right to seek review of the appropriateness of her sentence under Appellate Rule 7(B). The agreement capped her executed sentence at four years.

At sentencing, the trial court imposed a three-year executed sentence, with three years suspended, finding that aggravating circumstances outweighed mitigators. The court observed that Anderson "made faces, mocking

faces and faces of disbelief" during argument. *Id.* at 819. After sentencing, the trial court told Anderson she had "a right to appeal the sentence." *Id.* at 820. Anderson appealed, arguing the trial court abused its discretion by considering improper reasons and not considering her guilty plea as mitigating. She claimed these arguments fell outside her waiver because she was alleging an "illegal" sentence.

In an opinion by Justice Slaughter, the court rejected this argument, holding that "a sentence is not illegal, and thus can be waived for appellate review, unless it falls outside the prescribed statutory range or is unconstitutional." *Id.* This narrow definition resolved a split in the Court of Appeals, adopting the approach from *Wihebrink v. State*, 181 N.E.3d 448 (Ind. Ct. App. 2022). The court explained that Ind. Code § 35-38-1-7.1(d) permits courts to impose any statutorily authorized and constitutionally permissible sentence regardless of aggravating or mitigating circumstances. Claims about reliance on improper aggravators or failure to find mitigators are reviewed "for an abuse of discretion, not for legality." *Id.* at 822-23.



The court acknowledged that some constitutional arguments—such as sentences based on race—might overcome an appeal waiver. But Anderson's claims didn't reach that threshold. The court emphasized that plea agreements provide mutual benefits: the state avoids trial risk and expense while defendants receive more lenient sentences. Allowing defendants to circumvent appeal waivers by alleging improper consideration of aggravators and mitigators would deprive both parties of their bargain. *Id*. at 823. Because Anderson's three-year executed sentence fell within the agreement's four-year cap and her waiver was "clear and comprehensive," the court dismissed her appeal. *Id*. at 824. The court also rejected Anderson's argument that the trial court's mistaken advisement about her appeal rights invalidated the waiver, applying the "four corners rule" that limits contract interpretation to the written terms. *Id*.

Justice Goff concurred in the result but disagreed with the majority's reasoning. He found the waiver language ambiguous because while it covered "any sentence imposed" and Appellate Rule 7(B) review, it might not extend to challenges to the sentencing procedure itself. He would have resolved this ambiguity against the state. Justice Goff also criticized the narrow definition of "illegal" sentence, arguing that abuse of sentencing discretion and illegal sentences "often go hand-in-hand." *Id*. at 827. For example, consecutive sentences based solely on an improper aggravator would be illegal. He suggested two alternatives: requiring defendants to identify a specific, plausible theory of illegality, or requiring the state to use precise, all-inclusive waiver language or offer specific sentences. *Id*. at 828. Despite these concerns, Justice Goff found no merit in Anderson's specific claims.

INDIANA COURT OF APPEALS

The Court of Appeals decided three cases with dissenting opinions, each raising important issues about causation, sentencing philosophy, and evidence-based policy.

In another case, the Court of Appeals unanimously affirmed a stalking and aiding harassment conviction against a "First Amendment auditor" who repeatedly filmed and posted inflammatory videos of city hall employees on YouTube.

CAUSATION AND THC/METABOLITE OFFENSES

In *Hall v. State*, No. 25A-CR-868 (Ind. Ct. App. Oct. 16, 2025), Hall was convicted of operating with a Schedule I substance in her blood causing death. Shambreka Hall, a DoorDash driver, stopped at a stop sign with a partially obstructed view, then moved forward into an intersection where Womack struck her vehicle while riding a motorcycle. Womack had accelerated to nearly 40 mph in a 20-mph zone and had a blood alcohol concentration of 0.152. Hall's blood tested positive for THC and THC metabolites. The jury acquitted Hall of operating while intoxicated but convicted her of the metabolite offense.

The majority affirmed, but Judge Mathias dissented, arguing Womack's reckless conduct—speeding more than twice the limit without a helmet with a high BAC—was the proximate cause of his death, not Hall's alleged impairment. The trial court had granted Hall's directed verdict on reckless homicide, suggesting Hall's driving was not itself reckless.

SENTENCING CASES

In *Wills v. State*, No. 24A-CR-1453 (Ind. Ct. App. Oct. 10, 2025), Wills pled guilty after causing two deaths and one serious injury while intoxicated. His BAC was 0.171. The trial court sentenced him to an aggregate sentence of 28 years. The majority affirmed, but Senior Judge Baker dissented, concluding the sentence was inappropriate given Wills' guilty plea, genuine remorse, no criminal history, and steady employment. The dissent would have reduced Wills' sentence to 18 years.

In *Carter v. State*, No. 25A-CR-710 (Ind. Ct. App. Oct. 16, 2025), Carter pled guilty but mentally ill to child exploitation and received a 24-year sentence. The majority affirmed, but Judge Brown dissented, finding Carter's sentence an outlier, noting the steep cost to taxpayers, given the fact he pleaded guilty but mentally ill, that his sister was his caretaker, and that she testified he could live with her on electronic monitoring and that a long prison term for someone with autism spectrum disorder and borderline intellectual functioning does not reflect the goals of reformation or rehabilitation. She cited research showing sex offenders have lower recidivism rates than other felons and that cognitive behavioral therapy can be effective. The dissent questioned the value of long incarceration for a mentally ill defendant.

FILMING AT CITY HALL TRIGGERS HUNDREDS OF THREATENING CALLS TO EMPLOYEES

Hendry v. State, No. 25A-CR-22 (Ind. Ct. App. Nov. 12, 2025), involved Craig Hendry, a "First Amendment auditor" who filmed confrontational interactions at government buildings and posted videos to YouTube. He repeatedly visited Clinton City Hall, posting videos with inflammatory messages and the city hall phone number. The city received hundreds of threatening calls. Hendry targeted the mayor's assistant, filming her through closed blinds and following her to her car. The court unanimously affirmed convictions for stalking and aiding, inducing, or causing harassment. The court held Hendry's conduct moved beyond filming public areas and became targeted harassment. While Hendry had a right to film in public areas, the First Amendment does not protect conduct that rises to the level of stalking or harassment.

