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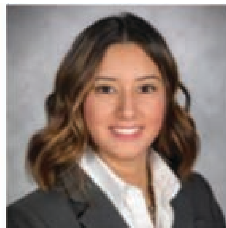

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Volume 38 **No. 02** **March 2021**

MEETING DATES FOR 2021

(Go to www.saginawbar.org for meeting updates)

Board Meeting by ZOOM

(All Board Meetings will be held via ZOOM until further notice 1st Wednesday of every month at 12:00 PM)

Pro Bono Committee Meeting by RING

(All PB Meetings held via RING until further notice 3rd Tuesday of every month at 12:00 PM)

Law Day

May 1st

Golf Outing & Annual Meeting

Thursday, June 3, 2021 –
Saginaw Country Club

Red Mass

Thursday, October 14, 2021

Pro Bono Week

October 24 – 30, 2021

Holiday Party

Friday, December 3, 2021 –
Horizons Center

(If you want your committee meeting dates listed here, send them to Kelli Scorsone, Executive Director)

Great Lakes Bay Region

The Women Lawyers Association of Michigan (WLAM) was founded by 5 women attorneys on March 24, 1919, before women won the right to vote. Its initial mission was “to advance the interest of women members of the legal profession and to promote a fraternal spirit among lawyers.”

THE SUMMONS
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The articles in THE SUMMONS, unless clearly designated otherwise, are those of the author. They do not necessarily represent the opinion of the Saginaw County Bar Association or its members. Please direct your comments on THE SUMMONS, to its Assistant Editor, Ann R. Van Hautte, 4301 Fashion Square Boulevard, Saginaw, Michigan 48603 • (989) 498-2100.

PRESIDENT'S MESSAGE

By: Millicent E. Shek

February has recently ended and thus so too has Black History Month. While we may be eagerly looking forward to Spring's arrival or perhaps readying our green garb for St. Patrick's Day, I'd like to take the opportunity this article presents to look backwards and commemorate Thurgood Marshall. Thurgood Marshall was the first African-American man to serve the United States as a Justice on the Supreme Court. Appointed by the President in 1967, Thurgood Marshall challenged our legal system in a passionate pursuit to make an evermore perfect union.

Thurgood Marshall (born Thoroughgood Marshall) was born on July 2, 1908 in Baltimore, Maryland. His mother, an educator, pushed him to do well in school. His passion for the law started young as his father would often take him to court proceedings in downtown Baltimore.

When Thurgood Marshall enrolled in 1925, Pennsylvania's Lincoln University was the most prestigious university for black men on the East Coast. At his mother's urging, Marshall first studied to be a dentist, however his experiences in college would set him down a different path. After a fraternity hazing incident, Thurgood rededicated his focus on academics and joined the college's debate team, helping him realize his own passion for law. He became involved in civil rights and helped to desegregate a movie theater, an experience he described later in life as one of his happiest moments.

After graduating from Lincoln University (with honors) in 1930, he applied to the University of Maryland Law School but was denied because he was African American. Thereafter he applied and was accepted to Howard University. Everyday Marshall traveled over one hour each way to attend class. Thurgood and his wife moved in with his parents and Thurgood's mother sold her wedding ring to help afford the cost of the legal education. Overcoming these struggles, he graduated valedictorian in 1933. It was also during this time that a mentor to Thurgood Marshall introduced him to the NAACP and instilled in Thurgood Marshall the idea to defeat racial discrimination through the law.

Thurgood Marshall immediately began working for NAACP and in 1938 became its chief counsel. He successfully argued many civil rights cases before the Supreme Court, winning 29 cases in 32 total appearances before the Court. Among the many prece-

dent-setting cases he argued were *Smith v. Allwright* (1944) in which the Court held that the exclusion of black voters from primary elections in Texas was unconstitutional and *Shelley v. Kraemer* (1948) in which the Court held that racial restrictive covenants in housing were unconstitutional. However, Marshall's most prominent work came with the decision of *Brown v. Board of Education* (1954) whereby he challenged and systematically dismantled the far-reaching decision of *Plessy v. Ferguson* (1896) which upheld segregation.

