



THE SUMMONS

Saginaw County Bar Association



**Retirement of The
Honorable Janet M. Boes
August 2008 – March 2023**

MEETING DATES FOR 2023

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

Board Meeting

(All Board Meetings will be held the 1st Wednesday of every month at 12:00 PM at the Saginaw Club.)

Pro Bono Committee Meeting

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

Law Day Meeting

(Law Day Meeting is held the 2nd Tuesday of each month. Location to be determined monthly.)

Please join us in preparing for the

2023 Law Day Mock Trials

Tuesday, April 11, 2023

12:00 PM

Panda House

Law Day

May 1, 2023

High School Mock Trials

Thursday, April 27, 2023

9:00 AM

Courthouse

Law Day Membership Meeting

Thursday, May 4, 2023

12:00 PM

Trillium Banquet Center

Golf Outing & Annual Meeting

Thursday, June 22, 2023

Saginaw Country Club

Open Mic Night (Law Day Fundraiser)

Thursday, September 14, 2023

6:00 PM

American Legion Post 439

(Sign your act up at scba@saginawcounty.com)

Pro Bono Week

October 22 – 28, 2023

Pro Bono Luncheon

Thursday, October 26, 2023

12:00 PM

Saginaw Club

SCBA Christmas Party

Friday, December 1, 2023

Baynes Apple Farm

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

SCBA Field of Practice

Search online www.saginawbar.org for a local listing of subscribing attorneys and their area of practice.

State Bar of Michigan Lawyer Referral and Information

Search online or call 1-800-968-0738 Monday through Friday 8:30 am - 4:45 pm. The State Bar of Michigan's Lawyer Referral and Information Service is designed to assist members of the public who want to hire an attorney and can afford to pay for legal services.

Michigan Legal Help

<https://michiganlegalhelp.org>

The Michigan Legal Help website and affiliated local self-help centers are part of the Michigan Legal Help Program. The Program works with judges, courts, lawyers, bar associations, nonprofit legal aid agencies, legal self-help centers, libraries and many others to promote coordinated and quality assistance for persons representing themselves in civil legal matters in Michigan.

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: Joseph M. Albosta

Law Day is upon us. This year we are celebrating a return to the mock trials for our local high school students. Law Day is an event that hits near and dear to my heart. I was able to participate during my senior year in high school and, suffice it to say, it helped me down the path that my career has taken. I have been privileged enough to see the event from every angle, not only as a student, but as an attorney advisor and even a judge. If you have not worked on Law Day before, I could not recommend it enough as a rewarding experience. This year's Law Day theme is "Cornerstones of Democracy: Civics, Civility, and Collaboration." It is an important theme that we all need to take time and reflect upon as part of our careers and practice.

Recently, I had a chance to attend the "Road to Restoration" clinic to help people on the path to restoring their driving privileges. It was a pro bono clinic where we sat down with folks that have had their driver's license suspended or revoked and were trying to get their license back. It was jam-packed. The event was sponsored by the Secretary of State, the United Way, DTE, and the Saginaw County Bar Association. The clinic had folks from Saginaw, but I interacted with individuals from as far away as Gladwin during the event. A special thank you to all the attorneys who volunteered their time to help these folks. I anticipate

that Saginaw will be having more of these clinics as well as clinics to help people with expunging their criminal histories. The organizations that host these clinics provide all the training that you need to help at these clinics. Please consider volunteering your time when the next one arises.

Speaking of expungements, I have heard through the grapevine that the automated system of expunging records will be live on April 11, 2023. The system will expunge up to two felony convictions after 10 years of sentencing or the person's release from custody or sentencing (whichever date is later) and up to four misdemeanors will be automatically expunged as well. Convictions which will not be automatically expunged include: assaultive offenses; serious misdemeanors; convictions punishable by 10 or more years of imprisonment; convictions that involve a minor, a vulnerable adult, injury or serious impairment of a person, death of a person; convictions that involve human trafficking; and any conviction that cannot be expunged under MCL 780.621c. There are situations where a person may still be eligible for expungement of convictions though not automatically under the automated system, so folks that practice in this area are still needed to help those that will not benefit from the automated system.



