



LAKE LEGAL VIEWS

Regard for the Public Welfare is the Highest Law

VOLUME 82, NO. 303

LAKE COUNTY BAR ASSOCIATION

OCTOBER 2026



PRESIDENT'S PROCLAMATION

**Christopher Tucci, Esq.
LCBA President 2026 - 2027**



Smell that? Smells like Halloween

Every year, as the warmth of summer dwindles and days grow shorter, nature undergoes a change that is one of the most breathtaking transformations. Parks and neighborhoods dominated by uniform green burst into crimson, fiery orange, golden yellow, and deep purple. Humidity gets the hell out, cooler temps roll in, resulting in that crisp autumn air (I'll take open windows instead of A/C any day of the week).

Autumn also brings people together in different ways. Outdoor bonfires, patio fire pits, and living room fireplaces serve as natural gathering spots. Slow cooked stews, shared meals, and long table conversations---things that rarely happen during the hurried pace of summer. Finally, my favorite, Fall activities, including hayrides, corn mazes, high school football games, pumpkins, apple cider, and Halloween parties!

Remember, this year Halloween fell on the weekend...go all out! Here are some legal-themed costume ideas for your Saturday night trick-or-treating or Halloween party this year:

Subpoena Colada: Carry a summons in one hand and a tropical drink with a paper umbrella in the other

The Ghostwriter: A bedsheet ghost costume adorned with legal citations and brief drafts

Fruit of the Poisonous Tree: Dress up as a tree covered in apples or cherries labeled "Inadmissible Evidence" OR Dress up as an apple tree with skull and crossbones attached OR have a friend be the poisoned fruit, while you dress up as the tree

Habeas Corpses: Zombies meet the law in this classic...use your imagination!

Identity Thief: Attach literal name tags on or photocopies of random people's IDs and credit cards to standard outfit

Classic Burglar: Head-to-toe black clothing or striped shirts, frequently accessorized with a knit beanie, eye mask, and a canvas dollar sign money bag

Cereal Killer: White T-shirt or sweatshirt with several individual-sized cereal boxes glued directly on the front of your shirt with plastic prop knives and fake blood

Whatever your plans for Halloween this year, have fun, enjoy the spooky season, make some memories, and be safe!





2026 COMMON PLEAS SEMINAR

Thursday, October 15, 2026

The Everly
8200 Norton Pkwy
Mentor, OH 44060



7:55 AM – 8:00 AM	Introduction	Judge Joseph Gibson, Retired
8:00 AM – 9:00 AM	Civil Law Update Civil Damages Caps	Judge Patrick J. Condon Jordan D. Lebovitz, Esq.
9:00 AM – 10:00 AM	Criminal Law Update	Judge Vincent A. Culotta
10:00 AM – 10:15 AM	Break	
10:15 AM – 11:15 AM	14 th Amendment, Trump v. Barbara 609 U.S. ----, 146, S.Ct. 2438 (2026)	Judge John P. O'Donnell
11:15 AM – 12:15 PM	Marijuana: Effects, Impairment, and Enforcement	Judge Jeffrey W. Ruple William Fikter, MD, Genesis Counseling Center, Inc. and Signature Health Lt. Nathan Davis, OSP
12:15 PM – 1:15 PM	Lunch	
1:15 PM – 2:45 PM	AI	Ben Neslon, Esq.
2:45 – 3:00 PM	Break	
3:00 – 4:00 PM	Judicial Panel	Judge Colleen A. Falkowski Judge Mark J. Bartolotta Judge Michael DeLeone
4:00 – 5:00 PM	Ethics & Professionalism	Judge Joe Gibson, Retired Matthew Lallo, Esq. Ann Bergen, Esq. Kimberly Baioni, Esq.

CLE Hours Approved: General: 6.50; Attorney Professional Conduct: 1.00; Total: 7.50

LCBA Members: \$125.00 (including breakfast & lunch) IF paid before 10/6/25; Thereafter: \$145.00

Non-Members: \$165.00 (including breakfast & lunch) IF paid before 10/6/25; Thereafter: \$195.00

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440-350-5800

You are invited to a celebration
in honor of the service and retirement of
the Honorable Colleen A. Falkowski
Judge of the Lake County Domestic
Relations Court



Thursday, October 15, 2026 - 5:30 – 7:30 p.m.

