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INDIANA STATE BAR ASSOCIATION



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VOL. 69 NO. 7




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Do You Have Trust Issues?
By Whitney L. Mosby

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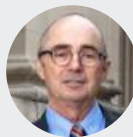
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THERE'S MORE ONLINE:

Read these articles and more like them at inbar.org/CommunityCorner

SUBMIT CONTENT

ISBA members are encouraged to submit articles to the Community Corner blog. If you have a story you'd like to tell, contact Abigail Hopf (ahopf@inbar.org) with a description of the article or idea.

COMMUNITY CORNER BLOG

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.

Around the Corner: ISBA Sections & Committees in Action

The Diversity Committee is seeking volunteers, the Criminal Justice Section awarded the inaugural Jessie Cook scholarship, and more...



ISBA Bids Farewell to Associate Executive Director Carissa Long

On Friday, February 6, ISBA said goodbye to Associate Executive Director Carissa Long. After 18 years of service, Carissa will be taking on a new position as Executive Director for Habitat for Humanity of Johnson County...



Unlocking the Power of Emotional Intelligence in Legal Practice

Legal professionals work in high-stakes, high-pressure environments. They juggle tight deadlines, complex client needs, and emotionally charged situations. It's no surprise that burnout and workplace stress are common...



RULE OF LAW, JUDICIAL INDEPENDENCE, AND ATTORNEY INDEPENDENCE

By John Maley

PRESIDENT'S PERSPECTIVE

As the largest legal organization in Indiana, the Indiana State Bar Association's mission is critical: "To improve the administration of justice and promote public understanding of the legal system." The Association's vision is equally important: "To serve and advocate on behalf of its members, their clients, and the public interest as the independent voice of the legal profession."

These guiding principles have been vital through the years, and remain particularly relevant today when court decisions, lawyers, and judges are frequently and easily attacked online, often unjustly. Moreover, across the nation, judges, lawyers, and law firms have been the focus of increased governmental attention and regulation. Tragically, lawyers and judges have also been victims of violence.

In this context, your officers and Board of Governors have been monitoring and studying the Association's role in protecting the Rule of Law, Judicial Independence, and Attorney Independence. The Association has also received inquiries from members seeking clarity and action on these issues.

Your Board of Governors has now adopted a formal statement regarding the Association's commitment to the Rule of Law, Judicial Independence, and Attorney Independence. This statement will anchor our educational and advocacy initiatives moving forward. This statement reflects long-standing principles

central to the legal profession and underscores the importance of an independent legal system in maintaining public trust and the fair administration of justice. Here is this new statement:

Statement on Rule of Law, Independence of Attorneys, and Independence of the Judiciary

Our democracy is founded on the Rule of Law, which relies upon the independence of attorneys and judges to uphold and defend the United States Constitution, the Indiana Constitution, and federal, state, and local laws.

At its core, the Rule of Law means that no one is above the law and that laws are applied fairly and consistently. It guarantees that our rights and liberties are protected through transparent legal processes. The Rule of Law empowers a parent to challenge a school policy,





"In this context, your officers and Board of Governors have been monitoring and studying the Association's role in protecting the Rule of Law, Judicial Independence, and Attorney Independence."

enables a small business owner to enforce a contract, and protects a citizen who questions government actions. It ensures that power is exercised within bounds, and that all are held accountable under the same legal standards.

Attorneys have long held a unique and critical role in seeking justice for clients under the Rule of Law. To discharge their obligations fully attorneys must be free to exercise independent judgment, counsel, and advocacy within the bounds of the Indiana Rules of Professional Conduct. Our legal system upholds the tenets that everyone is governed by the

same laws, that the laws apply equally to all, and that no one is above the law. These safeguards rely on attorneys who are willing and able to represent all interests in good faith and to challenge infringement and violation of rights without fear of retaliation. Indeed, the Preamble to the Indiana Rules of Professional Conduct applicable to all Indiana attorneys emphasizes: "An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice."

The Rule of Law likewise depends on an impartial and independent judiciary. The judiciary is enshrined in both our U.S. and Indiana Constitutions, and has long served as a safeguard against tyranny and injustice. Judicial independence is at the core of our system of co-equal branches of government. As the Preamble to the Indiana Code of Judicial Conduct begins, "An independent, fair and impartial judiciary is indispensable to our system of justice. The United States and Indiana legal systems are based upon the fundamental principle that an independent, impartial, and competent judiciary, composed of

distinguished persons of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law.”

As the largest legal organization in Indiana, the Indiana State Bar Association is committed to upholding the foundational pillars of the Rule of Law—an independent bar and an impartial and independent judiciary—which in tandem safeguard liberty and justice for all.

In addition, the Board has reaffirmed and approved an updated Diversity Statement, reinforcing the ISBA’s ongoing commitment to fostering a profession that is inclusive, equitable, and reflective of the communities it serves, and in complying with all equal opportunity laws. The updated statement builds on ISBA’s existing mission. This statement reads:

Diversity Statement

The Indiana State Bar Association is made up of and serves people from all backgrounds. Accordingly, the ISBA integrates diverse perspectives into all aspects of its activities to in turn affect the fabric of the legal profession of this state. The ISBA strives to build a diverse pipeline to the legal profession and to inform the broader legal community about the importance of representation, inclusive practices, and equitable access to opportunities and legal services. The ISBA does not in any way discriminate based on race, national origin, sex, gender, sexual orientation, religion, disability, age, military service, or any other legally protected

"To that end, on April 22 from noon–2:30 p.m. ET in Indianapolis, the Association is hosting a Rule of Law & Independence Symposium that will further explore how attorneys can navigate these issues in practice while upholding their legal and ethical obligations."



characteristic. Further, the ISBA takes proactive steps to promote access to the legal profession, to remove barriers to same, and to eliminate biases to ensure people from all backgrounds are included in every level of the organization. This commitment is not only essential to the pursuit of our mission “to improve the administration of justice and promote public understanding of the legal system,” but it also strengthens our ability to address the professional needs of our members and the communities they serve.

Your Association remains focused on educating Indiana attorneys about the practical implications of the

Rule of Law, Judicial Independence, and Attorney Independence, as well as diversity in the profession. To that end, on April 22 from noon–2:30 p.m. ET in Indianapolis, the Association is hosting a Rule of Law & Independence Symposium that will further explore how attorneys can navigate these issues in practice while upholding their legal and ethical obligations. See registration information at www.inbar.org. Space is capped at 150 attendees for this in-person special event.

If you have questions, comments, or would like to discuss these important topics, please contact me at jmaley@btlaw.com or call me 317-432-5509(c). ☎

By Res Gestae Editor

NEW ISBA UPDATE AND MEMBER BENEFITS

In 2025, the Indiana State Bar Association introduced several new resources, programs, and member benefits designed to support you at every step in your career. Browse the list below and make sure you haven't missed anything.

DECISIS

Decisis is an intuitive, efficient, and reliable legal research platform that provides ISBA members with access to an extensive library of state and federal case law, statutes, regulations, and more. ISBA members receive free access to Decisis and a 24/7 customer support line to help with research questions and tech issues.

Members who use vLex Fastcase can still access the platform for free until May 1, 2026. After that date, Decisis will remain available to members at no cost, while Fastcase will require a paid subscription.

Learn more and access Decisis at inbar.org/decisis. If you have any questions, please email communications@inbar.org.

MENTOR CITY

ISBA launched Mentor City, a new mentorship platform designed to help members connect with mentors on their terms.

To get started, create a profile on Mentor City, outlining your goals, interests, and areas of expertise. You can then search a database of mentors by practice area, career stage, or skill set. Once you've picked a potential mentor, you can then connect virtually or in-person and build a short-term or long-term connection.

Mentor City also includes Spaces, which are affinity-based groups focused on shared experiences (like our M.O.M.S. Group or Lawyers with ADHD).

Get started at inbar.org/mentorship.

RURAL PRACTICE RESOURCES

In April 2025, ISBA released a strategic plan addressing Indiana's attorney shortage, with an emphasis on education, connection, and advocacy.

As part of that initiative, ISBA launched the Rural Practice Resource Hub, a centralized collection of tools and guidance for attorneys practicing in or considering a move to rural Indiana. The hub includes information on starting and managing a practice, understanding rural legal landscapes, and connecting with peers and mentors. Explore the hub at inbar.org/RuralPracticeHub.

Attorneys ready to take the next step may also apply to the Rural Practice Academy, a yearlong cohort program providing mentorship, business training, and local connections to support sustainable solo and small-firm practices. Applications close March 13. Learn more at inbar.org/RPA.

And if you have worked in a legal desert and are interested in sharing your experiences with other attorneys, we highly encourage you to sign up as a mentor on Mentor City. Future Rural Practice Academy participants in particular will be looking for experienced practitioners to connect with.

CAREER STAGE RESOURCES

Following the 2025 ISBA Annual Meeting, ISBA curated collections of CLE, articles, and practical resources tailored to common needs at different points in an attorney's career. These hubs are informed by member feedback, CLE surveys, and frequently identified skill gaps.

Currently, resource hubs are available for:

- **New Lawyers:**
Visit inbar.org/new-lawyers.
- **Mid-Career and Transitioning Lawyers:**
Visit inbar.org/mid-career.
- **Partners and Leaders:**
Visit inbar.org/partners.
- **Retiring and Retired Lawyers:**
Visit inbar.org/retirement.


The retirement hub also features *Retirement and Succession Planning: A Guide for Indiana Attorneys*, a guide with tips, checklists, advice, and roadmaps to plan an exit from the practice of law.

More resources designed for law students, government attorneys, and legal staff will be coming.

