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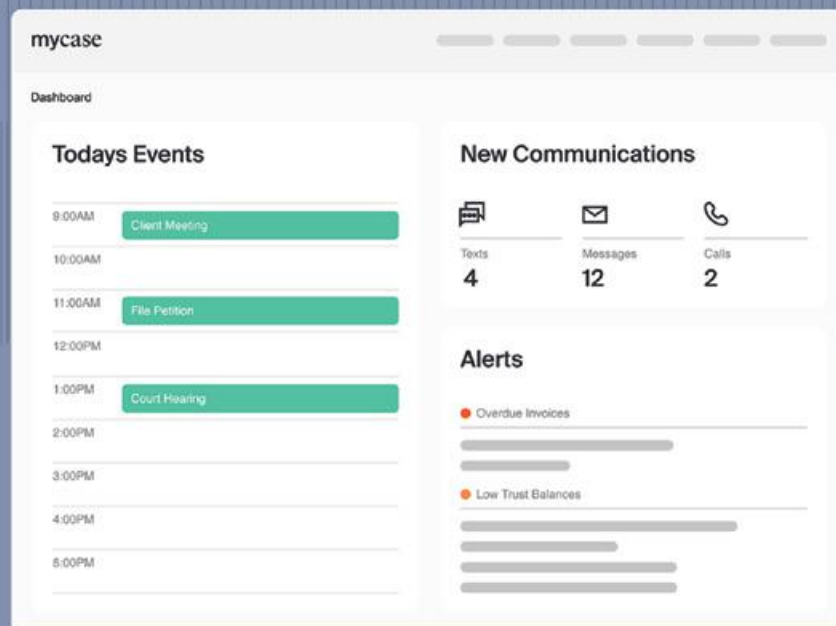
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COVER STORY



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ISBA Adopts Plan to Address Indiana's Legal Service Shortage
By Christine Cordial

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Your home to stories that connect members and initiate conversations. Stay up to date with what ISBA groups are doing, gain unique insights into the profession, and celebrate what it means to be a member of the ISBA.



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President's Perspective

POWER-UPS FOR THE PROFESSION: NINTENDO, KODAK, AND INDIANA'S ATTORNEY SHORTAGE PLAN

By Michael Jasaitis

PRESIDENT'S PERSPECTIVE

Growing up in the '80s and '90s provided some unexpected foresight for today's legal landscape. While my legal career did not begin until 2000, the lessons from that transformative era continue to shape my thinking. It was a time when Michael Jordan's Bulls dominated basketball, when we traded vinyl records for CDs, and when brick-sized cell phones gradually evolved into flip phones. The personal computer revolution, the birth of the internet, and the dawn of the digital age changed the game. During that time, like many who came of age watching *Friends* and wearing flannel shirts inspired by Nirvana, we observed with fascination how some companies thrived while others withered.

Conceivably no business lesson from that era remains more instructive than the cautionary tale of Kodak. In the late '80s, Kodak stood as an American titan, a Fortune 500 company with over 145,000 employees and control of 85% of the camera and film market. Yet by 2012, this seemingly invincible giant had filed for bankruptcy.

The irony? Kodak engineers invented the digital camera in 1975. But rather than embrace this revolutionary technology, the company shelved it. Leaders feared digital

photography would cannibalize its lucrative film business. The Kodak engineer described the response to his invention: "But it was filmless photography, so management's reaction was, 'that's cute—but don't tell anyone about it.'"¹

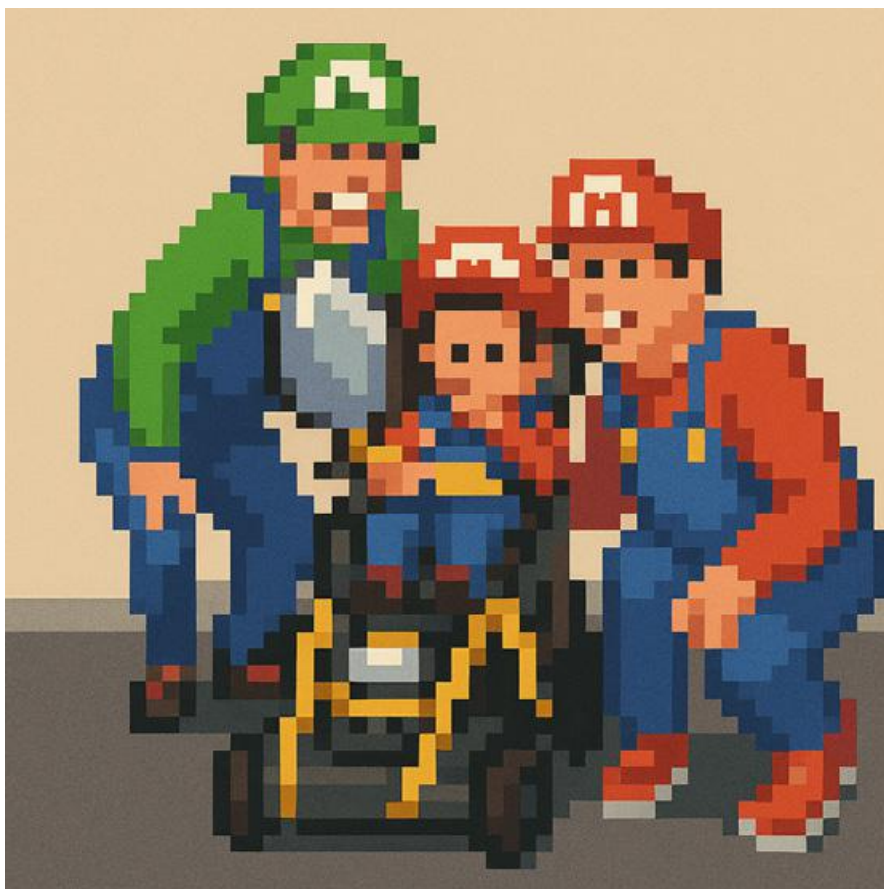
While competitors adapted to changing consumer preferences, Kodak clung to

its traditional business model. Their story represents perhaps the most famous example of what organizational psychologists now call the "Kodak moment," when an industry leader fails to adapt to change.²

On the other hand, consider Nintendo's remarkable journey. Many might be surprised to learn that Nintendo wasn't born in the

1980s with the NES, but that the company actually dates back to 1889, when it began as a playing card company in Kyoto, Japan.³ Over more than 130 years, Nintendo has reinvented itself multiple times, from playing cards to toys to electronic gaming. Not every venture succeeded. The failure of Virtual Boy in 1995 and the underwhelming Wii U remind us that innovation involves risk. Yet for every misstep, Nintendo learned and adapted. When the Game Cube underperformed, they didn't abandon gaming and instead, pivoted





"But as history teaches us, it's better to take the shot at innovation than to stand still as the world changes around us. The ISBA is choosing to adapt rather than resist, to provide education, ethical guidance, and practical resources to help members navigate this new frontier."

and created the revolutionary Wii. When smartphone gaming threatened traditional handheld devices, Nintendo did not double down on outdated hardware. Rather, they reimagined what a gaming console could be with the Switch. By embracing innovation while maintaining their core focus on

accessible, family-friendly gaming experiences, Nintendo remained relevant through decades of technological change.

As legal professionals in 2025, we face our own potential "Kodak moment." Evolving client needs, technological disruption, and

access to justice concerns present challenges to our profession. Will we be like Kodak, clinging to traditional models until they are no longer viable? Or will we follow Nintendo's example, embracing change while staying true to our core values and purpose? Will we view the use of artificial intelligence in legal practice with skepticism and fear, or as an unprecedented opportunity to enhance efficiency and expand access to justice? Will we rise to one of our most pressing challenges and address the more than half of Indiana's counties that meet the definition of a legal desert?

Like Nintendo, we cannot guarantee that every new initiative will succeed. But as history teaches us, it's better to take the shot at innovation than to stand still as the world changes around us. The ISBA is choosing to adapt rather than resist, to provide education, ethical guidance, and practical resources to help members navigate this new frontier.

The ISBA's comprehensive Attorney Shortage Plan, which focuses on three strategic pillars, reflects the work of three ISBA task forces and feedback gathered during the 2024 Annual Summit, with our efforts intentionally aligning with three of the five focus areas of the Indiana Supreme Court's Commission on Indiana's Legal Future. This includes supporting attorneys in building sustainable practices in underserved areas by developing a legal incubator program to equip lawyers with practice management skills. The ISBA is also creating a rural practice resource hub with education, connection, and mentorship opportunities while advocating for financial incentives such as loan forgiveness, tax credits, and stipends.

Simultaneously, the plan hopes to ensure new lawyers are well-prepared to serve Indiana's communities through enhanced experiential learning opportunities for law students and graduates. There will be an exploration of alternative pathways to licensure, including supervised practice models, while supporting efforts to make the bar exam a stronger measure of competency. By expanding our professional pipeline while maintaining high standards, we can address the attorney shortage at its source.

Additionally, our third pillar addresses Allied Legal Professionals (ALPs) should the court implement such a pathway. While the legal community holds a range of views on this topic, the ISBA wants to be positioned to work with the court to determine ALP regulations and oversight, educate the legal community on potential ALP roles and responsibilities, and position the ISBA as a leader in training and credentialing ALPs. By being proactive, we can help ensure that any new professional pathway complements attorneys while expanding access to justice.

