DAILY **BRIEFS**

'Making the Most of **Constituent Work'** discussed online

Every day, Congress and state legislatures devote a large share of their limited resources to constituent casework — the work of helping individuals resolve their issues with government. But casework can be more than helping one family or generating publicity for one legislator — it can expose big problems that deserve legislative oversight and investigation.

The Levin Center for Oversight and Democracy at Wayne State University Law School created an online discussion on the important role casework plays in identifying dysfunctional government programs and how legislators can use casework data to help government keep its promises to the American people.

"Casework Informs Oversight: Making the Most of Constituent Work" opens with welcome remarks by Representative Gus Bilirakis (R-FL), U.S. House of Representatives. Bilirakis is the winner of the 2024 Congressional Management Foundation's Democracy Awards for Constituent Service and for Constituent Accountability and Accessibility.

Panelists featured in the online discussion include:

- Jennifer Daulby, CEO, Congression Management Foundation
- Ananda Bhatia, product manag House Digital Services, CAO
- · Anne Meeker, deputy direct
- POPVOX Foundation • Megan Rickman Blackwood, P
- candidate, UNC Chapel Hill
- Moderator Ian McKnight, state tra ing & development manager, Levin Cer for Oversight and Democracy

"Casework Informs Oversight: Mak the Most of Constituent Work" is availa for viewing by visiting https://levin-c ter.org and clicking on the YouTube icor

Automated prescription system explored in webina

The Prosecuting Attorneys Associat of Michigan will present the Traffic Sa Training Program Webinar on "The Mic gan Automated Prescription Syste Thursday, January 9, from noon to 1 p

The Michigan Automated Prescript System (MAPS) is the platform where schedule 2-5 controlled substance disp sations, within the State of Michigan, reported. This session will discuss MA background and basic use of the syst specific information that needs to reported, interpretation of some key included within a report, and who Mic gan's law allows to access this data. Ac tionally, an overview of Michigan's c trolled substance related legislation wil provided.

The webinar will be presented by Ser Analyst Amber Daniels, and Specia Haley Winans from the Michigan Dep ment of Licensing and Regulatory Affair

To register for this free webinar, v https://michiganprosecutor.org and click "training calendar."

Law professor and Michigan Innocence Clinic client reflect on recent win at award ceremony

Tuesday, December 10, 2024

By Annie Hagstrom Michigan Law

Professor David A. Moran is best known for co-founding the Michigan Innocence Clinic. It's fitting then, that in his farewell Blue Jeans Lecture to the Michigan Law community, he shared the floor with one of his final exonerees.

In May, Michigan Law students selected Moran to receive the 2024 Award for Excellence in Clinical and Experiential Teaching. During the nomination process, students praised Moran as an "absolute gem" and lauded his ability to bring wit and excitement to an 8 a.m. class.

The Law School Student Senate, which sponsors the faculty awards program, invites recipients to deliver a Blue Jeans Lecture—a nod to the days when professors dressed in business attire to teach classes—on a topic of their choos-

Moran's lecture in early December comes at a significant moment in his career, as he prepares to retire from teaching.

At the Law School, he has taught criminal law and criminal procedure as well as hundreds of students in the Michigan Innocence Clinic (MIC), which he co-founded in 2009 with Professor Bridget Mary McCormack, who

serve on the Michigan Supreme Court.



Photo courtesy of Michigan Law Michigan Law professor David A. Moran gives his farewell Blue Jeans Lecture.

Moran and McCormack created the Innocence Clinic to litigate prisoners' claims of innocence in cases where DNA evidence isn't available. In the 15 years since its founding, 45 people have been exonerated thanks to the efforts of faculty and more than 200 student-attorneys. Moran has also published a number of articles about criminal law and argued six times before the US Supreme Court.

In his Blue Jeans Lecture, Moran shared the story of one of the MIC's most recently exonerated clients, who was in attendance.

"There are about 30,000 people in prison in Michigan right now," said Moran, noting that wrongful convictions not only exact a huge toll on the incarcerated individuals and their loved

and she left the Law School in 2012 to society as a whole. "The Michigan ment but that he wasn't there and didn to Innocence Clinic has taken on approxi-

mately 70 cases and won 45. Case number 44, LaVone Hill, who served nearly 23 years, exemplifies so much of the work the students in the clinic do."