John F. Kennedy appointed Thurgood Marshall in 1961 to the United States Court of Appeals for the Second Circuit; out of all his rulings, none were overturned by the U.S. Supreme Court.

On June 13, 1967, President Lyndon B. Johnson nominated Thurgood Marshall to fill the seat of retiring U.S. Supreme Court Associate Justice Tom Clark. In announcing his choice, Johnson said it was "the right thing to do, the right time to do it, the right man and the right place." On August 30, 1967, the Senate, after a heated debate, confirmed Marshall by a vote of 69-11. Two days later, after being sworn in by Chief Justice Earl Warren, Marshall became the first African-American to sit on the nation's highest court.

In 1991 Marshall wrote a letter to President Bush stating he was retiring. When asked why he was retiring, he simply stated "I'm getting old and coming apart." Marshall died of heart failure on January 24, 1993 at the age of 84. A memorial service was held at the Washington National Cathedral and Thurgood Marshall was buried in Section 5 of Arlington National Cemetery near the graves of fellow Justices, Oliver Wendell Holmes, Jr., William O. Douglas, William J. Brennan, and Potter Stewart.

Thurgood Marshall never stopped having utter empathy for common people who were disadvantaged and he dedicated his life to help them, regardless of their color.

***

"Opportunity is missed by most people because it is dressed in overalls and looks like work." – Thomas Edison

In Memoriam

None

Please help the Memorial Committee make sure no member is forgotten. Contact SCBA office at 790-5285 or scba@saginawcounty.com regarding the passing of any Saginaw County Attorney.

Our thoughts and prayers go out to all those who lost loved ones to Coronavirus.

SAGINAW COUNTY LAWYERS' AUXILIARY

By: Claudia J. Wallace

As time passes, the Saginaw County Lawyer's Auxiliary is looking forward to brighter days ahead, baby steps back into society-schools, restaurants, offices, meetings, travel etc. ZOOM BE GONE!

We know an hourglass is a device used to measure the passage of time. The largest one I found for sale is a 24 hour device. You only turn it once a day for 30 days and wala we are into March. If you went the hourly route you would be turning approximately 672 times. (makes for sleepless nights). So those of you trivia buffs-there is an hourglass that measures by the year. Where is it, what is its name and when was it built? In a years' time we will have better things to talk about than this last one as this is getting old. Brighter days!

Recently our very own Mary Ann Farris applied to the ALA Support Program for 2020-2021. It reads as such:

The Saginaw County Lawyers Auxiliary (SCLA) during normal years would hold numerous fund raisers to support our many programs for our community. Due to Covid lock downs this year we are not able to generate new funds this year for our programs. We are able to support some of them through our existing Auxiliary funds.

We are asking for money this year to help us increase the size of our annual scholarship program. SCLA has an investment in a local Foundation to provide an annual scholarship for a high school senior that is going to study for a degree in a law-related field in a State of Michigan University. At present we award a $1,000.00 scholarship for one student a year. We have been increasing our funds in the foundation to increase the amount of the scholarship and to possibly give a second scholarship. We are close to having enough money invested in the Fund to provide an endowed second $1,000.00 scholarship.

SCLA would normally earn approximately $500.00 for our endowed Scholarship Fund through annual fund raisers per year. It is our hope that ALA will help us to obtain our goal this year for this project.

Mary Ann Farris-SCLA Law Day and LRE-Chairman

They awarded the SCLA $500.00 for our fund. Kudos to Mary Ann for all her continued work with the SCLA, ALA, and the schools.

SCBA EXECUTIVE DIRECTOR'S REPORT

By: Kelli Scorsone, Executive Director

THANK YOU FOR PAYING YOUR DUES

Thank you again for your commitment and partnership. Our organization is strong because of you. Your continued commitment to SCBA enables us to provide the following:

SCBA listserv, an electronic way to keep in touch with the local legal community, and the State and the Federal courts.