I encourage you to carefully review the details of the ISBA Attorney Shortage Plan later in this edition of *Res Gestae*. We also are considering how new technologies like AI can help. Used ethically and responsibly, AI could free attorneys to focus on the uniquely human aspects of lawyering: counseling clients, crafting creative solutions, and advocating in court. The tools may evolve, but our core professional values endure.

In this spirit of evolution that respects tradition, I must acknowledge the invaluable

"We understand that the plan alone will not fully solve the shortage issue, but if we can make even a small impact by getting more people into the places where they are needed, while supporting those already serving in legal deserts, we will consider the work successful."

guidance provided by our past ISBA presidents. These distinguished leaders have offered me both historical perspective and forward-thinking advice that helps bridge past and future. They have demonstrated that while change is essential, the wisdom accumulated through decades of service to our profession remains irreplaceable. Their willingness to share their experiences has provided me institutional knowledge upon which we can build innovative solutions, and I believe they exemplify for all Indiana lawyers how honoring our traditions can coexist with embracing necessary change. The ISBA Board of Governors recognizes that we cannot guarantee that every initiative will succeed, but we believe it is better to take thoughtful, strategic action than to stand still.

We understand that the plan alone will not fully solve the shortage issue, but if we can make even a small impact by getting more people into the places where they are needed, while supporting those already serving in legal deserts, we will consider the work successful. This is about taking practical, incremental steps and collaborating with community partners to address a critical need for our profession and the Hoosiers we serve.

Like Nintendo's beloved Mario, who has evolved from 8-bit to a fully realized 3D hero (while always maintaining his core undertaking of rescuing Princess Peach), we too must adapt our methods while staying true to our fundamental mission. I invite each of you to join me in shaping a legal profession that honors its past while boldly embracing its future, one that would make even the most visionary minds of the '80s and '90s proud. ☺

ENDNOTES

1. See Chunka Mui, *How Kodak Failed*, Forbes (January 18, 2012), <https://www.forbes.com/sites/chunkamui/2012/01/18/how-kodak-failed/>.
2. It's worth noting that despite declaring bankruptcy in 2012, Kodak still exists today. The company emerged from bankruptcy in 2013 as a smaller organization focused on commercial printing, packaging, and professional services. In recent years, Kodak has attempted to reinvent itself by exploring new ventures.
3. See Christopher McFadden, *The Extraordinary and Surprising History of Nintendo*, Interesting Engineering (October 27, 2019), <https://interestingengineering.com/culture/the-extraordinary-and-surprising-history-of-nintendo>.



CONGRATULATIONS TO CLASS XIII!

Twenty-four class members. Five months. Four cities. And an unforgettable journey to shape their leadership to come.

ISBA's Leadership Development Academy (LDA) helps the next generation of legal leaders discover their strengths, learn from key community and government figures, and practice making the tough calls that leadership demands. It's not about theory; it's about experiencing leadership firsthand. Past graduates have gone on to serve as judges, managing partners, volunteer board leaders, and more. And now, Class XIII joins their ranks.

Class XIII traveled across the state. At Fort Benjamin Harrison, they pored over StrengthsFinder results, argued the meaning of "no rules" in paper tower competitions, and wandered the halls of Professor Frank Sullivan's historic home, gazing at artwork collected over decades and forming the initial connections that would drive them through the months ahead.

In Indianapolis, they met with Chief Justice Rush under the eyes of Indiana's judicial leaders, followed retired Justice David through a behind-the-scenes tour of chambers, and even argued Indiana's state sport in a test of lobbying skills (with varying degrees of success). They braved

the federal prison in Terre Haute. They painted their faces in eye black and staged paintball war at Muscatatuck Urban Training Center, patching together radio communication with AirPods and conference calls. They caught a baseball game in South Bend, endured late nights and early mornings, and found out firsthand what it takes to lead with heart, resilience, and grit.

As always, this program wouldn't happen without the judges, lawyers, and leaders who show up each year to share their experiences. Thank you to all who made Class XIII's journey possible:

- Professor Frank Sullivan, Jr., IU Robert H. McKinney School of Law
- Catherine Matthews and Tiffany Lemons, Indiana University
- Hon. Mark Massa, Chief Justice Loretta Rush, Hon. Geoffrey Slaughter, and Hon. Derek Molter, Indiana Supreme Court
- Terry Tolliver, Brattain Minnix Tolliver; Jennifer Dzwonar, Borshoff; and Jim Shella, retired WISH-TV
- Elizabeth Berg, FNF Family of Companies, and Paje Felts, ISBA

- Christine Cordial, ISBA
- Patrick Price, Office of Indiana Governor Mike Braun
- Brian Dougherty, Rose-Hulman Ventures
- Mag. Craig McKee, United States District Court for the Southern District of Indiana
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- Hon. Tom Felts, Office of Court Services; Mag. Matt Raper, St. Joseph Superior Court; April Keaton, Office of Administrative Law Proceedings; and Katie Foust Hunneshagen, May Oberfell Lorber
- Joe Skeel, ISBA
- Michael Jasaitis, Austgen Kuiper Jasaitis P.C.

And most of all, congratulations to the 24 graduates of Leadership Development Academy Class XIII. Your journey is just beginning, and we can't wait to see where you lead next:

- Lauren Berger
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- Nick Brady
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ISBA ADOPTS PLAN TO ADDRESS INDIANA'S LEGAL SERVICE SHORTAGE





FEATURE

By Christine Cordial

Across Indiana, there are communities without access to basic legal services—places where one lawyer may serve an entire county. Meanwhile, the profession is grappling with how to grow a sustainable workforce that's prepared for the mounting demands of practice.

These challenges are not unique to our state. According to the American Bar Association, Indiana is one of nearly 40 states that fall below the national average of roughly four lawyers per 1,000 residents. With just under 16,000 resident lawyers in the state (an average of 2.3 lawyers per 1,000 people), Indiana ranks number 43 in the country in per capita distribution.¹

Most of these attorneys are concentrated in urban areas like Indianapolis and Fort Wayne, leaving large pockets of the state—generally more rural communities—underrepresented.

In response to this shortage, the ISBA has developed a strategic, member-informed plan designed to ensure it plays a leading role in tackling this issue alongside the Indiana Supreme Court.

This work is not just about acknowledging a dearth of legal services; it is about strengthening the profession, expanding opportunities for members, and better serving the public. Not every practitioner may feel the effects of our state's attorney shortage or even believe that a problem exists. But as evidenced by its Commission on Indiana's Legal Future,² the Indiana Supreme Court has prioritized this issue and is moving forward with initiatives that will shape the profession for years to come. As the largest independent voice of Indiana's legal community, ISBA leadership believes that it's crucial not only to be part of that conversation, but also to bring solutions to the table.

ABOUT THE PLAN

In July 2023, the ISBA Board of Governors directed staff to concentrate the association's strategic efforts on access-to-justice issues. What followed over the next year was a deliberate and inclusive process, guided by the goal of identifying actionable steps the ISBA could take to address the state's legal service gaps.



"Recognizing that these subjects were crucial enough for the court to prioritize, the ISBA sought to explore these topics independently and specifically from the perspective of the practitioner to ensure the membership's voice was appropriately represented alongside the work of the court."

Three member task forces were established in early 2024, concentrating on three of the five focus areas of the Supreme Court's Commission on Indiana's Legal Future:³

1. Increasing access to legal services in rural Indiana and underserved areas.
2. Broadening pathways to admission to allow for more qualified individuals to enter the profession.
3. Exploring alternative forms of legal licensure and/or practice models that could make legal services more cost-effective.

Recognizing that these subjects were crucial enough for the court to prioritize, the ISBA sought to explore these topics independently and specifically from the perspective of the practitioner to ensure the membership's voice was appropriately represented alongside the work of the court.

The task forces, which brought together a range of practitioners and professionals from across the legal community, spent months reviewing state and national trends, exploring innovations, and identifying practical solutions. Their findings became the foundation of the ISBA's 2024 Annual Summit, where the full ISBA membership was invited to

participate in structured discussions and exercises to help shape the ISBA's next steps.

The feedback from those sessions, combined with the work of the task forces, forms the basis of this new plan. It reflects what the vast majority of these engaged members believe the association should prioritize, and where they feel the ISBA is uniquely positioned to lead.

PLAN DESIGN

The plan is structured around three core pillars representing members' and key stakeholders' perspectives, insights, and priorities. Together, they are designed to enhance opportunities for members while improving access to justice for the public.

The full plan can be found online at inbar.org/attorneyshortageplan.

PILLAR I: RURAL PRACTICE AND ALTERNATIVE BUSINESS MODELS

More than half of Indiana's 92 counties are considered legal deserts, with too few attorneys to meet basic needs.⁴ These areas are often rich in opportunity but lack the support systems needed to help attorneys build sustainable practices. The goal of activities under this pillar is to provide tools, resources, and mentorship to help practitioners thrive in underserved areas so that legal services can be expanded in the communities that need them most.

Tactics to achieve this goal include: launching a legal incubator cohort program to equip lawyers with practice management skills; developing a rural practice resource hub with education, connection, and mentorship opportunities; and advocating for financial incentives to encourage rural practice. ISBA also will be organizing meetings



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Inducted 3/2/24



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The Indiana Fellows of the College congratulate and welcome these new Fellows.

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"Whether you're in a large firm, solo practice, or public service, and no matter where you practice in Indiana, your perspective and participation are vital."

with local bar associations, judges, economic development offices, and other government and business leaders to identify opportunities for incentivizing rural practice.

This layered approach is designed to deliver education, resources, and mentorship for those completely foreign to rural practice, or to those who are already there but seek additional support to ensure sustainability.