ETHICS

By Margaret Christensen and Katie Jackson

AUTHENTICITY IN THE AGE OF AI: ETHICAL DUTIES FOR INDIANA LAWYERS CONFRONTING DEEPFAKES AND MANIPULATED DIGITAL EVIDENCE

There is no doubt that lawyers who make knowingly false statements or present falsified documents and manufactured evidence commit severe misconduct that will draw serious sanctions, up to and including disbarment. While no Indiana disciplinary case turns on AI-generated evidence (at least as of December 9, 2025), the Indiana Supreme Court's treatment of dishonesty, candor, and falsification provides a clear template for how the court will assess lawyer conduct when digital manipulation is involved. Rules 1.1, 1.2(d), 1.6, 3.3, 3.4, 5.1, 5.3, and 8.4(c) require verification and supervision to combat false evidence, and sometimes these rules require remedial measures where AI-manipulated evidence has been submitted to courts or opposing parties.

INDIANA'S BASELINE: FALSIFIED EVIDENCE AND DISHONEST FILINGS ARE SEVERE MISCONDUCT

The integrity of documents and representations to tribunals is foundational to justice, and it is severe misconduct for lawyers to submit fraudulent alterations or fabricated evidence. In disciplining an attorney who knowingly filed a false bankruptcy petition misrepresenting the client's ownership of their personal residence in *Siegal*, the Supreme Court underscored that "the accuracy of documents and instruments utilized before a tribunal in a proceeding is of the utmost importance to the administration of justice," and that fraudulent alteration by officers of the court is "severe misconduct."[1] That

language has become a touchstone in subsequent decisions and is directly relevant to manipulated screenshots, edited audio, and AI-fabricated messages.

The Supreme Court has not hesitated to impose the profession's ultimate sanction where attorneys engage in patterns of deceit involving evidence. In disbarring an attorney who fabricated a bank prospectus for use at trial, filed false affidavits, and lied to tribunals about his health to secure extensions, the court held that a sustained course of intentional deceit warranted disbarment to protect the integrity of the legal system.[2] The decision expressly invoked the accuracy principle articulated in *Siegal* and found violations of Rules 3.3, 3.4(b), 8.4(c), and 8.4(d).[3]

CANDOR TO THE TRIBUNAL UNDER RULE 3.3: THE DUTY TO CORRECT AND THE AI OVERLAY

Indiana Rule of Professional Conduct 3.3 prohibits knowingly making false statements of fact or law to a court and requires lawyers to take reasonable remedial measures when they learn that material evidence is false. The Supreme Court has repeatedly enforced these duties, including the obligation to correct prior misstatements. In a recent case suspending a lawyer for making false statements about an impermissible interview of a represented party, the Supreme Court confirmed that Rule 3.3 imposes an affirmative duty to correct a false statement once it becomes known to the lawyer.[4]

The court's application of Rule 3.3 in *Powell*[5] is particularly instructive for AI-related risks. There, the attorney was also the litigant—he was the petitioner seeking

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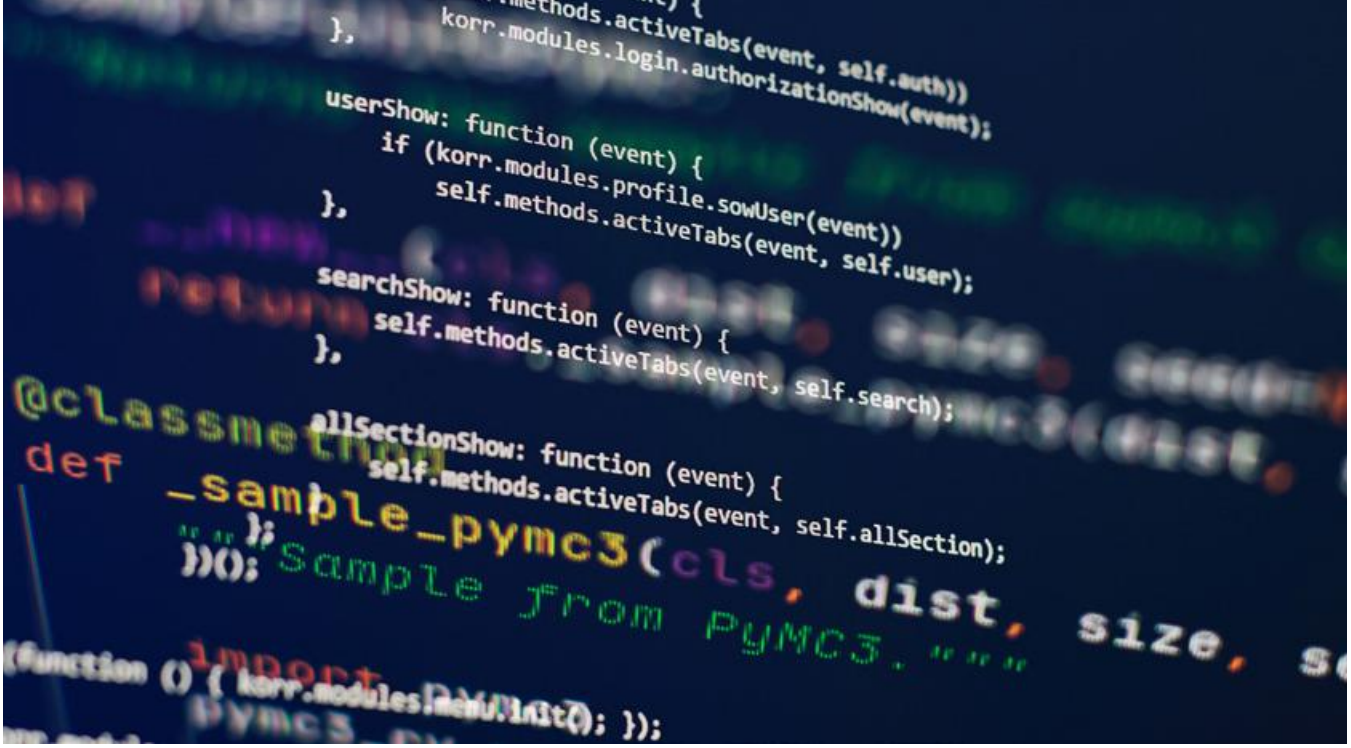

reinstatement to the Indiana bar. He submitted a false document and made false statements in the reinstatement proceeding, which he later tried to pin on his counsel in that proceeding. The Supreme Court rejected this argument and held that Rule 3.3(a)(1) obligates an attorney to correct any false statement previously made.[6] The court ultimately disbarred Powell for falsifying evidence and making false statements to the court and the Disciplinary Commission, finding violations of Rules 3.3(a)(1), 3.4(b), and 8.4(c).[7]