From a life sentence to a new life

In Detroit on the night of September 8, 2001, a group of men were playing dice in front of an abandoned house when a shooter opened fire, killing two of the dice players. The police who responded to the killings obtained no cooperation from eyewitnesses.

However, a few days later, a police detective, Walter Bates, picked up a man and held him in custody until he agreed to sign a statement that Hill was the shooter.

The man testified in a trial that Bates

See **PROFESSOR**, Page 5

The arbitration agreement: Drafting effective clauses

By Harshitha Ram



(This is the second article in a 12series on domestic arbitration, offering a clear guide through each stage of the process. In this installment, "The Arbitration Agreement: Drafting Effective Clauses'

offers insights into creating strong arbitration agreements that set the foundation for a successful resolution. Stay tuned for Part 3: "Initiating Arbitration: Filing the Demand and Response" coming next month.)

The dispute resolution clause is often the most critical yet neglected part of a contract. While parties meticulously draft provisions for pricing, delivery, and performance, they frequently relegate this clause to boilerplate language, assuming it will never be needed. However, when disputes inevitably arise, this "afterthought" becomes the lifeline of the contract, determining how efficiently and effectively conflicts are resolved. A poorly drafted clause can derail the entire process, leaving parties entangled in costly litigation over its interpretation. In reality, this clause is not just a line in the contract—it is the backbone of the agreement's enforceability and the key to safeguarding relationships and business interests. The importance of a well-drafted dispute resolution

clause cannot be overstated, as poorly JAMS Rules. If the parties wish to have worded clauses can lead to procedural deadlocks, unnecessary costs, and

Case of the 'Any Dispute Clause'

Consider an arbitration where vague arbitration clause leading to significant confusion. The clause reads:"Any disputes between the parties will be resolved by arbitration." At first glance, this seems straightforward. However, it lacks critical details such as the arbitral forum, governing rules, applicable laws, the number of arbitrators and other pertinent information. When a multimillion-dollar dispute arose, the parties spent months arguing over the basics: where the arbitration would occur, which procedural rules applied, and even whether the clause was enforceable. Eventually, the case ended up in court, where the judge ruled that the clause was too ambiguous to enforce. The result? The parties wasted thousands of dollars litigating the very issue they had hoped to avoid by including an arbitration clause in the first place. This highlights why clarity and specificity in arbitration agreements are non-negotiable.

A comprehensive arbitration clause should address at least the following key points:

• Arbitration Rules: Specify which rules govern the arbitration in case of institutional arbitration preferences such as the AAA Commercial Rules or

an ad hoc arbitration, it is primarily governed by the Federal Arbitration Act (FAA) and the parties' arbitration agreement. If the arbitration agreement is A Lesson from the Courts: The silent on specific procedural rules, arbitrators often look to established frameworks like the UNCITRAL Arbitration Rules, which are frequently used in ad hoc arbitrations worldwide.

> • Arbitrator Selection: Define the process for selecting arbitrators. Will there be one arbitrator or a panel of

> • Venue: Identify the location where the arbitration will occur. This is especially critical in domestic disputes involving parties from different states.

> • Governing Law: Specify which state's law will govern the arbitration agreement.

> • Scope of Disputes: Clearly define what types of disputes are subject to arbitration.

When over-engineering backfires

Interestingly, over-engineering an arbitration clause can also create complications. In a case involving a franchise agreement, the arbitration clause spanned three full pages and included every conceivable provision—from discovery limitations to specific arbitrator qualifications. While the intent was to create a watertight agreement, the sheer complexity of the clause led to confusion. For instance, one provision required arbitrators to have at least 20 years of experience in the specific

See **RAM**, Page 5

Counselor's Corner

FRED CAVAIANI

The joy of being kind and caring

another person treating you with love and kindness? What did you feel inside? I am always deeply impressed when some treats me in a loving and caring manner. It makes feel so loved