Services in these communities may be delivered within the traditional billable-hour, full-service law firm structure, or practitioners might find an alternative business model to be the best approach for serving those who are typically underrepresented. Such models may include subscription-based services, flat-fee structures, limited scope representation, diversified revenue streams, or technology-assisted platforms. The goal is to create more viable, client-focused practices, particularly in underserved areas, while expanding access to legal help and offering more flexibility to attorneys. (To clarify, the ISBA is not advocating for non-lawyer ownership of law firms.)

As a member, you can support the goals under this pillar by:

- Working with your sections and committees to contribute content to the online rural practice hub.
- Engaging in a mentoring relationship that supports rural practitioners. (ISBA's new Mentor City platform can help—visit inbar.org/mentorship to sign up.)

- Participating in CLEs or other programs related to sustainable business models, succession planning, or rural entrepreneurship.

PILLAR II: PATHS TO LICENSURE AND PRACTICE READINESS

While the bar exam tests essential legal knowledge, it does not necessarily prepare law students and graduates for the everyday realities of practice. ISBA members broadly support diversifying licensure pathways to improve access to the legal profession, specifically through avenues that provide experiential learning opportunities, and they see the ISBA as a key player in helping law students and graduates access these opportunities.

With a goal of ensuring new lawyers are well-prepared to serve Indiana's communities, activities under this pillar include enhancing experiential learning opportunities for law students and graduates and supporting reforms to make the Indiana Bar Exam a stronger measure of competency (along with, potentially, alternative pathways to licensure such as supervised practice models).

Opportunities to engage with these goals include:

- Collaborating with sections and committees to offer hands-on learning opportunities to law students and graduates.
- Mentoring or hosting students and new attorneys in internships, externships, or pro bono roles.

- Sharing your ideas on how the ISBA can provide more experiential learning opportunities for students.

PILLAR III: ALLIED LEGAL PROFESSIONALS

With the Indiana Supreme Court currently exploring the possibility of Allied Legal Professionals (ALPs)⁵ delivering legal services alongside attorneys, it is critical for the ISBA to help shape the model from the start. Opinions about the role of ALPs differ among practitioners, but many feel that they have the potential to help close service gaps, particularly in routine legal matters, when implemented with clear guidelines and proper oversight.

Recognizing that the court ultimately determines whether an ALP program is implemented in Indiana, the goals under this pillar revolve around defining and shaping how ALPs could support legal services. *Should* such a model be adopted, the ISBA aims to work with the court to determine ALP regulations and oversight, educate the legal community on potential ALP roles and responsibilities, and serve as a leader in training and credentialing ALPs.

If the court implements an ALP program, ISBA members can support these goals by:

- Staying engaged with ISBA communications and sharing feedback as Indiana's ALP model develops.

- Contributing to public and professional understanding of how ALPs may fit into the broader legal system.
- Serving as supervisors, mentors, or trainers for ALPs to ensure ALP work complements attorney services.

ENGAGING WITH THE PLAN

This plan was not developed in isolation. It reflects member voices, member ideas, and a shared commitment to the future of our profession. But its success depends on continued engagement from every corner of our membership. Whether you're in a large firm, solo practice, or public service, and no matter where you practice in Indiana, your perspective and participation are vital.

By getting involved in your section or committee, mentoring a new lawyer, providing feedback to shape policy discussions, developing resources for rural practice, or simply staying informed, you can help bring this plan to life. We invite you to engage with it, contribute to it, and help ensure Indiana's legal community not only endures, but thrives. ☺

If you have questions or ideas for getting involved, contact Christine Cordial, Director of Justice Initiatives, at ccordial@inbar.org.

ENDNOTES

1. *ABA Profile of the Legal Profession 2024*, <https://www.americanbar.org/news/profile-legal-profession/>.
2. *Commission on Indiana's Legal Future*, Indiana Judicial Branch, <https://www.in.gov/courts/admin/legal-future>.
3. The commission's two other focus areas are Incentivizing Public Service Work and Technology Applications.
4. Alexa Shrake, *State Considers Incentives to Lure Attorneys to 'Legal Deserts'*, *Indiana Lawyer* (April 9, 2025), <https://www.theindianalawyer.com/articles/state-considers-incentives-to-lure-attorneys-to-legal-deserts>.
5. For more information about ALPs, visit <https://iaals.du.edu/projects/allied-legal-professionals>.



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THERE'S MORE THAN ONE WAY TO BE MENTORED: GENERATIONAL TRENDS AND MENTORSHIP MODELS

By Rebecca Smith



When I think about mentorship, I envision the classic relationship between a senior, seasoned professional who mentors a freshly pressed, junior professional with the goal of passing down wisdom and leaving a legacy. While this model has value, it often lacks flexibility and equity. And I want options. I want a battalion of mentors, of all shapes and sizes, to push me to do better, and I want to be able to give them something in return.

Fortunately, mentorship today has evolved. Modern models are built around mutual benefit, tailored to fit different goals and learning styles. But why this shift? And why is equity now a central focus? The answer lies in a deeper understanding of generational values and the differences that shape how we work and connect.

GENERATIONAL THEORY AND MENTORSHIP

Over the last couple of decades, significant effort has gone into understanding how members of different generations approach work and challenges. Generational theory offers us a way of recognizing these differences. It proposes that people born within the same historical timeframe—typically a 20-year span—share similar core values, expectations, and behaviors. The hope is that by understanding and acknowledging that there are differences, we will be tolerant of work styles that are different from our own. Embracing those differences for personal and professional gain can make us unified, loyal, and adaptable.

The current generational cycle (which lasts 100 years) is composed of four generations: Baby Boomers (1940–1964), X (1965–1980), Millennials (1981–1996), and Z (1997–2012). Research highlights a clear divide in characteristics shared by the older generations (Baby

Boomers and Generation X) and the younger generations (Millennials and Generation Z). This division is called the generation gap.

Professionally, Baby Boomers and Generation X are independent, career-driven, and motivated by advancement and financial success. They tend to focus on the development of high-potential employees. Millennials and Generation Z value creativity and prefer collaborative environments. They are interested in fostering cultures of inclusion where everyone feels included and respected. These generational differences influence how people view work-life balance, career growth, loyalty, and leadership—and they open the door to mentorship models that prioritize shared growth.

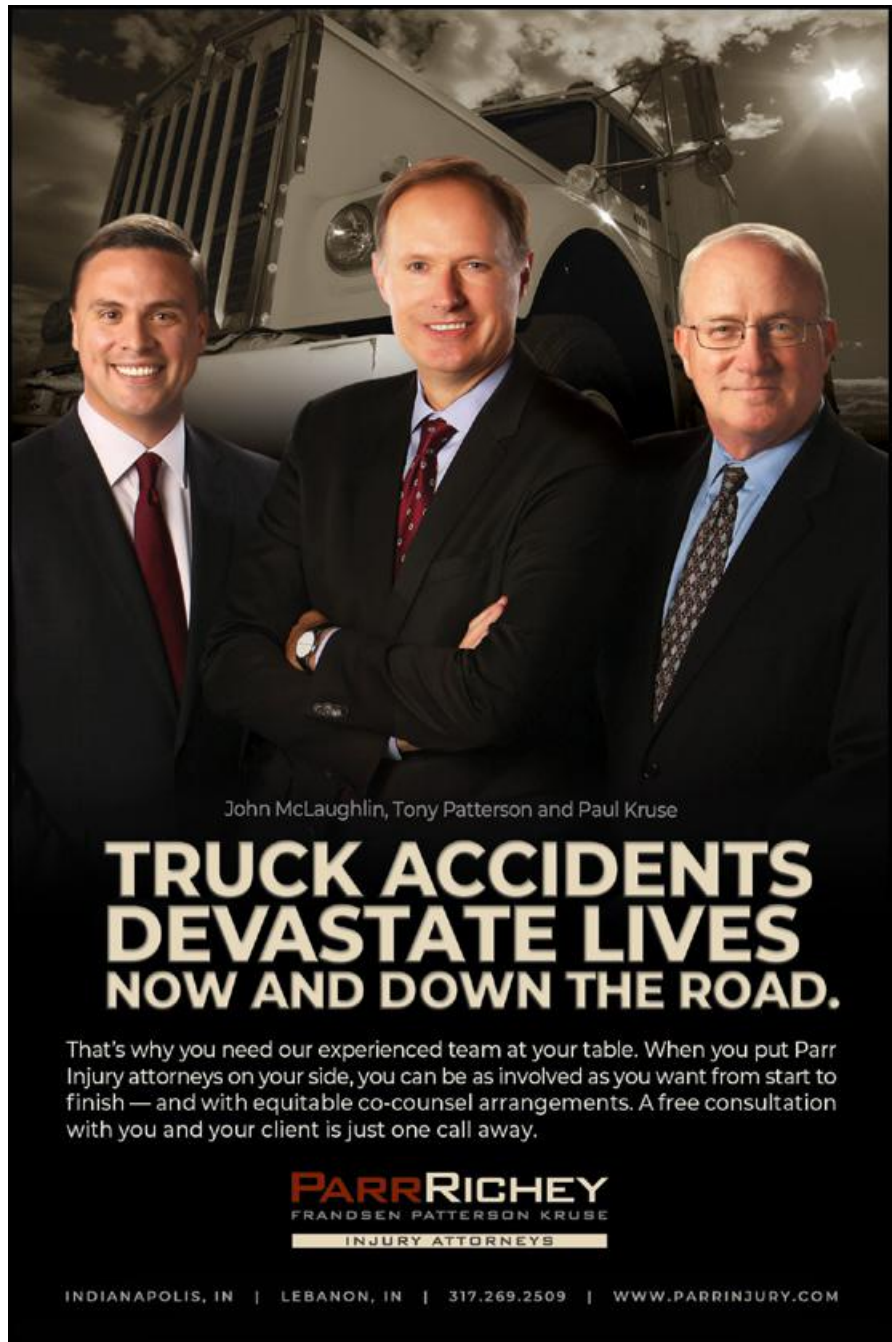
As our understanding of generational needs expands, mentorship is increasingly viewed as a collaborative process. Today, mentors and mentees engage in reciprocal activities such as goal setting, planning, questioning, problem-solving, and reflecting. Today's mentorship is an equal investment between participants who are focused on clear objectives to help one another grow both personally and professionally.