FAIRNESS AND TRUTHFULNESS UNDER RULES 3.4 AND 8.4(C): FALSIFICATION IS NOT A CLOSE CALL

Rules 3.4 and 8.4(c) work together to police fairness and honesty in litigation and beyond. Rule 3.4(b) forbids falsifying evidence, while Rule 8.4(c) prohibits conduct involving dishonesty, fraud, deceit, or misrepresentation. The Supreme Court routinely invokes these rules when lawyers manipulate documents or misrepresent material facts. The *Powell* decision applied both rules to a lawyer who created a false receipt to support a reinstatement petition and then used it as evidence; the Supreme Court rejected the suggestion that falsification must coincide with a pending proceeding, holding that Rule 3.4(b) reaches evidence falsified in anticipation of later use.[8]

Likewise, in a published order suspending an attorney for using the opposing party's signature page on his own proposed pretrial order, the court concluded that such conduct violated Rule 8.4(c) and reiterated that the accuracy of documents used by a tribunal is of the utmost importance to justice, with falsified filings by officers of the court being severe misconduct.[9] The court acknowledged mitigation and ordered a 180-day suspension with automatic reinstatement, but it reinforced a zero-tolerance baseline for document falsification in litigation.[10]

When AI tools make it easy to alter a PDF, splice an audio file, or fabricate a screenshot, these precedents leave no safe harbor. Submission of manipulated digital evidence or knowingly allowing it to stand after learning of defects violates Rules 3.4 and 8.4(c). And because Indiana's cases treat the accuracy of documents as "of the utmost importance," reliance on AI without meaningful verification will rarely be defensible when the content is material to adjudication.[11]

AIDING CLIENT FRAUD UNDER RULE 1.2(D): WHEN "LOOKING THE OTHER WAY" BECOMES MISCONDUCT

Facilitating client deception—even outside a courtroom—violates Rule 1.2(d). In approving a negotiated three-year suspension for a lawyer convicted of filing a client's false federal tax return, the Supreme Court held that the attorney violated Rule 1.2(d) along with Rules 4.1(a), 8.4(b), 8.4(c), and 8.4(d).[12] Likewise, in *In re Hong-Min Jun*,[13] the Supreme Court found that a lawyer violated Rule 1.2(d) by counseling a client to make false statements about intent in order to pursue a nonimmigrant entry strategy for the client's spouse.

AI heightens the risk that clients will bring lawyers doctored messages or altered media to "prove" a point.

"When red flags arise—implausible metadata, inconsistent timestamps, unusually clean screen captures, or files whose provenance cannot be explained—lawyers should investigate or refuse to use them."

Indiana's 1.2(d) cases require lawyers to ask hard questions and decline to submit materials that appear fraudulent. When red flags arise—implausible metadata, inconsistent timestamps, unusually clean screen captures, or files whose provenance cannot be explained—lawyers should investigate or refuse to use them. If the materials are material and authenticity remains in doubt, engaging a forensic expert and insisting on native files is consistent with Indiana's decisional law and the profession's duty to avoid assisting fraud.[14]

COMPETENCE UNDER RULE 1.1: VERIFICATION DUTIES IN A TECHNOLOGICAL ERA

Indiana Rule 1.1 requires competent representation, defined as the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Although no Indiana disciplinary decision to date turns on "technological competence" in the context of AI use (or misuse), Indiana cases imposing discipline for filing false papers and fabricated evidence make clear that diligence is not satisfied by blind reliance on a client or on superficially plausible documents.[15] Accordingly, lawyers must ensure that they submit adequately verified evidence and they must take reasonable steps before relying on client-provided documents in litigation.

The ABA explains that lawyers "must have a reasonable understanding of the capabilities and limitations" of the specific generative AI tool they use, must remain vigilant as the tools evolve, and may not rely on outputs "without an appropriate degree of independent verification or review."[16] The New York City Bar likewise instructs that a lawyer should understand how a tool works, critically review and correct outputs, and ensure that the content accurately reflects the client's interests; professional judgment cannot be delegated to an AI model.

For Indiana practitioners, the practical implication is that competent handling of AI-suspect evidence requires more than a perfunctory glance. Reasonable steps to ensure authenticity require requesting native files and metadata, confirming device-level context for messages or photos, comparing content across independent sources, and, when warranted, retaining a qualified examiner. Those measures align Rule 1.1's thoroughness requirement with the Indiana Supreme Court's insistence on accuracy and candor in evidentiary submissions.[18]

SUPERVISION UNDER RULES 5.1 AND 5.3: MANAGING PEOPLE AND TECHNOLOGY

Rules 5.1 and 5.3 require lawyers with managerial or supervisory authority to implement measures reasonably assuring compliance with the rules and to supervise subordinate lawyers and nonlawyers. Generative AI amplifies the risks of inadequate supervision; staff may use AI tools to prepare pleadings, exhibits, transcriptions, or summaries; and external vendors may offer AI-enabled services that touch client data and litigation filings. The ABA has advised that managerial lawyers should establish clear policies governing permissible uses of generative AI, train personnel on risks and review obligations, and ensure that work produced with AI is appropriately identified, verified, and secured.[19]

Indiana's recent disciplinary decisions reflect the Supreme Court's willingness to sanction failures that undermine candor and the orderly administration of justice. In *Trapp*, the court expressly noted that the respondent's conduct "unduly prolonged" the litigation by forcing undue expenditure of resources and leading to disqualification proceedings, and it imposed a suspension in part because dishonesty toward the court elevated the seriousness of the misconduct.[20] Firm leaders who fail to implement and enforce controls to prevent the submission of manipulated digital evidence risk analogous consequences when avoidable AI-related missteps prejudice proceedings.