AFFINITY PARTNERS

ISBA members also benefit from discounts through endorsed vendors vetted by ISBA and the Law Practice Committee. Two new partners were added in 2025:

- **PracticePanther:** A cloud-based practice management software offering case management, billing, client communication, and automation tools. ISBA members receive a 10% discount on their first year of PracticePanther's annual Business Plan.
- **Sprunger Alliance:** Sprunger Alliance brings law firms together, turning shared strength into group discounts, administrative support, and a thriving community—so members can focus on growing their business while enjoying the discounts they want and the vendors they need. ISBA members receive a 25% discount on their membership dues.

Check out these discounts and others at inbar.org/endorsed_vendors. 



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DO YOU HAVE TRUST ISSUES?





By *Whitney L. Mosby*

Creditors frequently encounter situations in which a debtor’s assets are held in trust. While it is commonly believed that trust assets are insulated from creditor claims, this is not always the case. In fact, depending on the nature of the trust and the specific circumstances, certain trust assets may be subject to creditor attachment just like any other property owned by the debtor. It is important for all creditors to have a basic understanding of the types of trusts formed by debtors so they can ask the relevant questions and obtain the underlying documents to determine if trust assets can be reached and applied to the outstanding debt.

TRUST BASICS

Trusts can be created for a variety of reasons, including financial support, succession planning, and asset protection. A trust is created by a “settlor” who funds the trust and directs that the trust property be administered by a “trustee” for the benefit of a “beneficiary” subject to the terms of a trust agreement. Trusts can be created while a settlor is living (a living trust, sometimes also referred to as an “inter vivos” trust) or after a settlor’s death (a testamentary trust). As to living trusts, a settlor can either retain the right to revoke the trust at any time (a revocable trust) or relinquish that right upon the creation of the trust or the occurrence of an event (an irrevocable trust). A settlor can confer on a trustee various levels of discretion regarding distributions of the trust assets, from full discretion to specific amounts or circumstances as set forth in the trust agreement.

This article will focus on a creditor’s ability to attach assets in a living trust formed under Indiana law.¹ The most popular estate planning tool is a revocable living trust because they allow settlors to avoid probate and guardianship, to have greater privacy, and to continue to manage their assets.² Revocable trusts, especially if self-settled (i.e., trusts created by a settlor who is also the beneficiary of the trust), generally do not protect a settlor from creditor claims. That is because, in addition to the settlor’s right to revoke the trust, revocable trusts typically reserve control over the trust assets and its administration to the settlor, such as the right to withdraw assets from the trust, to direct distributions of the trust assets, to remove and replace the trustee, and to change the beneficiaries. Under those circumstances, a settlor will be deemed to be the owner of the trust assets.³ Depending on the language of the trust



agreement, the same conclusion could be reached as to revocable trusts involving co-settlors.⁴

What about irrevocable trusts? Does the removal of the settlor's right to revoke the trust protect the trust assets from creditors? It depends. If the irrevocable trust is self-settled, then creditors may be able to attach the trust assets in certain situations that are more specifically described below. Even if not self-settled, the settlor's control over the trust assets, or even control over the trustee, may expose those assets to creditor claims. Moreover, transfers into a trust may be deemed fraudulent in specific circumstances exposing those assets to attachment.

ASSETS OF CERTAIN IRREVOCABLE TRUSTS MAY BE AVAILABLE TO PAY CREDITORS

SPENDTHRIFT PROVISIONS IN SELF-SETTLED TRUSTS

A settlor can include a "spendthrift" provision in a trust that generally

prohibits the interest of a beneficiary from being either voluntarily or involuntarily transferred before payment or delivery of the interest to the beneficiary by the trustee.⁵ The general rule, however, is that these spendthrift provisions are not enforceable to prevent creditors of the settlor from reaching the settlor's interest in a self-settled trust:

If the settlor is also a beneficiary of the trust, a provision restraining the voluntary or involuntary transfer of the settlor's beneficial interest will not prevent the settlor's creditors from satisfying claims from the settlor's interest in the trust estate.⁶

The two narrow exceptions to this rule are (1) qualified stock bonus, pension, or profit-sharing plans and (2) legacy trusts established under Indiana Code section 30-4-8 *et seq.*⁷ Spendthrift provisions in these two types of trusts are valid under Indiana law.

What about spendthrift provisions in irrevocable self-settled trusts that fall outside these two exceptions, such as discretionary or support trusts? We already know from the discussion above that a spendthrift provision generally does not prevent creditors of the settlor from satisfying claims from the settlor's interest in the trust estate.⁸ However, Indiana Code section 30-4-3-2 does not specifically address the rights of creditors to reach the settlor's beneficial interest in a self-settled support or discretionary trust and refers to the Restatement (Second) of Trusts.⁹ Sections 154 and 155 of the Restatement (Second) of Trusts state the general rule that a beneficiary of a support or discretionary trust cannot voluntarily or involuntarily transfer his or her interest in the trust property.¹⁰ Section 156, however, creates an exception for self-settled trusts:

- (1) Where a person creates for his own benefit a trust with a provision restraining the voluntary or involuntary transfer of his interest, his transferee or creditors can reach his interest.
- (2) Where a person creates for his own benefit a trust for support or a discretionary trust, *his transferee or creditors can reach the maximum amount which the trustee under the terms of the trust could pay to him or apply for his benefit.*¹¹

The public policy behind the ability of creditors to reach the assets of self-settled trusts is to prohibit debtors from placing "their assets in trust, for their own benefit, and simultaneously shielding [those] from the claims of their creditors."¹²

Under Section 156 of the Restatement (Second) of Trusts, a beneficiary's creditors can compel

"Revocable trusts, especially if self-settled (i.e., trusts created by a settlor who is also the beneficiary of the trust), generally do not protect a settlor from creditor claims."

a distribution of the *entire* trust corpus if the trustee *could* apply the entire corpus for the benefit of the settlor.¹³ This right exists even if the trustee in his or her "absolute discretion" might expend any part of the income for the support and maintenance of others:

[u]nder a trust where the trustee has absolute discretion to pay the income or expend it for the settlor's benefit, the trustee could, even though he had a like discretion to expend it for others, still pay it all to the settlor. Such a trust opens the way to the evasion by the settlor of his just debts, although he may still have the full enjoyment of the income from his property. To subject it to the claims of the settlor's creditors does not deprive others to whom the trustee might pay the income of anything to which they are entitled of right; they could not compel the trustee to use any of the income for them. The public policy which subjects to the demands of a settlor's creditors the income of a trust which the trustee in his discretion may pay to the settlor applies no less to a case where the trustee might in his discretion pay or use the income for others.¹⁴

This interpretation is supported by Indiana Code section 30-4-2.1-14(c) which states:

Absent express language to the contrary, if the distribution language in a discretionary

interest permits unequal distributions between beneficiaries or distributions to the exclusion of other beneficiaries, a trustee may, in the trustee's discretion, distribute *all* of the accumulated, accrued, or undistributed income and principal to one (1) beneficiary to the exclusion of the other beneficiaries.¹⁵

Debtors may look to subsection (a) of Indiana Code section 30-4-2.1-14 and argue that their discretionary interests are not subject to attachment by creditors. That section states in relevant part:

- (a) The following rules apply only to discretionary interests:
 - (1) A discretionary interest is a mere expectancy that is neither a property interest nor an enforceable right.
 - (2) A creditor may not:
 - (A) require a trustee to exercise the trustee's discretion to make a distribution; or
 - (B) cause a court to foreclose a discretionary interest.¹⁶

The issue with that position, however, is that this statute is simply a rule of interpretation. Indiana—both by Indiana Code section 30-4-3-2(b) and through its adoption of the Restatement (Second) of Trusts Section 156—has created an exception authorizing creditors to attach assets in discretionary self-settled trusts. This exception was in

place prior to the passage of Indiana Code section 30-4-2.1-14 in 2010. "It is well settled that the legislature does not intend by a statute to make any change in the common law beyond what it declares either in express terms or by unmistakable implication."¹⁷ Indiana Code section 30-4-2.1-14 applies generally to discretionary trusts, it does not mention Indiana Code section 30-4-3-2 and the express adoption of Section 156 of the Restatement (Second) of Trusts. It includes neither an express term nor unmistakable implication to abolish the exception authorizing creditors to attach assets in discretionary self-settled trusts. Based on this reasoning, a strong legal position exists for the attachment by creditors of trust assets in a self-settled discretionary trust.

DOMINION AND CONTROL OVER TRUST ASSETS

What if a self-settled trust fits within the exception found in Indiana Code section 30-4-3-2(c) (1)—i.e., has a valid spendthrift provision—but the settlor retains control over the trust property? In *In re Grifford*, the debtor was a physician and established an ERISA-qualified retirement plan valued at \$300,000.¹⁸ The plan was created by his professional corporation of which he was the sole shareholder, director, and employee. The debtor was the sole beneficiary of the plan, and he was co-trustee with his wife. The debtor filed for bankruptcy and claimed that the plan was an exempt trust under Indiana Code section 30-4-3-2. The court first



"Based on this reasoning, a strong legal position exists for the attachment by creditors of trust assets in a self-settled discretionary trust."

noted that because the plan was an ERISA-qualified plan meeting the requirements of Indiana Code section 30-4-3-2(c), the spendthrift provisions were enforceable.¹⁹ However, the court then looked to the debtor's accessibility to and control over the trust property in his various capacities noting, "Indiana did not and could not have intended to validate all qualified, beneficiary created plans...regardless of their terms."²⁰ The court found that the plan did not fulfill the most quintessential of all requirements for a valid

spendthrift trust—i.e., the debtor had the present ability to control the trust property by terminating the plan and distributing a single sum to himself at the present time in his capacity as trustee.²¹ The court held that the debtor's right to gain access to the trust property supported a finding of present control over the funds when he filed bankruptcy and, therefore, the trust was property of the bankruptcy estate.²² The key factor in this analysis is the settlor's ability to access trust funds.²³

In 2010, after this case was decided, Indiana added rules of interpretation on dominion and control over a trust. Specifically, if a party challenges a settlor's or a beneficiary's influence over a trust, none of the following factors, alone or in combination, may be considered dominion and control over a trust:

- (1) A beneficiary serving as a trustee or co-trustee.
- (2) The settlor or beneficiary holds an unrestricted power to remove or replace a trustee.