TYPES OF MENTORSHIP MODELS

Currently, numerous mentorship models exist. The following mentorship models are some of the ways mentorship concepts could be used to help navigate your careers.

- **Traditional Mentorship:** This type of mentorship is likely what most of us are familiar with. This is a structured, often formal program with a specific objective that can take place over the course of

"Today's mentorship is an equal investment between participants who are focused on clear objectives to help one another grow both personally and professionally."



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"Thanks to a lifetime of accessible information from the Internet, younger people may already feel like 'experts' and hesitate to look for content from someone more senior. That's why reverse mentoring/cross-generational mentoring is the sweet spot."

six months to a year between one mentor and one mentee. Typically, these programs are established by organizations and institutions and managed by an administrator. Traditional mentorship programs are popular for employee onboarding, leadership development, and staff retention. This is not the same as hierarchical mentorship (sponsorship) which is meant for top-down instruction from a mentor which helps to fast-track a mentee's career.

There is still a place for a more structured, one-to-one mentorship relationship, but even a traditional mentorship relationship should be more of a social process, where both mentor and mentee are embarking on a journey as a team.

- **Reverse Mentorship:** A mentorship pairing where someone younger is a mentor to an older mentee with the goal of focusing on different experiences and viewpoints, while also exploring each other's distinct worlds.

Thanks to a lifetime of accessible information from the Internet, younger people may already feel like "experts" and hesitate to look for content from someone more senior. That's why reverse mentoring/cross-generational mentoring is the sweet spot. Originally developed

by the CEO of General Electric, reverse mentoring was meant to improve his top executives' use of the Internet by pairing a Millennial employee with an older, top executive to share their digital skills. What reverse mentoring has become is a way for someone older to share meaningful soft skills like anger management, time management, ethics, problem solving, face-to-face communication, even how to dress appropriately, while also learning new skills and technologies from someone younger. Reverse mentoring allows people to learn from each other's strengths.

- **Episodic Mentorship:** Also called momentary, flash, or coffee mentorship. Episodic mentorship features developmental interactions that occur during one or more occasions between individuals that focus on providing guidance and support. It is a purposeful and short-term relationship that is often organically made and focuses on building connections.

Episodic mentorship is a good way to meet someone outside of your organization or circle who can talk through a challenge, and it can also serve as an introduction if you are looking for a longer-term mentorship relationship. Think of it like a professional "first date."

- **Peer Mentorship:** A mutually beneficial relationship between individuals who have similar experience and status. Typically, the peer mentor has had an experience that the peer mentee is new to. Peer mentorship builds mutual support and fosters a sense of community.

This type of mentorship is an effective way to meet up-and-coming colleagues. A great match between peers might be an attorney who has been newly barred and a third-year law student. Or a person who is newly employed in the state and someone who has lived in Indiana for a year or two.

- **Group Mentorship:** A structured mentorship program with clearly outlined goals and expectations where one mentor is a guide to a group of mentees. Group mentorship participants share ideas, best practices, and resources related to the goals of the cohort.

Group mentorship can be a two-for-one experience that blends the benefits of one-on-one mentoring with peer-to-peer mentorship.

- **Self-Mentorship:** In this mentorship model, individuals focus on attaining goals that are specific and self-defined. Self-mentorship is taking charge of one's own development.

CONCLUSION

The best kinds of mentorship relationships involve a pair or small group of people who have clearly defined goals and who are interested in learning from the experiences of others, building mutual trust, actively engaging, and establishing equity. Understanding generational differences may help people know how to communicate with one another, but in the end we're all people and we all want someone who will listen. If you're a good listener who is paired with someone equally skilled, it's likely that you will grow both personally and professionally.

Chances are you have already had and will continue to have multiple mentors who have helped in your development throughout your career. Yes, we have access to information readily at our fingertips, but seeking someone out to help you improve, regardless of age or career experience, can only make you better.

Finding someone with whom you would like to enter into a mentorship relationship may seem daunting and intimidating, but it doesn't have to be. Start by identifying developmental goals that you believe can be supported by mentorship. Then, consider experienced professionals whose careers and values align with your own goals. They may be a colleague in your firm, someone you met at a legal networking event, or even opposing counsel. Once you've identified a potential mentor, approach them with genuine interest and respect—reach out with a brief, thoughtful message that introduces yourself, explains why you admire their work, and shares what you wish to accomplish by meeting with them. It's helpful to be specific about what you hope to gain, such as career guidance, skill development, or

insight into a particular area of law. Conclude your message by proposing a few options for how and when you would like to meet. If your potential connection declines, keep in mind that time constraints or other commitments may be impacting their availability. Keep searching!

At ISBA, we hope to make it easier for members to serve as mentors and to seek out mentors to build relationships, share perspectives, and navigate the challenges of the legal profession. Our overarching goal is for mentorship practices to permeate everything we do. Currently, we offer the chance to self-match for episodic mentorship through our platform, Mentor City. For a more formal mentorship relationship, we offer Mentor Match, which is a year-long program designed for a new Indiana

attorney paired with a seasoned Indiana attorney. This program has been an ISBA mainstay for almost 20 years and is currently available to mentors and mentees who are already matched. Soon we will revamp our Mentor Match program and offer some group mentorship options.

If you are looking for a mentorship opportunity and/or have an idea for something that we should offer, please reach out. 

Rebecca Smith is the Director of Career Enrichment at the Indiana State Bar Association. She manages ISBA's mentorship initiatives and is here to help you succeed in your next career steps. She also serves as the liaison for the Young Lawyers Section, the Senior Lawyers Section, and the Law Student Engagement Committee. You can reach her at rsmith@inbar.org.

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A NEW CHAPTER FOR ACCESS TO JUSTICE AND INDIANA LEGAL HELP

By Indiana Bar Foundation



The Indiana Bar Foundation has been a pillar in the Hoosier community for 75 years. Its mission is to inspire and lead change to improve civic education and legal assistance for all Hoosiers.

In 2018, the Indiana Bar Foundation and Coalition for Court Access identified a critical need for Hoosiers to have free, first-hand access to legal information and created the Indiana Legal Help program as a result. What began as a small-scale program received a major partnership in 2021 from the Indiana Housing and Community Development Authority of \$13.1 million to expand Indiana Legal Help and other legal aid services around the state.

In the wake of the COVID-19 pandemic, Indiana Legal Help jumped to the forefront as a vital legal resource for Hoosiers facing challenges in housing, rent and eviction, family and safety, and much more. Indiana Legal Help became an online portal of legal information with over 30 court-approved form packets, including hundreds of individual forms, for millions of Hoosiers to access 24/7.

Recognizing that not all Hoosiers have reliable internet, the Foundation looked at the map of Indiana to create and place legal help kiosks around the state. The kiosks provide Hoosiers on a local level with the ability to connect with the online form portal, receive insight into their specific legal issues, search for free legal aid in their area, speak with legal navigators, and print forms that can be utilized in courts. Today, Indiana Legal Help has 150 kiosks in Indiana and at least one in every county.

What started as an idea has become a reliable source for Hoosiers all over the state to access legal information

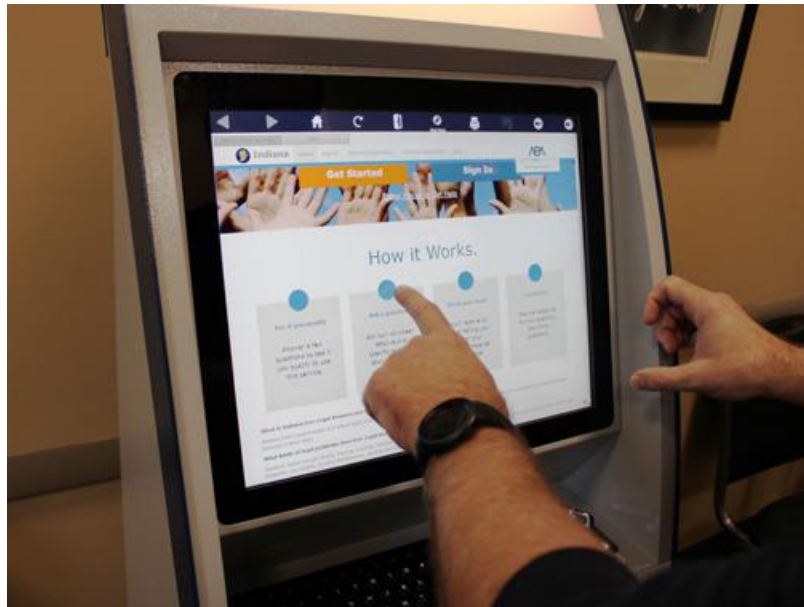
"In July 2025, the Indiana Bar Foundation will spin off Indiana Legal Help into its own nonprofit organization—a significant milestone that marks a new chapter of growth and impact."

and resources. The online portal has had over 2.2 million visitors since 2019, with around 40,000 visitors to the site each month. The program has expanded by contracting legal navigators to provide legal information to Hoosiers from 10 a.m. to 2 p.m. (ET) Monday through Friday.

