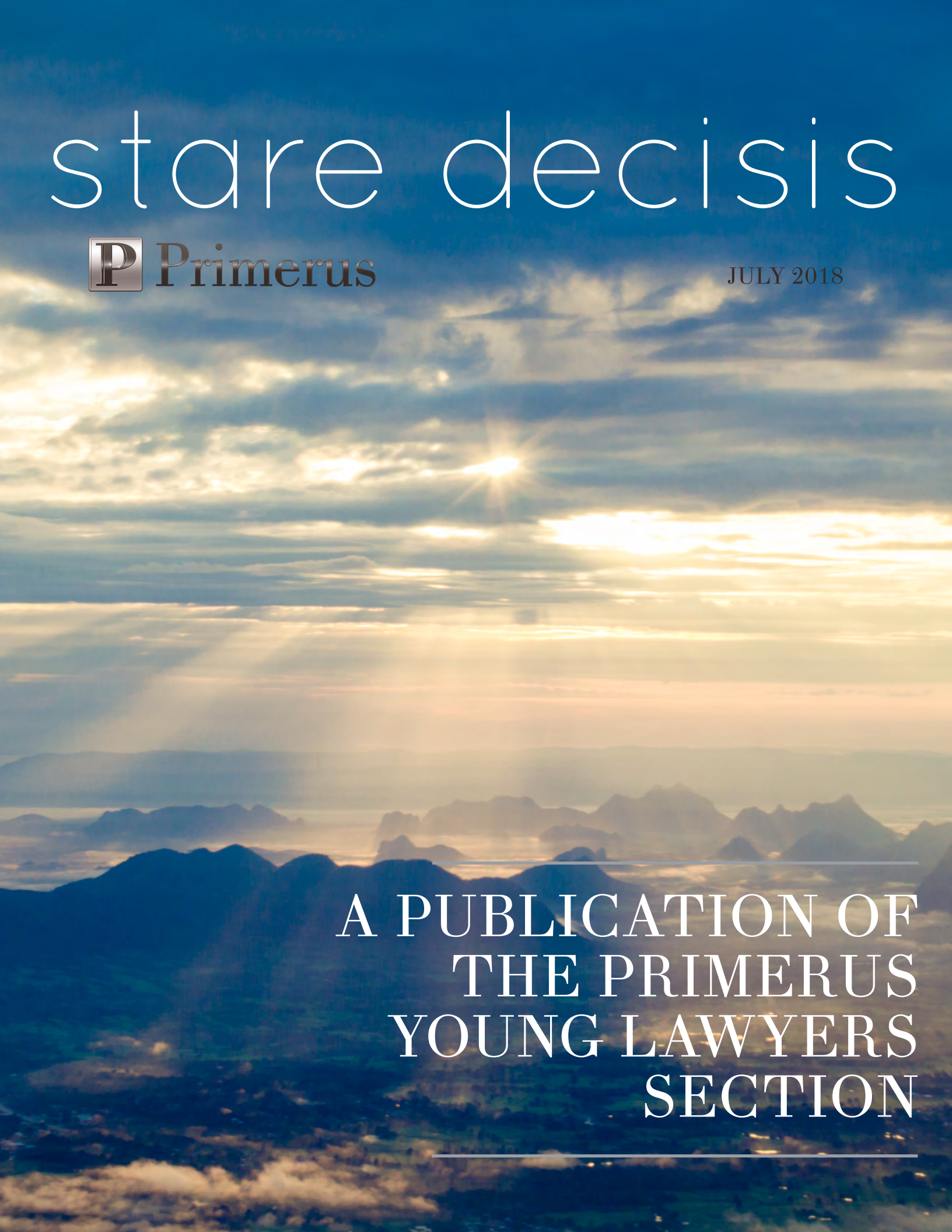

stare decisis

Primerus

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chair column

by emily campbell

Emily E. Campbell provides strategic counsel to clients on trademarks, copyrights, internet law, and licensing. She excels in finding creative, practical ways to achieve clients' immediate and long-range business goals by applying her knowledge of intellectual property prosecution, maintenance, licensing, and enforcement strategies.

Her work includes the comprehensive strategic management of international trademark portfolios for several multi-national companies, including prosecution, maintenance, and enforcement. She is a zealous advocate and excels at helping her clients enforce their rights, address third-party claims, and negotiate resolutions in their best interest.

Learn. Connect. Grow—the central theme for the Primerus Young Lawyers Section—takes form in the newly rebranded YLS Conference. Initially launched as the YLS Boot Camp, the event has evolved into something much more than a skills program for Primerus young lawyers. The new name reflects the evolution of the section.

The event regularly draws 30+ young lawyers interested in learning how to develop their business networks and take the next steps toward growing their professional careers. The eagerness to learn and enthusiasm of the attendees makes it easy to connect with one another. The personal relationships formed and knowledge gained at these annual events results in overall growth, no matter the experience level of the attendee.

I joined the YLS in 2012 as an associate and have since become a partner with my firm. Primerus YLS has consistently provided me with valuable, practical resources. The YLS Conference is the premier event for Primerus young lawyers, but it is just one benefit of actively participating in the Section.

For Primerus members who are not urging young lawyers to participate in the YLS, you are leaving a viable component of your Primerus membership on the table. The Section offers young lawyers ongoing opportunities to continue learning, connecting, and growing throughout the year. For example, the Section hosts a bi-monthly membership call. Just this year, the Section featured the following Programs:

- February – Linda Hazelton, President of Hazelton Marketing & Management, a Dallas-based consultancy offering communication and strategy, organization and business development, and profitability counsel to law firms, presented ***"Business Development Communication for Millenials"***
- April – Darryl Cross, Chief Performance Officer of HighPer Teams, presented ***"A Diverse Team IS the Ultimate High Performance Tool"*** (See pg. 13 for a full recap of Darryl's presentation).

- June – A panel of senior Primerus Lawyers, moderated by Amber Vincent, Partner with Alyn-Weiss & Associates, an Advisor to Law Firms, Marketing Partners and Legal Marketers, discussed ***"The Business of Law"*** to share their thoughts and experiences about running a profitable, efficient law firm. The panel included lawyers from each of the Primerus institutes: *Mark Warzecha* of Widerman Malek (Melbourne, FL – PBLI/PDI); *Brad Nahrstadt* of Lipe Lyons Murphy Nahrstadt & Pontikis (Chicago, IL – PDI); and *Michael Mihm* of Ogborn Mihm (Denver, CO – PPII).

The YLS also has several working committees that give young lawyers the chance to work together and deepen the relational connection with their Primerus peers.

- YLS Executive Committee – Oversees and steers all the YLS initiatives.
- YLS CLE Committee – Assists in planning the YLS Conference, as well as organizes the programming for the bi-monthly YLS Membership Calls.
- YLS Membership Committee – Tasked with growing the Section's ranks.
- YLS Newsletter Committee – Publishes the YLS Newsletter, *Stare Decisis*.
- YLS Community Service Committee – Soon to be created to help further Primerus' Community Service Initiative.

If you are a young lawyer looking for additional ways to connect with the YLS, please consider joining one of the above committees. I worked on the YLS Newsletter Committee for a few years before joining the YLS Executive Committee. My committee involvement has enriched my experience with Primerus.