Billy's – A Cappelli Martini Bar

7338 Industrial Park Blvd.

Mentor, Ohio 44060



Use the Tool, Keep the Duty AI, Judicial Competence, and the Work That Cannot Be Delegated

Judge Eugene A. Lucci — Eleventh District Court of Appeals of Ohio

The author served as a commissioner of the Ohio Board of Professional Conduct through December 31, 2025. The views expressed are the author's own and are not those of the court or of the Board.

Artificial intelligence has produced an odd inversion in professional ethics. We sometimes spend more time asking whether AI was used than asking whether the work was competent, truthful, confidential, fair, and professionally responsible.

That is backwards. And the shortest statement of the principle that ought to replace it is this: **AI may replace effort. It may not replace accountability.** For judges, that principle comes with a limit that matters more than the principle itself — a limit I take up below.

The better question is not, “*Did artificial intelligence participate in producing this work?*” It is: “*What did the AI do, what was the human required to do, and did the human remain responsible for the result?*”

The Starting Point Is Permission, Not Prohibition

Ohio’s regulator has addressed this directly. The Ohio Board of Professional Conduct’s April 2026 Ethics Guide, which covers lawyers *and judicial officers*, states that the Rules of Professional Conduct do not prohibit the use of AI tools, and that although the Code of Judicial Conduct does not expressly address artificial intelligence, “a judge must ensure that any use of AI in carrying out judicial duties complies with the Code’s ethical requirements.”¹ The Guide identifies permissible court uses including summarizing depositions, exhibits, briefs, and pleadings; proofreading and reviewing drafts for spelling and grammatical accuracy; assessing whether party filings have misstated the law or omitted relevant authority; analyzing court operations data; and managing case documents.²

The technology changes. The duties do not.

Judicial Competence Now Includes Technological Competence

A judge must perform judicial duties competently and diligently. Jud.Cond.R. 2.5(A). In the AI context, the Board explains, that competence “includes a sufficient understanding of the technology being used, its capabilities, limitations, and the risks associated with relying upon it.”³ Note the reciprocal obligation, which is easy to overlook: a judge’s understanding of how lawyers and litigants may be using these tools is itself essential, because judges who possess a degree of AI competence are better able to scrutinize filings and offered evidence for improper use.⁴ A judge who declines to learn anything about these systems is not thereby insulated from them; the systems are already in the filings.

Assistance and Substitution Are Different Things

Consider a lawyer preparing a complex commercial deposition who gives an appropriately secured system thousands of pages of discovery and asks for a chronology and a list of apparent inconsistencies — then returns to the source material, verifies each one, discards several as

meaningless, and builds her own examination. There may be no ethical problem at all. The professional service was never the mechanical act of reading every page unaided. It was understanding the evidence and exercising judgment.

Now change one fact. The system reports that an email contains a damaging admission. The lawyer never opens the email and confronts the witness with a quotation the model invented.

The technology did not change. *The lawyer's conduct did.*

The same distinction runs through every profession. A physician who investigates an AI-flagged drug interaction, discusses it with the patient, and adjusts treatment has been assisted; a clinician who transmits automated recommendations without meaningful review has surrendered judgment where judgment was required. The American Medical Association deliberately speaks of “*augmented intelligence*” for this reason.⁵ An engineer who uses software to catch an inconsistent load assumption has used a tool well; an engineer who seals calculations never independently evaluated has certified without doing the work that certification represents.

AI may appropriately augment expertise. It should not become a device for pretending expertise was exercised when it was not.

What a Judge May Not Delegate

For judges the boundary is drawn more tightly than for lawyers, and the reason is structural rather than technological.

The decision itself. A judge is obligated to “hear and decide matters assigned to the judge.” Jud.Cond.R. 2.7. The Board reads that duty to reinforce a judge’s obligation to decide using independent judicial decision-making, and concludes that a judge “should never use AI to decide the ultimate conclusion or decision in a case.”⁶ The reasoning is worth stating in full because it is not merely about accuracy: if a judge delegates decision-making to a tool, the judge has abdicated the duty to sit, and the litigant is denied the opportunity to be heard by the judge. The case is decided by AI.⁷ Public confidence in the independence and integrity of the judiciary erodes accordingly. Jud.Cond.R. 1.2.