When is the last

time you experienced



and appreciated. Now if I feel loved and appreciated when someone is caring and kind toward me, them other people must feel the same way when I am kind and loving toward them. Love is always a win-win experience. Someone is kind to me. I am then inspired to be kind toward that person. Love is in the air. This is a simple truth about life. Love brings out more love. Kindness brings out more kindness. Positive words given to another person helps that person treat me with positive words and actions. In these next two and a half weeks before Christmas we can easily experience kindness coming toward us from many different people. And we can experience our own self treating other people with more love and

This is such a simple concept but it's plicity can stop us from believing in it acticing it because it is so easy and ht in front of us at every moment of ves Try going through a day affirmveryone you meet. It will change and bring a gentle light to everyone happens to enter into your presence

ving and non-judgmental people e so many positive feelings in peo-When we show love and kindness d another person, we help that periscover their better self and we help wn self to find our better self. The less of Love opens the door for othbecome more loving and kinder. It simple but it really works.

am always amazed when I can ve and experience these gentle acts ve. And gentle acts of love are all nd us every day of our life. I just to pay attention to them when I see because that is where I have an rience of a loving God. Wherever is love, there God is present.

is so amazing when I can realize the r and peace of love. This awareness ve changes me into a better person t helps change other persons into loving persons. It also helps every rstand how very simple life can be ow love disarms ourself and disarms s from anger, misery and sadness.

can be so easy to minimize the r of love. But when I stop minimiznis amazing principle of life, then I ver the joy and wisdom of being and loving toward everyone.

y in life will be the result of showing and kindness toward everyone. I never forget this. It becomes such a I and uplifting focus in living life in py manner. I do not have to be in the nce of someone to bring love to that on. I simply need to send loving See **CAVAIANI**, Page 5

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Struker var presenting miniotriy var rassage rrogram, January-February The D. Augustus Straker Bar Association will present

its 2025 Stanley De Jongh Minority Bar Passage Program online from January 8 through February 5 via Zoom.

The 2025 Stanley De Jongh Minority Bar Passage Program (MBPP) is designed to improve bar passage rates of law school graduates sitting for the Michigan Bar Exam. Statistics reveal that many law school graduates underestimate the importance of the essay portion on the bar exam. Therefore, while traditional bar review courses focus only on the multi-state part of the exam, the MBPP uniquely focuses on essay writing techniques to help you maximize your overall bar exam results. Also, the MBPP offers a rare and extremely informative live lecture from an actual member of the Michigan Board of Bar Examiners!

Through weekly examinations, a mock bar examination, group and one-on-one sessions, as well as lectures by local attorneys, MBPP provides assistance in the areas of Essay Writing, Skills/Strategy, Test Taking Skills/Strategy, Time Management, and Stress Management. MBPP does not review substantive law. Accordingly, MBPP should be taken in conjunction with a traditional bar review course to give law grads the ultimate edge in studying for both the multi-state and essay sections of the exam.

Dates for the program schedule are:

• Wednesday, January 8, from 6 to 8 p.m.—Registra-

tion, Lecture, MPT Question • Wednesday, January 15, from 6 to 8 p.m.—DIRAC

Lecture, 3 MEE Questions

• Wednesday, January 22, from 6 to 8 p.m.—UBE Prep Lecture, 1 MPT Question

• Wednesday, January 29, from 6 to 8 p.m.—Keeping the Bar in Perspective, 3 MEEs

• Saturday, February 1, from 10 a.m. to 4:30 p.m.— Complete Mock Bar Exam

• Wednesday, February 5, from 6 to 8 p.m.-Meet at Vicente's Cuban Cuisine

Chairpersons for the MBPP are Vassal Johnson II and Tova Y. Jefferson.

Cost for law graduates is \$75. To register or for additional information, visit https://strakerlaw.org and scroll down to "Upcoming Events."