Primerus created the YLS to develop the future leaders of the organization. As a demonstration of that commitment, Primerus is offering a significantly discounted registration fee to young lawyers who are interested in attending the Primerus Global Conference – October 17-21, 2018 in Boston.

Whether you are a long-time member of the YLS or you are new to the group, I look forward to our mutual journey—learning, growing and connecting!

words to the wise

kathryne baldwin

For this edition of Words to the Wise, Kathryne Baldwin of Wilke, Fleury, Hoffelt, Gould & Birney, LLP in Sacramento, CA combines the words of attorneys in the Primerus network from a variety of firms across the globe: Wendy Lee of Koffman Kalef, LLP in Vancouver, British Columbia, Kenneth Suria of Estrella, LLC in San Juan, Puerto Rico, and Elizabeth Van Moppes of Beresford Booth PLLC in Edmonds, Washington. Below, these three attorneys provide practical advice for new attorneys.

HOW DID YOU BECOME A LAWYER? HAS THE PRACTICE OF LAW MET YOUR EXPECTATIONS?

Ms. Lee: I was the first in my family to attend university and didn't know any lawyers so I only knew of lawyers through TV. After I completed my undergrad degree in psychology, I worked as a research assistant for a psychology professor and realized that I was too practical of a person to be an academic. The professor's research into the psychology of eyewitness testimony led me to my interest in exploring legal studies. Practicing law has far exceeded my expectations. I am constantly learning, whether a client's business or new laws, and there are always different legal issues to solve in client transactions.

Mr. Suria: I think it is a family thing. My grandfather attended law school for two years. He was about to begin his last year and graduate, when he met my grandmother. They decided to get married and, shortly after, my father was conceived. This newcomer brought new responsibilities that called for additional income, which compelled my grandfather to get a full-time job. At that time, the law school did not have a part-time program, which meant that he had to quit school and dedicate himself to support his family. He never finished law school and did not become a lawyer. I thought that it would be a good idea to finish what he started, philosophically speaking. On the other hand, I always liked movies like "The Verdict", "12 Angry Men", "To Kill a Mockingbird"; in short, trial lawyers' movies. To me, it was amazing how one man could speak in front of a jury and compel its members to act as he asked – at least in the movies. I believe the kicker was the "Professor Kingsfield" factor in the movie "The Paper Chase". This sort of tipped the scale for me to go to law school. The appeal of public speaking together with thinking on your feet terrified me. It was a fear that I wanted to overcome. Thus, a legal career seemed perfect for that. For the most part, yes, the practice of law has met my expectations. The problem is that you have to realize that being a lawyer is not like going to law school. Once you accept that law school is somewhat of a bubble and not like the real world, your next step is to begin to accept the path that you chose. I think that this has changed, but when I went to law school however, no one told us that the legal profession was a business like any other. There were no courses on how to network, how to

get business, how to conduct the business, or how to get clients. This part of the law practice came as a surprise to me. However, trial practice has been what I expected. Lastly, although the practice of law is mostly civilized, there are times that you have to deal with obstreperous lawyers and judges. These are the exception, not the rule, and you have to deal with them on a case by case basis. You do your job without insulting your brethren and you will earn their respect.

Ms. Van Moppes: My road to employment law was both convoluted and rather directed.

I was in high school in the '8os and I took a women's issues class as a winter program. I went to a small high school and we had to earn credits for accreditation by taking winter classes. Thus, the women's issues class. The teacher was attending law school at night and teaching during the day; she wanted the class to be attended by girls exclusively. There was a huge brouhaha among the students over whether boys should be let in the class; the boys felt they should, obviously. The teacher, of course, won, and so, the class was limited to girls. It was a fabulous class. We had speakers on self-defense, career choices, and one of our classmate's mothers even came to speak about her own arranged marriage. Sandra Day O'Connor was recently appointed to the bench so we discussed that too. We covered a wide variety of topics related to women's issues. It was pretty cool for a 16 year old.

That same teacher was also our school's college advisor. She recommended Scripps College, a women's college, to me, and I ended up attending Scripps. My senior year there, I participated in a Humanities Internship Program that paired me with a mentor who was a partner at the Los Angeles office of Skadden Arps, a large international law firm. This woman was chair of their labor law department and she spent time with me, talking about the sacrifices women made to achieve that sort of success. In particular, she talked about the sacrifices she had to make as a mother to become a partner.

One experience she shared sticks out in my mind. She had a nanny for her two children. One Mother's Day her young daughter came back from pre-school and gave her Mother's Day craft to the nanny, instead of to her. These were the sort of stories she told me about the choices she had made to get where she was in her career. It's important to remember this was the '80s and, while that may not seem that long ago chronologically, things were very different back then. Anita Hill had not yet spoke out against Clarence Thomas. The U.S. Supreme Court had only just decided that a woman could sue her employer for harassment under Title VII in *Meritor Savings v. Vinson* in 1986, 3 years before I met this woman.

This same female lawyer put the case of *Price Waterhouse v. Hopkins* on my desk one day right after it was decided. This was a 1989 U.S. Supreme Court case involving a female accountant who was excellent at her work, yet Price Waterhouse refused to make her a partner. Her department head told her that if she wanted to make partner, she should wear make-up, get her hair done, dress more femininely, and swear less. Her performance evaluations said that she needed to go to charm school. Essentially, Price Waterhouse discriminated against her because she did not fit their stereotype of how a woman should behave. She was not feminine enough. This was the first time the U.S. Supreme Court had considered stereotyping as a form of discrimination. This idea was fascinating to me, frankly, as a young, protected white girl from Seattle (remember, this was pre-grunge, pre-Microsoft and Seattle was still a small northern town), now living in Los Angeles, and learning about the broader issues of the world. After I graduated I joined Skadden as a paralegal for 2 years and then I paralegaled at White & Case for 2 years. During this time the horrific Rodney King events occurred in Los Angeles, his beating and the riots. This context broadened my horizons even farther on issues of race and social justice. All of this was stretching my consciousness.

Also, while I was at White & Case, I had the amazing experience of working with attorneys John McGuire and Christopher Rudd on the case of Keith Meinhold, a meritorious Master Training Specialist in the U.S. Navy who, during an interview on the ABS News program World News Tonight, told a television interviewer: “Yes, in fact, I am gay.” On the basis of that statement, the Navy convened a discharge board to consider his case. Several officers testified on his behalf and one apologized for any inadvertent prejudice and said he had changed his opinion about homosexuals as a result of knowing Meinhold. Nonetheless, the Navy decided to discharge Meinhold on June 30, and he was separated from the Navy on August 12, 1992. This was obviously a huge tipping point for gays in the military, the start of the “don’t ask, don’t tell” policy, and Meinhold became a national symbol of the fight for inclusion in the military. Again, this exclusion was about stereotypes, not about any rational basis for the discrimination against gay men and women in the military.

So, yes, by the time I started law school in 1993, I knew I wanted to do employment law. And I would say that practicing law has met my expectations. Having worked for those two firms, I knew what I was getting into and what the practice of law could look like. Since I graduated from law school, I have also worked for large firms, both national and international. I know that slippery slope. An awareness of how all-encompassing that can be has led me to consciously craft a practice that is unique from most and as a result I focus almost entirely on management training and workplace investigations, along with some employer advice.

DESCRIBE YOUR PHILOSOPHY ON CLIENT CARE. WHAT ARE SOME OF THE THINGS AN ASSOCIATE CAN DO TO HELP MAXIMIZE THE RELATIONSHIP WITH A CLIENT?