"From the very beginning, I believed Indiana Legal Help would become the trusted, transformative resource it is today for Hoosiers," said Charles Dunlap, President and CEO of the Indiana Bar Foundation. "We created this program to stand as a lasting beacon of legal support—because every Hoosier deserves access to the knowledge and assistance needed to navigate the justice system."

In July 2025, the Indiana Bar Foundation will spin off Indiana Legal Help into its own nonprofit organization—a significant milestone that marks a new chapter of growth and impact. Indiana Legal Help is poised to continue its mission and deepen its commitment to supporting Hoosiers in need of civil legal assistance. While the path ahead is still taking shape, the vision remains clear: A legal system that every Hoosier can navigate, no matter where they live or the

challenges they face, with confidence and trust. To learn more about Indiana Legal Help and its ongoing work, visit www.indianalegalhelp.org. 



INDIANA'S JUDICIARY ADVANCING MENTAL HEALTH TREATMENT THROUGH ASSISTED OUTPATIENT TREATMENT PROGRAMS

By Hon. Matthew E. Sarber



Pictured left to right: Judge Emily Salzmann, Monroe County Circuit Court; Late Judge Michael Kramer, Noble County Circuit Court; Judge Matthew Sarber, Marshall County Superior Court; Brittany Kelly, Office of Behavioral Health, Indiana Supreme Court; Judge Stephanie Campbell, Fountain County Circuit Court; and Judge Marissa McDermott, Lake County Civil Court Division.

This article is dedicated to the late Judge Michael Kramer of Noble County who attended the Treatment Advocacy Center's AOT Conference before his passing. His life's work was devoted to addressing behavioral health issues in the justice system, and his legacy and impact will not be forgotten.

Watching the downward spiral bouncing between depression and manic states was an all too familiar scenario for me during my upbringing. Undiagnosed for years, my family member's severe mental illness sent them careening between unstable housing, treatment facilities, fragmented success, and cyclical struggles. As many family members of those suffering from mental health degradation will say, it's a helpless feeling.

Now as a judge, I have witnessed from the bench the devastating impact of untreated severe mental illness on individuals, families, and communities. Accelerated by the COVID-19 pandemic (though not altogether responsible), mental illness is a continuing concern to our communities and state.¹ Suicide, overdose, incarceration, substance abuse, stigma, and isolation are all events that plague those afflicted with severe mental illness. Indiana's judiciary is rising to meet the need in shaping solutions that balance individual rights with public safety. Assisted Outpatient Treatment (AOT) programs are a promising tool in this effort.

AOT is a court-ordered outpatient civil commitment designed for individuals with severe mental illnesses who have a history of treatment noncompliance. Dedicated AOT programs aim to break the cycle of repeated hospitalizations, incarcerations, and homelessness that often accompany untreated mental illness.² Justice Christopher Goff inspires

"As judges, we have a unique responsibility to ensure that individuals in crisis receive the necessary care while upholding their legal rights."

Indiana's judicial officers to convene skilled community leaders to address needs in their jurisdiction. More broadly, Chief Justice Loretta Rush, Justice Goff, and our entire Supreme Court brought awareness to the intersection of mental health and the judiciary by hosting the Mental Health Summit in 2022, creating a state-wide Behavioral Health Administrator position to coordinate efforts in this area, and establishing the Behavioral Health Committee chaired by Judge Stephanie Campbell. As of 2019, AOT was authorized in 47 states and the District of Columbia, though its implementation varies widely across jurisdictions.

AOT PROGRAMS' IMPACT AND IMPLEMENTATION IN INDIANA

Indiana is now taking critical steps to expand AOT programs, with judges leading the way in addressing our state's growing mental health crisis. Porter County became the first location for an implemented program, under the guidance of Judge Michael Fish. Earlier this year, Judge Jon Rohde from Bartholomew County launched an AOT program. Most recently, Lake County, under the leadership of Judge Marissa McDermott, rolled out its AOT program on April 7, 2025. This initiative, along with efforts in other counties, represents a significant shift toward providing structured, evidence-based interventions for those in need.

Recently, five Indiana judges, Indiana Supreme Court State Behavioral Health Coordinator Brittany Kelly, and other key stakeholders attended

the national AOT symposium in Annapolis, Maryland, hosted by the Treatment Advocacy Center (TAC). The conference provides a forum to explore best practices for AOT program implementation and to learn from states that have already developed successful programs.

THE NEED FOR PARTNERSHIPS BETWEEN COMMUNITY TREATMENT PROVIDERS AND THE JUDICIARY

The responsibility of caring for those with severe mental illnesses increasingly falls upon community-based treatment options. However, these community resources often face challenges such as limited funding, staffing shortages, limited or nonexistent cross-collaboration, and a lack of comprehensive services. These limitations hinder the ability to provide adequate and ongoing care. AOT programs set out to increase partnership between the judiciary and local treatment providers. It is the ongoing communication between a local treatment provider and a judicial officer that sets AOT programs apart from traditional civil commitment orders. Under a regular civil commitment, the judge and the treatment provider would communicate once per year when the civil commitment is set to be renewed. Under an AOT program, communication is frequent and in real-time. This kind of collaboration allows for an increase in public safety while an individual with mental illness successfully remains in the community.

LEGISLATIVE EFFORTS IN AOT: A MODEL FOR INDIANA

Kansas has recently made significant strides in enhancing its mental health care system through legislative measures aimed at improving AOT implementation. In 2024, the Kansas Legislature passed House Bill 2353, which introduced several key amendments to the state's Care and Treatment Act for Mentally Ill Persons. Notably, the bill increased the duration of initial treatment orders from three to six months and added criteria to determine when outpatient treatment may be ordered. Furthermore, Kansas has initiated pilot AOT programs in several counties, including Cowley, Douglas, Ellis, Ford, Riley, and Sumner. These programs aim to provide court-ordered, community-based mental health treatment to individuals with serious mental illness who have struggled with voluntary treatment adherence.

Ohio has equally taken significant steps to clarify and enhance its AOT framework. Historically, the state's civil commitment code allowed for court-ordered outpatient treatment but contained ambiguous language that led to inconsistent application across counties. Legislative efforts have provided Ohio's judiciary with clearer guidelines and tools to implement AOT effectively, ensuring that individuals with severe mental illness receive appropriate treatment while maintaining their rights.³

AOT PROGRAMS' PROVEN EFFECTIVENESS

Decades of research support the effectiveness of AOT programs in reducing hospitalizations, arrests, and homelessness. Studies in states like Ohio and North Carolina have shown that individuals under AOT orders for six months or longer experience significant improvements

in stability, medication adherence, and overall well-being.

Moreover, AOT programs have demonstrated cost-effectiveness by reducing the financial burden on jails, emergency rooms, community-based mental treatment facilities, and state hospitals. The Substance Abuse and Mental Health Services Administration (SAMHSA) and the American Psychiatric Association have both concluded AOT programs are an effective intervention for eligible individuals.⁴

THE ROLE OF INDIANA'S JUDICIARY IN AOT PROGRAMS

As judges, we have a unique responsibility to ensure that individuals in crisis receive the necessary care while upholding their legal rights. We are trained

and skilled in adherence to the Constitution and law. AOT programs allow us to intervene before individuals deteriorate to the point of crisis, or rebuild after crisis has occurred, by providing a structured pathway to stability. Supervision by the judiciary ensures a collaborative approach while preserving individual liberties of the participants.

As Indiana continues to expand AOT programs, we must ensure that our programs are supported in the community and by appropriate legislation ensuring oversight. The judiciary, in collaboration with legislators, state agencies, and local mental health professionals, has an opportunity to lead this transformative effort.

It must be remembered that for the person with severe mental illness

who has no treatment, the most dreaded of confinements can be the imprisonment inflicted by his own mind, which shuts reality out and subjects him to the torment of voices and images beyond our own powers to describe.⁵

By embracing AOT programs, Indiana can move toward a more effective mental health system—one that prioritizes supervised treatment and stability over crisis. AOT programs have the capability to correct the reality, stop the voices and images, and release the self-imposed imprisonment. ☯

Judge Sarber attended the Treatment Advocacy Center's AOT symposium with the state-wide stakeholders. He supervises a Problem-Solving Treatment Court focused on substance abuse and oversees the mental health docket in Marshall County. He is also the Chair of the Judicial Administration Committee. His email is matthews@co.marshall.in.us, and he encourages readers to reach out with questions or support.

State Court Behavioral Health Administrator, Brittany Kelly, can be reached at brittany.kelly@courts.in.gov.

ENDNOTES

1. John Gramlich, *Mental Health and the Pandemic: What U.S. Surveys Have Found*, Pew Research Center (March 2, 2023), <https://www.pewresearch.org/short-reads/2023/03/02/mental-health-and-the-pandemic-what-u-s-surveys-have-found>.
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FIVE CRIMINAL CASE SUMMARIES

In March, the Indiana Supreme Court issued decisions on self-defense, juvenile statements, and prosecutorial misconduct claims. The Court of Appeals addressed warrantless police intrusions on property and whether good cause existed to allow a belated insanity defense.