Free digital subscription to the SCBA newsletter, 'The Summons'.

SCBA Website with a Directory of all members and a Field of Practice for all attorneys interested in posting their areas of practice on the Website.

Social Events including the annual meeting & golf outing, and the annual Christmas Party.

The Memorial events, gatherings to celebrate each other and those we have lost.

Our award-winning Law Day Events.

Access to the SCBA Office in the basement of the courthouse which includes a conference room available to members for depositions, etc.

And together, we can tackle the challenges COVID has created for your business, for you socially, and whatever the 'COVID future' may bring. SCBA will not only get through this, but we will thrive, thanks to members like you.

The State Bar of Michigan has provided these two sites that you may find helpful.

Resources and Tips for Michigan Lawyers Working Through the COVID-19 Pandemic (michbar.org)

State Bar of Michigan: Reopening Toolkit for Michigan Law Offices--Posters for Office Placement (michbar.org)

We are all looking forward to getting back to our normal activities.

DISTRICT COURT UPDATE

By: Judge Elian E.H. Fichtner

This update is intended to provide a brief synopsis of recent legislative changes with additional information for the reader's independent review including statute citations and effective dates. More information will be provided over the next few months with each update highlighting current or effective date changes in the law. Please keep an eye out next month for updates regarding changes to the expungement laws and more information on the *Raise the Age* package effective this fall.

The following changes are effective **March 24, 2021:**

MCL 257.625, 257.904, 257.904a and 257.905

P.A. Number: 2020 PA 383

These sections amend the Michigan Vehicle Code as follows: Delete mandatory minimum sentences for certain offenses related to operating a motor vehicle while impaired and for offenses related to operating a motor vehicle by an unlicensed person. They also delete provisions requiring certain terms of imprisonment to be served consecutively and allowing certain terms of imprisonment to be suspended if the defendant agrees to participate in a specialty court program and successfully completes the program.

MCL 324.40118, et seq.

P.A. Number: 2020 PA 385

Amends the Natural Resources and Environmental Protection Act to delete mandatory minimum jail sentences for certain offenses related to the possession or taking of game; the taking or killing of fish, game, and birds; commercial and sport fishing; and impaired operation of a motorboat, off-road recreation vehicle, and snowmobile. Further, it allows certain jail sentences to be suspended if the defendant agrees to participate in and successfully completes a specialty court program.

MCL 769.5 & 760.34

P.A. Number: 2020 PA 395

Amends the Code of Criminal Procedure by adding a rebuttable presumption that, if an individual is convicted of a misdemeanor other than a serious misdemeanor, the court must sentence the individual with a fine, community service, or other nonjail or non-probation sentence. The court could depart from the presumption if it finds reasonable grounds for the departure and makes specific findings on the record. Further, it allows for the court to issue an order to show cause for failure to comply with a nonjail or non-probation sentence. If found in contempt, the court may impose additional sentence provisions

including jail or probation, if appropriate. If there is a finding of contempt for nonpayment of fines, costs, or other legal financial obligations, the court must make a finding of ability to pay without manifest hardship and that the person has not made a good-faith effort before imposing an additional sentence.

MCL 762.11

P.A. Number: 2020 PA 396

Notably, this change extends eligibility for assignment of youthful trainee status under the Homes Youthful Trainee Act (HYTA) to an individual for offenses committed when he or she is 18 to 25 years of age. This amendment also requires the prosecutor to consult with the victim regarding the appropriateness of youthful trainee status under certain circumstances.

The following changes are effective **April 1, 2021:**

MCL 764.9c & 764.9f

P.A. Number: 2020 PA 393

These changes would allow, in certain circumstances, issuance of an appearance ticket for certain misdemeanor or ordinance violations instead of arrest warrant.

MCL 764.1, et seq.