Ms. Lee: I aim to be as efficient as possible when servicing clients and to not “over lawyer” a file. To the extent that it would be less costly and more time-efficient for clients to handle non-legal aspects of their file, I would have the client handle those aspects. Associates can help to maximize a relationship with a client by learning that client’s business or industry in order to start giving practical legal advice and help the client assess legal risks for the business decisions to be made. Something basic is finding out what the client’s deadlines are and helping the responsible lawyer meet them.

Mr. Suria: Clients are business partners and we have to take care of their business problems as if they were ours. We must understand their business so that we can better advise them on what decisions to consider. It is important to be loyal to the client, within the bounds of ethics, and, it goes without saying, that sound legal advice goes a long way. Do not ignore a client’s request; always respond. Always return a client’s call, email or text on the same day that you received; after all, it is common courtesy.

Ms. Van Moppes: Lawyers are a dime a dozen. The only way you can distinguish yourself is to take care of your clients and have them feel that you’re taking care of them. Clients will remember how you made them feel - do not treat them or their matter like a transaction. They won’t come back. Be responsive. This is a personal business. It’s a customer care business. People reach out to attorneys because they need help. It’s important to remember these are people in a time of need.

HOW HAVE YOU DEVELOPED BUSINESS? WHAT DO YOU LIKE OR EXPECT TO SEE FROM AN ASSOCIATE IN TERMS OF BUSINESS DEVELOPMENT?

Ms. Lee: One of the best ways to develop new business is to provide good legal advice that is timely and cost-effective to existing clients. Those clients will continue to refer their new matters, as well as referring their contacts. I also enjoy participating in various professional organizations where I can provide a mentoring or

organizational role and, through that contact, other members come to know me or my work for future referrals. Associates should aim to become the "go to" associate by providing good service and becoming knowledgeable of their practice area. Over time, there may be opportunities to inherit existing clients and business development would have been accomplished without going outside the firm.

Mr. Suria: There are some basic actions that an associate can take to help maximize the relationship with a client. First, when a client makes a request, acknowledge its receipt as soon as possible, no later than 24 hours. If the associate can answer the inquiry promptly, she should do so. If the associate cannot respond to the inquiry promptly because of its nature; that is, legal research is needed, etc., then the associate should acknowledge its receipt immediately and advise that the response will be forthcoming within a reasonable period of time. Second, always consult with the client before making a decision on his behalf. Remember, it is the client's case and the client is the person who should make the decision, not the associate or the partner. You do not want to be on the other side of an ethics complaint. Third, if you make a mistake, do not look to your side to blame someone else or to share the blame. Take ownership of the problem and fix it. Unfortunately, there are mistakes that can lead a client to leave the firm. If this happens, dire consequences can result for the associate. Lastly, and above all, be ethical. Do not compromise your integrity and your license to practice law for anyone or anything.

I like to see an associate making efforts in developing a business. This entails extracurricular activities that necessarily must take place after work hours. Attending meetings, participating in conferences, putting her name and the firm's name out on the street. Making herself available to the people that she meets in these institutions. That is important, especially if the associate proves to be responsive and responsible.

Ms. Van Moppes: Honestly, part of my business development has been the luck of having grown up with family having a unique last name in a small town. That said, I truly believe in the personal touch: thank you notes, handwritten congratulations notes, handwritten Christmas cards with hand-addressed envelopes. People like to know you took the time for them. I receive holiday cards from my personal friends that are printed and stuffed by computers and that is a sad thought to me. It makes me feel like a number, even to my friends. These cards aren't even signed, though the photos are lovely. Clients, too, like to know that they matter. They sent you their business, trusted you with their business, and I believe you should take a few moments to actually write something out to them in gratitude.

WHAT ARE SOME OF THE IMPORTANT THINGS AN ASSOCIATE SHOULD KNOW ABOUT MANAGING AND LIVING UP TO PARTNER EXPECTATIONS?

Ms. Lee: Associates should view partners as their best clients and manage assigned files as if they were files directly from the client. That includes realistically managing deadlines and working within your expertise. Be sure to be as diplomatic as possible when you have to say "no" to a project. Understand when it is time to ask for more guidance. It is also very important to own up when a mistake has been made.

Mr. Suria: An associate should be responsive to the partner's requests. This means to respond timely to a partner's request. If clarification is needed, seek it as soon as possible; do not sit on your chair mulling over doubts, misgivings or misunderstandings until the project is due. Clear up your uncertainties before you begin the project. These should become apparent when you draft your first outline of a project.

When responding to the partner's request, make sure that you are responsive; otherwise, you will never get another task from that partner and your value to the firm diminishes. And please, please do not try to pull one over on your superior; it will come back to haunt you.

Ms. Van Moppes: There are generational differences going on between partners and associates. When I was an associate, the associate went to the partner and said, "How can I make your life easier?" Now, the roles are reversed and associates are looking to partners to help guide their careers. I was taught to pick the partners I admired the most, determine what characteristics I admired, and then to emulate that behavior. Young associates should remember that partners have a career and their own practice; they are not only there to mentor. If you want to be successful, if you want that partner's time, ask that partner how you can help them. You will learn from them and you will get good work. Sitting in your office and waiting for work to come to you is not how you will succeed.

WHAT MAKES AN ASSOCIATE A STAR IN YOUR MIND?

Ms. Lee: Associates become indispensable when they pass the "sleep test" – when I can sleep well knowing the associate is handling the file. That includes the associate having the requisite legal knowledge and the initiative and attitude to timely and efficiently service the client.

Mr. Suria: In my book, three things make an associate a star: good billings, good client relations and good results. Good billings show that the associate is committed to the financial welfare of the firm. Good client relations show that the associate is interested in institutionalizing the client in the firm so the client is comfortable with other attorneys handling their work. Lastly, good results are very important. In fact, when I was practicing in New York, there use to be a saying that "you are as good as your last win". However, this is relative because a win can mean many things, including a good settlement in a catastrophic case. After all, the associate is also the face of the law firm.

Ms. Van Moppes: I really believe that it is **not** about how many hours you bill. That may seem obvious but I have worked for firms that bonus associates purely on the number of hours they bill. To me, an associate is a star when they are able to demonstrate their ethics, their follow through and their willingness to learn, to dig in and do the work without grumbling. Get involved in marketing. Take responsibility if there is a problem; show management that you can problem-solve, that you have critical thinking skills. Show them that you can lead.

WHAT ARE SOME OF THE THINGS ASSOCIATES SHOULD AVOID DOING?

Ms. Lee: Associates should avoid coming to conclusions too quickly without enough analysis. Don't become too focused on details so it becomes difficult to see the "forest from the trees". Avoid overusing legalese with clients or irrelevant boiler plate provisions in documents. Also avoid focusing on what they think partners want and losing sight of what they want out of the practice of law. If you aim to pursue what you are most interested in, that will make the practice of law more satisfying.

Mr. Suria: There are several things that associates should avoid doing. First and foremost, not keeping the client informed of what is happening in the case or transaction. This is fatal since the client is the person that calls the shots, and more importantly, is paying you to do the work and to keep him informed.

Second, making a mistake and not letting your partner know of the mistake. Some mistakes are not terminal and can be easily remedied without further harm; this is not to say that the client need not be advised of it. On the other hand, there are other mistakes that are of such nature that the client must be notified immediately and kept in the loop of what is being done to repair or minimize the damage; this is when the partner must intervene to mitigate any harm that may come to the firm. In short, always keep your superior in the loop.