Official Newspaper: City of Detroit • Wayne Circuit Court • U.S. District Court • U.S. Bankruptcy Court

■ Money Matters

When it's time to rethink your asset allocation

Page 2

■ Consider This

Meditation can reduce stress — but the pressure to overwork remains

■ Legal Affairs

Foster Swift attorneys offer a 2024 year-end checklist for businesses

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PROFESSOR:

Moran expressed gratitude

From Page 1

know who committed the murders. Bates denied the coercion, and Hill was convicted of the two murders. even though there was no other evidence that he was at the scene, much less that he was the shooter.

Approximately 12 years later, Hill learned of the MIC and submitted his case, asking Moran and the students at Michigan Law for help. Over the next few years, the clinic uncovered four new pieces of evidence for Hill's case that proved his innocence, implicated another man as the real killer, and discredited Bates (who was convicted of multiple bank robberies one year after Hill's trial). In October of this year, he was freed from prison, and his convictions were vacated.

After outlining Hill's case, Moran gave him the floor.

"It was a long, hard journey, those almost 23 years in prison," Hill told the audience. "I can't explain what was going through my mind all those years. But the day I walked into that place, I told myself I'd be walking out someday."

He continued, "Dave and the Michigan Innocence Clinic spent countless hours working on my case, and, at times, they believed in me more than I believed in myself. Without this school, I would still be in that place. I'm happy to be home, and I look forward to being a productive, tax-paying citizen, living a good-quality life, and enjoying the best of everything. I want to be an example for the hundreds of men still in there, those who are denied due process and equal justice, those who are innocent but haven't had the opportunity I have."

Moran closed his final lecture by expressing gratitude to Michigan Law, Jenna Cobb-who now serves as MIC's co-director, alongside Imran Syed, '11-and the students with whom he has worked in

"It has been the joy of my life to co-found this clinic, see it flourish, and know that this work will continue without me," said Moran. "So, I am riding off into the sunset on my cross-country skis—I'm mixing metaphors, but I thank all of you for this award."

SUBWAY:

Penny decided not to testify

From Page 3

taught chokehold "modified as a simple civilian restraint." The defense lawyers contended that Penny didn't consistently apply enough pressure to kill Neely, and they brought their own forensic pathologist to the stand to buttress

and a blood condition that can lead to fatal complications during

But several of his relatives, friends and fellow Marines did, describing him as an upstanding, patriotic and empathetic man.

"He was always a very calm, soft-spirited person," sister Jacqueline Penny told jurors.

Prosecutors never accused Penny of deliberately killing Neely. The eventually dismissed manslaughter charge required proving a defendant recklessly caused another person's death. Criminally negligent homicide involves engaging in serious "blameworthy conduct" while not perceiving such a risk.

While the criminal trial played out, Neely's father filed a wrongful death suit against Penny.

Political Scene

Submit news & views to bcox@legalnews.com

Washington

In promising to shake up Washington, Donald Trump is in a class of his own

Trump's plans for the federal government blend conservative ideology with his personal vendettas

By Chris Megerian **Associated Press**

WASHINGTON (AP) — In the history of American politics, there's no shortage of presidents who promised to shake up Washington once they got to the White House. But Donald Trump may prove to be in a class of his own, and he appears more interested in beating the federal government into submission than recalibrating

In staffing his administration, Trump has shown an inclination to select people who distrust or even disdain the agencies that they've been chosen to lead, setting up a potential war of attrition between the incoming Republican president and American institutions.

"There's been nothing like what Trump is suggesting to do," said Doug Brinkley, a presidential historian. "We're talking about dismantling the federal govern-

Trump's approach will become even clearer this week as Kash Patel, his choice for FBI director, heads to Capitol Hill for an initial round of meetings with senators who will decide whether to confirm him to the post. A former national security official who has branded himself as an eager acolyte of Trump, Patel has talked about shutting down the agency's headquarters, splitting up its responsibilities and targeting Trump's perceived enemies.

Greg Brower, a former U.S. attorney who served as the FBI's top congressional affairs official, said Trump seems to want to make the nation's law enforcement institutions "part of his political operation run out of the White House.

"That's a major course change that I'm just not sure a majority of senators are willing to endorse," Brower said.

Republican senators are already considering whether to support Pete Hegseth, whom Trump wants to lead the Pentagon, despite allegations of sexual misconduct, excessive drinking and financial mismanagement. Hegseth is an Army veteran and former Fox News commentator who has described the military as

women from combat roles.