P.A. Number: 2020 PA 394

The changes further amend the Code of Criminal Procedure to require expedited arraignments on bench warrants when the person voluntarily turns themselves in within one year of the warrant issuance. There are exceptions for cases alleging assaultive crimes including domestic violence. Additionally, it requires issuance of a summons instead of a warrant in all cases except when the complaint is for an assaultive crime. Other exceptions requiring a warrant include when there is reason to believe from the presentation of the complaint that the person listed in the complaint will not appear upon a summons; if issuance of a summons poses a risk to public safety; or, if the prosecutor has requested a warrant.

Additional changes include issuance of bench warrants for failures to appear. One creates a rebuttable presumption for failure to appear at a court hearing and provides the person 48 hours to voluntarily appear before issuance of a bench warrant except in limited circumstances.

Each district court is further required to establish a hearing protocol for individuals detained on a warrant of arrest that originated in another county. The protocol must include the use of two-way technology, when appropriate. Further, it requires a person detained on an arrest warrant in a county other than the one originating in the warrant to be released if the originating county does not make arrangements within 48 hours to pick up the person, or fails to pick them up within 72 hours. The releasing facility must contact the originating court and obtain a court date for the defendant to appear. (This does not apply to cases alleging assaultive crime or involving domestic violence).

MCL 771.2 et seq.

P.A. Number: 2020 PA 397

These changes amend the Code of Criminal Procedure by shortening, with some exceptions, the maximum probation period from five years to three years (for a felony). It further revises the provision regarding early discharge from probation by including misdemeanors. It provides that early discharge is allowable after the defendant has completed half of the original probation period. It also requires the court to notify the defendant, at sentencing, of his or her eligi-

bility for early discharge from probation and the requirements of early discharge from probation as well as the procedure for requesting same. Furthermore, it allows for the probation department, after the defendant has completed all required programming, to notify the sentencing court that the probationer may be eligible for early discharge. If the probation officer does not notify the court, the defendant may do so on a form provided by the SCAO (as long as there have been no violations in the previous three months). Notably, it also allows the defendant to be discharged from probation early despite having outstanding court-ordered fines, fees, or costs, so long as they have made a good-faith effort to make payments. It suggests that courts may conduct an ability to pay hearing on the issue including determination of financial hardship. Early discharge does not automatically relieve the defendant of their financial obligations.

The court may grant an early discharge without holding a hearing. If there is a finding of ineligibility for early discharge, the court must conduct a hearing to allow for the presentation of facts. For probationers serving a term of probation for a felony that involves a victim who has requested to receive notice under the Crime Victim's Rights Act, it requires notification of the hearing to be made by the prosecutor to the victim. Certain convictions are disqualified from early discharge.

Changes are also made to probation. It amends the ways a person can report to probation to include "virtual" reporting. Further, it requires probation conditions to be tailored to the probationer, specifically addressing the assessed risks and needs, to be designed to reduce recidivism, and must be adjusted if the court determines appropriate. It specifies that probation is a matter of grace requiring the agreement of the probationer to its granting and continuance. It also revises sanctions for technical probation violations which include maximum terms of incarceration for each technical violation from the 1st to the 4th or subsequent (distinct sentences for misdemeanors and felonies). This provision does not apply to domestic violence offenses. Pursuant to the changes, probation ***may not*** be revoked on the basis of a technical violation unless the probationer has already been sanctioned for three or more technical violations and commits a new technical violation. It also removes the ability of the court to issue an arrest warrant for a technical probation violation. Instead it requires the court to summons the probationer. The court may overcome the presumption by meeting certain criteria.

It should be made clear, that this update is just an overview of the many changes occurring in the law. Each reader is strongly encouraged to engage in a more thorough analysis of each update to appreciate the details and application.

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ACCESS TO MEDIATION DURING A PANDEMIC AND BEYOND

By: Dayna Harper, Ed.D.
Executive Director
The Community Resolution Center

Prior to March of 2020, the Michigan Supreme Court was already making great strides in the field of online court services. The MI-Resolve pilot program launched in 2019 and planned to be available to all counties by the fall of 2020. The pandemic not only accelerated the statewide availability of the MI-Resolve Program to the early summer of 2020 but many other types of mediation cases were available online.