LITIGATION PRACTICE AND WORKFLOW DESIGN FOR AN AI-INTENSIVE EVIDENTIARY RECORD

Indiana disciplinary opinions teach that the court expects lawyers to prevent false or falsified evidence

"The cost and speed advantages of AI-assisted processing do not relax these evidentiary fundamentals; rather, they make disciplined verification more important because manipulation is cheaper and easier."

from reaching the court record or negotiating forum and to correct it promptly when it does. In an era of abundant digital media, that expectation translates into an evidentiary workflow that prefers native files, metadata, and chain-of-custody over screenshots, loose PDFs, and decontextualized clips. In the context of text messages or chat logs, practitioners should seek complete threads with device-level exports rather than curated captures; when photos or video are central, original files with EXIF data and source device information should be preferred over compressed or edited versions. The cost and speed advantages of AI-assisted processing do not relax these evidentiary fundamentals; rather, they make disciplined verification more important because manipulation is cheaper and easier.

Indiana's recent Rule 3.3 decisions underscore the need to be ready with remedial measures when the unexpected happens. If a client reveals that a key exhibit has been filtered, spliced, or otherwise altered, counsel must promptly take corrective steps with the tribunal, informed by *Powell*'s articulation of the duty to correct false statements and *Trapp*'s insistence that excuses like "scrivener's error" will be assessed skeptically against the record.[21]

CONCLUSION

Indiana's disciplinary decisions leave no doubt that promoting false statements, falsified documents, and fabricated evidence are severe misconduct. From *Siegal*'s and *Marshall*'s articulation that the accuracy of documents used by courts is of the utmost importance, to *Richards*'s disbarment for fabricated evidence and repeated deceit, *Powell*'s duty-to-correct holding and disbarment for falsifying evidence, and *Trapp*'s suspension for false statements that burdened the tribunal, the court has built a durable doctrinal framework for truthfulness and integrity. Those holdings translate directly to AI-era risks.

As AI hallucinations, deepfakes, and manipulated digital records proliferate, Indiana lawyers must align practice with these settled principles. Competence under Rule 1.1 requires understanding AI's limitations and verifying critical evidence; candor under Rule 3.3 demands swift correction of any falsehood that reaches the court; fairness and honesty under Rules 3.4 and 8.4(c) forbid the submission or tolerance of falsified content; supervision under Rules 5.1 and 5.3 calls for policies and training that prevent AI-related missteps; and Rule 1.2(d) bars counseling or assisting client fraud, whether analog or digital. Thus, even without directly referencing AI technologies, Indiana's ethical standards supply the necessary guardrails to require honesty, candor, and fairness in the age of AI evidence. The practical task for Indiana practitioners is to implement workflows and training that honor these duties, so that even as opportunities for creation of deceptive "evidence" become more accessible, our commitment to truth remains steadfast.

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Katie Jackson focuses her practice on attorney ethics and business litigation.

ENDNOTES

1. *In re Siegal*, 708 N.E.2d 869, 872 (Ind. 1999).
2. *In re Richards*, 755 N.E.2d 601, 603–05 (Ind. 2001).
3. *Id.* at 604–05.
4. *In re Trapp*, 222 N.E.3d 940, 944 (Ind. 2023).
5. *In re Powell*, 76 N.E.3d 130 (Ind. 2017).
6. *Id.* at 134.
7. *Id.* at 135.
8. *Powell*, 76 N.E.3d at 134–35.
9. *In re Marshall*, 11 N.E.3d 911, 912–13 (Ind. 2014) (per curiam).
10. *Id.* at 913.
11. *See Siegal*, 708 N.E.2d at 872; *Marshall*, 11 N.E.3d at 913.
12. *In re Evans*, 759 N.E.2d 1064, 1064–66 (Ind. 2001).
13. *In re Hong-Min Jun*, 78 N.E.3d 1100, 1101 (Ind. 2017).
14. *See Siegal*, 708 N.E.2d at 871–72.
15. *See Richards*, 755 N.E.2d at 604–05; *Siegal*, 708 N.E.2d at 871–72.
16. ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 512 (2024).
17. N.Y.C. Bar Ass'n Comm. on Prof'l Ethics, Formal Op. 2024 5 (2024).
18. *See Marshall*, 11 N.E.3d at 913; *Siegal*, 708 N.E.2d at 872.
19. ABA Formal Op. 512 (2024).
20. *Trapp*, 222 N.E.3d at 946–47.
21. *Powell*, 76 N.E.3d at 134; *Trapp*, 222 N.E.3d at 943–45.