- (3) The settlor or a beneficiary:
 - (A) is a trust administrator, a general partner of a partnership, a manager of a limited liability company, or an officer of a corporation; or
 - (B) has any other managerial function in any other entity; that is owned in whole or in part by the trust.
- (4) A person related by blood or adoption to a settlor or beneficiary is appointed as trustee.
- (5) An agent, accountant, attorney, financial adviser, or friend of the settlor or a beneficiary is appointed as trustee.
- (6) A business associate of the settlor or a beneficiary is appointed as trustee.
- (7) A beneficiary holds any power of appointment over part or all of the trust property.
- (8) The settlor holds a power to substitute property of equivalent value.
- (9) The trustee may loan trust property to the settlor for less than a full and adequate rate of interest or without adequate security.
- (10) The trust contains broad purposes or highly discretionary distribution language.
- (11) The trust has only one (1) beneficiary eligible for current distributions.²⁴

While this list may make it more difficult for creditors to access trust assets under a theory of dominion and control, it is not an absolute bar to such an argument. The focus should remain on the ability of the settlor or beneficiary—in their various capacities relating to the trust—to access and control the

trust assets. In addition, the pattern of prior acts of a trustee in making distributions to a settlor and/or beneficiary may become relevant in establishing dominion and control by the settlor. If the settlor and/or beneficiary have the ability to access and use the trust assets and, at the same time, shield those assets from creditor claims, then a colorable argument of dominion and control may be available for attachment.

THE ALTER EGO DOCTRINE

The alter ego doctrine is typically applied in the corporate context and holds one entity liable for another entity’s actions when the one so organizes or controls the other’s affairs as to use it as a mere instrumentality or adjunct.²⁵ The purpose of the doctrine is to avoid

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the inequity that results when one corporation uses another corporation as a shield from liability.²⁶ Trusts are not generally recognized as legal entities.²⁷ Therefore, when the alter ego theory has been used in the context of trusts, the typical argument is that the trustee, not the trust, is the alter ego of the settlor:

Because a trust is not an entity, it's impossible for a trust to be anybody's alter ego. That's because alter ego theory, which is simply one of the grounds to 'pierce the corporate veil,' is inescapably linked to the notion that one person or entity exercises undue control over another person or entity. However, a trust's status as a non-entity logically precludes a trust from being an alter ego. But "[w]hile applying alter ego doctrine to trusts is conceptually unsound, applying the doctrine to

trustees is a different proposition. Trustees are real persons, either natural or artificial, and, as a conceptual matter, it's entirely reasonable to ask whether a trustee is the alter ego of a defendant who made a transfer into [the] trust. Alter-ego doctrine can therefore provide a viable legal theory for creditors vis-à-vis trustees."²⁸

Under Indiana law, "[a]bsent clear and convincing evidence otherwise, a settlor of an irrevocable trust may not be considered the alter ego of a trustee."²⁹ A clear and convincing standard of proof is an intermediate standard that lies between the preponderance of the evidence (typically applied in civil cases) and beyond a reasonable doubt.³⁰ Furthermore, the following factors, alone or in combination, are not sufficient evidence to conclude that the settlor controls a trustee or is the alter ego of the trustee:

- (1) Any combination of the factors listed in section 15 of this chapter [IC 30-4-2.1-15].
- (2) Isolated occurrences of the settlor signing checks, making disbursements, or executing other documents related to the trust as a trustee when the settlor is, in fact, not a trustee.
- (3) Requesting a trustee to make distributions on behalf of a beneficiary.
- (4) Requesting a trustee to hold, purchase, or sell any trust property.³¹

This type of statute has been adopted in other states³² and makes it more challenging for a creditor to prevail on an alter ego theory to attach trust assets. However, if a creditor is able to demonstrate that the trust's formal requirements were disregarded, that the settlor exercised significant management and control over the trust and its assets, and that the trustee failed to act independently, the creditor may have grounds to assert an alter-ego claim.³³

FRAUDULENT TRANSFER LAWS

Under Indiana's Uniform Fraudulent Transfer Act, a transfer by a settlor into a trust could be challenged as either intentionally or constructively fraudulent.³⁴ A transfer is intentionally fraudulent if done with the actual intent to hinder, delay, or defraud creditors.³⁵ Certain badges of fraud may be considered to make this determination as set forth below:

- (1) the debtor retained possession or control of the property transferred after the transfer;
- (2) the transfer or obligation was disclosed or concealed;
- (3) before the transfer was made or the obligation was incurred, the debtor had been sued or threatened with suit;

"Depending on the circumstances, a creditor might be able to claim that: (a) a settlor is the owner of the trust assets held in a revocable trust; (b) a spendthrift provision in a self-settled irrevocable trust is invalid; (c) a settlor or beneficiary exerted dominion and control over the trust assets; (d) the trustee is the alter ego of the settlor; and/or (e) transfers into the trust were intentionally or constructively fraudulent."

- (4) the transfer was of substantially all the debtor's assets;
- (5) the debtor absconded;
- (6) the debtor removed or concealed assets;
- (7) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
- (8) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred; and
- (9) the transfer occurred shortly before or shortly after a substantial debt was incurred.³⁶

A transfer is constructively fraudulent if done without receiving reasonably equivalent value in exchange for the transfer and the debtor was insolvent at the time of the transfer or became insolvent as a result of the transfer.³⁷ The statute of limitations for a fraudulent transfer claim is four years after the transfer was made or one year after the transfer was or could reasonably have been discovered by the claimant.³⁸ The relief available to a prevailing creditor of a fraudulent transfer claim includes avoidance of the transfer, attachment, and the appointment of a receiver.³⁹

An action to set aside a fraudulent transfer sounds in equity, not in tort.⁴⁰ It is designed to subject the



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"The success of these arguments is highly dependent on the specific type of trust involved, the manner in which the trust was established and funded, and other fact-specific considerations."

debtor's property to execution by frustrated creditors.⁴¹ These types of claims are factual and depend on the circumstances of each case but are another potential avenue to reach trust assets.⁴²

CONCLUSION

In sum, creditors seeking to attach trust assets have several legal arguments at their disposal. Depending on the circumstances, a creditor might be able to claim that: (a) a settlor is the owner of the trust assets held in a revocable trust; (b) a spendthrift provision in a self-settled irrevocable trust is invalid; (c) a settlor or beneficiary exerted

dominion and control over the trust assets; (d) the trustee is the alter ego of the settlor; and/or (e) transfers into the trust were intentionally or constructively fraudulent. The success of these arguments is highly dependent on the specific type of trust involved, the manner in which the trust was established and funded, and other fact-specific considerations. For that reason, a thorough analysis of the relevant trust documents and surrounding circumstances is essential in determining whether trust assets may be available to satisfy an outstanding debt. [Ⓢ]

Whitney has over 20 years of experience representing banks, credit unions, and other non-traditional lenders in bankruptcy, collection, and restructuring matters. She also has extensive transactional experience, including loan documentation and review, secured transactions, and real estate issues. She often serves as outside general counsel for banks and credit unions.

Whitney is a third-generation lawyer and has practiced her entire career at Dentons Bingham Greenebaum.

ENDNOTES

1. This article does not address trusts created under other state or international laws which may require further analysis.
2. *Fulp v. Gilliland*, 998 N.E.2d 204, 207 (Ind. 2013).
3. *Kesling v. Kesling*, 967 N.E.2d 66, 79 (Ind. Ct. App. 2012) (finding a settlor who placed shares of stock into a revocable trust and named himself as trustee and beneficiary retained his shareholder status).
4. *Sumrall v. LeSEA, Inc.*, 234 N.E.3d 230, 240 (Ind. Ct. App. 2024) (authorizing a judgment creditor of one settlor to attach a lien on the property within a trust with two co-settlors).
5. Ind. Code § 30-4-3-2(a).
6. Ind. Code § 30-4-3-2(b).
7. Ind. Code § 30-4-3-2(c). On July 1, 2019, legacy trusts were established under Indiana Code section 30-4-8 *et seq.* which allow an individual, as settlor, to transfer assets to a trustee under the terms of an irrevocable trust. The standards for creating a legacy trust are extremely high but, if properly created and subject to certain exceptions, a legacy trust protects the interests of the settlor and the beneficiary in the trust property from any voluntary or involuntary transfer, assignment, pledge, or mortgage before the trustee actually distributes the property or income to the beneficiary. Ind. Code § 30-4-8-4(4).
8. I.C. § 30-4-3-2(b).
9. I.C. §30-4-3-2 (Comments a, b).
10. *Restat 2d of Trusts*, §§ 154, 155.
11. *Restat 2d of Trusts*, § 156 (emphasis added). Notably, Section 156 of the Restatement of Trusts applies whether or not the settlor/beneficiary intended to defraud creditors.
12. *In re Gifford*, 93 B.R. 636, 638 (Bankr. N.D. Ind. 1988).
13. See also *Greenwich Trust Co. v. Tyson*, 27 A.2d 166, 173-174 (Conn. 1942); *In re*