INDIANA SUPREME COURT

NEW GROUND FOR SELF-DEFENSE CLAIMS—HINDSIGHT CAN JUSTIFY SEEMINGLY UNREASONABLE ACTIONS AT THE TIME FORCE IS USED

Antonio Turner, a college student with no criminal history, shot the alleged victim, Dequan Briscoe, after Briscoe threatened to “pull up” on Turner and later approached him in a car with tinted windows. Evidence revealed Briscoe had drawn his gun with intent to harm Turner, though Turner couldn’t see this when he fired. Turner was charged with battery by means of a deadly weapon. At a bench trial, the trial court convicted Turner despite acknowledging in hindsight he made the best choice in a “shoot or be shot” scenario. However, the trial court found that because Turner did not know at the time he shot at Briscoe that Briscoe was going to seriously injure or kill him, he did not act in self-defense. In other words, while it was necessary for Turner to use deadly force to protect himself, it was not objectively reasonable because the necessity to act was only apparent to Turner in hindsight.

On transfer, in *Turner v. State*, 253 N.E.3d 526 (Ind. 2025), the Supreme Court identified a previously unexamined clause in Indiana’s self-defense statute stating that “no person shall be placed in legal jeopardy of any kind whatsoever for protecting the person or a third person by reasonable means necessary.” The court’s interpretation distinguished between self-defense claims based on mistaken beliefs (which still require reasonableness) and those based on accurate beliefs later validated by evidence (which can be justified regardless of apparent reasonableness at the time force was used). This is a departure from traditional self-defense doctrine, which typically

evaluates actions based solely on what was reasonable in the moment. The court determined that while hindsight shouldn't be used to second-guess a defendant's reasonable actions, it can benefit defendants whose actions, though seemingly unreasonable at the time, were ultimately necessary for protection. This creates a new pathway for self-defense claims where defendants who turn out to be correct about the danger they faced may be justified even if observers might have considered their actions unreasonable when made. Applying this test to the facts of this case, the court concluded that Turner acted in self-defense. *Id.* at 539.

Justice Goff concurred in the judgment, arguing Turner's actions were justified under the traditional "reasonable belief" standard without needing to rely on hindsight. He warned the court's new approach could create legal uncertainty by potentially validating actions based on outcomes rather than the reasonableness of decisions at the time they were made. *Id.* at 543-49.

HARMLESS ERROR TO ADMIT JUVENILE'S STATEMENTS WHERE FATHER'S ADVERSE INTEREST UNDERMINED MEANINGFUL CONSULTATION

Both the Indiana and U.S. Constitutions provide protection against self-incrimination. Indiana has recognized the particular vulnerability of youth in the context of police interrogations and has crafted additional protections, first in case law, and then through the passage of a juvenile waiver statute. *Lewis v. State*, 288 N.E.2d 138, 142 (Ind. 1972); Ind. Code § 31-32-5-1. This case deals with the protection of parental guidance in making the decision to speak with police, specifically the requirement that the parent/guardian/custodian who consults with the child has "no interest adverse to the child."

The defendant, 15-year-old J.Q.R., was suspected of distributing Percocet M30 pills to B.H. and R.J. Tragically, R.J. died from an overdose the next day. When police came to J.Q.R.'s home to investigate, they observed indicators that J.Q.R.'s father (father) was engaged in

illegal drug activity himself. J.Q.R. was twice interrogated by the police while in custody, and father participated in the waiver of his right to remain silent each time.

Based on the text and plain language of the juvenile waiver statute, the Indiana Supreme Court concluded "that an adult may have an adverse interest if, at the time the adult waives the child's rights, the evidence shows the adult stands to personally benefit from waiving the child's rights to the child's detriment." *J.Q.R. v. State*, 252 N.E.3d 919, 926 (Ind. 2025). To assess whether the state has proven beyond a reasonable doubt that the parent did not have an interest adverse to the child, trial courts must examine the totality of the information available to the police at the time of the waiver. Then the trial court must examine that information through the lens of a reasonable officer. *Id.* at 927.

Applying that framework here, father greeted the officers wearing a t-shirt that glamorized drug use. Then officers found evidence that father possessed illegal drugs—what

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was believed to be heroin was discovered in his wallet. At this point, a reasonable officer with that information was on notice that father had an incentive to focus the officers on J.Q.R.'s wrongdoing rather than his own. The court urged officers in this scenario to consider the availability of other adults to advise the child regarding waiver. *Id.* at 928.

After the first waiver and before the second, the police had uncovered additional evidence of father's criminal activity, including evidence that father was a drug dealer. Despite this, the detective allowed father to assume the role of interrogator alongside the police, encouraging J.Q.R. to confess to wrongdoing. Once J.Q.R. confessed, father prompted him to vouch for father's innocence in the transaction. Based on these interactions, a reasonable officer would have known that father had an even greater interest adverse to J.Q.R. at the time of the second waiver of rights. *Id.* at 928-29.

Nevertheless, the court ultimately found the admission of the resulting confessions was harmless error. During the fact-finding hearing, the state entered into evidence text messages demonstrating J.Q.R.'s knowledge that the pills contained fentanyl. As a result, J.Q.R. failed to show that the likely impact of admitting the statements undermines confidence in his adjudication for dealing in a controlled substance resulting in death. *Id.* at 929.

EGGSHELL SKULL DOCTRINE APPLIES IN MURDER CASES INVOLVING A VICTIM'S PREEXISTING CONDITIONS

Zachariah Konkle was convicted of voluntary manslaughter as a result of the victim's death after a brawl with

Konkle. Unbeknownst to Konkle, the victim had a history of heart disease, and the autopsy revealed the victim's heart was so diseased he could have died of a heart attack during the brawl. During closing arguments, the prosecutor told the jury that Konkle knowingly killed the victim because he had seriously injured him and that the eggshell-victim doctrine applied (i.e., that a defendant takes his victim as he finds him). The prosecutor made these comments to rebut Konkle's defense that the victim's death resulted from his heart conditions and that he did not knowingly harm the victim. On appeal, Konkle argued the prosecutor's statement was a misstatement of the law leading to fundamental error and that the eggshell-victim doctrine does not apply to murder and voluntary manslaughter cases.

The Indiana Supreme Court disagreed, holding that the prosecutor's invocation of the eggshell skull doctrine was not a misstatement of law or misconduct, and that the doctrine applies to causation in knowing murder cases. *Konkle v. State*, 24S-CR-207, 2025 WL 782333, at *13-15 (Ind. March 12, 2025). Modifying precedent, the court also clarified that when a defendant's objection to a prosecutor's statements during final argument is overruled, no further action is required to preserve the issue for appeal. *Id.* at *9.

Justice Goff dissented in part, arguing that the eggshell skull doctrine should not apply to homicide cases requiring proof of knowing or intentional mens rea, and that the prosecutor's statements constituted reversible error because they suggested Konkle could be guilty even without knowingly causing the victim's death. *Id.* at *20-22.

INDIANA COURT OF APPEALS

SUPPRESSION OF EVIDENCE FROM LATE NIGHT SEARCH OF HOME AFFIRMED UNDER INDIANA CONSTITUTION

Police officers approached Jeremiah Hendricks' home at 11:30 p.m. looking for a shooting suspect who was associated with Hendricks' son. Without specific information that either the son or the shooting suspect were at the residence, an officer walked through the front yard to the door while another officer positioned himself behind the house. At the front door, the officer smelled marijuana, which led to a search warrant that uncovered firearms and drugs. The trial court granted Hendricks' motion to suppress, and the state appealed.

In *State v. Hendricks*, 24A-CR-972, 2025 WL 779235 (Ind. Ct. App. March 12, 2025), a divided Court of Appeals held that the officers' late-night incursion onto Hendricks' property violated the Indiana Constitution's prohibition against unreasonable search and seizure. Applying the *Litchfield* test, the court found: (1) the officers' suspicion level was low because they had only a generalized suspicion that the shooting suspect might be there; (2) the degree of intrusion was high due to the late hour and manner of approach; and (3) law enforcement needs were minimal, as there was no emergency requiring a late-night visit. *Id.* at *3-4. The majority affirmed the trial court's grant of Hendricks' motion to suppress the evidence.

Judge Brown dissented, arguing that the officer's actions were reasonable because: (1) he was searching for a wanted suspect; (2) his approach to the front door

with a light on was minimally intrusive; and (3) he had legitimate law enforcement need to locate a shooting suspect. And even if some police conduct was improper, the detection of marijuana was sufficiently attenuated from any misconduct and should not be suppressed. *Id.* at *5-7.

TRIAL COURT'S DENIAL OF BELATED INSANITY DEFENSE REVERSED WHERE GOOD CAUSE SHOWN

In *Tillett v. State*, 24A-CR-1413, 2025 WL 939314 (Ind. Ct. App. March 28, 2025), the trial court abused its discretion in denying Kathryn Tillett's request to assert an insanity

defense. The insanity notice was filed almost two years after the April 6, 2022, statutory deadline (20 days before the omnibus date), but the Court of Appeals found good cause for the delay. The record showed Tillett's counsel did not receive psychological reports until after the deadline, with evaluations in 2023 diagnosing her with "Unspecified Schizophrenia Spectrum and Other Psychotic Disorder" and finding she engaged in behaviors typical of psychosis. *Id.* at *1. In September 2023, the court found Tillett incompetent and committed her for competency restoration services. She was not deemed competent until January 2024, and her counsel filed for the insanity defense in April of that year. *Id.* at *2. The court found that under these circumstances, Tillett made a sufficient showing of good cause for the late filing, especially given evidence of her documented mental illness, including testimony that her behavior drastically improved after receiving proper medication during competency restoration. *Id.* at 4. The court cited *Wampler v. State*, 67 N.E.3d 633 (Ind. 2017), in which the Indiana Supreme Court emphasized the importance of properly responding to and treating defendants with mental health issues, particularly through mechanisms such as the insanity defense or guilty but mentally ill verdicts. *Id.* at *3-4. The court reversed Tillett's convictions for two counts of Level 1 felony child molesting and remanded for a new trial.