By Maggie L. Smith

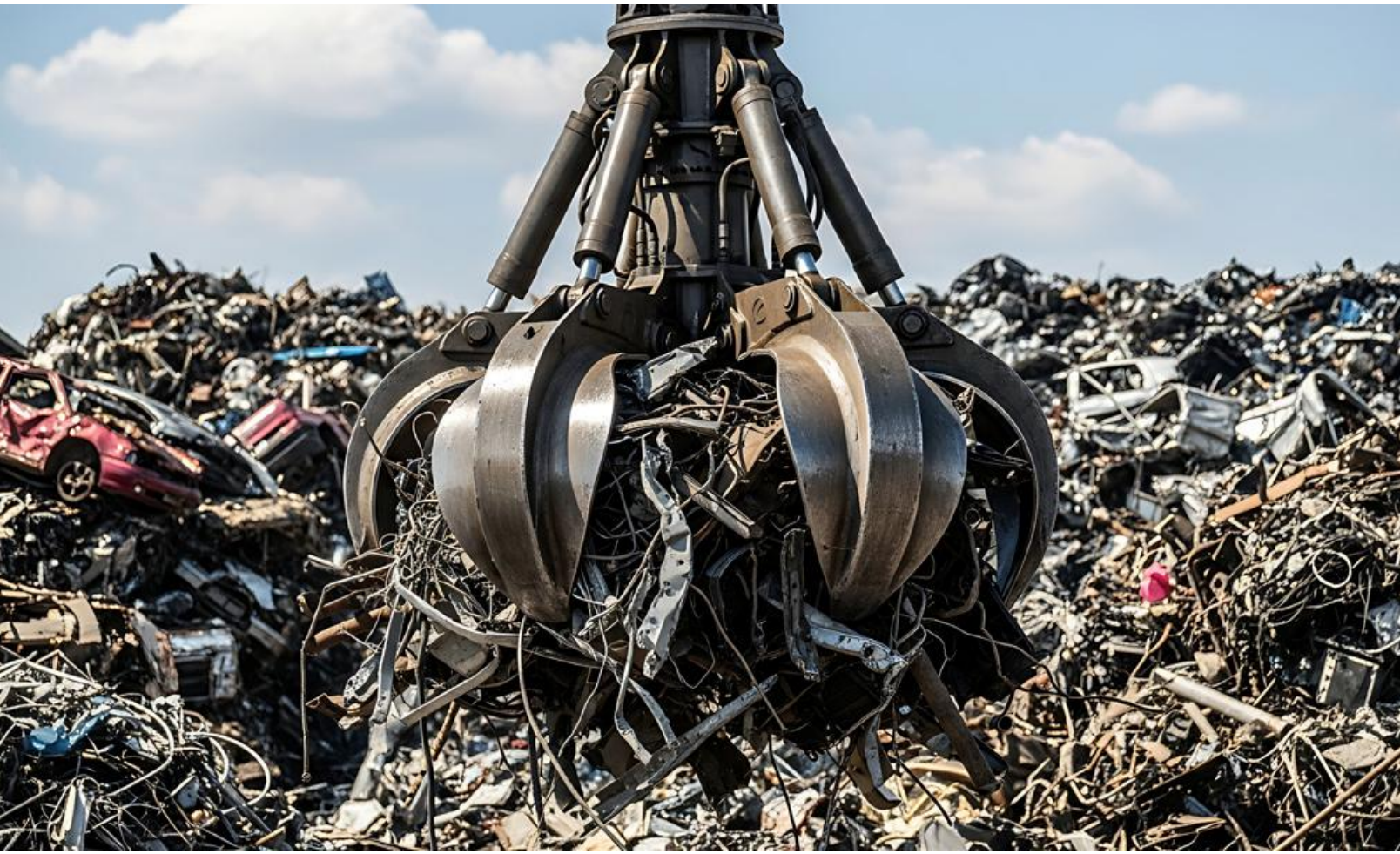
COURT HOLDS AGENCIES CANNOT CORRECT THEIR OWN ERRORS OF LAW WITHOUT STATUTORY AUTHORITY, AND OTHER RECENT DECISIONS

In October and November 2025, the Indiana Supreme Court issued five civil opinions, and the Indiana Court of Appeals issued 27 published civil opinions.

INDIANA SUPREME COURT

SUPREME COURT ADOPTS RESTATEMENT AND HOLDS THAT INTERPLEADING POLICY LIMITS PROVIDE INSURERS WITH A SAFE HARBOR FROM LIABILITY FOR CLAIMS OF BAD FAITH AND/OR BREACH OF THE IMPLIED DUTY OF GOOD FAITH AND FAIR DEALING

In *Baldwin v. Standard Fire Insurance Company*, 269 N.E.3d 1197 (Ind. 2025) (Slaughter, J.), the Indiana Supreme Court addressed the situation where multiple claimants with serious injuries present the risk of exhausting policy limits if the insurance company settles with some but not all claimants, which can lead to claims of bad faith or breach of the implied duty of good faith and fair dealing.



The court adopted Restatement (Second) of the Law of Liability Insurance, §26, which (1) imposes a duty on insurers in this situation to "make a good-faith effort to settle the actions in a manner that minimizes the insured's overall exposure" and (2) "provides insurers with a safe harbor from liability" if they interplead "the policy limits to the court, naming all known claimants, and, if the insurer has a duty to defend or a duty to pay defense costs on an ongoing basis, continuing to defend or pay the defense costs of its insured" until certain conditions are met.

Justice Goff concurred in the adoption of the Restatement's safe-harbor provision but disagreed as to its application in this case.

SUPREME COURT HOLDS AN ADMINISTRATIVE BODY HAS NO INHERENT OR COMMON LAW AUTHORITY TO RECONSIDER ITS FINAL DECISIONS, DISAPPROVING A LINE OF CASES THAT HAD ALLOWED RECONSIDERATION BASED ON A PRIOR ERROR OF LAW

The Monroe County Board of Zoning Appeals (BZA) issued a final order granting a recycling facility a conditional use permit to build a scrap metal collection and sorting facility, but then 11 months later revoked that permit because it decided it had made a legal error when concluding the facility had satisfied the requirements of a conditional use permit.

The Indiana Supreme Court in *Monroe County Board of Zoning Appeals v. Bedford Recycling, Inc.*, 269 N.E.3d 831 (Ind. 2025) (Molter. J.) began by noting that administrative bodies "are statutory creatures limited to the powers conferred by their enabling acts," which means "an agency cannot reconsider its own final decisions unless the legislature explicitly grants the agency that power."

Here, the court concluded the BZA's enabling statutes do not authorize any reconsideration power and, therefore, the BZA "acted outside the scope of its power in revoking [the] conditional use permit." In reaching this conclusion, the court disapproved of a line of cases that

had held "when an administrative entity recognizes its own error of law, it may correct that error," finding those cases had been wrongly decided.

Justice Goff dissented "as to the Court's holding that an agency cannot correct its own errors of law without explicit statutory authority. But because the BZA corrected its error of law after an unreasonable amount of time, I concur in the Court's decision to reinstate the permit."

SUPREME COURT UNANIMOUSLY HOLDS A WRITTEN AGREEMENT OR CONFIRMATION IS REQUIRED TO BECOME AN LLC MEMBER AND THAT UNJUST ENRICHMENT CLAIMS SEEKING A MONEY JUDGMENT ARE ENTITLED TO A JURY TRIAL AS WELL AS APPLICATION OF THE UNCLEAN HANDS DOCTRINE

An LLC was formed by four individuals to acquire, develop, and lease a piece of commercial real estate, but no written agreement or confirmation was executed identifying the LLC's members. When a disagreement thereafter arose, three of the individuals executed an operating agreement omitting the fourth person from the LLC membership. The fourth person sued for breach of contract and unjust enrichment and demanded a jury trial.