- Johannes Trust*, 479 N.W.2d 25, 28-29 (Mich. Ct. App. 1991); *In re Morris*, 151 B.R. 900, 906-907 (D. Ct. Ill. 1993).
14. *Greenwich Trust Co.*, 27 A.2d at 173.
 15. Ind. Code § 30-4-2.1-14(c) (emphasis added).
 16. Ind. Code § 30-4-2.1-14(a)(1), (2).
 17. *Indianapolis Power & Light Co. v. Brad Snodgrass, Inc.*, 578 N.E.2d 669, 673 (Ind. 1991).
 18. 93 B.R. 636 (Bankr. N. D. Ind. 1988).
 19. *Id.* at 639.
 20. *Id.*
 21. *Id.* at 640.
 22. *Id.*
 23. *See also Matter of Brown*, 86 B.R. 944, 947 (N.D. Ind. 1988).
 24. Ind. Code § 30-4-2.1-15.
 25. *See Konrad Motor & Welder Serv., Inc. v. Magnetech Indus. Servs., Inc.*, 973 N.E.2d 1158, 1165 (Ind. Ct. App. 2012).
 26. *Id.*
 27. *See Sumrall v. LeSEA, Inc.*, 234 N.E.3d. 230, 236 (Ind. Ct. App. 2024) (citing Restatement (Third) of Trusts (2007)).
 28. *See California, in Greenspan v. LADT LLC*, 191 Cal. App. 4th 486, 521-522 (Cal. Ct. App. 2010) (citations omitted).
 29. Ind. Code § 30-4-2.1-16.
 30. *Geels v. Flottesch*, 243 N.E.3d 1069, 1071 (Ind. 2024).
 31. I.C. § 30-4-2.1-16.
 32. Mississippi Code § 91-8-1107; Nevada Revised Statute § 163.418; and Tennessee Code § 35-15-1104.
 33. *See e.g., United States v. Evseroff*, 2012 U.S. Dist. LEXIS 60344 (E.D.N.Y. April 30, 2012), *47-51 (holding that the government could collect against all assets held by a trust created by the settlor who owed the government funds for the reason that the existence of the trust as a separate entity was a fiction—"in fact the Trust is [the settlor]").
 34. Ind. Code § 32-18-2-14.
 35. I.C. § 32-18-2-14(a)(1).
 36. I.C. § 32-18-2-14(b).
 37. I.C. § 32-18-2-14(a)(2).
 38. Ind. Code § 32-18-2-19.
 39. Ind. Code § 32-18-2-17.
 40. *Rice v. Commissioner, Indiana Department of Environmental Management*, 782 N.E.2d 1000, 1004 (Ind. Ct. App. 2003).
 41. *Id.*
 42. *See Arnold v. Dirrim*, 398 N.E.2d 442 (Ind. Ct. App. 1979) (finding a transfer to a spendthrift trust fraudulent and void where the debtor's transfers occurred during the pendency of a lawsuit, were made to relatives or a family-owned company, rendered the debtor insolvent, were made in a secret and hurried fashion, and were made for no consideration or for consideration greatly below the property's value).

Thank You!

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ADAMS CIRCUIT COURT JUDGE MYLES F. PARRISH: A MAN FOR ALL SEASONS

By Abigail Hopf



In 1954, the Indiana Supreme Court decided an important question: When should a government’s power yield to constitutional freedoms?

The case, *Board of Zoning Appeals of Decatur v. Decatur, Indiana Company of Jehovah’s Witnesses*,¹ received national attention. But its roots were in a small-town courtroom before a circuit court judge only a few years into his tenure. Facing political backlash and an upcoming election, Judge Myles Franklin Parrish fell back on his judicial and personal ethics. “The Court must eradicate any vestige of prejudice,” he wrote in his 1952 opinion. “[T]he Court must be conscientious, studious, impartial, and just...fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influence...The Court must, to the best of its ability, administer justice according to law.”²

Nearly 75 years later, those words still ring true. Judge Parrish’s story shows that practicing law has always been contentious work. But those who answer the calling—even when facing their own hardships—fight for the right to equal treatment and serve as leaders in their local communities.

A MODEST START

Myles Franklin Parrish was born on October 4, 1916, in Decatur, Indiana.³ From a young

age, his family faced considerable financial challenges. In 1920, a botched surgery left his father completely blind, and the former restaurant owner resorted to selling broomsticks door-to-door to make ends meet.⁴ Once they were old enough, Parrish and his brother, Richard K. Parrish, picked up odd jobs to support their parents. Bell-hopping at a local hotel. Shining shoes. Even obtaining Indiana barber licenses and offering haircuts to neighbors on the front porch of their Decatur residence at a dime a pop.⁵

For Parrish, their family's poverty was visible and at times exceedingly humiliating. Neighbors watched the Parrish brothers "ignoble" walk up and down the streets of Decatur, their red wagon piled with broomsticks, while leading their blind father.⁶ At school, teachers loudly asked why Parrish wore the same threadbare sweater to class. It only added to his experience of an already divided community, where politics could turn violent and racism could become rampant. Someone once threw stones through the Parrish family's front window, after they dared to hang a poster of Al Smith, the 1928 Democratic presidential candidate, in their home.⁷ And it wasn't uncommon in the mid-1920s to see Klansmen gather on Saturday nights near the courthouse in Decatur for cross burnings—though while they remained hidden under their hoods, Parrish and his brother could identify them all come Sunday morning by the "make, size, and shine on their shoes."⁸

BUILDING A LIFE IN THE LAW

Both Parrish and his brother dreamed of leaving Decatur behind. Their father had once hoped to become a doctor or a lawyer, and

"[T]he Court must be conscientious, studious, impartial, and just...fearless of public clamor, regardless of public praise, and indifferent to private political or partisan influence...The Court must, to the best of its ability, administer justice according to law."

his sons picked up that ambition for him. After graduating Decatur High School in 1934, Parrish began taking classes at the IU Extension in Fort Wayne and Huntington College, before transferring to IU Bloomington and the IU School of Law. His brother took a similar path to the IU School of Medicine. Both brothers paid for their education with funds from their barbershop (which they continued to operate on weekends and summer breaks).

Only a year before his graduation, the U.S. entered into World War II. Seeing his chance out of Decatur and an opportunity to support the troops, he finished his law school studies and joined the FBI. Back then, applicants had only four requirements: (1) you had to be either an attorney or a CPA; (2) you had to be unmarried; (3) you had to be of the male gender; and (4) you had to be white.⁹

Parrish met all four. He spent a couple years in Washington, D.C. before transitioning to the Navy where he led an all-Black U.S. Navy Shore Patrol unit in Alabama.¹⁰

But once the war ended, Parrish found himself returning to Decatur. "To this day," his son, Frank, later wrote, "I still ask myself, 'Why, after all the suffering and hardship they [Parrish and his brother] had endured, why did they return to Decatur? It appears as though there

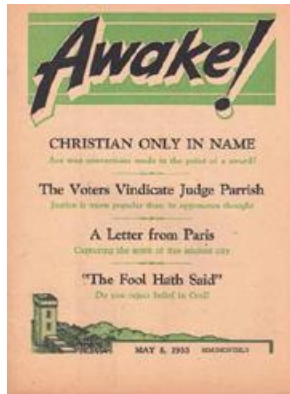
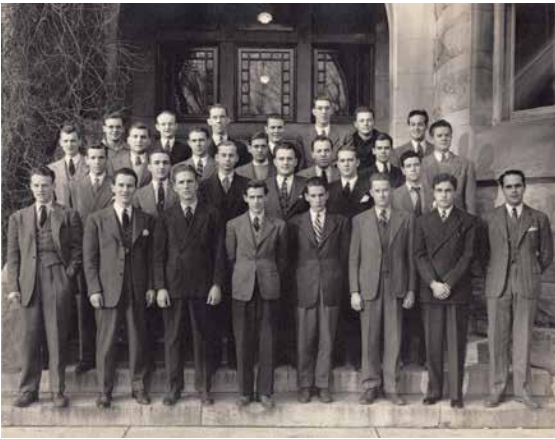
was some gravitational pull in their hearts...an inner drive...to their parents and to the 'town folk.'"¹¹

Whatever the reason, 29-year-old Parrish soon opened his law practice back home, setting up shop on the second floor of a department store owned by Roy Kalver, one of the only men in town willing to rent him space.¹² A year later, he ran for Adams County prosecutor and won. In his first two years as a prosecuting attorney (while still running his law practice on the side), Parrish initiated 500 criminal prosecutions and won every single case.¹³

By 1948, after a campaign marked by thousands of campaign cards, speeches, and anonymous threatening notes left in his law office, 32-year-old Myles F. Parrish became the youngest elected circuit court judge in Indiana.¹⁴

LIFE AS A JUDGE

Judge Parrish's experiences with discrimination, prejudice, and political conflict shaped his judicial philosophy. He believed strongly in the rule of law and the historic origins of the judiciary—even refusing to wear judicial robes while presiding over court proceedings, to honor the war America's founders had fought to do away with class systems.¹⁵ He was described as "exceedingly egalitarian."¹⁶ And he believed that for Indiana's criminal



In 1952, a group of Jehovah's Witnesses sought to build a Kingdom Hall in a residential neighborhood. Both Decatur's zoning superintendent and Board of Zoning Appeals denied their permit, citing insufficient off-street parking and setback requirements. The dispute landed on Judge Parrish's docket only four years into his tenure.