The initial obstacle for the CRC to conducting mediations online was the preliminary set up of technology and training staff and mediators to mediate online. As everyone has discovered, technology is wonderful, until it is not. There is still a learning curve for the participants to connect online. Not all bandwidth is created equal; the strength of the mediators' and the participant's internet signals sometimes makes for difficult communication. For the most part, mediators and participants are patient with the online format and the benefit of online mediation, outweighs the difficulties.

The advantages of the quick conversion to online mediations have been many. The immediate need was to offer our courts a source to settle cases from a backlog after the pandemic safety guidelines were put into place. This call to duty was not only executed by the Community Dispute Resolution Programs (CDRP), but many local Bar Associations and their ADR Committees also began offering mediation via Zoom.

The CRC mediators find that con-

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tentious parties do well mediating on Zoom. Once they get over the anxiety of seeing the other person on camera, parties seem to be able to settle in and have good conversations.

Mediators, parties and their counsel all seem to appreciate the short commute to the meeting. With the CRC service area of nine counties and just under 5000 square miles, we are able to provide quality mediators to all of the courts we serve.

Another aspect of moving our ADR work to an online format has been the Office of Dispute Resolution, State Court Administrative Office, Michigan Supreme Court updated the guidelines for the 40-hour General Civil and 48-hour Domestic Relations Mediator Trainings. The interim standard and guidelines for mediator training so far will extend until December 31, 2022. The CRC will co-host both the General Civil in April 2021 and the Domestic Mediator Training in July 2021. Registration will open by mid-January 2021.

The importance of in person mediation will always hold the valuable human connection, but the CRC will continue to offer an online mediation option for cases that would benefit from this format, long after the pandemic has ended.

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SAGINAW LANSING DETROIT GRAND RAPIDS

SIXTH CIRCUIT ISSUES TWO IMPORTANT EMPLOYMENT DISCRIMINATION DECISIONS

By: Kraig M. Schutter JD LLM
Masud Labor Law Group

On January 12 and 15, 2021, the Sixth Circuit Court of Appeals delivered two important rulings in cases involving employment discrimination claims brought under federal law. The statutes concerned are the Age Discrimination in Employment Act ("ADEA"), 29 USC 621 *et. seq.,* and the Americans with Disabilities Act ("ADA"), 42 USC 12101, *et. seq.*

Pelcha v. MW Bancorp, Inc, 20-3511 (January 12, 2021)

Over a decade ago, the United States Supreme Court ruled in *Gross v. FBL Financial Services,* 557 US 167, 177-78 (2009) that, under the ADEA, a plaintiff must show that age was the sole, but-for cause of their employer's adverse employment action being challenged. Last year, the Supreme Court in *Bostock v. Clayton County,* 140 SCT 1731, 1739 (2020) issued a landmark decision under Title VII (which provides employment protections to employees on the basis of race, color, religion, sex, and national origin) that a plaintiff states a valid claim of discrimination under that statute by identifying that their protected classification was one of any, multiple, but-for reasons for having suffered adverse employment action. It need not be the only reason.

In *Pelcha,* the plaintiff was a 47 year old bank teller who had been fired for refusing to follow a new administrative leave protocol of the defendant bank. She sued for age discrimination under the ADEA. The federal district court dismissed her claim when she could

not show that age was the only reason for her termination as required under *Gross*. Pelcha appealed, in part, seeking to have the Sixth Circuit apply the Supreme Court's newly minted, "one of multiple factors" rule from *Bostock*.

The Sixth Circuit affirmed the lower court's dismissal of the case by continuing to follow the ADEA-specific precedent from *Gross.* It did so for two reasons. First, the Court noted that the Supreme Court stated its decision in *Bostock* was limited to Title VII itself. Second, it reasoned that the Supreme Court should maintain the prerogative to overturn its own decisions where, as here, a new ruling of the Supreme Court appears to have direct application to the case, but there are prior Supreme Court cases directly controlling.