Karoline Leavitt, a spokesperson for Trump's transition team and the incoming White House press secretary, said the next administration wants to "shatter the Deep State," a term for entrenched civil servants who have frustrated Trump and his

"President Trump was re-elected by a resounding mandate from the American people to change the status quo in Washington," she said in a statement. "That's why he has chosen brilliant and highlyrespected outsiders to serve in his Administration, and he will continue to stand behind them as they fight against all those who seek to derail the MAGA Agenda."

Margaret Spelling, who served as education secretary under President George W. Bush, said it is "probably not a good management style" to treat government employees as adversaries.

"If you're going to turn the tide or redirect the ship of state, you've got to have help doing it," she said. "And that's people who work there already.'

Spelling's former department could be outright eliminated if Trump has his way. His choice of education secretary, Linda McMahon, has never worked in the field. She served for one year on the Connecticut Board of Education and is a member of the board of trustees at a private university. McMahon lead the Small Business Administration during Trump's first term, and she made a name for herself by running World Wrestling Entertainment, a cultural juggernaut that features musclebound men beating each other up in elaborately scripted fights.

Trump's plans for the federal government blend conservative ideology, which has long viewed Washington as too intrusive in Americans' daily lives, with his personal vendettas. After being plagued by investigations and contradicted by career officials during his first term, the returning president has no interest in a replay and he's more skeptical of insider views that clash with his own instincts.

In staffing his administration, Trump has shown an inclination to select people who distrust or even disdain the

agencies that

they've been

chosen to lead.

but Trump's approach could prove

appealing to voters whose faith in

government has sunk to record

lows in recent years. Only about 2

in 10 Americans trust the govern-

ment to do the right thing always

or most of the time, according to

the Pew Research Center, down

from around 4 in 10 who said this

in 2000 — before the upheaval of

a global financial crisis, an incon-

clusive war on terrorism and a

lege political science professor,

said Trump's nominees could be

viewed as "an extension of his

capacity to question the received

wisdom and question the sup-

posed elites who always run

between expertise and personnel

have been evident in public health.

Trump chose Robert F. Kennedy

Jr. to lead the Department of

Health and Human Services

despite his reputation as one of the

most prolific spreaders of

unfounded theories about the sup-

Trump also picked Dr. Jay

Bhattacharya, a critic of public

including explicit confidentiality

clauses in their arbitration agree-

posed danger of vaccines.

Some of the largest gaps

Kay Schlozman, a Boston Col-

worldwide pandemic.

everything.'

used during the coronavirus outbreak, to run the National Institutes of Health, the country's top medical research agency.

In other areas of government, loyalty has often been prized over expertise. Lee Zeldin, a former New York congressman, never served on any committees dealing with the environment during nearly a decade on Capitol Hill. Now he's on deck to lead the Environmental Protection Agency.

Brinkley said it's not uncommon to have presidents attempt to change how Washington works. Richard Nixon tried to circumvent government agencies by centralizing decision-making in the White House, and Warren Harding stocked his Cabinet with business leaders

But Brinkley said Trump's approach is more venomous, and he seems to be setting up his staff to compete to be the most zealous.

"It's got a gladiator feel," he said. "They each want to show that they've got a scalp to punish the so-called deep state, the legacy media or the Democratic Party."

Another way that Trump is taking on Washington is the Department of Government Efficiency, an independent advisory organization that will be run by Elon Musk and Vivek Ramaswamy.

Musk, the world's richest man, and Ramaswamy, an entrepreneur, plan to provide ideas on dramatically reducing federal spending and cutting the government workforce. They also said Trump should sidestep Congress whenever possible, setting up a potential constitutional clash.

Theda Skocpol, a Harvard University professor of government and sociology, agreed that Americans are often doubtful about Washington's effectiveness.

"But it doesn't mean there's going to be an easy path to eliminating entire departments or functions of government because people will realize they have the stakes in those things," she said.

However, Skocpol said, chaos might be the actual goal.