The case was contentious among the community. Many residents disagreed with the Jehovah's Witness's teachings, and tempers were still flared after the sect had prevailed in a controversial flag-salute case a decade prior. Nevertheless, Judge Parrish pushed past public opinion and focused on the legal principles at the center of the case. In the end, he ruled in favor of the Jehovah's Witnesses, stating:

The Court further finds that although the zoning ordinance may be valid and constitutional, yet the ordinance as applied to the petitioners in refusing to permit the petitioners to erect a church in the residential district of the City of Decatur, where there has been no adequate showing that this exclusion of the church was in the furtherance of the public health, safety, morals, or the public welfare was arbitrary and unreasonable and in violation of the petitioner's rights under the State and Federal Constitutions.¹⁹

The Indiana Supreme Court largely affirmed his ruling in 1954, finding that enforcing the parking ordinance in this particular instance would "restrict the right of freedom of worship and assembly."²⁰

THE QUIET DECLINE

Judge Parrish's ruling, though fair and balanced, came with its own

"In his first two years as a prosecuting attorney (while still running his law practice on the side), Parrish initiated 500 criminal prosecutions and won every single case."

justice system to be successful, it must prioritize restorative justice over retribution.¹⁷

He enacted those principles in every case that came before him. When a young Black man was sentenced to the Indiana State Prison on breaking-and-entering charges, Judge Parrish met with him while in prison and helped him secure financial aid and admission to a state university after his release. Judge Parrish ruled in favor of Amish families who

sought to educate their children outside of Adams County's public school system (becoming friends with ACLU attorney, John Preston Ward, who successfully litigated the desegregation of Indianapolis's public school system, in the process).¹⁸

But perhaps no case showcased Judge Parrish's judicial principles as much as *Board of Zoning Appeals of Decatur v. Decatur, Indiana Company of Jehovah's Witnesses*.

form of political consequences. Local parties ran challengers against him in upcoming primaries and general elections. In 1961, Senator Vance Hartke promised Judge Parrish a nomination for a federal judgeship with the Northern District of Indiana. Yet, when President John F. Kennedy announced his final nomination, it was for a nonpracticing attorney in Warsaw. “I remember my dad sitting in a glider on our back porch,” wrote Frank, “smoking a cigar with tears in his eyes...It was a great disappointment over which I do not believe he ever recovered.”²¹

Judge Parrish withdrew from active politics thereafter, focusing on his docket, his community, and his family. He was re-elected five times and became known—in a community that had once looked down on him—as a judge that would “have given his life to save the Courthouse.”²²

He died unexpectedly on August 24, 1981, at 64, just months before he planned to announce his retirement. His wife, Beulah, noted that the evening of his passing, the two had walked into his courtroom. “Myles seemed like he just wanted to make sure everything was in order. He then turned to me and said, ‘Let’s go home. Everything is done here.’”²³ Judge Parrish died in the same home where he was born in 1916. More than 400 mourners—including community members, bar associations, family, and friends—attended his funeral.

A LIFE THAT STILL SPEAKS

Judge Myles F. Parrish represents many of the same tenets and principles we hold true today. Practicing law has always been divisive. Yet the obligation has always been the same: loyalty to the

rule of law and a dedication to fair and equal representation.

Lawyers and judges are community leaders. They serve even when it is uncomfortable. Even when they are threatened. Even when their own histories are marked by fear or exclusion.

Judge Parrish once wrote that a judge must be indifferent to public pressure and personal ambition. His life proved that he meant it. In that sense, he remained what his epitaph declared him to be in the entrance of the Adams County Courthouse: “a man of the people, [who] presided over the Court with integrity and compassion, devoting his career and life to our service in this Courthouse he so dearly loved.”²⁴ ☞

ENDNOTES

1. *Board of Zoning Appeals of Decatur v. Decatur, Indiana Company of Jehovah’s Witnesses*, 233 Ind. 83 (1954).
2. M. Franklin Parrish, *Brothers for Life: Hoosiers at the Crossroads* (Newman Springs Publishing 2024) at 61.
3. *Id.* at 10.
4. *Id.* at 17.
5. *Id.* at 25.
6. *Id.* at 18.
7. *Id.* at 19.
8. *Id.* at 18.
9. *Id.* at 36.
10. *Id.* at 37.
11. *Id.* at 39.
12. *Id.* at 44-45.
13. *Id.*
14. *Id.* at 47.
15. *Id.* at 70.
16. *Id.*
17. *Id.* at 71.
18. *Id.*
19. *Id.* at 62.
20. *Bd. of Zoning Ap. of Decatur v. Decatur, Ind. Co. of Jehovah’s Witnesses*, 233 Ind. 94.
21. *Brothers for Life* at 91.
22. *Id.* at 108.
23. *Id.* at 107.
24. *Id.* at 109.


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WHY THE COST OF RUNNING A LAW PRACTICE DESERVES MORE ATTENTION

By Cory Sprunger



Sprunger Alliance is an ISBA endorsed vendor. Endorsed vendors have been interviewed and vetted by ISBA, with assistance from the ISBA Law Practice Management Committee, to ensure they are relevant, high-quality services with excellent customer service. To learn more, visit www.sprungeralliance.com.

In any law firm, we know that the law itself matters, but so does the infrastructure. How systems are supported matters. How work moves through a firm matters. How much effort it takes simply to keep everything functioning in the background matters.

Every firm relies on a mix of processes and vendors. Some functions are handled in-house. Others are outsourced. Most firms do some combination of both. In every case, those choices influence how a practice operates, how attorneys spend their time, and how sustainable the firm feels over the long term. What varies the most between firms usually isn't legal skill, dedication, or professionalism. It's profitability.

THE COST SIDE OF PRACTICE IS EASY TO UNDERESTIMATE

For many attorneys, the cost of running a practice develops incrementally rather than intentionally. Decisions are made one at a time—choosing a phone system, selecting software, deciding whether to hire help or absorb the work with existing employees. Each decision makes sense in isolation, particularly when viewed through the lens of an immediate need. What's harder to see is the cumulative effect of those decisions over time.

"Newer practitioners, mid-career firm owners, and long-established lawyers described similar pressures, even though their practices looked very different on the surface."

Two firms with similar workloads and staffing can end up carrying very different operating costs. That difference rarely has anything to do with the quality of legal work or the commitment of the attorneys involved. More often, it reflects how vendors structured their offerings at the moment of decision and how much work is handled internally rather than outsourced to vendor-partners.

Internal handling has costs as well. Time spent managing administrative tasks is time not spent practicing law. Interruptions fragment focus. Work that must be done "after hours" affects sustainability and satisfaction. Employees turnover. These costs are real, even when they are difficult to capture on a financial statement. Over time, those costs shape what a firm can reasonably handle, what it delays, and what it decides is simply not worth the effort.

SEEING THE PATTERN UP CLOSE

As my wife and I grew our own practices and then eventually began managing other law firms that we don't own, we kept encountering the same friction points. We found ourselves paying for many of the same services other firms were using to alleviate the friction points—payroll tools, communication systems, document services, and various operational platforms—often under similar conditions, but each firm was doing it alone. That isolation had real consequences.

Certain costs felt fixed when they really were not. Some decisions were deferred not because they were unsound, but because the economics made them difficult to justify at the firm's current size. The result was not inefficiency in any single decision, but friction across the system as a whole.

Conversations with other attorneys reinforced this observation. Newer practitioners, mid-career firm owners, and long-established lawyers described similar pressures, even though their practices looked

very different on the surface. Different communities, different practice areas, but the same underlying cost dynamics. Sprunger Alliance grew out of recognizing that pattern.

THE NARROW PROBLEM WE SET OUT TO ADDRESS

Independent firms naturally approach vendors one at a time. But it means that firms rarely benefit from the collective purchasing power that larger organizations take for granted.

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"By approaching vendors together rather than individually, independent firms suddenly transform the balance of power at the negotiating table."

By approaching vendors together rather than individually, independent firms suddenly transform the balance of power at the negotiating table. Whereas we were once forced into a "take it or leave it" deal with vendors, we now have the collective power to negotiate. All while maintaining control over our own practices. That was the idea, and it remains the focus.

HOW SPRUNGER ALLIANCE FUNCTIONS

Sprunger Alliance is an entrepreneurial approach to dramatically reduce and simplify the carrying costs of running a firm. Here is how it works. Firms join Sprunger Alliance. The alliance

leverages our collective strength to negotiate discounts for members with various partner-vendors. The alliance is paid by earning a small portion of the negotiated discounts. Members then shop for any partner-vendor they want to utilize. That's it.

Each firm remains its own entity, with its own clients, culture, and professional judgment. Firms are happy because they can run their firms cheaper. Partner-vendors are happy because they have access to new clients. Everyone wins.

Each firm decides which vendor relationships make sense, which functions they want to continue handling internally, and which

to outsource. Participation does not require uniformity. It does not require firms to abandon existing systems. Nothing about the practice of law itself changes. What changes is that the lawyer may now practice more, bill more, and manage fewer non-billable headaches.

WHY COST PREDICTABILITY MATTERS

One lesson that became clear early on is how different costs affect firms at varying stages of practice.

For attorneys starting a practice, uncertainty is expensive. Early operational decisions tend to stick, even if they are not ideal. Systems

chosen quickly to meet immediate needs often remain in place longer than intended.

For firms that are growing, costs compound quickly. Adding staff, increasing volume, or expanding services often triggers changes across multiple operational categories at once. Payroll grows. Technology needs increase. Administrative demands multiply.

For long-established practices, costs often persist simply because they have always been there. Vendor relationships continue out of habit. Internal workarounds remain in place because replacing them feels disruptive.

But pivoting like this to utilize administrative vendors (purchased at group rates) gives you space to make decisions deliberately instead of responding to the crisis *du jour*, gives you predictability and simplicity, and avoids the inevitable crises that ensue when that one key person in your office gives their two-week notice.

In each case, the issue is not saving money for its own sake. It is maintaining control and flexibility.

INDEPENDENCE AS THE STARTING POINT

From the outset, Sprunger Alliance was built on the understanding that law firms value independence. Participating firms retain full control over their work. Client relationships, fees, case strategy, and professional responsibility remain entirely within each firm. The alliance does not influence what firms charge clients or how legal services are delivered. Its role is limited by design. It exclusively exists to reduce and simplify operating costs that firms already carry.