Ms. Van Moppes: Do not become argumentative simply because you have been challenged and do not know the answer. There is nothing wrong with saying, "I'm going to have to get back to you on that," or that you might need additional time. I myself, particularly as a baby attorney, would get my hackles up, when I felt threatened, especially with opposing counsel. I wish I had found a better model for handling those conflicts.

WHAT IS THE ONE PIECE OF ADVICE YOU WOULD GIVE YOUR 26 YEAR-OLD SELF?

Ms. Lee: Take the time to choose the right practice area for you and the law firm or organization that is the best fit for you. Then take the time to do the things you enjoy outside of work and to be with family and friends.

Mr. Suria: Do not network with lawyers as much as you network with business organizations. Establish personal relationships before you establish business relationships, because you need to establish trust before you can establish a solid business relation. The person giving you his business must feel that she can trust you before she entrusts you with her money or life dream.

Ms. Van Moppes: Do a gut check. If you're enjoying the work, all is good. If not, why not? Be grateful for the situation that makes you uncomfortable, it's teaching you something.

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issues in trust & estate litigation: "undue influence" claims on the rise

by liam duffy

Liam Duffy is an attorney with Rosen Hagood in Charleston, SC, where he represents both plaintiffs and defendants in complex civil litigation matters, with an emphasis on commercial and business disputes, trust and estate conflicts, and construction matters. In addition to his litigation practice, Liam enjoys working as a strategic partner to startup and growth stage businesses across a broad spectrum of industries, where he advises clients on a variety of corporate matters with an eye toward conflict avoidance.

Liam's practice is anchored by diligence, agility and a commitment to developing creative, practical strategies to help his clients navigate the most challenging legal scenarios.

By now, most estate planning attorneys, wealth advisors, and litigators are familiar, or at least becoming more acquainted with the overall rise in trust and estate conflicts. Some of the legal and societal factors contributing to this litigation trend include an aging population, life-lengthening advances in medicine, second marriages, sibling rivalries, and the adoption of the Uniform Trust Code by approximately two-thirds of states. But perhaps most importantly, the stakes are higher now than they've ever been. According to this 2015 study, over the next 30 to 40 years, **$30 trillion** in financial and non-financial assets is expected to pass from the Baby Boomers to their heirs in North America. And in an increasingly litigious society, where cable news and social media often turn these private, family probate matters into high-profile, viral sagas (e.g., Prince, Sumner Redstone, Donald Sterling, James Brown, Anna Nicole Smith), it's no surprise more Americans are exploring their own options through the court system.

Trust and estate disputes can be highly complex, and at times involve the convergence of issues in estate planning, tax law, fiduciary management, prudent investment and diversification, neurology and medicine, and multi-party litigation to name a few. Despite the many case-specific intricacies, a classic one-two combination seems to emerge in a large number of challenges to a testamentary instrument or other donative transfer: claims of undue influence and lack of mental capacity.

In practice, litigation of these two issues is inextricably intertwined. However, the following analysis focuses on problems unique to undue influence claims, and hopefully offers some guidance on how estate planners and litigators (and their clients) can navigate this contentious legal landscape.

How Much Influence is Too Much?

Courts have defined undue influence as "mental, moral, or physical exertion of a kind and quality that destroys the free will of the testator by preventing that person from following the dictates of his or her own mind as it relates to the

disposition of assets." *In re Estate of Stocksdale*, 953 A.2d 454 (N.J. 2008). In other words, undue influence sufficient to defeat a will, trust, or gift is manipulation that destroys the testator's free agency and substitutes another's purpose for the testator's. *In re Estate of Clinger*, 872 N.W.2d 37 (Neb. 2015); *Byrd v. Byrd*, 308 S.E.2d 788 (S.C. 1983) ("[T]he circumstances must point unmistakenly and convincingly to the fact that the mind of the testator was subject to that of some other person so the will is that of the latter and not of the former."). Because undue influence usually takes place behind closed doors in a clandestine setting, it is typically proven by circumstantial evidence. *Estate of Mann*, 184 Cal. App. 3d 593 (Ct. App. 1986). Restricted visitation or contact, threats, secrecy and haste in executing a donative instrument, unexplained departure from longstanding habits or intentions, a feeble-minded testator, and a lack of independent advice are just a few of the hallmarks of improper influence.

A plaintiff seeking to invalidate a testamentary disposition (or intervivos gift) on the basis of undue influence bears the burden of proving his or her case by clear and convincing evidence. Surmounting this evidentiary bar is no small feat, and for good reason. As the high court of South Carolina has long held, undue influence is not merely "the influence of affection and attachment," nor is it "the mere desire of gratifying the wishes of another, for that would be a very strong ground in support of a testamentary act." *Smith v. Whetstone*, 39 S.E.2d 127 (S.C. 1946). There is nothing unlawful about a person who, through "honest intercessions and modest persuasions," procures favor from a testator. *Id.* Moreover, motive, opportunity, and even general influence are not enough without evidence that such influence was actually utilized and brought directly to bear on the testamentary or donative act. *Howard v. Nasser*, 613 S.E.2d 64 (Ct. App. 2005).

Beware the Shifting Burden

Litigants and lawyers should be mindful of the burden shifting that applies in these cases, and must understand its impact from the outset. While the claimant generally bears the burden of proving undue influence, a presumption of undue influences arises where there is a confidential or fiduciary relationship (between the testator and alleged wrongdoer) coupled with other "suspicious circumstances." *Haynes v. First Nat'l State*

Bank of N.J., 87 N.J. 163 (1981). Suspicious circumstances are slightly questionable events that "require explanation." *Id*. Other courts have couched the "suspicious circumstances" element in terms of evidence of an "unnatural disposition," such as where the alleged influencer becomes the primary (or only) beneficiary, and where that person generally dominated the testator. The Restatement of Property captures the mechanics of this burden shift:

> A presumption of undue influence arises if the alleged wrongdoer was in a confidential relationship with the donor and there were suspicious circumstances surrounding the preparation, formulation, or execution of the donative transfer, whether the transfer was by gift, trust, will, will substitute, or a donative transfer of any other type. The effect of the presumption is to shift to the proponent the burden of going forward with the evidence, not the burden of persuasion. The presumption justifies a judgment for the contestant as a matter of law only if the proponent does not come forward with evidence to rebut the presumption.

Restatement (Third) of Property: *Wills and Other Donative Transfers* § 8.3 cmt. f (2003).

This issue was at the heart of a recent Nebraska Supreme Court opinion in an appeal over the proper jury instructions regarding the burden shift in undue influence cases. In *In re Estate of Clinger*, the court noted that the presumption of undue influence is not a true presumption, but rather a "permissible or probable inference." 872 N.W.2d 37 (Neb. 2015). Think of it this way: the presumption of undue influence in a will contest (or similar action) is **not an evidentiary presumption**, but, rather, is a "bursting bubble" presumption that disappears when evidence to rebut the presumption is introduced. *In re Estate of Clinger*, 860 N.W.2d 198 (Neb. Ct. App. 2015). Put simply, the ultimate burden at trial always remains with the party alleging undue influence.