In Memoriam



Stephen Andrew Seman P27055
Died December 7, 2022. He was admitted to the State Bar of Michigan January 20, 1977.

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



SAGINAW COUNTY LAWYERS' AUXILIARY

The Auxiliary was founded in 1955. Its purpose is to promote the interests of the Saginaw County Bar Association and to encourage law-related activities that contribute to community progress and improvements.

Service Projects

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PORTRAIT OF AN ATTORNEY

Hon. Janet M. Boes

By: John Sweeney

Judge Janet M. Boes was born and raised along with her five brothers in Toledo, Ohio. After graduating from Central Catholic High School, Janet went on to work her way through the University of Toledo. After receiving her BA, she worked for over 4 years as a children's services worker in several Ohio counties and helped develop a domestic violence program to coordinate services with several agencies.

Janet returned to UT to pursue her Juris Doctor degree. She went on to graduate with honors in 1983, after serving as the managing editor of the Law Review and interning with SADO and with the U.S. Attorney's Office in Detroit.

Janet started her career in law as a judicial law clerk in the U.S. District Court for the Honorable James R. Harvey in Bay City and Port Huron, Michigan. Janet came to Saginaw in 1985 to work as an attorney for the Braun Kendrick Finkbeiner Law Firm. In 1989, Janet joined the Saginaw County Prosecutor's Office where she served as a trial attorney for approximately six years. She began specializing in appeals and over a period of 13 years was involved in presenting and arguing cases before the Michigan Court of Appeals and the Michigan Supreme Court. During that time, she also served for several years on the State Bar of Michigan Appellate Practice Council.

In 2008, Governor Granholm appointed Janet to be circuit court judge for the Tenth Judicial Circuit Court of Saginaw County to replace Judge Lynda Heathscott. In 2012, Janet, along with

Gena Amos, Sue Smith, Jim Borchard, and an entire team, started the Drug Treatment Court for Saginaw County – one of the most notable achievements of her career.

Janet has always cared deeply about her community, displayed through her involvement with a number of organizations over the years, such as the Child Abuse and Neglect Council, the Underground Railroad, the Rotary Club, the SVSU Diversity Council, and the Women Lawyers Association of Michigan. She has been honored for her community involvement with various awards including the 2009 Elizabeth Heywood Wyman Award for Community Service from Alpha Omicron Pi, the 2014 Edward J. McArdle Memorial Tribute Award from the Saint Thomas More Society, the 2015 Special Hero Award from Saginaw County Community Mental Health and, most recently, the 2022 Hero Award from the Michigan Association of Treatment Court Professionals.

Janet has been married to me, John Sweeney, for the last 30 years. Notably, we met through the prosecutor's office softball team in 1990. We now have two daughters, a son-in-law, and two grandsons. As she joins me in retirement, we are excited to travel and spend more time with family.

I know that Janet is incredibly grateful for all of the opportunities she has been offered throughout her career, and I am so proud of all her hard work and contributions to our community. Join me in wishing her a happy, peaceful, and well-deserved retirement.



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SAGINAW COUNTY LAWYERS' AUXILIARY

By: Claudia J. Wallace

As our world is ever-changing, it also brings major changes of weather for us this year. I am sure there is history we could refer to for a comparison. As we are wearing it on our sleeve today, we are wondering what comes next – just trying to make sense of what we can. Living in Michigan seems like the safest place to be as we see devastation all over the United States and the world. At this point, it looks like we are having a false spring. As the saying goes, March comes in like a lion and goes out like a lamb. We shall see.

Along with dealing with the climate, and all the other turmoil in the world, we in Saginaw, Michigan, do our best to continue to support our community. This year the SCLA donated monies to two school districts for students going to Lansing for a Youth in Government conference and to Washington for a National Youth conference. Congratulations to the Heritage High School students who participated in the Youth in Government program. All delegates (students) performed admirably!