"Addressing certain costs together allows firms to preserve what matters most: autonomy, professionalism, and the ability to focus on legal work."

COST AS A STRUCTURAL ISSUE

This experience running my own law firm and managing other law firms reinforced in me that administration is not merely an accounting concern. It is structural. It influences how time is spent, how work is delegated, how sustainable a practice feels, and it determines the level of "reward" we earn for the hard work we all pour into our practices.

Operating costs shape hiring decisions, technology adoption, and the pace at which firms can adapt to change. When those costs are high, unpredictable, or complicated, they quietly choke decision-making. When they are simpler and more manageable, they create room to be intentional and give you a breath of freedom.

Sprunger Alliance occupies a space that does not otherwise exist in the legal profession. There is no comparable platform focused solely on negotiating lower vendor costs for independent law firms. That narrow focus is intentional and innovative. It exists because many firms face the same economic pressures but have historically addressed them alone.

LOOKING FORWARD

The legal profession continues to evolve. Technology changes. Client expectations shift. Administrative demands grow. None of that appears likely to reverse.

What can change is how firms respond. Addressing certain costs together allows firms to preserve what matters most: autonomy, professionalism, and the ability to focus on legal work. We are proud to announce our endorsement by the ISBA, with almost 500 members. Together we are stronger.

Sprunger Alliance grew out of lived experience, not theory. It reflects what can happen when independent firms decide to address a common problem together while remaining independent in every way that matters. ☯

Cory Sprunger is an attorney licensed to practice law in the State of Indiana and the founder of Sprunger & Sprunger Attorneys at Law. In addition to his legal practice, Mr. Sprunger is the founder of Sprunger Alliance, a business services organization created to support small businesses through shared administrative services, operational support, and negotiated cost efficiencies.

Through his work with Sprunger Alliance, Mr. Sprunger has been involved in developing systems designed to improve organizational efficiency, reduce administrative burden, and support business operations for participating members. His experience includes overseeing integrated legal and operational frameworks intended to promote stability and sustainability for small businesses.

By Joel Schumm



DECEMBER OPINIONS ADDRESS CONFRONTATION CLAUSE, REMOTE HEARINGS, AND MORE

In December, the Indiana Supreme Court reversed a conviction based on a violation of the Confrontation Clause, and the Indiana Court of Appeals issued published opinions addressing, among other things, remote hearings, untimely service of search warrants, and sufficiency of evidence.

INDIANA SUPREME COURT

CONFRONTATION CLAUSE VIOLATION WARRANTS NEW TRIAL

In *Taylor v. State*, 271 N.E.3d 559, 561 (Ind. 2025), the defendant was charged with supplying a drug dealer (Engle) with pills that killed a seventeen-year-old (K.L.). The defendant was convicted at a bench trial at which the trial court admitted—over objection and without an opportunity for cross-examination—the dealer’s statement to police naming the defendant as the supplier of the fatal pills.

The state conceded a violation of the Confrontation Clause of the Sixth Amendment, which guarantees criminal defendants “the right...to be confronted with the witnesses against” them. U.S. Const. amend. VI. As the U.S. Supreme Court has long explained, the core purpose of this right “is to ensure the reliability of the evidence against a criminal defendant by subjecting it to rigorous testing in the context of an adversary proceeding before the trier of fact,” and that “testing in the crucible of cross-examination” remains the most reliable means of probing a witness’s credibility and uncovering the truth. *Taylor*, 271 N.E.3d at 562-63. Trial courts may not admit out-of-court testimonial statements against a defendant at trial “unless the witness who made the statement is unavailable and the accused has had a prior opportunity to confront that witness.” *Id.* at 563 (quoting *Bullcoming v. New Mexico*, 564 U.S. 647, 657 (2011)). Specifically, the state agreed that Engle’s statement to police identifying Taylor as the supplier of the pills that caused K.L.’s death was testimonial, that Engle was unavailable, and that Taylor had no prior opportunity to cross-examine him.

In cases of federal constitutional error, reversal is required “unless the State can show beyond a reasonable doubt that the error did not contribute to the verdict.” *Id.* Although the Court of Appeals had found the error harmless in an unpublished, memorandum decision, *id.* at 562, the Supreme Court disagreed and remanded for a new trial after applying the same factors: “the significance of the improperly admitted evidence to the State’s case; whether that evidence was merely cumulative; whether it was corroborated or contradicted by other evidence; and the extent of cross-examination or questioning on the improperly admitted evidence.” *Id.* at 564.

Justices Massa and Slaughter dissented, “believing transfer should be denied and the Court of Appeals’ decision reinstated.” *Id.*

INDIANA COURT OF APPEALS

REMOTE TESTIMONY VIOLATED ARTICLE 1, SECTION 13 RIGHT TO FACE-TO-FACT CONFRONTATION

The opinion in *Johnson v. State*, No. 24A-CR-2903, 2025 WL 3769971, at *3 (Ind. Ct. App. Dec. 31, 2025), highlights the importance of in-person testimony, even when it may be inconvenient or costly to secure. The trial court allowed a doctor who had moved to Mexico to testify remotely by videoconferencing at Johnson’s trial. Article 1, Section 13 of the Indiana Constitution gives criminal defendants the right to meet witnesses “face to face,” with a narrow exception for an important public policy. *Id.* at *3-4.

Whether testimony via videoconferencing satisfies the face-to-face requirement is pending before the Indiana Supreme Court in *Shabazz v. State*, 255 N.E.3d 533 (Ind. Ct. App. 2025), *trans. granted*. The

Johnson panel quoted at length from and adopted Judge Tavitas’s separate opinion in *Shabazz*, emphasizing among other things that

[t]he ability to see a witness on a video screen is a poor substitute for in-person testimony...

[T]he jury (or the judge when acting as the trier of fact) can see the entire demeanor of the witnesses—such as facial expressions, nervous fidgeting, eye movement, and many other such subtle nuances that are much more easily noticed when viewing a witness in person.

Id. at *4.

Because “accommodating an available but uncooperative witness doesn’t rise to the level of an important public policy,” the

Johnson panel found a violation of Section 13 (although it was harmless considering other evidence).

EVIDENCE INSUFFICIENT FOR NEGLIGENCE BASED ON LACK OF MEDICAL CERTAINTY

In *Washington v. State*, No. 25A-CR-1169, 2025 WL 3760777, at *1 (Ind. Ct. App. Dec. 30, 2025), the defendant was convicted of Level 1 felony neglect of a dependent resulting in death for failing to provide adequate nutrition to his young child.

Washington did not dispute that he knowingly failed to provide the child with adequate nutrition, which is Level 6 neglect; rather, he challenged the evidence that his failure to do so resulted in the child’s death. *Id.* at *3. Indiana

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courts have explained: “An enhancing event that ‘results’ from a criminal act implicates proximate causation, which ‘requires that the injury would not have occurred but for the defendant’s conduct.’” *Id.* (citations omitted).

The state’s evidence was insufficient because it “established merely the possibility that [the child] would not have died but for her malnutrition.” Neither testifying doctor could determine the child’s “cause of death with medical certainty,” or evidence from which it could be reasonably inferred. *Id.* at *3.¹

EXCLUSION OF EVIDENCE NOT WARRANTED FOR UNTIMELY SERVICE OF SEARCH WARRANT

In *Bosworth v. State*, No. 24A-CR-2688, 2025 WL 3714759 (Ind. Ct. App. Dec. 23, 2025), police obtained a search warrant on December 22 for Instagram accounts of a man suspect of child pornography and exploitation but did not serve the warrant until January 5—fourteen days later. Indiana Code section 35-33-5-7(b) requires execution of a search warrant within ten (10) days, but does not address whether untimely execution requires exclusion of the evidence. *Id.* at *1. Looking to federal authority for guidance, the court held “while exclusion of the evidence is a potential outcome, if the probable cause supporting the issuance of the warrant remains, exclusion is not required unless the defendant was prejudiced by the delay and the delay was the result of deliberate disregard for the law by the investigating law-enforcement officers.” *Id.*

Bosworth did not argue or demonstrate any of the three. The ten-day period included the Christmas and New Year’s holidays,

and an officer further testified that the delay occurred because of his lack of experience with online exploitation cases, which required him to wait for assistance from another officer. *Id.* at *6.

CONVICTION BASED ON NURSE’S FAILURE TO COMPLETE FORMS REVERSED

A jury convicted a registered nurse at a nursing facility of Level 6 felony failure to make, keep, or furnish records in *Spradlin v. State*, 272 N.E.3d 577 (Ind. Ct. App. 2025). The facility had a two-step reporting procedure for dispensing controlled substances to patients. The procedure requires nurses to complete one paper form (the NCS) when removing medication from the locked medication cart and then to complete a second electronic documentation (eMAR) when the controlled substance was administered to the patient. *Id.* at 578. On several occasions, Spradlin completed the form indicating she took narcotics from the locked cart without completing the electronic documentation that demonstrated she administered the narcotics to a patient. *Id.*

Indiana Code Section 35-48-3-7 requires: “Persons registered to manufacture, distribute, or dispense controlled substances under this article shall keep records and maintain inventories in conformance with the record-keeping and inventory requirements of federal law and with any additional rules the [Board of Pharmacy] issues.” At trial the state presented no documentary evidence establishing what specific law under Article 35-48 required Spradlin to complete the eMAR in addition to the NCS. *Id.* at 580. Moreover, the “State’s evidence about whether the eMAR was legally required consisted entirely of inconclusive witness

testimony that was insufficient to establish the eMAR was required by Article 35-48.” *Id.* at 581.