A unanimous Supreme Court in *Andrew Nemeth Properties, LLC v. Panzica*, No. 24S-PL-356 (Ind. 2025) (Molter. J.), held that Indiana's Business Flexibility Act (I.C. § 23-18-1-1 to 23-18-13-2) provides that potential LLC members—whether original members or later-added members—"may acquire an interest from the company only by: (1) complying with the membership terms in a written operating agreement, or (2) if there is no such written operating agreement with membership terms, then through the written consent of all members."

The court also confirmed that, even though unjust enrichment is described in caselaw as an "equitable theory," when an unjust enrichment claim seeks a money judgment "rather than equitable relief (e.g., a constructive trust, equitable lien, or subrogation)," it will be considered a legal claim entitled to a jury trial.

Finally, the court provided an extensive discussion of the unclean hands doctrine, noting that "Courts and commentators are deeply divided over whether the unclean hands defense is limited to equitable relief or whether it applies to legal relief too." The court ultimately concluded that Indiana would "join the camp that concludes unclean hands is an available defense to an unjust enrichment claim even when the plaintiff seeks a money judgment."

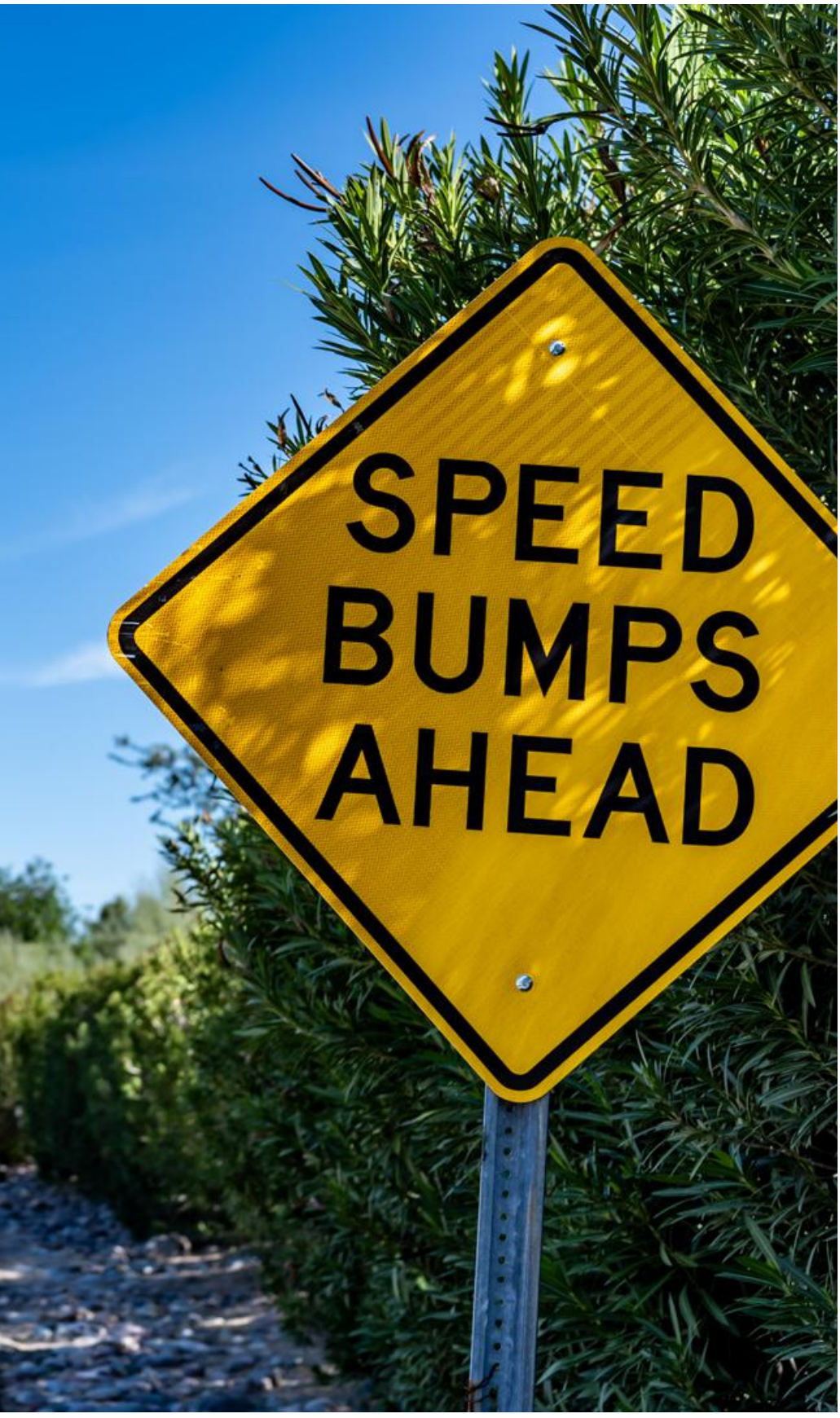
SUPREME COURT UNANIMOUSLY REVERSES TAX COURT'S DECLARATION THAT TAX CODE PROVISION LIMITING A HOMESTEAD TO NO MORE THAN ONE ACRE VIOLATES THE INDIANA CONSTITUTION

In 2008, a resolution was passed to amend the Indiana Constitution and limit the tax liability of residential property—which includes curtilage—to 1% of the property's gross assessed value and non-residential property-tax liability to 3%. Simultaneous with this resolution, the Indiana Tax Code was amended to limit a homeowner's property-tax liability for the "homestead" to 1% and defines "homestead" as the dwelling and real estate "not exceeding one (1) acre" immediately surrounding the dwelling. When the constitutional amendment was voted on by the public in 2010, this statute remained in effect and the constitutional referendum itself included the word "homestead" as part of the public question.