First drafts of decisions. Here the Guide takes a stricter line than lawyers face, and it deserves attention: judges “should avoid using AI to produce the first draft of a decision or order,” in light of the need to exercise independent judicial decision-making.⁸ Some jurisdictions have piloted tools that draft tentative rulings in a judge’s own style; the concern is that an AI-generated tentative ruling “could predispose a judge before they conduct [their own] legal analysis,” and that a less experienced judge may become a reviewer of drafts rather than the author of legal reasoning.⁹ There is a related and subtler hazard: these systems tend to build an argument around the conclusion a prompt implies rather than challenge it. That tendency may be tolerable for an advocate. It is corrosive to adjudication.

Extra-record facts. This is the trap I would most want colleagues to see. “A judge shall not investigate facts in a matter independently, and shall only consider the evidence presented and any facts that may be properly noticed.” Jud.Cond.R. 2.9(C). A general-purpose AI tool draws on datasets containing material about parties, news reports, statistics, and other information never offered into evidence. Board staff have long advised judges not to use the Internet to investigate parties, witnesses, or disputed facts, because the research may expose the judge to knowledge of

disputed facts requiring disqualification under Jud.Cond.R. 2.11(A); the same guidance applies to AI tools.¹⁰ The prohibition on independent investigation extends to information available in all mediums, including electronic. Jud.Cond.R. 2.9, cmt. [6].

Confidential and nonpublic information. A judge shall not knowingly disclose or use nonpublic information. Jud.Cond.R. 3.5. Entering case-related confidential material into a general or free public tool that trains on prompts risks exactly that. The Guide notes a specific and easily missed danger: information revealing a judge’s mental process — an early draft of a decision, for instance — could surface in outputs generated for parties in the same case who prompt the tool similarly, potentially affecting the outcome of a pending or impending matter. Jud.Cond.R. 2.10.¹¹

Verification. Judges and their staff have fallen to hallucinated content as surely as counsel have. In 2025 two federal district judges withdrew opinions after attorneys identified serious errors, including misstated case outcomes, incorrect parties, unasserted allegations, and fabricated or misattributed quotations; one judge later disclosed that a law-school intern had used ChatGPT without authorization in conducting legal research, while the other disclosed that a law clerk had used Perplexity as a foundational drafting assistant and that the docketed opinion was an early draft that had bypassed the chambers’ standard review process.¹² The Board’s formulation is the one to remember: treat AI like a first-year law clerk and double-check every citation, proposition of law, and record quotation. And note the exposure that does not depend on the judge using AI at all. In *In re Domestic P’ship of Campos & Munoz*, 118 Cal. App. 5th 1112 (2026), a family court’s order rested on a fictitious authority supplied by counsel in a proposed order; the Court of Appeal held that relying in material part on fictional authority is an abuse of discretion, yet affirmed, because the objecting party’s own counsel had drafted the order. *Id.* at 1124, 1124–26. The court also observed that California’s judicial AI-verification standards reach only judges who use AI themselves — not the judge who uses none and signs what someone else drafted. *Id.* at 1126 n.3. Verify the authority in a proposed order before signing it.¹³

Impartiality. AI reflects human-generated data that can carry stereotypes and bias into its output, implicating Jud.Cond.R. 2.2 and 2.3; and because results are shaped by training data and prompting, the current state of the technology may fairly be regarded as a species of external influence against which Jud.Cond.R. 2.4(B) requires a judge to guard.¹⁴

The Best Objection — and the Limit It Establishes

Everything above assumes that effort and judgment are separable: that AI can absorb the labor while the judge retains the judgment. For judging, that assumption is at its most vulnerable, and colleagues who resist these tools are often responding to something real.

The effort of reading the record is not merely an input to judgment. It is substantially how judgment is formed. A judge who reads a machine summary of a transcript and then “verifies” it has not performed the same cognitive work as the judge who read the transcript, however conscientious the check. Add the well-documented pull of automation bias and automation-related complacency — users can over-rely on automated output and inadequately monitor or independently verify it — and a rule keyed to verification alone will under-deter.¹⁵

I do not think the answer is prohibition. I think the answer is to recognize a limit: some tasks are *constitutive* of the judicial role rather than merely effortful, and as to those, delegation is

improper however careful the after-the-fact review. Deciding the case is one. Forming the reasoning is another. Knowing the record is, I would argue, a third. That is why the Board can consistently permit AI for summarizing, proofreading, and document management while advising against AI-drafted decisions — those are not arbitrary lines but a judgment about which work is the office.