The state pointed to federal regulations and a pharmacy rule, which “require documentation of controlled substance administration including date, time, patient identification, and administrator identity.” *Id.* at 582. Although those legal arguments “may be entirely correct as a matter of law,” the state presented no evidence to the jury to support this theory, nor did it present any evidence that Spradlin, as a registered nurse, was a person “registered to manufacture, distribute, or dispense controlled substances” such that she was bound by Indiana Code section 35-48-3-7. The appellate court concluded that it could not uphold her convictions “based on theories and evidence that were not provided to the jury.” *Id.*

FAILURE TO PRESERVE EVIDENCE DIDN’T WARRANT DISMISSAL OF CHARGES

In *State v. Bozarth*, 272 N.E.3d 566 (Ind. Ct. App. 2025), the trial court dismissed a dealing narcotic charge because the state failed to preserve dashcam video. The appellate court reversed, concluding that the “video was not materially exculpatory and was at most potentially useful given that Bozarth admitted that the heroin belonged to him. Because the evidence was merely potentially useful, Bozarth was required to show bad faith” by the police, which he failed to do. *Id.* at 574. ☞

ENDNOTE

1. Washington was also convicted of another Level 1 neglect offense (for failing to seek medical care), but the trial court did not enter judgment of conviction because of double jeopardy concerns. On remand, the appellate court directed the trial court to enter judgment on the medical-care count.



A LAWYER'S DUTY TO REPORT

The Preamble to the Indiana Rules of Professional Conduct acknowledges that “[t]he legal profession is largely self-governing.”¹ There are important reasons for this independence, as lawyers serve on the front line of upholding the rule of law, challenging inequities and injustices, and pointing to overreaches by the government. Self-regulation allows lawyers to perform these roles free from concern that their licenses to practice are dependent on adhering to current policy stances of government.² Nonetheless, when a lawyer accepts the privilege to practice law, that lawyer voluntarily agrees to be subject to certain restrictions and responsibilities not required of other citizens.³ One such responsibility is the duty under Professional Conduct Rule 8.3 to report ethical misconduct of other lawyers.

Over the years, I have seen many lawyers and judges⁴ struggle with whether to report a colleague’s or opponent’s ethical transgressions. Whether the reluctance stems from confusion about what the rule requires, a desire to not be involved or get another lawyer “in trouble,” or a fear of retaliation, the duty to report is often viewed as an onerous one. However, I believe that it does not have to be when lawyers have a clear understanding of what the rule does and does not require and when the profession collectively reinforces the important policy reasons for reporting.

THE DUTY TO REPORT—QUESTIONS FOR LAWYERS TO CONSIDER

When a lawyer evaluates whether there is an ethical duty to report a particular situation, several general principles should be understood. First, not all legal mistakes are ethical violations. Occasional slip-ups, such as a missed deadline, are not ethical matters, particularly if the lawyer acts immediately to correct the situation. Second, not all ethical violations *require* reporting to the Disciplinary Commission.

Under subsections (a) and (b) of Professional Conduct Rule 8.3, a lawyer who knows that another lawyer or judge has committed a violation of the ethical rules that raises a substantial question as to that lawyer’s or judge’s “honesty, trustworthiness or fitness” as a lawyer or a judge “shall inform the appropriate professional authority.”⁵ Exceptions



to this duty to report exist when the information is learned (1) through client confidences, (2) while providing advisory opinions on a bar association's ethics hotline, or (3) from participating in a JLAP program.⁶ In a nutshell, when evaluating the duty to report, a lawyer should consider four factors: (1) the lawyer's knowledge; (2) where and how the information was obtained; (3) the seriousness of the ethical violation; and (4) which agency or court is the appropriate professional authority.

What constitutes sufficient knowledge?

The Rules of Professional Conduct do not define what constitutes "knowledge" for purposes of this rule; however, the plain language of the rule presupposes that a lawyer is acting on more than mere rumor and speculation. The majority approach taken by jurisdictions considering the issue is that a lawyer has a duty to report another lawyer's misconduct only if the lawyer has a "substantial basis" for believing that a violation has occurred.⁷ Under this test, absolute certainty of ethical misconduct is not required before the reporting requirement is triggered.⁸ Instead, a lawyer will be found to have knowledge of

reportable misconduct when "the supporting evidence is such that a reasonable lawyer under the circumstances would form a firm belief that the conduct in question had more likely than not occurred."⁹

What types of ethical violation go to "honesty, trustworthiness, or fitness as a lawyer?"

Courts have deemed misappropriation of client funds,¹⁰ criminal conduct reflecting adversely on a lawyer's honesty or trustworthiness (e.g. forgery),¹¹ intentional suppression of exculpatory evidence,¹² and making false statements to a tribunal¹³ as violations that mandate reporting obligations. Additionally, given the Indiana Supreme Court's language in recent disciplinary opinions, I would add to this non-exhaustive list ethical violations involving sexual improprieties (particularly if the violation involves client harm or predatory conduct)¹⁴ and extortion of fees from a client.¹⁵

What if another attorney's serious ethical misconduct is discovered through client confidences?

Although Rule 8.3(c) exempts a lawyer from reporting information that would conflict with the lawyer's duty of client confidentiality under

Rule 1.6, the lawyer faced with this scenario should discuss with and encourage the client to give consent to disclose the information, particularly if it will not substantially prejudice the client's interests.¹⁶

What is the "appropriate professional authority"?

With serious attorney or judicial misconduct, the appropriate reporting authorities usually will be the Disciplinary Commission or the Judicial Qualifications Commission. However, particularly with substance use disorder, lawyers first may want to report concerns about a struggling lawyer's conduct (assuming clients have not been harmed) to the Judges & Lawyers Assistance Program. Even then, a reporting lawyer may need to elevate levels of reporting if the lawyer knows that previous attempts to address the situation have been unsuccessful. For less serious ethical violations, reporting the violation to the impacted court may be appropriate.

OTHER PRACTICAL CONSIDERATIONS AND HOW BAR ASSOCIATIONS CAN HELP

Once a lawyer has determined that the reporting duty is triggered, the lawyer should promptly make a report. Delays in reporting not only lead to information becoming stale or destroyed, but it also may lead to other unaware clients being harmed. Further, delay thwarts early intervention with a struggling lawyer, which may alleviate the need for discipline or more serious sanctions.

Additionally, while it may be tempting for a lawyer to ignore the conduct, some courts have refused to award attorney fees when counsel does not bring to the court's

"Additionally, while it may be tempting for a lawyer to ignore the conduct, some courts have refused to award attorney fees when counsel does not bring to the court's attention the misconduct of another lawyer."

attention the misconduct of another lawyer. For example, recently a California appellate court decided in *Noland v. Land of the Free* that counsel was not entitled to attorney fees in defending an appeal because counsel did not alert the court that opposing counsel submitted a brief full of fabricated citations (from AI hallucinations).¹⁷

Admittedly, reporting misconduct can feel like an isolating event. But this is where bar associations can help. Often, especially with serious misconduct, many members of the bar have knowledge of some, but not all, aspects of the misconduct. By pooling information together, bar associations may be able to provide more substantial, evidence-based reports to disciplinary agencies. Such collection of information also may allow the bar association to help shield reporting lawyers, as there is security in numbers and less likelihood of retaliation by the errant lawyer or judge,¹⁸ and, when appropriate, to foster early intervention for a struggling lawyer.

Bar associations can also help by educating the public about lawyers' ethical duty to report. Too often, lawyers facing misconduct charges launch unfair campaigns against reporting lawyers. While respondent-lawyers certainly have a right to defend themselves, unwarranted attacks into the character or delving into the private life of a

reporting lawyer damages the entire profession and produces a chilling effect on individuals coming forward in the future. Local bar associations are encouraged to form ethics committees to discuss ethics issues pertinent to the locality, to provide support for reporting attorneys, and to educate the public about the ethical responsibilities of lawyers.

As a self-governing profession, we owe it to the public to effectively police our own and to support the lawyers who adhere to their ethical responsibilities. And for those who honor that responsibility, the Office of Judicial and Attorney Regulation is here to help. ☯

Adrienne Meiring is the executive director of the Office of Judicial and Attorney Regulation.

ENDNOTES

1. Ind. Rules of Prof. Cond., Preamble [10] (2025); see also Ind. Const., Art. 7, Section 4 (2024) (The Supreme Court has original jurisdiction over the admission to the practice of law and the discipline or disbarment of those admitted).
2. Ind. Rules of Prof. Cond., Preamble [11].
3. *In re Keaton*, 29 N.E.3d 103, 110 (Ind. 2015).
4. Judges also have a duty to report ethical misconduct per Judicial Conduct Rule 2.15.
5. Ind. Prof. Cond. R. 8.3(a), (b).
6. Ind. Prof. Cond. R. 8.3(c), (d).
7. *See Attorney U v. Mississippi Bar*, 678 So.2d 963, 970-71 (Miss. 1996)(discussing the reasoning of ethics opinions from various jurisdictions); see also Douglas R. Richmond, *The Duty to Report Professional Misconduct: A Practical Analysis of Lawyer Self-Regulation*, 12 Geo. J. Legal. Ethics 175, 185-86 (1999).
8. *In re Riehlmann*, 891 So.2d 1239, 1247 (La. 2005); see also *Board of Overseers of Bar v. Warren*, 34 A.3d 1103, 1110 (Me. 2011).
9. *Riehlmann*, 891 So.2d at 1247.
10. *Warren*, 34 A.3d at 1111-12; *In re Himmel*, 533 N.E.2d 790, 793 (Ill. 1988).
11. *See, e.g. Skolnik v. Altheimer v. Gray*, 730 N.E.2d 4, 13-14 (Ill. 2000).
12. *Riehlmann*, 891 So.2d at 1248.
13. *In re Husain*, 533 B.R. 658 (N.D. Ill. 2015).
14. *See, e.g. In re Pearson*, 251 N.E.3d 535, 538 (Ind. 2025).
15. *See, e.g. In re Moreno*, 222 N.E.3d 948, 949-50 (Ind. 2023).
16. Ind. Prof. Cond. R. 8.3, cmt 2.
17. 336 Cal. Rptr 897, 915 (2025).
18. A reminder that retaliation against a lawyer or judicial officer who cooperates with a disciplinary agency is a serious ethical violation itself. *See, e.g. Matter of Danikolas*, 838 N.E.2d 422, 430 (Ind. 2005).