"Parts of American conservatism have been trying to make government a mess when they control it, and then use it as an

their claim. Contradicting the city medical examiner's ruling, the defense pathologist said Neely died not from the chokehold but from the combined effects of K2, schizophrenia, his struggle and restraint,

Penny decided not to testify.

RELIABILITY:

Rivian has new electric models

From Page 2

huge changes when updating or unveiling new vehicles, Fisher said. Instead of going with new engines or transmissions, Subaru carries parts over from the prior generation. "They don't fix what's not bro-

ken," he said. "They continue to refine their products, and because the products perform quite well, they don't have to have big changes." Rivian, Fisher said, is a new

company with new electric models that have more glitches. Since the company is a startup, it can't use proven powertrains from prior generations yet. "It's expected that

CAVAIANI:

thoughts and feelings to that per-

son and because of this I become a

more loving and caring person and

we both then become more loving

and kinder. What a blessed journey

to be loving and kind to everyone.

From Page 1

you're going to have issues when you have nothing to carry over" from previous model years, he

The survey found that the gaspowered Toyota RAV4 small SUV was the most reliable vehicle, followed by the Toyota Corolla compact car. The RAV4 Prime plug-in hybrid was third, followed by the RAV4 gas-electric hybrid, Fisher

Consumer Reports' survey of its subscriber base does not repre sent all vehicle purchasers in U.S. or the population that bo specific vehicle types. The su results were released at a mee of the Automotive Press Asso tion of Detroit.

Fred Cavaiani is a licer

marriage counselor and psycl

gist with a private practice in

He is the founder of Marr

Growth Center, a consultant

the Detroit Medical Center,

conducts numerous programs

groups throughout South

Michigan.

Arbitration clause is a flexible roadmap for dispute resolution

From Page 1

RAM:

industry, effectively eliminating most qualified arbitrators from consideration. Another clause limited document discovery to 10 pages per party, which proved insufficient for resolving the case's intricate financial disputes. This illustrates that balance is key—drafting a clause that is thorough yet practical.

A notable example emphasizing the importance of clarity in arbitration agreements is the U.S. Supreme Court case Henry Schein, Inc. v. Archer & White Sales, Inc. In 2019, the Court examined whether courts could bypass an arbitration agreement if the request to arbitrate was deemed 'wholly groundless.' The Court ultimately ruled that when parties have explicitly delegated the question of arbitrability to an

arbitrator, courts must honor that delegation—even if they believe the arbitration claim lacks substance. This landmark decision accentuates the critical need for precision when drafting arbitration clauses to ensure enforceability and uphold party autono-

Drafting tip: Think beyond the basics

The beauty of arbitration lies in its flexibility, and your clause should take full advantage of this. For instance, a tech company facing potential intellectual property disputes might include a clause specifying that arbitrators must have expertise in patent law. Businesses in highly regulated industries such as finance, healthcare, or technology, often go a step further to double-protect sensitive information by

ments. While arbitration is generally perceived as private, these additional provisions ensure that every aspect of the process, including proceedings, evidence, and outcomes, remains strictly confidential. The arbitration clause: a gateway to streamlined dispute resolution, not just a contract filler. It is a roadmap for dispute resolution. Take the time to tailor it to your specific needs and anticipate potential conflicts. By doing so, you can avoid the pitfalls of vague or overly complex clauses and ensure a smoother arbitration process. As the old adage goes with a clever twist, "An ounce of arbitration is worth a pound of litigation." In the context of arbitration agreements, a few extra hours spent drafting an effective clause can

save months of frustration later. Stay tuned for next month's installment, where we will delve into the intricacies of "Initiating Arbitration: Filing the Demand and Response." A guide on how arbitration is formally initiated, the filing process, timelines, and the Respondent's role in answering the claim.

Harshitha Ram is an international disputes attorney, arbitrator, mediator, lecturer in law, and the President of the Global Arbitration Mediation Academy (GAMA). She serves as the Chair of the ADR Section of the Detroit Bar Association and is the Publications Chair for the Arbitration Committee of the American Bar Association. To learn more or conwithher, www.harshitharam.com www.adracademy.us.

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