Identifying which tasks are constitutive is the real project. It is a far more productive inquiry than asking whether a machine touched the document.

Technology Changes Faster Than Duties

Ethics rules written around particular models, or particular percentages of AI-generated language, are likely to age badly. Today's systems will look primitive in a few years, and the line between "AI tool" and ordinary software will blur as generative features are absorbed into word processors, research platforms, cameras, and operating systems.

The durable rule is not "AI shall not be used." It is much closer to this:

Use the tool if the task permits it. Understand enough about the tool to use it competently. Protect information entrusted to you. Verify what needs verification. Do not misrepresent what you did. Do not delegate a judgment that the law or your office requires you to make. And accept responsibility for the result.

A judge cannot escape responsibility for a decision by pointing to an algorithm. But neither is a judge required to pretend the tools do not exist, or to forgo assistance that would let a busy court devote more of its attention to the work that only a judge can do.

That approach is neither pro-AI nor anti-AI. It is pro-accountability.

And judicial accountability, unlike technology, is not new.

A Quick Bench Checklist

Jud.Cond.R. 1.2 — Public confidence is eroded by delegation of core judicial functions.

Jud.Cond.R. 2.2, 2.3 — Guard against bias imported through training data and outputs.

Jud.Cond.R. 2.4(B) — Treat AI output as a potential external influence on decision-making.

Jud.Cond.R. 2.5(A) — Competence now includes understanding these tools' capabilities and limits, and recognizing their use by others.

Jud.Cond.R. 2.7 — Hear and decide. Never delegate the ultimate decision.

Jud.Cond.R. 2.9(C) & cmt. [6] — No independent factual investigation; general AI tools can expose you to extra-record facts.

Jud.Cond.R. 2.10 — Beware prompts that reveal your mental process in a pending or impending matter.

Jud.Cond.R. 2.11(A) — Exposure to disputed facts may require disqualification.

Jud.Cond.R. 3.5 — Do not disclose or use nonpublic information via prompts.

Practice points — Avoid AI first drafts of decisions; verify every citation, proposition, and record quotation, including in proposed orders drafted by counsel; decide which tools chambers may use, and say so.

¹ Ohio Bd. of Prof. Conduct, *Artificial Intelligence for Lawyers and Judicial Officers* (Ohio Ethics Guide, Apr. 2026), at 1, 8, https://www.bpc.ohio.gov/_files/ugd/c6a571_4e12e5f9a0104eaebe9351007c899b4f.pdf (last visited Aug. 20, 2026). Ethics Guides provide nonbinding advice from Board staff and do not reflect the views of the Board, its commissioners, or the Supreme Court of Ohio.

² *Id.* at 11.

³ *Id.* at 8.

⁴ *Id.*

⁵ American Medical Association, *Augmented Intelligence in Medicine*, <https://www.ama-assn.org/practice-management/digital-health/augmented-intelligence-medicine> (last visited Aug. 20, 2026).

⁶ Ohio Ethics Guide, *supra* note 1, at 8.

⁷ *Id.* at 8–9.

⁸ *Id.* at 9.

⁹ *Id.* (citing commentary on pilot programs and on the risks of AI-assisted judicial drafting).

¹⁰ *Id.* at 10.

¹¹ *Id.* at 11.

¹² *Id.* at 9 & n.15; Letter from Hon. Julien X. Neals, U.S. Dist. Judge, to Hon. Robert J. Conrad, Jr., Dir., Admin. Office of the U.S. Courts 1–2 (Oct. 20, 2025); Letter from Hon. Henry T. Wingate, U.S. Dist. Judge, to Hon. Robert J. Conrad, Jr., Dir., Admin. Office of the U.S. Courts 1 (Oct. 21, 2025), both available at <https://www.grassley.senate.gov/news/news-releases/grassley-releases-judges-responses-owning-up-to-ai-use-calls-for-continued-oversight-and-regulation> (last visited Aug. 20, 2026).

¹³ Ohio Ethics Guide, *supra* note 1, at 10.

¹⁴ *Id.* (discussing Jud.Cond.R. 2.2, 2.3, and 2.4(B)).