Chief Judge Altice dissented, arguing that while there was good cause for missing the original deadline, defense counsel waited more than a year after receiving psychological reports showing schizophrenia before filing the belated notice, which was filed just two weeks before trial after the case had been pending for over two years. *Id.* at *5-6. ☞



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HALLUCINATIONS, WHEN LAWYERS FALL VICTIM TO CLIENT CRIME, AND THE ETHICS OF RETIREMENT

Normally, *Res Gestae* reserves this space for an ethics nerd to do a deep dive into a singular ethics topic. Unfortunately for this ethics nerd, no singular topic has caught my eye lately. Instead, I thought I would do a shallow dive into a few things that I've noticed since the last time I wrote for this publication.

TOPIC #1: INDIANA GETS ITS AI HALLUCINATIONS CASE (AND THERE IS A PRICE TAG ATTACHED)

On several occasions, this publication has produced articles about artificial intelligence (AI). Normally when the practice of law mixes with AI, the result is an unsuspecting attorney who cited non-existent cases to a court. Unfortunately, attorneys are not supposed to cite “fake law.” (See Rule 3.3(a)(1) of the Indiana Rules of Professional Conduct, which states that a “lawyer shall not knowingly make a false statement of law.”)

This issue arose recently before the United States District Court for the Southern District of Indiana (Southern District) and I thought you might be interested in how one of our courts reacted. Per the usual set of facts, an attorney made the mistake of relying on AI to draft a brief without realizing that AI was “capable of generating fictitious cases” or “hallucination cites.” *Mid Central Operating Engineers Health and Welfare Fund v. Hoosiervac LLC*, 2:24-cv-00326-JPH-MJD at p. 2.

"So, let's use this as a reminder that we need to check not only those first drafts written by AI, but also those first drafts written by law clerks, paralegals, and even other lawyers in your firm."

We have heard the rest of this story before: The lawyer cited a bunch of cases to the court and the court could not locate those cases because those cases did not exist. In discussing this issue, the Southern District noted that

It is one thing to use AI to assist with initial research, and even non-legal AI programs may provide a helpful 30,000-foot view. It is an entirely different thing, however, to rely on the output of a generative AI program without verifying the current treatment or validity—or, indeed, the very existence—of the case presented. Confirming a case is good law is a basic, routine matter and something to be expected from a practicing attorney.

Id. at 4.

Not surprisingly, the magistrate judge who wrote the opinion referred the matter to the chief judge of the Southern District for consideration of discipline. Slightly more eye-catching was his recommendation of a \$15,000 sanction.

I don't care how successful you have been in the practice of law ... that's a lot of money. Think about how many eggs you could buy with \$15,000 in the year 2025. (Answer: a half dozen.)

Despite the headlines, I would still like to think that citations to fictitious law is rare and that is why it

is news when there is a published case involving "hallucination cites." Nevertheless, highly publicized cases like this one make courts more sensitive to the caselaw we are citing, and that makes disciplinary investigations into our citations more likely.

So, let's use this as a reminder that we need to check not only those first drafts written by AI, but also those first drafts written by law clerks, paralegals, and even other lawyers in your firm. If a human is writing the first draft, we can hope that the citations are real. But is the case law still valid law? Are the cases summarized accurately or are the cases quoted? If they are summarized, are they summarized fairly?

I have used some of the most reputable AI services our profession has to offer, and it is my observation that either I don't know what I am doing (which is possible) or AI legal research is not quite there yet. While I have not seen a fictitious case, I have found issues missed and incorrect standards cited when using AI legal research tools. Making certain our briefs are accurate will ensure sound justice in the courts. (And that our egg budget won't be depleted.)

TOPIC #2: NEW ABA OPINION: ATTORNEYS CAN REPORT CLIENTS WHEN THE ATTORNEYS ARE VICTIMS OF A CRIME

Most of us got into the practice of law to help our clients and not to "tattle" on them. While there are situations in which an attorney could be forced to disclose information adverse to a client, fortunately, those situations seem rare.

The ABA's Standing Committee on Ethics and Professional Responsibility (the committee) recently issued Formal Ethics Opinion 515, and that opinion addressed a situation in which the lawyer is not required to report a client—but may want to. Specifically, that opinion covers a circumstance in which a lawyer, someone associated with the lawyer, or a relative of the lawyer, was the victim of a crime committed by the client.

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Of course, the main focus of the ethics analysis was confidentiality and whether the lawyer was allowed to disclose anything. While Rule 1.6(b) contains exceptions to the confidentiality rule, those exceptions would not apply “to all situations in which a lawyer” or someone close to the lawyer was a “victim of a client’s crime.” ABA Formal Opinion 515 at p. 1.

In reaching a conclusion that a lawyer could “tattle” on the client in certain situations, the committee found an “implicit” exception to Rule 1.6. Specifically, the committee concluded that “the Rule implicitly permits the lawyer to disclose information about the client’s crime to the extent reasonably necessary to permit the relevant authorities to investigate and possibly prosecute the crime or to enable the lawyer to seek other services, remedy, or redress.” *Id.* at 9. This implicit exception is consistent with some of the explicit confidentiality exceptions that resulted from a client’s abuse of the attorney-client relationship. (See e.g. Rule 1.6(b) of the Indiana Rules of Professional Conduct, which allows disclosure of information related to the representation of a client if necessary “to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client.”)

So, take that, evil clients.

TOPIC #3: RETIREMENT

It is my observation that if you want to retire, it helps to be rich, lucky, and/or disciplined. However, if you are not in those categories yet, it might be helpful to read the Indiana State Bar Association’s resource on retirement, titled “Retirement and Succession Planning: A Guide for Indiana Attorneys,” which can be found at inbar.org/retirement.

This resource was put together by our fellow members and it can assist you in many areas of retirement, including saving for retirement, selling your practice, and navigating options for tail insurance. With regard to ethics and retirement, there is a whole lot of notification that needs to take place before you can take down that shingle.

NOTIFICATION TO CLIENTS

Rule 1.4 of the Indiana Rules of Professional Conduct mandates that a lawyer shall “keep the client reasonably informed about the status of a matter,” and your plans to retire will be good cause to pick up the phone and call your clients. In these calls, you will want to tell your clients when you are retiring, whether you believe their case will be completed before then, and some

options if the case is not over before the retirement date. Preferably, these calls will come far in advance, so there will be plenty of opportunities for clients to ask questions and get the best options going forward.

For further guidance regarding your client, please follow Rule 1.16(d) of the Indiana Rules of Professional Conduct, which states, in part, that the lawyer shall “take steps to the extent reasonably practicable to protect a client’s interests, such as ... surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.”

REQUESTS TO WITHDRAW FROM THE COURTS

Eventually, it will come time to notify the courts of your decision to leave the practice of law. Hopefully, this is not the “Hotel California,” and the court will permit you to both check out *and* leave. The courts have a goal of keeping cases moving, so you should take a look at Rule 1.16(c) of the Indiana Rules of Professional Conduct, which requires the lawyer to comply with all “applicable law” regarding withdrawals, including court procedures and notice requirements contained in local rules.

NOTIFICATION TO PAST CLIENTS

Remember past clients? While you are in a flurry of notifications, don’t forget these guys. Why? Because you probably have something that belongs to them. A file? Some trust money? I realize that perfect firms would have already returned those items, so please skip this section if you are perfect.

For those slightly imperfect firms, make sure you transfer those files to your former clients and confirm the transfer in writing. Also, get that money that has been rotting in your IOLTA account back to the rightful owners.

Maybe you have already tried that, and the check was returned as undeliverable. If so, look to Rule 1.15(j) of the Indiana Rules of Professional Conduct for guidance on what to do with the “unclaimed or unidentified” funds in your trust account. You may just end up sending those funds to the Indiana Bar Foundation. For more information on that procedure, please see the Indiana Bar Foundation’s website at inbarfoundation.org/unclaimed-and-unidentified-lawyer-trust-account-funds/.

COMMUNICATIONS TO THE PUBLIC

Once you have no cases, you will then have an identity crisis on your hands. Who do you want to be? Do you want to be an “active” lawyer who can still give out the random piece of advice at the local bowling alley? Or

"In reaching a conclusion that a lawyer could 'tattle' on the client in certain situations, the committee found an 'implicit' exception to Rule 1.6."

will you be an "inactive" or "retired" lawyer? (For more about these options, take a look at Indiana Admission and Discipline Rule 2.)

If you are inactive and retired, you should make that clear to the public. If you remain on your firm's website, you need to note your status as a non-practicing lawyer. If you choose to continue to use your firm's email address, you will want to take similar steps.