Taxpayers own a home on 3.981 acres of land, and the assessor classified one acre as the "homestead" and taxed that at 1% but taxed the other 2.981 acres at 3% even though taxpayers characterized those 2.981 acres as "curtilage." The Tax Court declared the portion of the Tax Code limiting a homestead to one acre violated the Indiana Constitution.

A unanimous Indiana Supreme Court disagreed in *Sawlani v. Lake County Assessor*, 267 N.E.3d 419 (Ind. 2025) (Goff, J.). The court began by reviewing the history of the constitutional amendment and the tax provision at issue and noted the assessor's argument that "the word 'homestead' in the public question and the near simultaneous enactment of the statutory tax cap and resolution mean voters understood the amendment as codifying the statutory tax cap, including the one-acre limit, into the Constitution."

But the court held taxpayers presented no evidence "that they use the *entire* plot in such a way that it should be treated as the home itself." Accordingly, the court concluded it "need not decide if Article 10, Section 1 permits limiting 'curtilage' to one acre because, even if a size limit is impermissible, Taxpayers fail to show they use more than one acre as curtilage."



SUPREME COURT HOLDS DOCTRINE OF PATERNITY BY ESTOPPEL PRECLUDED MOTHER FROM ASSERTING GRANDMOTHER'S LACK OF STANDING TO PETITION FOR VISITATION

When mother and father—who were unwed—gave birth to a child, father was not listed on the birth certificate; after he died, mother and grandmother acknowledged "in open Court and on the record" that father was child's father, and grandmother received visitation rights pursuant to the Grandparent Visitation Act.

Disputes thereafter arose between mother and grandmother, and grandmother sought custody of child. Mother sought to dismiss grandmother's requests, arguing that she lacked standing because father's paternity was never formally established.

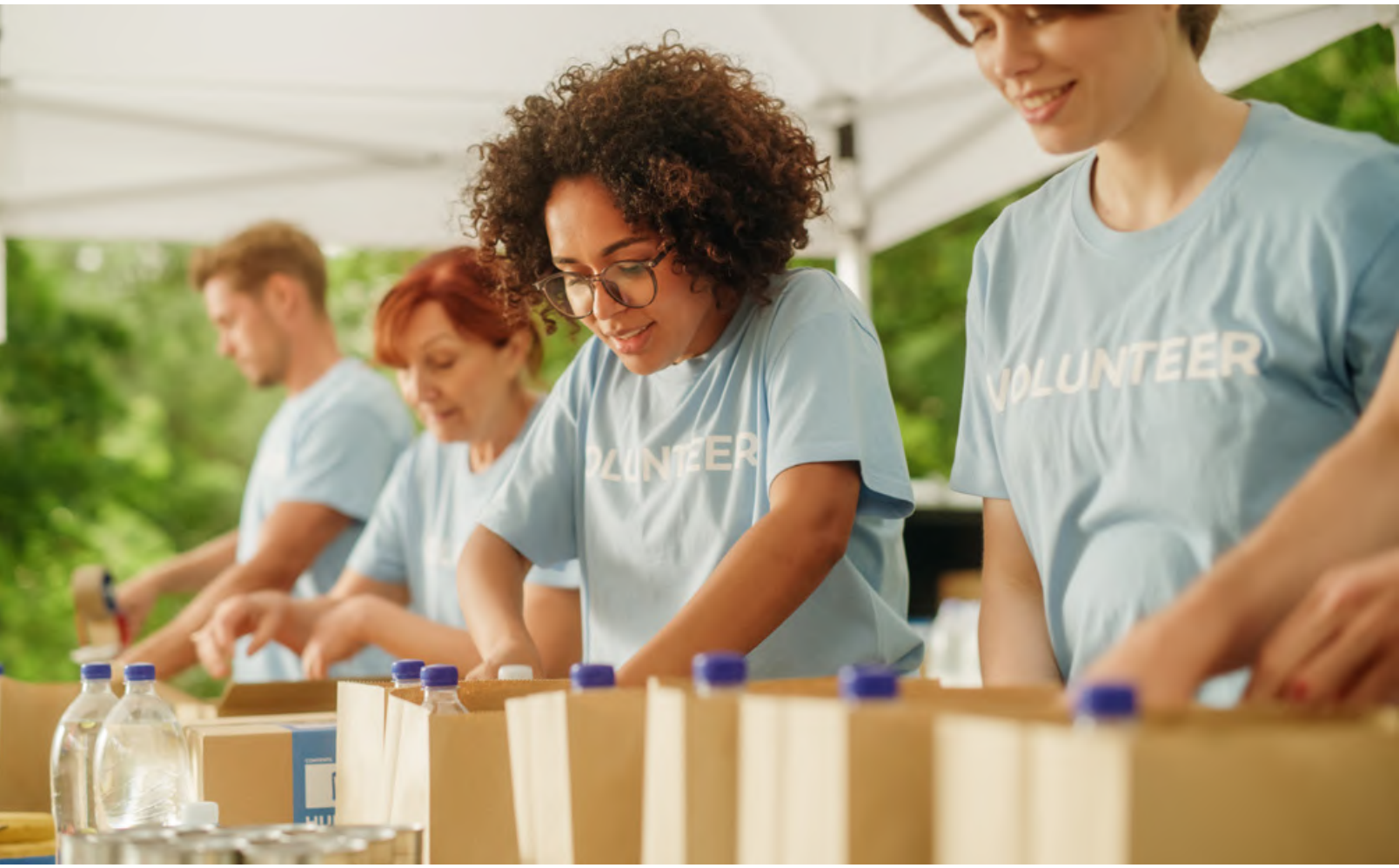
The Indiana Supreme Court in *O'Connell v. Clay*, 267 N.E.3d 994 (Ind. 2025) (Goff, J.), addressed the legal question of "whether a custodial mother's stipulations to the father's paternity in an agreed visitation order preclude her from asserting otherwise in an effort to dismiss that order." Adopting "the doctrine of paternity by estoppel—an equitable remedy long applied by Indiana courts to prevent a man from denying paternity of a child he has accepted as his own or to prevent a mother from denying the paternity of a man she formerly asserted was the father"—the court held "the trial court's acceptance of Mother's stipulations in the Agreed Order is the legal equivalent of a paternity determination."