¹⁵ Kate Goddard, Abdul Roudsari & Jeremy C. Wyatt, *Automation Bias: A Systematic Review of Frequency, Effect Mediators, and Mitigators*, 19 J. Am. Med. Informatics Ass'n 121, 121 (2012), <https://doi.org/10.1136/amiajnl-2011-000089>; Christopher D. Wickens et al., *Complacency and Automation Bias in the Use of Imperfect Automation*, 57 Hum. Factors 728 (2015), <https://doi.org/10.1177/0018720815581940>.

⁷ Ohio Ethics Guide, *supra* note 1, at 5–6 (quoting ABA Formal Op. 93-379 and discussing Prof.Cond.R. 1.5(a)); *see also* Prof.Cond.R. 1.5(a) (a fee is clearly excessive when a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee).

⁸ *See Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023) (sanctions); *People v. Crabill*, No. 23PDJ067, 2023 WL 8111898, at *1 (Colo. O.P.D.J. Nov. 22, 2023) (discipline); *Park v. Kim*, 91 F.4th 610, 615 (2d Cir. 2024).

⁹ Ohio Ethics Guide, *supra* note 1, at 6.

¹⁰ *Id.* at 7 & n.7 (quoting a Cuyahoga County Court of Common Pleas certification requirement).

¹¹ *Id.* at 7 (discussing Prof.Cond.R. 5.1, 5.3, and 1.6).

¹² Kate Goddard, Abdul Roudsari & Jeremy C. Wyatt, *Automation Bias: A Systematic Review of Frequency, Effect Mediators, and Mitigators*, 19 J. Am. Med. Informatics Ass'n 121, 121 (2012), <https://doi.org/10.1136/amiajnl-2011-000089>; Christopher D. Wickens et al., *Complacency and Automation Bias in the Use of Imperfect Automation*, 57 Hum. Factors 728 (2015), <https://doi.org/10.1177/0018720815581940>.



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Thursday, October 15th
2026 Common Pleas Seminar

Thursday, October 29th
2026 Probate CLE

Friday, November 6th
2026 GAL Seminar

(Tap to Register)



**The Lake County Bar Association
2026 GAL SEMINAR
United Way of Lake County
9285 Progress Pkwy, Mentor OH 44060
8:30 A.M. – 3:45 P.M.
Friday, November 6, 2025
6.0 CLE's (General 5.0; APC 1.0)**



LCBA MEMBERS - \$160.00

NON-MEMBERS - \$240.00

8:30am - 9:30am	View from the Bench Judge Colleen Falkowski and Judge Michael DeLeone
9:30am - 10:30am	When the GAL Investigation Goes Sideways: Difficult Parents, High Conflict & Manipulation Beckie Castell, Esq. and Lydia Gross, Esq.
10:30am - 10:45am	Break
10:45am - 11:45am	The Custody Evaluation Dr. Farshid Afsarifar
11:45am - 12:30pm	Lunch Break
12:30pm - 1:30pm	Superintendence Rule 48 Updates Ann Bergen, Esq.
1:30pm - 2:30pm	Parenting Coordination and Reunification Counseling Anna Tyrrell
2:30m - 2:45pm	Break
2:45pm - 3:45pm	The Three C's of Ethical Minefields for GAL's: Conflicts, Confidentiality & Ex Parte Communications - A Panel Discussion (Attorney Professional Conduct) Magistrate Jeffrey Black, Darya Klammer, Esq. and Anna Parise, Esq.

Lake County Domestic Relations Court Judge Colleen Falkowski and Lake County Juvenile Court Judge Michael DeLeone, have approved this course to satisfy the continuing education requirements for guardians ad litem in Sup.R.48.

Application has been approved by the Supreme Court of Ohio Commission on Continuing Legal Education for:

6.00 CLE hour(s) (5 General, 1 APC) instruction.

LAKE COUNTY BAR ASSOCIATION – GAL SEMINAR

Friday, November 6, 2025

Members: \$160.00 - Non-members: \$240.00

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This seminar is open to attorneys and their staff, judges and their respective court employees, paralegals, and law students only.

All registrants will receive course materials.

Cancellation must be received in the Bar Association Office by October 30, 2026 or no refund will be made.