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CIVIL LAW UPDATES

By Jenny Buchheit,
Rani Amani, and
Abby DeMare



DECEMBER CIVIL CASES ADDRESS T.R. 15(A), MORE

In December 2025, the Indiana Supreme Court decided one civil case, while the Indiana Court of Appeals issued 16 published civil opinions.

INDIANA SUPREME COURT

COURT CONFIRMS PLAINTIFFS MAY NOT AMEND THEIR COMPLAINTS AFTER FINAL JUDGMENT HAS BEEN ISSUED, SPECIFICALLY HOLDING T.R. 15(A) DOESN'T APPLY AFTER FINAL JUDGMENT, SIDING WITH USA TRACK & FIELD IN LAWSUIT BY FORMER COMPETITOR.

In *Taliyah Brooks v. USA Track & Field, Inc.*, 2025 WL 3652673 (Ind. Dec. 17, 2025), a former heptathlete sued USA Track & Field (USATF) after she suffered heat-related injuries during the 2020 Olympic Trials. As part of the trials, Brooks signed a waiver and indemnity agreement (agreement) which, among other things, specified Brooks “expressly assume[d] all such Risks and responsibility for any damages, liabilities, losses or expenses which I incur as a result of my participation in any Event except to the extent caused by the gross negligence and/or willful misconduct of any of the Released Parties...” On November 29, 2022, Brooks filed a declaratory judgment action in the Marion Superior Court asking it to declare the agreement unenforceable and enjoin USATF from enforcing it so she could bring tort claims. The parties filed cross-motions for summary judgment, with Brooks requesting a ruling by June 24, 2023, which was two days before her statute of limitations expired. On June 21, the trial court granted USATF’s cross-motion for summary judgment and denied Brooks’ motion (the summary judgment orders). On June 23, Brooks filed three motions: (1) to certify the trial

court's summary judgment orders for interlocutory appeal; (2) to amend her complaint to add claims for negligence, gross negligence, recklessness, and willful and wanton conduct; and (3) to stay the proceedings on her proposed tort claims. The trial court denied all three motions, and Brooks appealed. The Court of Appeals affirmed in part and reversed in part, affirming the summary judgment orders because it concluded the agreement was enforceable, and reversing because the trial court abused its discretion by not allowing Brooks to amend her complaint. *Taliyah Brooks v. USA Track & Field, Inc.*, 247 N.E.3d 1, 19 (Ind. Ct. App. 2024), *aff'd in part, vacated in part*.

The Supreme Court accepted transfer, summarily affirming the Court of Appeals' conclusion as to the summary judgment orders. The court first addressed whether a party could amend its complaint after final judgment has issued, concluding it may not. As the court noted, "[o]nce the trial court issued the Summary Judgment Orders, Brooks' lawsuit was resolved. There was no longer a live complaint to amend." The court noted Brooks could have avoided this situation by moving to amend her complaint prior to summary judgment, or filing tort claims under a separate cause number before the statute of limitations expired, but she did neither.

The court also clarified that T.R. 15(A) does not apply after final judgment, noting the rule "accomplishes twin aims": (1) providing predictability and encouraging early amendment, and (2) ensuring flexibility to both litigants and the court. Because these policy considerations "cease to apply after final judgment," T.R.

15(A) is no longer available, and a plaintiff may only amend their complaint if the judgment is later set aside or vacated via T.R. 59 or 60. The court repeatedly noted its decision wasn't rooted in the merits of Brooks' claims, but rather, "applies and clarifies the procedure for bringing these claims." Justice Goff dissented, noting that he "take[s] no issue with the Court's holding, as a general proposition, that a party may not amend their complaint after the trial court issues a final judgment." But according to Justice Goff, because the trial court improperly entered final judgment, Brooks shouldn't have been barred from amending her complaint.

INDIANA COURT OF APPEALS

- *Robinson, et al. v. Nunley*, 2025 WL 3455532 (Ind. Ct. App. Dec. 2, 2025) (Mathias, J.) (reversing trial court's order on interpretation of amendment made to trust agreement, reasoning that because amendment isn't ambiguous on its face, the trial court erred in considering extrinsic evidence to ascertain intention, which consideration was inconsistent with the plain language of the amendment).
- *N.R. v. A.R.*, 2025 WL 3455710 (Ind. Ct. App. Dec. 2, 2025) (May, J.) (affirming in part, and reversing in part, trial court's order regarding parties' children, finding court didn't abuse its discretion in admitting family house records, its findings supported reunification of children with father, it did not impermissibly delegate judicial authority to a third party, but it did err in threatening mother with incarceration for any failure to pay part of father's attorneys' fees).
- *Ind. State Health Comm'n v. Bernard*, 2025 WL 34992870 (Ind. Ct. App. Dec. 5, 2025) (Bailey, J.) (affirming trial court's determination that plaintiff doctors had standing to seek declaratory judgment regarding whether terminated pregnancy report is exempt from APRA, as a confidential patient medical record, and an injunction to prohibit commissioner from disclosing reports in response to APRA requests).
- *Howe v. Lehe Farms, Inc., et al.*, 2025 WL 3534502 (Ind. Ct. App. Dec. 10, 2025) (Weissmann, J.) (affirming trial court's judgment in plaintiffs' favor, following bench trial, that after evaluating 70 years of boundary recognition between properties, it properly applied doctrine of title by acquiescence to determine fence operated as boundary between properties).
- *Norman v. HNTB Corp., et al.*, 2025 WL 3637375 (Ind. Ct. App. Dec. 16, 2025) (Vaidik, J.) (reversing trial court's entry of summary judgment for defendants, finding non-party's deposition testimony created genuine issues of material fact, and rule prohibiting witness from using their own inconsistent testimony to create issues of fact doesn't apply to non-party's conflicting statements made within same deposition).
- *Stabosz v. Freidman*, 2025 WL 3703810 (Ind. Ct. App. Dec. 22, 2025) (Brown, J.) (reversing trial court's reinstatement of belated order granting motion to correct error deemed denied under T.R. 53.3, vacating the belated order, rejecting cross-appeal challenges to jury instructions, evidentiary rulings, and judicial notice,

and reinstating jury verdict in Stabosz's favor).

- *Schultz v. S.P. Real Estate LLC*, 2025 WL 3703880 (Ind. Ct. App. Dec. 22, 2025) (Weissmann, J.) (reversing judgment assigning comparative fault where defendant was found liable for trespass, holding comparative fault principles do not apply to intentional torts and liability turns on actor's choice to commit the trespass).
- *Smith & Wesson Corp. v. City of Gary*, 2025 WL 3750775 (Ind. Ct. App. Dec. 29, 2025) (Altice, C.J.) (reversing trial court's denial of defendants' motions for judgment on the pleadings and ordering dismissal where retroactive application of the Reservation Statute did not violate city's vested rights or constitutional guarantees, and holding legislature acted within its authority in limiting ability to raise or maintain firearm-related actions).
- *Trs. of Ind. Univ. v. Bradberry*, 2025 WL 3753994 (Ind. Ct.

App. Dec. 29, 2025) (DeBoer, J.) (reversing denial of IU's motion for summary judgment and remanding with instructions to enter judgment for IU, holding strength-and-conditioning coaches were "participants" under Supreme Court precedent and that directing Bradberry to perform a resistance-band exercise fell within the range of ordinary conduct in football training, where Bradbury designated no evidence creating a genuine issue of fact that coaches acted intentionally or recklessly).

- *Tesla, Inc. v. Norris*, 2025 WL 2025 WL 3760851 (Ind. Ct. App. Dec. 30, 2025) (Tavitas, J.) (affirms trial court's grants of summary judgment as to vicarious liability of Tesla employee, and found defendants failed to demonstrate reversible error as to evidentiary issues and/or alleged lawyer misconduct during liability phase of trial; however, reverses and remands for new trial on damages, concluding plaintiff failed to rebut presumption of

error resulting from trial court's ex parte conversation with jurors).


- *Parsley v. Marasco*, 2025 WL 3770104 (Ind. Ct. App. Dec. 31, 2025) (Vaidik, J.) (affirming trial court's grant of summary judgment, finding Indiana's Journey's Account Statute not satisfied where plaintiff's attorneys negligently prosecuted case under "bedrock federal civil-procedure law").
- *Metro. Sch. Dist. of Sw. Allen Cnty., Ind. v. Crown Enters.*, 2025 WL 3770107 (Ind. Ct. App. Dec. 31, 2025) (Felix, J.) (reversing trial court's decision to sustain property owner's objections to school district's condemnation action, finding owner didn't meet burden of showing district didn't have present need for property, remanding with instruction to overrule owner's objection; Vaidik, J., concurred with separate opinion; Tavitas, J., dissented, finding trial court was permitted to consider district's necessity for condemnation and that owner met burden of demonstrating condemnation wasn't necessary).
- *Keystone Cooperative, Inc. v. Frasch*, 2025 WL 3770156 (Ind. Ct. App. Dec. 31, 2025) (Tavitas, J.) (trial court did not err by granting defendants' motion to transfer venue from Marion to Fountain County, when Marion County was not preferred venue under T.R. 75(A), concluding "enterprise goodwill" is not chattel for purposes of venue). ⁽¹⁾

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