In the House and Senate, the following delegate's bills passed both legislative bodies and were signed into law by the youth governor: Josh Stuber, Anni Mackel, Molly Moore, Nate Baskins, Jayanti Collins, and Taylor Church.

Zachary Chaltraw was recognized as runner-up for outstanding delegate of the Senate.

Grace Polzin presided as Lieutenant Governor of the Senate and was invited to attend the National Youth in Government Conference this summer!

In the Model Judiciary Program (MJP—Mock Trials), Ryen Grigg was the recipient of the “Sharon Chape Spirit of the Law Award” in recognition of his passion and commitment to justice.

Team 2 of our 3 MJP teams won 5 of their 6 cases! Members of that team were Hayden Rankin, Vivian Lisik, Brody Amthor, and David Fiore.

In the Lobbying Category: Sammie Sticker's Lobbying Firm was recognized as “most effective.”

Pretty impressive!

Everyone is getting excited and geared up for Law Day 2023 on April 27th! Celebrating Law Day is special to the people that plan it and support it financially, the volunteers that come together to work the event, the attorneys that volunteer their time to coach the students, the students, and their advisers from the Saginaw County schools. Many people come together throughout the year to make sure this day is the best of the best. Thank you to everyone for your part. You never disappoint. Good luck to all the students participating in the Mock Trials.

Hope everyone enjoys their upcoming visit from the Easter Bunny and the spirit it brings. It is the season of the growing sun and new birth.



SCBA EXECUTIVE DIRECTOR'S REPORT

By: Kelli Scorsone, Executive Director

SCBA MEMBERSHIP

The Michigan State Bar membership count for Saginaw County is 411, this includes all attorneys that use a Saginaw County address -- retirees, emeritus, corporate, sole practitioners, educators, and large law firms. We welcome all these attorneys to join SCBA. And, we encourage all of these groups to make suggestions as to what this Bar can do to encourage the different groups to join. Encourage your fellow attorneys to join SCBA. You have a great group here in Saginaw and I am very proud to be working with you.

OPEN MIC NIGHT SEPTEMBER 14TH

Looking for the talented! Any SCBA or SCLA member is welcome to sign up for our Open Mic Night. Let us see what you have been hiding! Bring us your comedy act, your musical talents, whatever **decent** act you have to show off, we want to see. Register your act at scba@saginawcounty.com. The proceeds will go to the Law Day Program.

LAW DAY MEMBERSHIP MEETING

I hope to see everyone at our Law Day Membership Meeting. Our guest speaker, Dr. Craig Douglas, has supported our Law Day Program for years, along with other educational programs our members have provided for area schools. See you there May 4th, at the Trillium.

SCBA COMPOSITE

Raynemaker Studio is now taking appointments for the SCBA Composite. Call (989) 792-4971 to schedule your appointment.



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ADR IN SAGINAW COUNTY COURTS

By: Gary D. Pattersonⁱ, Mediator

Alternative Dispute Resolution (referred to as “ADR”) in the Saginaw County courts is governed by Administrative Order 2008-01-J. The Court’s Order was entered on April 1, 2008, and is intended to be the governing document for ADR in all of the Saginaw County Courts, including the 10th Circuit Court, the 70th District Court, and the Probate Court.

Under the Administrative Order, ADR includes Case Evaluation under MCR 2.404 and Mediation under MCR 2.411. Section C of the Order discusses “Facilitative Mediation” and specifically states that “[m]ediation is a process by which a neutral third party facilitates communication between the parties, assist in identifying issues, and promotes a mutually acceptable settlement.”

The Saginaw County Bar Association ADR Committee (referred to as the “Committee”) has been meeting and working with the Court to provide assistance with the administration of both Case Evaluation and Mediation.

To further its purpose and to assist attorneys, litigants and the courts, the Committee has been working to assemble a list of mediators who meet the requirements of MCR 2.411. Many attorneys submitted applications and supporting documentation. Others requested review of their qualifications under provisions allowing the Committee to consider “specialized

experience.” The Committee found the following individuals to meet the requirements of MCR 2.411:

Matthew J. Coffey
Daniel C. Collison
Jeffery C. Collison
John J. Danieleski
Charles F. Filipiak
Byron P. Gallagher
Hon. Harry P. Gill
Gary D. Patterson
Karl Weyand

A complete list with contact information and other relevant information can be obtained from the Saginaw County Bar Association by e-mailing Kelli Scorsone at scba@saginawcounty.com.