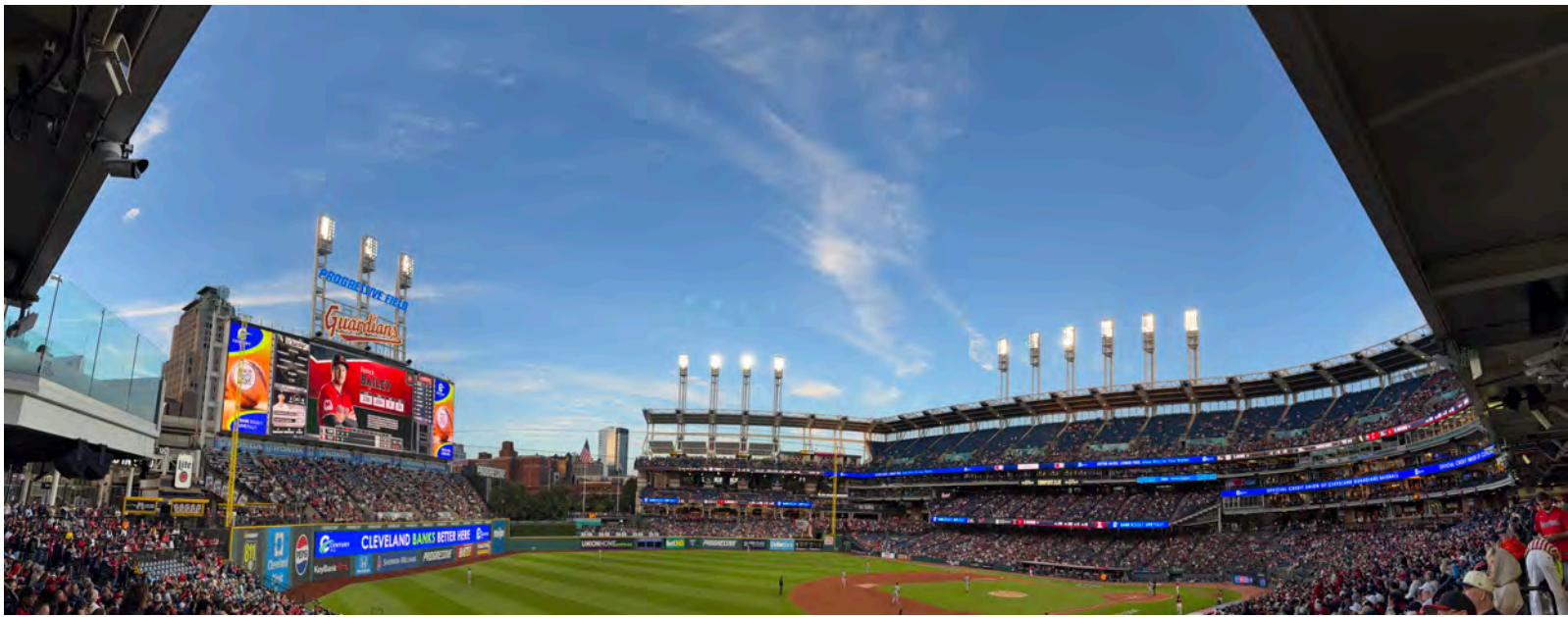
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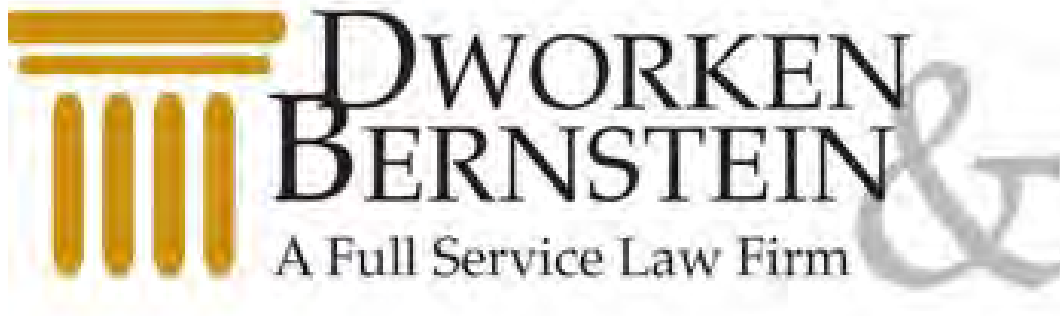
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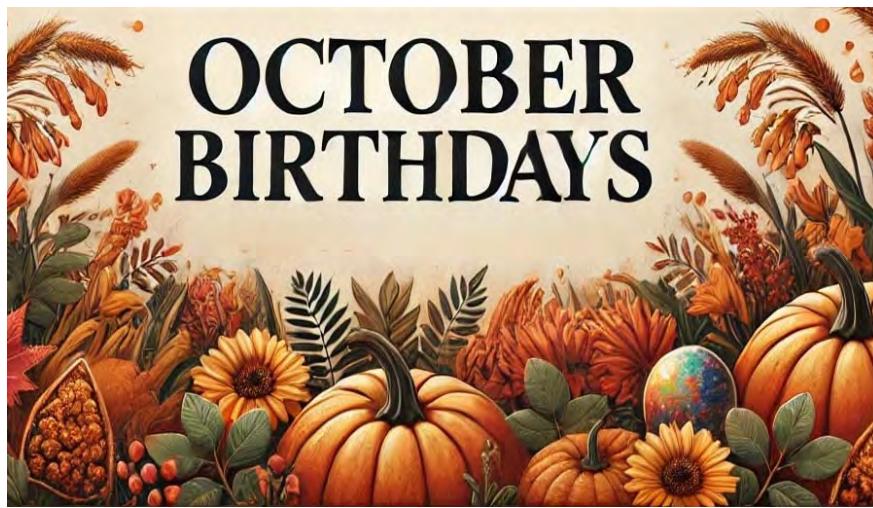