The bottom line is that, within the Sixth Circuit's jurisdiction and until the Supreme Court says otherwise, federal age discrimination claims brought under the ADEA are still to be judged under the "sole reason" standard and not the expanded "one of multiple factors" standard recognized by the Supreme Court for federal discrimination claims brought under Title VII.

Thompson v. Fresh Products, LLC, 20-3060 (January 15, 2021)

The Sixth Circuit has recognized that employers and employees may contractually agree to shorten the timeframe by which a lawsuit may be brought between them under particular employment law statutes, but that certain statutes, by their nature, do not permit such agreements. Statutes which the Court has found permissible to shorten the filing period include, for example, ERISA claims (health, welfare, and retirement disputes) and Section 1981 claims (race discrimination). Notably, the statute which the Court has found impermissible for shorting the timeframe to sue is Title VII. In *Logan v. MGM Grand Detroit Casino*, 939 F.3d 824 (2019), the Sixth Circuit ruled that contractual agreements to shorten its three year statute of limitations are unenforceable. The Court reasoned that where remedial statutes contain their own expressly stated limitations period, they are substantive and cannot be voluntarily waived. The Court also deemed it important that Title VII claims are to be processed first through the Equal Employment Opportunity Commission ("EEOC") before suits are properly filed in the

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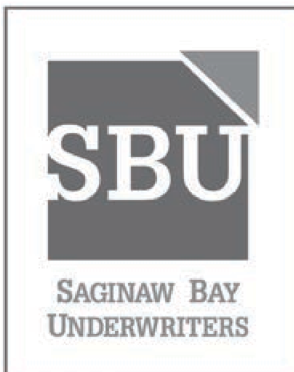
courts. Thus, it reasoned that the limitations period expressed in the statute should be maintained to effectuate administrative agency involvement.

In *Thompson,* the plaintiff was a 52 year old, disabled, black, female production worker. Upon hire, she signed an agreement with her employer that any claims she might file arising out of her employment would be brought within six months and specifically waived any statute of limitations to the contrary. When she was later selected for layoff as a part of a corporate reorganization, she refused to sign a separation agreement and instead sued for race, age, and disability discrimination under Title VII, the ADEA, and the ADA respectively. However, she did so after six months had passed from her date of layoff. Since she had contractually agreed to six month limitations period, her employer obtained summary disposition from the trial court of her ADEA and ADA claims (her Title VII claims were dismissed on other grounds).

On appeal, the Sixth Circuit was presented the question of whether its holding in *Logan* disallowing a shortened statute of limitations for Title VII claims should extend to claims brought under the ADEA and/or the ADA. The Court noted that the ADA expressly incorporates Title VII's procedures, remedies, and statute of limitations period. Accordingly, the Court held that the ADA's statute of limitations, just like that of Title VII, was a substantive right that could not be waived. Likewise, the Court determined that the ADEA includes its own statute of limitations period and that it adopts the same EEOC cooperative procedures and processes found in Title VII's scheme. The Court, therefore, ruled that the ADEA's statute of limitation could not be contractually waived either. In short, the three year statute of limitations for ADEA and ADA claims can no longer be waived by contract.

Any practitioner with questions or concerns in the labor and employment field are invited to contact the attorneys of the Masud Labor Law Group.



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MEET VANESSA GUERRA - SAGINAW COUNTY CLERK

Vanessa Guerra is serving in her first term as the Saginaw County Clerk. Prior to serving at the county level, she served for six years as state representative to Michigan's 95th House District which encompasses nine communities in Saginaw County.

While in the State House Vanessa was passionate about protecting our democracy by introducing and supporting legislation that increased transparency and accountability for all levels of government, ensured everyone had equal access to their vital records and fought to protect voter access to the ballot box no matter where one lives. Vanessa brings that same energy and passion for civic education to the county level where she now helps to oversee elections, commissioner meetings, vital records requests, and access to circuit court records.