Understanding the implications of burden shifting in undue influence cases is critical in several respects. First, it should serve as a guide for trust and estate counsel when advising their clients and their client's loved ones (who may be in a confidential or fiduciary position as trustee, attorney-in-fact, etc.) with regard to preparation and execution of estate planning documents. From a risk-avoidance standpoint, it would be wise—if possible—to avoid donative transfers to fiduciaries, so that in any subsequent litigation, the efficacy of the testator's intentions is not handicapped by an adverse presumption. In any event, trust and estate counsel should take measures to ensure that undue influence (or even the appearance of undue influence) is not present.

Second, the question of which party bears the burden in undue influence cases is an important one for litigators to ask at the beginning of a potential case. For litigants asserting the existence of undue influence, it's an important part of the calculus of the strength of their case (which faces a high evidentiary hurdle). For those seeking to uphold or defend a testator's actions, a presumption of undue influence may factor into a risk analysis and drive the parties toward settlement.

Conclusion

As trust and estate litigation, including will challenges, guardianship/conservatorship proceedings, and other contested probate actions continue to increase in the years to come, claims of undue influence will undoubtedly serve as a centerpiece of those cases. And while more states adopt and grapple with the complexities of the Uniform Trust Code (and other emerging laws enacted for elder protection), we can expect that courts' discussions of this topic will evolve accordingly. For the benefit of their clients' families (and perhaps their own), lawyers of all types would do well to stay abreast of these developments.

high performance teams

by darryl cross

Darryl Cross is a Senior Consultant at LawVision Group and is an internationally-known expert on the art, science and grit of high performance, coaching, and team dynamics. He employs the same methods used to develop astronauts, pilots, and professional athletes: deliberate practice, team-centric training, and managed competition.

Law firm clients rely on Darryl's 25 years of experience and researching proven, scientific methods to offer a unique approach to improving performance. He works specifically with leaders, practice chairs, department heads, office heads, and business professionals to dramatically improve their financial results and gain a sustained, competitive advantage.

Why Teams?

Teams are a great performance development tool. Isolation can lead to tribalism; we need to find people we can build connections with that helps the client achieve their objectives. Teams require trust, respect, and open, two-way communication. Clients are changing faster than ever. Many have teams themselves, and they want to see lawyers working in teams.

Teams Unleash Potential

Great performers fade in isolation. Teams should be used when the stakes are high and people need to get better at what they do every day. Teams require intense effort and can be overused; we don't necessarily need a team to solve a specific problem, but we need them when we simultaneously want to achieve great results for the client, as well as continuous improvement of our lawyers. Astronauts, pilots, firefighters, and the military all train and operate in teams because they know it is the best way to unleash potential and prepare for the unknown when it counts.

How Do Teams Fail?

The main causes of failure for any team are problems associated with goal alignment, role clarity, and how they make decisions. Teams fail when goals are misaligned either among the team members or with the goals of the firm. For example, teams may pursue clients that are not in line with the firm's plans for growth and financial health. Teams struggle when roles are not clear: Who is responsible? Who is accountable? Who is consulted? Who is informed? Teams stagger when communication is sub-optimal and conflict resolution is not properly managed.

What Makes a Great Team?

Great teams are self-managed and focused on a common purpose. Important characteristics of a team include: Proficiency, diversity, trust, vulnerability (to one another), mutual accountability, equality of team members, competition (healthy internal competition), and collegiality.

Why Do Lawyers Need to Leverage Teams?

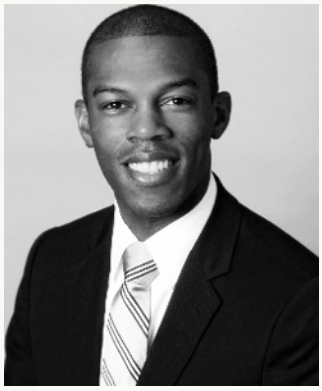
The increasing demand of clients as well as the acceleration of artificial intelligence make it impossible for an individual to keep up or an organization to abruptly change direction. Teams can be predictive, agile, adaptive, and diverse, and this is why firms that master this approach are more valuable to clients.

For more on High Performance Teams, see the resources Darryl Cross offers online.

[Darryl Cross is one of many great speakers that has presented to the Primerus Young Lawyers on the bi-monthly membership calls.]

spotlight interview

by mayra artiles



IRVING W. JONES JR.
CHRISTIAN & SMALL LLP (BIRMINGHAM, ALABAMA)

1. What led you to become an attorney?

A sincere appreciation for the complexities of our legal system and a desire to navigate that system on behalf of those who would not otherwise be able.

2. What type of law do you practice?

I am a civil litigator who represents companies in lawsuits involving physical and monetary injuries. My primary areas of focus are toxic torts and insurance defense.

3. What do you like most about your practice?

The art of researching and drafting legal arguments in motion practice is by far the thing I like most of my legal practice.

4. What is a normal business day like for you?

Seldom are my business days alike. Some days I spend nearly all of my time identifying and researching nuanced legal issues, while other days I spend preparing for hearings or depositions by studying documents and prior testimony.

5. What do you do to market yourself and your practice?

My firm focuses a great deal first on producing quality work and results for our clients and then on maintaining client relationships through in-person visits. In my personal practice, I get involved on committees in national organizations to develop and expand my professional network while also staying abreast of current trends in my practice areas.

6. What do you do when you are not working?

When not working, I play golf, travel, complete home improvement projects, run, cook on my Big Green Egg, and play tennis.

7. What do you like most about the Primerus network membership? What Primerus events have you attended, if any?

The Primerus network is a great network to belong to because everyone understands and appreciates the unique dynamics associated with working for a smaller law firm. As I experienced in my first Primerus event with the Young Lawyers group in Las Vegas last year, the family-like culture that operates in many of our firms is reflected in how we interact with each other. I am incredibly grateful for those experiences and for the Primerus network without which those experiences would be difficult to come by.

quick tips working remotely: pretense or profit-driver

by nicole m. quintana

Nicole Quintana is a trial lawyer at Ogborn Mihm, LLP in Denver, Colorado. Her practice focuses on business litigation, plaintiff's legal malpractice, and catastrophic personal injury. Nicole represents clients in state and federal court in and outside of Colorado and has tried cases to juries, to judges, and through arbitration. While she works up every case with an eye toward trial, she also strives to reach early resolution where doing so serves the best interests of her clients.

There is a significant difference of opinion amongst partners and firms with regard to allowing lawyers to work from home. The flexibility may enhance lawyer loyalty and billable hours by allowing associates to take care of personal matters, attend family functions, or save drive time in exchange for working on off hours. Working remotely may also alleviate the problem of the "revolving door" and allow lawyers to better focus on a major project without constant interruptions. However, there is something to be said for the collaborative nature of the practice of law. Working from home may result in lost opportunities to engage in constructive debate or learn from those around us when in the office.

This article provides tips for those setting up the option for their lawyers and for those utilizing the option.

1. **Be Aware of Security Issues.** Both law firms and lawyers need to understand a law firm's IT security measures. If lawyers are going to work from home (or even in hotels), they need to abide by those security measures to protect client and firm information. This means avoiding the use of public networks; using password protected laptops, tablets, and even flash drives; avoiding saving work to personal computers or sending information across personal email addresses; logging in through remote servers or a virtual private network (VPN); and using a firm's mobile hotspot device instead of an opposing law firm's or hotel's guest wi-fi. Also understand that there are costs associated with offering and implementing many of these security measures, so refer to Number 2.