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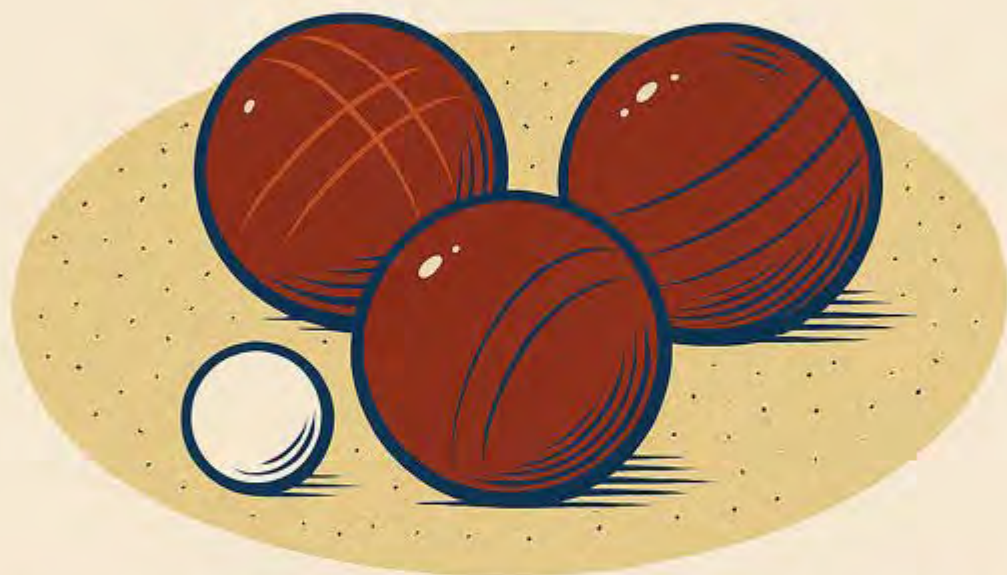


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Tim Kincaid	6
Kelly Echols	8
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Honorable Joseph Gibson	17
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SETTLEMENT WEEK



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LAKE COUNTY COMMON PLEAS COURT

I would like to serve as a mediator on the following dates:

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Mon., Nov. 30, 2026	()	()	()
Tues., Dec. 1, 2026	()	()	()
Wed., Dec. 2, 2026	()	()	()
Thu., Dec. 3, 2026	()	()	()
Fri., Dec. 4, 2026	()	()	()

I would prefer to mediate the following types of cases: (check all that apply)

() Personal Injury	() Workers' Compensation	() Other
() Real Estate	() Business Litigation	_____

NAME (print): _____

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Please return this form by November 3, 2026 to:

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