Justice Molter, joined by Justice Slaughter, concurred in the judgment because mother never

moved to set aside the agreed order, but even if she had done so, "what the Court refers to as 'paternity by estoppel' is really just 'judicial estoppel' and not a non-statutory basis for establishing paternity."

INDIANA COURT OF APPEALS – SELECTED DECISIONS

- *Giger v. Hogue*, No. 25A-PL-448 (Ind.Ct.App. 2025) (DeBoer, J.) (as a matter of first impression, "whether speed bumps materially impair or unreasonably interfere with an easement holder's rights is a question of fact, not law" and "Here, the trial court was well within its discretion to conclude, based on the evidence before it, that the speed bumps at issue do not materially impair or unreasonably interfere with the Gigers' easement rights.").
- *GSE Realty LLC v. Miller*, No. 25A-PL-669 (Ind.Ct.App. 2025) (Tavitas, J.) ("We conclude that there is no evidence of historical, continuous parking by the owners of Lots 10 and 11 on the Gravel Driveway beyond Point A…Accordingly, we reverse the trial court's grant of a prescriptive easement beyond Point A as it relates to vehicular traffic, foot traffic, or parking by the owners of Lot 10 and 11 in the Gravel Driveway.").
- *Pioneer Oil Company, Inc. v. ECC Bethany, Inc.*, No. 24A-PL-2878 (Ind.Ct.App. 2025) (Altice, C.J.) ("Pioneer has failed to allege or argue that Defendants have engaged in any waste or destruction of the common source of gas in this case, and Pioneer does not otherwise explain how Defendants' operations on the Slope are improper. Under the circumstances, we hold that Pioneer cannot avoid the rule of capture based on the bare assertion that Defendants have not obtained a permit for operations on the GCC Leasehold Parcel. Further, as between Pioneer and Defendants, Pioneer does not have an exclusive right to the underground gas flowing between the two parcels and thus its conversion claim must fail.").
- *Wagner v. Perry*, No. 25A-PL-674 (Ind.Ct.App. 2025) (DeBoer, J.) (as a matter of first impression, "we hold that the [Comparative Fault Act] CFA applies to any action based on fault that seeks to recover damages for a harm to property, with 'harm to property' carrying the same broad meaning as 'damage to property' defined by the Court in [*Holtz v. Bd. of Com'rs of Elkhart Cnty.*, 560 N.E.2d 645, 647 (Ind. 1990)].").
- *Shepard Wrex Management, LLC v. Estate of Scott*, No. 24A-PL-3069 (Ind.Ct.App. 2025) (Crone, S.J.) ("Shepard Wrex's claim for $1.2 million is not recoverable under the [Environmental Legal Action] ELA statute because this amount represents estimated future costs rather than costs actually incurred by Shepard Wrex for removal or remediation" and the "ELA statute shifts the financial burden of *environmental remediation* to the party responsible for creating the contamination" but "Shepard Wrex concedes the $25,000 was a consulting expenditure" and not an "environmental cleanup cost.").
- *Transport Leasing/Contract, Inc. v. Northland Insurance Company*, No. 24A-CT-3066 (Ind.Ct.App. 2025) (May, J.) ("The Policy's additional insured endorsement made clear that the Policy only insured TLC to the extent TLC was vicariously liable for the covered conduct of Weston… the Policy did not cover claims against TLC related to TLC's direct negligence, and the Koons Estate's negligent hiring claim against TLC alleged TLC was directly negligent because of its flawed review and approval of Pollard's employment application.").
- *Peabody v. Office of Secretary of State Securities Division*, No. 25A-MI-135 (Ind.Ct.App. 2025) (DeBoer, J.) (noting "Employees mistakenly conflate subpoenas issued in the course of civil discovery with administrative subpoenas issued in the course of an investigation" by the Indiana Secretary of State Securities Division and, therefore, "Employees' reliance on Trial Rule 26 and authorities involving civil discovery is in error because the Division's subpoena duces tecum in this case is not a tool of discovery governed by the Indiana Trial Rules—considering no suit has been brought—but rather an investigative subpoena issued under the Commissioner's statutory authority.").
- *Bryan Builders, LLC v. Cincinnati Casualty Company*, No. 24A-CT-1068 (Ind.Ct.App. 2025) (Vaidik, J.) ("[B]ecause the property damage falls within the all-risk policy's coverage terms, we hold that the damage was still 'covered by property insurance' within the meaning of the subrogation waiver. Thus, the waiver [of subrogation] bars the contractor's claim for reimbursement for the repair costs.").



- *Cantor Fitzgerald, L.P. v. Federal Insurance Company*, No. 25A-PL-1067 (Ind.Ct.App. 2025) (Bailey, J.) ("The Nonresident Defendants did not avail themselves of personal jurisdiction in Indiana either through the Admittance Statute or their contacts with the state.").
- *Treyburn Lakes Homeowners Association, Inc. v. Scott*, No. 25A-CC-646 (Ind.Ct.App. 2025) (May, J.) ("When the trial court entered the foreclosure judgment, it did not include the debt remaining for attorney fees from Cause Numbers 49D13-1410-PL-034434, 49D06-2007-CC-023102, and 49D14-2001-CC-000781…the trial court abused its discretion by failing to include the unpaid amounts of those attorney fee awards in the foreclosure judgment" and by awarding "only twenty percent of the costs and attorney fees requested without holding a hearing").
- *Jackson v. Jackson*, No. 25A-CT-1575 (Ind.Ct.App. 2025) (Brown, J.) ("Siblings presented clear and convincing evidence of unilateral mistake in the First Deed and that both corrections made by the Second Deed—correcting the intended donees of her gift and correcting the legal description of Woodburn Farm—reflected Mother's actual intent in making the gift to Siblings.").
- *Indiana Department of Education v. Mt. Zion's Loving Day Care Ministry*, No. 25A-PL-291 (Ind.Ct.App. 2025) (Bailey, J.) (Department of Education "was required to give Mt. Zion one opportunity to take corrective action after it notified Mt. Zion of a serious deficiency" relating to the Child and Adult Care Food Program).

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