SOME OTHER TIPS FOR RETIREMENT

There is so much to think about when it comes to closing down a practice. Many of the issues could not be addressed here and those who have actually been

through it could probably give better tips than me, but here are a few other tips/items to consider:

1. How will you preserve your electronic files and preserve confidentiality when you close your doors?
2. Will you be sharing fees with your successor counsel? If so, look at Rule 1.5(e).
3. Shred your unused trust account checks to protect yourself from fraud.
4. Refrain from chewing ice. It is bad for your teeth; and finally,
5. Come and visit the rest of us still working and try not to rub it in too much. ☺



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**By Jenny Buchheit,
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MARCH CIVIL CASES ADDRESS DISMISSALS WITH PREJUDICE, ATTORNEYS' FEES

In March 2025, the Indiana Supreme Court decided two civil cases, while the Indiana Court of Appeals issued 22 published civil opinions.

INDIANA SUPREME COURT

COURT CLARIFIES DIFFERENCE BETWEEN DISMISSALS WITH AND WITHOUT PREJUDICE, REVERSING TRIAL COURT'S ENTRY OF DISMISSAL WITH PREJUDICE

In *Hoagland Family Ltd. Partnership v. Town of Clear Lake*, 2025 WL 841985 (Ind. Mar. 18, 2025), Hoagland filed its complaint against the town, and several governing bodies and officials, related to a separate action involving a sewage hookup dispute. Pursuant to T.R. 12(B)(8), which supplies a basis for dismissal when the complaint involves the “same action pending in another state court of this state,” the trial court granted the town’s motion to dismiss, *with prejudice*. On appeal, Hoagland didn’t contest dismissal but argued the trial court erred by dismissing the case with prejudice. In a per curiam decision, the court agreed, reasoning that the dismissal with prejudice denied Hoagland an opportunity to litigate its claims, particularly given that the dismissal with prejudice allows the town to assert an affirmative defense of res judicata in the separate, related case. Accordingly, the court remanded with instruction to issue an order dismissing Hoagland’s complaint without prejudice.

COURT REMANDS FOR CALCULATION OF ATTORNEYS' FEES AFTER PLAINTIFF "SUBSTANTIALLY PREVAILED" UNDER APRA LAWSUIT

In *Nardi v. King*, 2025 WL 841407 (Ind. Mar. 18, 2025), Nardi sued the Indiana Election Division under the Access to Public Records Act (APRA or the act) for three documents related to Indiana's voter-registration system, requesting an award of "reasonable attorneys' fees and costs" pursuant to the act. After an in-camera review of the requested documents, the trial court ordered production of one of the three—a redacted version of the current vendor contract for the voter-registration system. The trial court found that Nardi "substantially prevailed" under his suit, entitling him to his attorneys' fees and costs, but only awarded him one-third of what he claimed, since he'd only recovered one of the requested documents. Both Nardi and the Division appealed, the latter arguing Nardi shouldn't be awarded any fees or costs. On transfer, the court held the trial court didn't abuse its discretion when concluding Nardi "substantially prevailed," but did abuse its discretion when it reduced the attorneys' fee award. It remanded with instruction to recalculate Nardi's attorneys' fees after considering how much time Nardi's counsel spent on the successful claim, and if the time spent on the unsuccessful claims could be divided from the time spent on the successful one.

INDIANA COURT OF APPEALS

- *Adams v. Hamilton Cnty.*, 2025 WL 665429 (Ind. Ct. App. Mar. 3, 2025) (Mathias, J.) (affirming summary judgment in Hamilton County's favor on its declaratory judgment complaint, concluding the county had standing under the Declaratory Judgment Act to pursue its claims; the dispute was appropriate for judicial resolution; the director of Indiana's Department of Veterans' Affairs was responsible for supervising and evaluating county service officers, pursuant to I.C. § 10-17-1-9(c)(3); and the designated evidence established the director had not been supervising county service officers, because he believed it was the job of the counties to supervise them).
- *Hartford Iron & Metal, Inc. v. August Mack Envtl., Inc.*, 2025 WL 679700 (Ind. Ct. App. Mar. 4, 2025) (DeBoer, J.) (affirming trial court's dismissal of case with prejudice, pursuant to T.R. 41(A)(2), after plaintiff failed to comply with court order to arbitrate its claims).
- *Kelly v. Sommer*, 2025 WL 700639 (Ind. Ct. App. Mar. 5, 2025) (Weissmann, J.) (reversing trial court's dismissal of lawsuit filed by Clinton County's sheriff and his wife against Clinton County prosecutor, finding application of prosecutorial immunity turned on unresolved disputed factual questions).
- *WBL SPO II, LLC v. G&I Realty, LLC, et al.*, 2025 WL 715798 (Ind. Ct. App. Mar. 6, 2025) (Mathias, J.) (reversing and remanding trial court's summary judgment order, concluding discharge of debtor from obligation to pay debt isn't applicable to guarantor of that debt).
- *Holland v. Indiana Univ.*, 2025 WL 729445 (Ind. Ct. App. Mar. 7, 2025) (Weissmann, J.) (affirming trial court's denial of Holland's motion to set aside and imposition of filing restrictions due to his continued attempts to relitigate settled issues, but reversing \$3,000 sanction against Holland and remanding because the sanction amount lacked support in the record).
- *Charter Oak Fire Ins. Co. v. Dougherty*, 2025 WL 728899 (Ind. Ct. App. Mar. 7, 2025) (Robb, S.J.) (affirming trial court's denial of Charter Oak's motion for summary judgment, which involved a statutory choice of law issue, because plain language of Dougherty's insurance policy was dispositive of the parties' coverage dispute).
- *Bell v. Carter*, 2025 WL 732333 (Felix, J.) (Ind. Ct. App. Mar. 7, 2025) (holding trial court did not err when it concluded the deed transferring real estate to daughter was invalid because it lacked an acknowledgement of proof per Indiana law).
- *Larky v. Camp Livingston, Inc.*, 2025 WL 747765 (Ind. Ct. App. Mar. 10, 2025) (Altice, C.J.) (reversing trial court's grant of summary judgment in favor of Camp, where Camp's exculpatory agreement failed to specifically release it from liability for its own acts and the release, therefore, failed to shield Camp from liability resulting from the death of one of its attendees).
- *Shaling v. Biomet*, 2025 WL 758626 (Ind. Ct. App. Mar. 11, 2025) (Altice, C.J.) (affirming trial court's entry of summary judgment in favor of Biomet, which found action was time-barred, reasoning that Shaling failed to give reasonable notice of his intent to rely on Alabama law in the products liability action, there is no general latent disease exception to the statute of repose in products liability actions, and whether such an exception should apply is a matter of public policy reserved for the legislature).

- *Sandoval v. Willow Lake Estates Home Owners Ass'n*, 2025 WL 779247 (Ind. Ct. App. Mar. 12, 2025) (Tavitas, J.) (affirming trial court's entry of summary judgment in favor of HOA, reasoning HOA was entitled to foreclose on liens recorded on Sandoval's properties, stemming from Sandoval's failure to pay HOA assessments, and that HOA's failure to hold annual meetings, hold elections, propose budgets, or perform maintenance did not render assessments invalid).
- *Sandifar v. Patterson*, 2025 WL 779290 (Ind. Ct. App. Mar. 12, 2025) (Tavitas, J.) (reversing trial court's dismissal of complaint against DCS, reasoning that at this preliminary stage, DCS had not shown it was immune under the law-enforcement immunity provision of ITCA, where claims alleged DCS was negligent in failing to protect child from neglect and sexual abuse).
- *Estate of Sain v. Sain*, 2025 WL 808309 (Ind. Ct. App. Mar. 14, 2025) (Felix, J.) (reversing trial court's denial of summary judgment to defendant on an unjust enrichment claim, and remanding with instruction to vacate the jury's verdict and to enter summary judgment in defendant's favor, reasoning that claim failed in estate dispute involving revocation of will and new named beneficiaries, because it was based on non-revocation agreement in an underlying contract that did not exist).
- *Moon v. Konkle*, 2025 WL 830464 (Ind. Ct. App. Mar. 17, 2025) (Vaidik, J.) (affirming trial court's entry of summary judgment in favor of Councilwoman Konkle, reasoning Relators—who brought action to challenge her right to hold a particular office—lacked standing to bring action because they do not have special interest, beyond being ordinary taxpayers and residents of Floyd County, to challenge council member's status in holding the position).
- *Rosen v. Cmty. Healthcare Sys. d/b/a Cmty. Hosp.*, 2025 WL 890362 (Ind. Ct. App. Mar. 24, 2025) (Bailey, J.) (concluding trial court abused its discretion when finding hospital didn't engage in spoliation of evidence and later refusing a spoliation jury instruction when hospital only preserved certain video evidence of plaintiff's fall in waiting room, despite being notified of impending litigation, remanding for new trial).
- *Autovest, LLC v. Bach*, 2025 WL 909176 (Ind. Ct. App. Mar. 26, 2025) (Scheele, J.) (reversing trial court's sua sponte dismissal of Autovest's complaint, where

Autovest was not required to seek leave of court before filing a renewal action and timely filed such action).

- *K.M. v. Ind. Dep't of Child Servs.*, 2025 WL 939321 (Ind. Ct. App. Mar. 28, 2025) (Weissmann, J.) (holding trial court abused its discretion in refusing to expunge DCS records, where DCS dismissed a CHINS case against mother after medical testing revealed child suffered from a genetic condition that predisposed her to bone fragility).
- *Williams v. Williams*, 2025 WL 953197 (Ind. Ct. App. Mar. 31, 2025) (Vaidik, J.) (affirming trial court's property division, which was based on wife's proposed findings and conclusions, where wife failed to meet her burden of showing error because she neither mentioned her proposed order in her briefs nor included it in her appellate appendix). ⓘ

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