2. **Appreciate the Privilege (and do not take advantage).** Not all firms offer the option to work at home, so first and foremost, treat it as a privilege and not a right. In that same respect, lawyers should not repeatedly and without good reason work from home. The purpose of allowing lawyers the flexibility is to garner loyalty and to reflect the changing times in which many homes contain two working parents. On the flip side, law firms must recognize that allowing lawyers to work from home actually helps prevent the loss of billable hours and promotes happy lawyers.

3. **Manage Your Time Wisely.** This is likely the biggest concern for law firms and equity partners. Lawyers cannot be doing their laundry when they should be working on a brief due the next day. If you intend to work from home, plan out your day to ensure you are meeting your billable hours, even if it means working around the personal matters that kept you at home in the first place. Perhaps that means waking up an hour earlier to account for the time needed to attend a doctor's appointment or working an hour later to allow for that mid-afternoon run outside. Also, find a dedicated space in which to work away from distractions, such as television or kids. A lawyer's time working at home should be purposeful, productive, and, as intended, dedicated to work.

4. **Be Prepared.** Barring an emergency or an unexpected illness that keeps someone at home, lawyers should plan ahead for a day working at home. Consider whether there are particular documents you need in order to complete the project on which you will work at home or certain people's phone numbers you may need in order to complete your phone conference. Support staff may be resentful of lawyers who have the flexibility to work from home, but then interrupt everyone else's workflow to obtain things that the lawyer should have anticipated needing ahead of time or could have gotten out of the system on his/her own had he been in the office. Nothing breeds contempt like overburdening staff who do not have the same privilege as you. So, consider the day before what you need to take home with you to complete your work and ensure a productive day outside of the office.

5. **Know Your Limitations/Recognize the Balance.** Many of us work in boutique firms, which means that we gain a lot from collaborating and consulting with our peers and mentors on particular legal issues or the approach to handling certain matters. While you have the privilege of working from home, recognize that there are benefits to having people around you and being able to knock on the partner's office door. Not only does it improve camaraderie, but it ensures our clients are getting the best representation and legal ideas possible. Additionally, face time with partners gives them more confidence that you are doing what you need to be doing and not billing for "working from home" when the work is not getting done. At least then, the partner sees and hears you seeking guidance on a particularly difficult legal issue, as opposed to worrying that you are binge watching Netflix on your couch at home.

There are certainly upsides and downsides to working remotely from home, but keeping these general guidelines in mind will promote productivity and balance.

litigation: protecting your minor

by aaron r. claxton

Aaron Claxton provides creative solutions to complex problems in healthcare and corporate law. Aaron's background includes an undergraduate degree in Business Administration with an honors concentration in finance at St. Mary's College of California and he earned his law degree at the University of Pacific, McGeorge School of Law. Throughout undergraduate college and law school, Aaron worked closely with clients at a local insurance brokerage to address their estate planning and business planning needs.

Has your business ever encountered an unsatisfied customer? It's likely the answer is – yes!

When a health care provider faces this situation, they often find themselves weighing a number of variables before taking a course of action that fits their situation best. Pediatric health care providers often face an

additional factor that other businesses don't encounter. When you are determining the best course of action, consider – cost of settlement, attorneys' fees, litigation costs, and public opinion. Where the merits of the matter justify it, the cost of settling the dispute may be less than the risks and expenses of a prolonged legal battle.

Health care providers typically negotiate disputes with the allegedly harmed individual themselves (pro per) or through their attorney. However, this is a little different with pediatric health care providers. They may find themselves in an unusual situation where they are not negotiating with the party that allegedly sustained harm – the patient who is a minor. Often the parent or parents of the minor will negotiate on their minor child's behalf with the health care provider, provided that the minor's parents have not retained counsel or are attorneys themselves. The problem with this is that while the parents could represent themselves without an attorney, they cannot represent their children. Moreover, if a minor signed a waiver and release of his or her own rights it would not be enforceable. Once the minor reached the age of 18, they could affirm the release at that time, but it is unlikely that would happen.

California Probate Code § 3500 provides a solution to this problem by allowing the parents of the minor to "compromise, or to execute a covenant not to sue on or a covenant not to enforce judgment on, the claim…only after it has been approved, upon the filing of a petition, by the superior court." This means that the parents of the minor may enter a waiver and release of the child's rights to their claim, provided that they file the required petition with the court and the petition is approved. After judicial approval of the petition, a health care provider would be assured that the parents of the minor have the authority to enter into a final settlement on their child's behalf. Once the waiver is executed, the minor would be barred from bringing an action against the provider, based on the same alleged injury, at a later date.

However, the filing of a petition pursuant to California Probate Code § 3500 will undoubtedly increase the cost of any proposed settlement and may require that the minor's parents retain counsel in order to assist with the drafting and filing of the petition. This additional expense represents the cost of finality of the dispute. Pediatric health care providers should be aware and cognizant of this provision in the California Probate Code and its use should be weighed in any settlement negotiation decision involving a minor.

a brief introduction to the bank examiner privilege

by mark haddad

Mark M. Haddad is a trial lawyer practicing with Martin Leigh PC in Kansas City, Missouri. Mark represents businesses and individuals in a wide variety of complex legal matters. He has significant experience representing banks, credit unions, title companies, and mortgage servicers in various disputes, including contracts, lender liability, title issues, credit reporting, bankruptcy, and foreclosure. Mark frequently defends financial institutions from claims brought under the Fair Credit Reporting Act, the Fair Debt Collection Practices Act, and various state consumer laws. Appearing in state and federal courts throughout the Midwest, Mark has significant litigation experience at both trial and appellate levels. He can be reached at mmh@martinleigh.com.

Financial institutions are highly regulated by federal and state agencies. Regulators are intimately involved with a financial institution's operation, performance, and management. As a result, information obtained by regulators is often sought in litigation. The Bank Examiner Privilege is one method of protecting this confidential and sensitive information from discovery and disclosure.

Generally, the Bank Examiner Privilege protects information and communications between financial institutions (and their agents/employees) and certain regulators. Generally, the following regulators may invoke the Privilege: the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System (the "Federal Reserve Board"), the Federal Deposit Insurance Corporation ("FDIC"), the Consumer Financial Protection Bureau ("CFPB"), and various State banking agencies. *See* 12 C.F.R. § 4.36 *et. seq.* (OCC); 12 C.F.R. §261.20 *et. seq.* (Federal Reserve Board); 12 C.F.R. 309.1 *et. seq.* (FDIC); 12 C.F.R. 1070.40 *et. seq.* (CFPB); Mo. Rev Stat. §§ 361.080, 610.032 (Missouri Division of Finance).

The Bank Examiner Privilege arises out of the practical need for transparency between certain regulators and financial institutions. Courts recognize that the Privilege is necessary to preserve the integrity of the regulatory process and the absolute candor essential to the effective supervision of financial institutions, and find that it is "firmly rooted in practical necessity." *See In re Subpoena Served Upon Comptroller of Currency, & Sec'y of Bd. of Governors of Fed. Reserve Sys.*, 967 F. 2d 630 (D.C. Cir. 1992); *see also Wultz v. Bank of China Ltd.*, 61 F. Supp. 3d 272 (S.D.N.Y. 2013). Information protected by the Bank Examiner Privilege includes documents, communication between financial institutions and regulators, and other information reflecting the opinions, deliberations, or recommendations of regulatory agencies.