In addition, mediation services are also available through the Community Resolution Center (CRC). Contact the CRC by calling (989) 799-5949 or by e-mailing them at crc@mediation-crc.org.

The Committee continues to review applications and qualifications of individuals requesting to be included on the roster. Many attorneys in Saginaw have undoubtedly obtained the necessary qualifications to be a mediator under the court rules. Those wishing to be included should submit the necessary documents. The application is MC281a (3/13) and sets forth the specific requirements for being a mediator. The court form can be obtained in a PDF (fill in)

format. Attorneys are encouraged to submit an application at the earliest opportunity. The Committee will review the applications as they are received and will add qualified individuals to the list/roster. Applications should be submitted to the SCBA. The SCBA ADR Committee will submit updated roster information to the Court.

ADR Works! Studies have shown that ADR works. In 2018 Michael D. Campbell, Ph.D. and Sharon L. Pizzuti of Courtland Consulting submitted a report to the State Court Administrative Office (SCAO) outlining the results of their study examining the efficacy of case evaluation and mediation in resolving civil cases and assessing current attitudes and opinions of attorneys, Circuit Court judges, and Court administrators regarding case evaluation and mediation. The 2018 study was a follow-up to the study performed in 2011. They reviewed and analyzed data from 358 civil case records in three Circuit Courts and found the same pattern of results as in the earlier 2011 study. That is, both forms of ADR resulted in high rates of settlement, but mediation provided a faster means for resolving cases. A complete copy of the study can be found at the SCAO website, [Reports \(michigan.gov\)](#).

ⁱGary Patterson retired in 2016 after practicing labor and employment law and workers compensation defense with the Masud Labor Law Group for 25 years. Since 2017 Gary has been a volunteer mediator with the Community Resolution Center.



April 26th, 2023



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DISTRICT COURT UPDATE

Janey J. Lamar, chosen to serve as
70th District Court Attorney Magistrate

On February 24, 2023, the Chief Judge of the Saginaw County Trial Courts and the Judges of the 70th District Court selected Attorney, Janey J. Lamar as the Attorney Magistrate for the 70th District Court.

The Attorney Magistrate serves in a quasi-judicial capacity as prescribed by statute under the direction of the Presiding Judge of the 70th District Court. The Attorney Magistrate presides over traffic civil infractions, some misdemeanors, civil actions, and also signs arrest warrants and search warrants.

Attorney Lamar becomes the 70th District Court's first African American female quasi-judicial officer. She is a native of Saginaw. She attended both

Saginaw High School and the Saginaw Arts & Sciences Academy. She is a 2010 graduate of Michigan State University, and a 2015 graduate of the Loyola University New Orleans College of Law. She is a member of the State Bar of Michigan, United States District Court, Eastern District of Michigan and the State Bar of California.

Since 2017, she has been a solo practitioner in Saginaw, representing clients in landlord-tenant disputes, family law matters and criminal and post-conviction matters. She is a member of the Saginaw Rotary Club, SVSU College of Health and Human Services Advisory Board and the Women Lawyers Association of Michigan.



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WOMEN LAWYERS ASSOCIATION

By: Emilie K.D. Lyday, President
Great Lakes Bay Region



Food from the Bar?!
You mean like cheese
curds and french fries?
OHHHHHH, not
THAT type of Food
from the Bar, you mean

the program that partners with Feeding America!

This year the National Conference of Women's Bar Associations (NCWBA) will be partnering with Food from the Bar to donate meals and other items to our community.

Food from the Bar is a grassroots organization started by lawyers to fight hunger among children in our communities. It is a friendly, month-long competition among law firms, law offices and other participants to donate food, money, and/or volunteer their time to local food banks in their communities.