Vanessa is a proud graduate of Bridgeport Spaulding High School and went on to earn her undergraduate degree from the University of Michigan where she double majored in political science and Latino studies. Vanessa is also a licensed attorney having earned her law degree from the University of Detroit Mercy School of Law. She lives in the City of Saginaw with her husband Rob and their four fur babies.

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Circuit Court Office
Lower Level
Phone: (989) 790-5540

BANKRUPTCY CASE NOTES

By: Jack Weinstein

Did the State of Michigan violate a debtor's Discharge Order by collecting the debt for welfare fraud? That was the issue before Bankruptcy Judge Phillip J. Shefferly in the case of *In Re: Deshawn F. Williams*, 31CBN76, 2020 WL 6276345 (Bankr. E.D. Mich 10/26/2020). Debtor had been convicted of welfare fraud and signed a Restitution Repayment Order as a condition of her probation. The dischargeability of the debt was not determined during debtor's Bankruptcy. More than 4 years after receiving a Chapter 7 Discharge, the debtor filed a Motion with the Bankruptcy Court seeking to reopen her case so she could pursue an action against the State of Michigan Department of Treasury for violating the Discharge Injunction by continuing to collect a pre-petition debt owed to the Department of Health & Human Services (DHHS). Judge Shefferly granted debtor's request and she filed a Motion alleging that DHHS had notice of debtor's case because her Matrix listed the Michigan Department of Treasury and scheduled the debt of $13,113.00 owed to the Treasury for "overpayment, cash, and food assistance".

DHHS did not dispute that Treasury was acting on its behalf and had received Notice of debtor's Bankruptcy.

Judge Shefferly ruled that debtor's Discharge did not violate the Automatic Stay because the debt had not been discharged in debtor's Bankruptcy. Although dischargeability of debts is usually resolved in an adversary proceeding, resolution of debtor's Motion required the Court to determine whether the debt was excepted from Discharge under §523(a)(7) as a "fine, penalty, or forfeiture payable to and for the benefit of a governmental unit and not as compensation for actual pecuniary loss".

Judge Shefferly cited the case of *Kelly v. Robinson*, 479 U.S. 36 (1986), wherein the U.S. Supreme Court noted that the Criminal Justice System is not operated for the benefit of victims, but rather for society as a whole. While restitution resembles a Judgment for the benefit of the victim, that Court held that a debt for restitution was non-dischargeable under §523(a)(7) "because criminal proceedings focus on the State's interest in rehabilitation and punishment, rather than the victim's desire for compensation".

In the *Williams* case, the debtor's obligation to DHHS was established

by an Order of Probation entered into and filed with the Wayne County Circuit Court on January 15th, 2009. That Order stated that the debtor was convicted of a felony for welfare fraud. Restitution payments were a condition of probation. That Order was entered after the debtor signed Intentional Program Violation Repayment Agreement in which she acknowledged receiving overpayments and agreed to pay back $19,578.00.

Debtor argued that she was poorly represented and did not understand what she was doing; however, Judge Shefferly held that while the debtor seemed sincere, and her financial struggles were real, the fact was that she signed the Agreement and the resulting debt was non-dischargeable. Consequently, Judge Shefferly ruled that collection of the debt did not violate debtor's Discharge Injunction.

With everything happening in the world a little humor is necessary:

Ways to get rid of telemarketers: If they want to loan you money, tell them you just filed for bankruptcy and you sure could use some financial help and then listen for the hang up. Or, If they start out with, "How are you today?" ask, "Why do you want to know?" Or, "I'm so glad you asked, because no one seems to care. How much time do you have?"

Three businessmen were having dinner at a fancy restaurant. When it came time to pay the check, each grabbed for it. "It's a business expense." said one. "No, no, my treat. I asked everyone to meet for dinner." said the second. "No, no, let me have it," said the third, "I'm filing for bankruptcy next week."

Stay warm and healthy, see you next month.

March 14, 2021

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