As the D.C. Circuit has explained, bank safety and soundness supervision is an iterative process of comment by the regulators and response by the bank. The success of the supervision therefore depends upon the quality of communication between the financial institution and its regulators. This relationship is both extensive and informal. It is extensive in that regulators concern themselves with all manner of a bank's affairs; not only the classification of assets and the review of financial transactions, but also the adequacy of security systems and of internal reporting requirements. Even the quality of managerial personnel is of concern to the regulators. *See In re Subpoena*, 967 F. 2d at 634.

The Information Protected by the Privilege is Broad

While the Bank Examiner Privilege originated in the common law, it has since been codified in various regulations, which has created broad definitions of what is covered by the Privilege. *See e.g.* 12 C.F.R. § 4.36 *et. seq.* (OCC); 12 C.F.R. §261.20 *et. seq.* (Federal Reserve Board); 12 C.F.R. 309.1 *et. seq.* (FDIC); 12 C.F.R. 1070.40 *et. seq.* (CFPB); Mo. Rev Stat. §§ 361.080, 610.032 (Missouri Division of Finance). For example, the Federal Reserve Board broadly defines "Confidential Supervisory Information," which generally is information subject to the Bank Examiner Privilege, as "reports of examination, inspection and visitation, confidential operating and condition reports, and any information derived from, related to, or contained in such reports." 12 C.F.R. § 261.2. It also includes all information gathered in the course of any investigation and any documents prepared by or for the use of a banking regulator. *Id*. Likewise, the CFPB includes in its definition of "Confidential Supervisory Information" all "reports of examination, inspection and visitation, non-public operating, condition, and compliance reports, and any information contained in, derived from, or related to such reports." 12 C.F.R. § 1070.2; *see also* 12 C.F.R. § 4.32 (OCC) and 12 C.F.R. § 309.2 (FDIC).

Although the Bank Examiner Privilege is not absolute, because the definition of Confidential Supervisory Information contained within the regulations is very broad, counsel often take an expansive approach in identifying documents that could be subject to the Bank Examiner Privilege. By way of example, the regulations clearly cover the actual examination report and communications between the financial institution and regulators. *See, e.g.*, 12 C.F.R. § 261.2 ("reports of examination"); 12 C.F.R. § 1070.2 ("[a]ny communications between the CFPB and a supervised financial institution"). However, although not specifically referred to in the regulations, some litigants may assert that internal communications of bank officers discussing an ongoing examination and references to the findings of a bank examination in a financial institution's minutes are covered by the Privilege. *See, e.g., In re Countrywide Fin. Corp. Sec. Litig.*, 2009 WL 5125089 (C.D. Cal. Dec. 28, 2009) ("[t]he Court recognizes, however, that there is a question as to whether Countrywide's internal emails discussing the examination reports are privileged").

Case law interpreting the Bank Examiner Privilege demonstrates that the facts and circumstances of a particular case ultimately govern the potential scope of application of the Privilege. *See, e.g., In re Subpoena, supra* (Court erred in ordering production of privileged bank examination information because the bank regulatory agencies had made it available to the bank); *Wultz, supra*; *In re Bankers Trust Co.*, 61 F. 3d 465, 471 (6th Cir. 1995) (request for "any and all documents relating to any and all regulatory reports of examination and inspection" may be subject to the Privilege); *Merchants Bank v. Vescio*, 205 B.R. 37 (D. Vt. 1997) (held all documentation, no matter by whom generated, relating to investigation of bank to be protected by Privilege); *Rockwood Bank v. Gaia*, 170 F. 3d 833 (8th Cir. 1999); *Shirk v. Fifth Third Bancorp,* 2008 WL 2661955 (S.D. Ohio July 2, 2008) (two five-inch thick binders consisting of approximately 1,528 pages protected by Privilege). Each time it is asserted, the court must undertake a "fresh balancing of the competing interests," which will frequently require it to examine the disputed documents *in camera*. *See In re Subpoena*, 967 F. 2d. at 634 (internal citation omitted). It is intended to protect "opinions and deliberative processes" as opposed to "purely factual material." *See Merchants Bank*, 205 B.R. at 42 ("purely factual material falls outside the Privilege, whereas opinions and deliberative processes do not"); *but see Shirk v. Fifth Third Bancorp*, 2008 WL

2661955 (S.D. Ohio July 2, 2008) ("factual and deliberative information is largely inextricably intertwined… and the mixture of facts and deliberative indications is not amenable to being segregated). In weighing the competing interests, Courts have generally considered, at a minimum, the following five factors:

1. the relevance of the evidence sought to be protected;

2. the availability of other evidence;

3. the 'seriousness' of the litigation and the issues involved;

4. the role of the government in the litigation; and

5. the possibility of future timidity by government employees who will be forced to recognize that their secrets are violable.

See In re Subpoena, 967 F. 2d. at 634; *In re Bankers Trust Co.*, 61 F. 3d at 471; *Schreiber v. Soc'y for Sav. Bancorp, Inc.*, 11 F.3d 217, 220 (D.C. Cir. 1993); *In re Franklin Nat'l Bank Sec. Litig.*, 478 F.Supp. 577, 583 (E.D.N.Y. 1979).

Disclosure of Confidential Supervisory Information

Each regulator has its own procedure for requesting disclosure of Confidential Supervisory Information. They also have their own procedures that should be followed when a financial institution is presented with a request for the same. *See, e.g.*, 12 C.F.R. § 261.22 (Federal Reserve Board); 12 C.F.R. § 4.36 (OCC); 12 C.F.R. § 1070.47 (CFPB); 12 C.F.R. § 309.6 (FDIC); Mo. Rev. Stat § 361.070 (Missouri Division of Finance). Financial institutions and their counsel should follow these procedures to avoid unnecessary disclosure of protected information. Moreover, there may be criminal penalties for unauthorized disclosure. *See, e.g.*, Mo Rev. Stat. § 361.080. For example, the Federal Reserve Board will only allow disclosure with its explicit permission. *See* 12 C.F.R. § 261.20; *see also Schreiber v. Soc'y for Sav. Bancorp, Inc.*, 11 F. 3d 217 (examination reports and related correspondence are records of the agency and may be obtained from a bank only with the agency's permission). Except in very limited circumstances, no financial institution, supervisory agency, person, or other party to whom Confidential Supervisory Information is made available, should disclose such Information without the prior written permission of the Federal Reserve Board's general counsel. *See id.*

A litigant seeking information held by the Federal Reserve Board may request access to Confidential Supervisory Information for use in litigation by filing a written request directly with the Federal Reserve Board's general counsel identifying the Confidential Supervisory Information sought, the relationship of the Information to the issues in the litigation, the litigant's need for the Information, and the reason it cannot be obtained from another source. *See* 12 C.F.R. § 261.22(b). The litigant must also commit to obtain a protective order preserving the confidentiality of the Information. With this Information, the Federal Reserve Board's general counsel can make a decision whether the litigant "has shown a substantial need for Confidential Supervisory Information that outweighs the need for confidentiality." 12 C.F.R. § 261.22(c). Absent such a request, and permission from the Board's general counsel, financial institutions are prohibited from producing Confidential Supervisory Information. *See* 12 C.F.R. §§ 261.20(g), 261.23(b); *see also* 12 C.F.R. § 4.36 (OCC); 12 C.F.R. § 1070.47 (CFPB); 12 C.F.R. § 309.6 (FDIC) for specific requirements for requesting disclosure for these agencies.