Throughout the entire month of April, each region of the Women Lawyers Association of Michigan across the State will be in a friendly competition against one another to conduct a food drive with a local food pantry in their area. **WLAM Great Lakes Bay Region has chosen The Food Bank of Eastern Michigan.**

WLAM GLBR will be collecting items all throughout the month of April!

The items most needed are non-perishable food items, personal care items, feminine hygiene products, and cash donations. Please no items that need to be frozen or refrigerated.

Items may be dropped off at the Saginaw Defenders Office, 803 Court Street, anytime Monday – Friday @ 8:00 am - 5:00 pm (closed 12:00 pm - 1:00 pm); or anytime by appointment with Emilie Lyday at Elyday@saginawdefenders.org.

Please join us this month to help support the children and families within our community.



Food from the Bar



BANKRUPTCY CASE NOTES

By: Jack Weinstein

An interesting article I read entitled “*Are Valuation Disputes Futile?*”, written by Camisha L. Simmons, discusses the issue of Bankruptcy Court’s valuation decisions. In her article, she stated:

“A common dispute arising in bankruptcy is what value to attribute to a debtor’s assets, and the dispute is often litigated. In addition, the litigating parties introduce competing valuations into evidence. The court then usually ascribes a value to the asset after weighing and considering the competing expert valuations and related evidence. In recent litigation in the Chapter 11 case of *In re Brickchurch Enterprises Inc.*, Hon. Alan S. Trust decided not to determine value. Instead, he noted that he would let the market speak for itself, explaining -

As the parties recognized during argument, and including, specifically, in the affidavit of [Geoffrey] Gifkins, market value is determined by the meeting of the minds between [the] seller and buyer. It is not determined by appraisals or real estate agents. The best indication of the value of a real property is what the market will bring forward in the sale process. So rather than ascribe an artificial value to the property, [the] Court’s going to leave that to the marketplace to determine.”

Judge Trust’s position on valuation

raises the following questions: (i) Are many valuation disputes futile? (ii) Should bankruptcy courts, in many circumstances, allow unfettered market forces to determine value? This article discusses Adam Smith’s invisible hand theory of markets, its application by courts (including one bankruptcy court) and the theory’s underpinnings in valuation disputes in bankruptcy.

In lay terms, the invisible hand theory of the market proposes that individual market participants buy and sell goods and services based on self-interest. If market participants are left to their own voluntary unregulated behavior and devices, their unregulated trading of goods and services will also lead to market efficiency and the most accurate pricing of tangible and intangible goods and services. Only two published U.S. bankruptcy court decisions mention Smith’s invisible hand theory of efficient market operation and pricing. Only one of those cases, *In re Breitburn Energy Partners LP*, actually described and applied the theory to a valuation dispute.

The *Breitburn Energy* case involved plan-confirmation litigation. Moreover, the market value of the debtors’ assets was the central issue in the plan-confirmation fight. The debtors in this case were a group of affiliated oil and gas exploration and production (E&P) companies. The E&P companies owned mature, developed oil and gas assets, including thousands of oil and gas wells and largely undeveloped, unconventional acreage.

To value the companies under any chosen method required the proper estimate of the price of oil and gas. The debtor's valuation expert used the strip price of oil and gas, which "reflects the price at which future contracts for the sale of oil and gas are traded on the New York Mercantile Exchange [NYMEX]." In contrast, the equity committee's expert used the consensus price of oil and gas by averaging the sum of 10 forecast prices chosen by the expert.

The court selected the strip price, a price based on Smith's invisible hand theory of markets, as the best estimate of future prices. Further, the court explained that "[s]trip prices reflect the views of where prices are headed by willing buyers and sellers, each with access to all available information." Other evidence also supported strip pricing as the most accurate reflection of price.

As an example of the application of the theory outside of litigation in bankruptcy, the U.S. District Court for the District of Arizona deferred to the invisible hand of the market for the assessment of the reasonableness of an expert's hourly rate. This rate is determined by the "invisible hand" of the market, and if that market is free from undue influences, it is to a first approximation what one might term "fair". "If [Dr. Joseph K. Vaughan, Jr.] tries to charge too much, he will lose business to other experts. If he charges too little, he will have more business than he can handle. All things being equal, the court concludes that Vaughan's hourly rate of \$500 per hour for consultation work is reasonable."

The phrase "fair market value" is not defined in the Bankruptcy Code. In determining and analyzing value, courts typically adopt and use the classic definition of the "fair market value" of an asset. Under the classic definition, fair market value is considered the price that "a willing seller under no compulsion

to sell, and a willing buyer under no compulsion to buy, would agree upon after the property has been exposed to the market for a reasonable amount of time."

An accurate calculation of fair market value accordingly requires two willing market participants coming together to trade without interference or compulsion from third parties, including regulatory bodies and even the judiciary. As one court noted, "valuation outside the actual market place is inherently inexact." If that is the case, then the determination of value by a court in a valuation dispute renders an inexact valuation. However, the circumstances of many cases do not enable a court to allow the parties to test the market to assess a more exact fair market value. In those cases, courts tend to analyze valuation evidence presented by the parties and typically arrive at value using the broad parameters explained by the U.S. Bankruptcy Court for the Eastern District of New York . . . **To be continued in another issue.**

TO PUT A SMILE ON YOUR FACE AND TO WARM YOUR HEART

A doctor and a lawyer in two cars collided on a country road. The lawyer, seeing that the doctor was a little shaken up, helped him from the car and offered him a drink from his hip flask. The doctor accepted and handed the flask back to the lawyer, who closed it and put it away. "Aren't you going to have a drink yourself?" asked the doctor. "Sure, after the police leave," replied the lawyer.



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Law Day ★ 2023

Saginaw County Bar Association Membership Meeting/Law Day Luncheon

**Wednesday, May 4, 2023
Trillium Banquet Center – 6415 State St.**

**12:00 noon
Speaker – Dr. Craig Douglas Ph.D.**

\$25.00 per person

RSVP: by April 20th (989) 790-5285 or scba@saginawcounty.com



SAVE THE DATE



Not too early to mark your calendar

Thursday, June 22, 2023

SCBA Golf Outing and Annual Meeting
and ELECTION OF OFFICERS



Drug Court Hero - Judge Janet Boes

Judge Janet Boes was presented with a statewide award, Drug Court Hero, by the Michigan Association of Treatment Court Professionals and was honored at the annual conference held in Grand Rapids on February 28th.

Judge Boes founded the Saginaw County Adult Drug Treatment Court in 2012 and has been its presiding judge since then. She has championed the program and developed it into a successful alternative to incarceration. Hundreds of lives have been saved because of this program and Judge Boes has been recognized by her colleagues around the state as a pioneer, innovator, and steward of our great program.

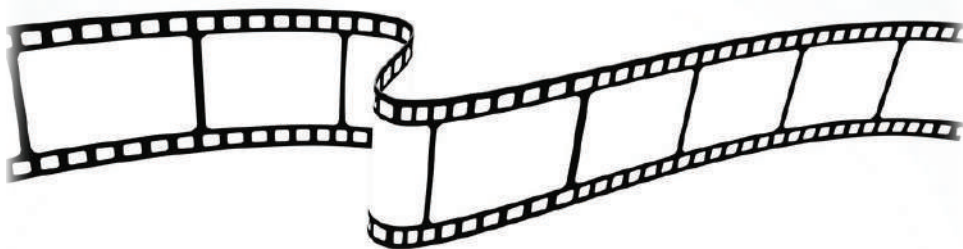
REMINDER

US Supreme Court Swearing In

We are looking for members that are interested in being sworn into the US Supreme Court. We are in the beginning stages of planning this event. Our last group swearing in was in November of 2011, and we had 20 attorneys that went to Washington for a long weekend trip. Please email me at scba@saginawcounty.com if you are interested. If we get a nice sized group that would be interested, we will set up a meeting to go over details and select a date.



2023 SCBA Composite Photo & Directory



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*Digital image is 5x7 at 300 DPI

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