Confidential Supervisory Information is commonly requested in litigation. These requests are typically directed to the financial institution and not to the regulator. Although the Privilege belongs solely to the regulator, the regulator must be allowed the opportunity to assert the Privilege and the opportunity to defend the assertion.

See In re Bankers Trust Co., 61 F. 3d 465 (6th Cir. 1995). Accordingly, if presented with a request to produce Confidential Supervisory Information, a financial institution must act quickly to notify the regulator of the request and consider withholding such information until the regulator has had an opportunity to respond. *See e.g.* 12 C.F.R. § 261.23. In most instances, the regulator, upon notice that its information has been requested, will intervene in the action to protect the information. It is therefore incumbent upon the financial institution (or counsel) to recognize the information being sought as potentially covered by the Privilege and immediately take action to protect it from disclosure.

Conclusion

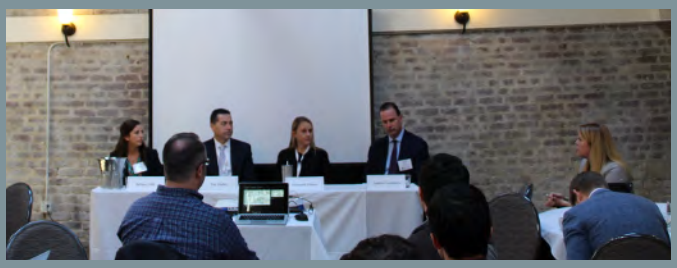
Regulators are intimately involved with the operation, performance, and management of the institutions they regulate. The Bank Examiner Privilege is one method of protecting this confidential and sensitive information. Case law interpreting the Bank Examiner Privilege demonstrates that the facts and circumstances of a particular case ultimately govern the potential scope of application of the Privilege. However, because the information covered by this Privilege is broad, counsel should consider taking an equally broad approach in identifying information that could be subject to the Bank Examiner Privilege. In addition, financial institutions (and its counsel) should keep their regulators informed when requests for examination-related information is made in order to give the regulators an early opportunity to object and assert the Privilege.

2018 young lawyers section conference

"Thank you to all of the firms that supported the 2018 Primerus Young Lawyers' Section Conference in Charleston, SC. The event provided a great professional and business development opportunity for young lawyers. We networked. We learned. We had a great time. The conference provided CLE credits and included sessions from fellow Primerus attorneys, an in-house panel, and an ethics presentation. Attendees networked with each other at a reception hosted by Rosen Hagood, at a speed networking event, at a mock-mediation, and at a volunteer event at a local Title 1 school.

I was most impressed with the YLS Conference attendees. The quality of people in Primerus is top notch and the young lawyers are no exception. Those who attended the Primerus event were engaged, eager to learn, and very supportive of one another. They asked great questions, shared stories about their practices, and we all made some memories during the conference."

- Young Lawyers Section Chair, Emily Campbell - Dunlap Codding



"The YLS Conference provided an invaluable opportunity to connect with up and coming lawyers from Primerus firms across the country. I look forward to working with these lawyers for years to come."

- Dan Fitzgerald - Brody Wilkinson PC (Southport, CT)

"This year's Primerus YLS Boot Camp was outstanding. I was able to meet distinguished peers, network with fellow real estate practitioners, and learn additional strategies for developing my own personal brand. I'm already looking forward to next year's conference."

- Michael Haviland - Earp Cohn P.C. (Cherry Hill, NJ / Philadelphia, PA)

"The Primerus YLS Conference in Charleston, SC was an outstanding opportunity to network with an excellent group of attorneys from around the country. The programming was top-notch and very relevant to young lawyers, especially the programs on growing your practice and keeping your network lean and efficient to create meaningful business relationships. I look forward to attending the next YLS Conference."

- Mark Haddad - Martin Leigh PC (Kansas City, MO)

"As a relatively new member of the Primerus YLS, I continue to be impressed by the YLS Annual Conference. The quality of the programming, speakers, and networking opportunities is unmatched, and this year in Charleston was no different. The weekend's sessions always feel far more like conversations than lectures, which is a refreshing change of pace. I was proud to represent Rosen Hagood, mainly because of the level of energy and enthusiasm that all the YLS members brought to town. Everyone was highly engaged and genuinely interested in getting to know one another - professionally and personally. I look forward to fostering the authentic relationships that have grown out of the Primerus YLS Conference, and continuing to lean on my YLS colleagues for guidance, support, and inspiration as our careers develop over the years."

- Liam Duffy - Rosen Hagood (Charleston, SC)

Primerus Young Lawyers Give Back!

In the spirit of one of the Primerus Six Pillars, Community Service, as part of the YLS Conference this year Primerus partnered with Going Places and Affordabike to build bikes for children in the Charleston area. Katie Blomquist, the founder and Executive Director of Going Places said, “Our mission is to provide low income, high poverty kids with the most basic childhood right; a right to joy." In support of that mission, for every young lawyer that attended, a bike, a helmet, and a lock were donated to an underprivileged elementary aged child in Charleston. In many cases, this is the first bike these children will have ever owned.

In addition to the donation, as part of the conference a bike build was scheduled where Primerus young lawyers planned to build 150+ bikes for this cause. Unfortunately, the bike shipment was delayed in route on a tanker ship and the bike build had to be canceled last minute. But, with some quick thinking and by calling in a favor, Katie Blomquist helped arrange for the young lawyer attendees to go visit one of the local elementary schools and spend the afternoon reading, playing and otherwise hanging out after school with the kids. It is uncertain as to who actually had more fun, the elementary kids or the young lawyers!

“Everyone was very eager to contribute to the build and I think for some it was what they were most looking forward to at this year’s event. So, it goes without saying that we were extremely disappointed that the bike build fell through. I was so appreciative of how understanding the attendees were of the circumstances. When I finally received word that the bikes were not going to arrive in time to do the build, as an alternative we proposed the school visit – without hesitation the young lawyers assented. In looking back, the time we spent with the children playing, reading, listening, etc., was more impactful and more memorable than any time we would have spent building bikes. I think incorporating some kind of community service or volunteer activity into this event will be a new and welcome tradition for the YLS.”

-Chris Dawe, VP of Member Services and YLS Coordinator - Primerus (Grand Rapids, MI)

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Young Lawyer Section Updates

YLS Membership Call – The membership calls take place the second Tuesday of every other month. Here is the remaining call schedule for 2018:

- Tuesday, August 14th at 1:30 pm ET
- Tuesday, October 9th at 1:30 pm ET
- Tuesday, December 11th at 1:30 pm ET

Primerus Events Calendar

- October 17 - 21 – Primerus Global Conference (Boston, Massachusetts)
- October 21 - 24 – ACC Annual Meeting (Austin, Texas)
  - Primerus will be a corporate sponsor
- November 8 - 9 – Primerus Defense Institute Fall Seminar: Insurance Coverage, Bad Faith, and Product Liability (Chicago, Illinois)

Committees

- Executive Committee
- CLE Committee
- Membership Committee
- Newsletter Committee
- Community Service Committtee

Join us for the 2019 Young Lawyers Section Conference!

March 13-15

Learn. Grow. Connect. Give Back.

SEE YOU THERE!