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# FOCUS

ISSUE ONE | 2025

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PHOTO: FIVE RIVERS METRO PARK





# FIRM NEWS

## ALAN SCHAEFFER CELEBRATES 50 YEARS OF LAW PRACTICE



The Dayton Bar Association celebrated 11 attorneys who have practiced law for 50 years—fortunately, one of those attorneys practices at Pickrel, Schaeffer & Ebeling. Alan Schaeffer has **spent his entire career with PSE** and was the Managing Partner from 1984 to 2018. In 2019, he became Of Counsel and is still serving today.

**He focused his practice on the fields of real estate and municipal law.** He counts his memorable career highs when he concluded a difficult matter with all parties agreeing to the results without litigation.

Alan measures his satisfaction with his career choice by realizing he has done an excellent job for his clients, made many friends, and enjoyed a great professional and family life. **Sharing such satisfaction should be everyone's goal.**

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## MICHAEL SANDNER RECOGNIZED AS A 2025 AVVO TOP RATED LAWYER BY THE LEGAL COMMUNITY

**Contract Litigation | Business Litigation | Construction Law | Insurance Law | Consumer Law**



A shareholder with the firm and its President, Mike represents individuals and businesses with issues involving **Consumer, Construction, Insurance, Contract, and Commercial disputes.**

Mike understands how construction and commercial business disputes can jeopardize profits and important business relationships. **He strives to provide efficient and effective legal advice** that protects his client's current and long-term interests while maintaining the business relationship necessary to benefit all parties involved. He has experience handling all aspects of disputes, from negotiation, mediation, and arbitration, to litigation and appeal. He has successfully handled various issues, including collections, leases, zoning, contracts, insurance coverage, tort construction, and property valuation matters.

In the area of insurance law, **Mike has extensive experience** in evaluating insurance policies and coverage issues to effectively leverage the role of insurance in dispute resolution.

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## PAM THOMAS JOINS THE UNITED REHABILITATION SERVICES BOARD



PSE's Marketing Director, Pam Thomas, joins the United Rehabilitation Services (URS) 2025 Board of Directors. **Pam brings significant marketing leadership and community relations experience** that will enhance URS' outreach efforts.

Since 1956, URS has enhanced the quality of life for children and adults with disabilities through innovative programs and comprehensive services. URS offers internationally and state-accredited programs, including **specialized therapy, adult day services, vocational training, and inclusive childcare.**

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# DAYTON AREA CHAMBER OF COMMERCE BREAKFAST BRIEFINGS (DACC)



**Greg Uland, VP of Brand Marketing at Reynolds and Reynolds**

**Rev. Dr. Kenneth Daniel, CEO of United Church Homes**

For over 20 years, PSE has sponsored the DACC Breakfast Briefings. These briefings allow Dayton area business leaders to share information and initiatives that may impact the community. Business leaders for the Dayton area attend to network and learn about future business plans. To the left are just a couple of the organization leaders who have addressed attendees in a recent meeting.

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## UNITED REHABILITATION SERVICES – WINTER COAT DRIVE

PSE employees were honored to provide over 100 hats, coats, and gloves for children and adults with disabilities at URS. To learn more about URS, visit [www.ursdayton.org](http://www.ursdayton.org).

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## CONGRATULATIONS TO KENNETH L. PARKS ON RECEIVING THIS YEAR'S CINQUE AWARD



PSE was honored to sponsor and attend this year's Joseph Cinque Award & Scholarship Banquet hosted by the University of Dayton Black Law Students Association.

This year's theme was "Carrying the Torch," representing resilience, leadership, and a commitment to progress. It signifies passing knowledge, igniting inspiration, and lighting the way forward. Congratulations to Kenneth L. Parks, U.S. Attorney of the Southern District of Ohio, on receiving this award.

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## UNDERSTANDING OHIO CEMETARY AND BURIAL LAWS

Navigating the laws around cemeteries and burials can be challenging, especially with many rules governing everything from indigent burials to cemetery maintenance. Here's an overview of Ohio's key regulations and insights into cemetery management.

### KEY LAWS GOVERNING CEMETERIES

Ohio's Revised Code contains detailed regulations for cemeteries. Highlights include:

- **Indigent Burial (ORC 9.15):** Local governments are responsible for burying or cremating unclaimed bodies or those claimed by disadvantaged individuals.
- **Township Cemeteries (ORC Chapter 517):** Townships manage public cemeteries, ensuring maintenance and proper rules enforcement.
- **Municipal Cemeteries (ORC Chapter 759):** Municipalities can own cemeteries within or outside city limits and must maintain these grounds.
- **Family Cemeteries:** Defined as cemeteries containing remains of family members with a common ancestor.

### FACTS ABOUT CEMETERY MANAGEMENT

- Township cemeteries must mow the grass at least twice yearly (ORC 517.06).
- Townships can sell burial sites at "reasonable prices," with proceeds directed to cemetery upkeep.
- New cemeteries must be 100 yards away from dwellings, while crematories must maintain a 200-yard distance (ORC 517.01, 1721.18).

### INDIGENT BURIAL RESPONSIBILITIES

When a body is unclaimed or claimed by a needy person, the township or municipality must arrange burial or cremation. However, if a body is claimed for private interment, costs are the claimant's responsibility unless they qualify as indigent.

### MAINTENANCE GUIDELINES

Cemeteries are required to provide reasonable maintenance, guided by standards from the Cemetery Dispute Resolution Commission. This includes grass cutting, tombstone re-erection, and general upkeep.

### HANDLING ABANDONED CEMETERIES

Township trustees can order the discontinuation of abandoned cemeteries, ensuring remains and monuments are respectfully relocated (ORC 517.21).

### ARCHAEOLOGICAL DISCOVERIES

If human remains are found during construction or other activities, work must stop within a 150-foot radius, and authorities must be notified immediately.

### CONCLUSION

Ohio's cemetery and burial laws aim to balance respect for the deceased with practical management. Understanding these laws is vital whether you're a township trustee or someone navigating family cemetery rules.

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## TRADEMARK FILING FEES INCREASED JANUARY 18, 2025

### **Businesses considering filing for a US Trademark will pay higher fees as of January 18, 2025.**

The base application fee increased from \$250 to \$350 per class per mark. Also, suppose the trademark description varies from the USPTO's list of acceptable goods and services, which is often the case. In that case, there will be an additional

\$200 surcharge, which increased an additional \$200 if the description exceeds 1000 characters (including spaces and punctuation).

There will also be a \$100 per class surcharge fee for any incomplete or missing information in an application, which can be costly if the business files an application on

their own and omits information. There is no appeal process to contest whether the information provided was technically correct.

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## PLANNING FOR ELDER CARE: HOW LONG-TERM CARE INSURANCE CAN PROTECT YOUR FUTURE AND ASSETS



# LONG-TERM CARE PLANNING

PLAN AHEAD FOR AGING AND ILLNESS.

With the increases in the cost of Elder Care over the past few years, **it's important to plan what you want to happen as you age.** There are many ways to prepare for that time in life for health care. Long-Term Care (LTC) insurance can be an important building block in those plans. LTC helps pay for the care required after an accident or serious health issue for individuals older than a minimum age. **Coverage can be acquired that covers either or both members of an older couple.** Besides helping to pay for that care, it also allows coverage for a length of time if the stay at a healthcare facility will eventually require Medicaid to pay for that care. A long-term health situation may require

Medicaid support. **Planning is essential when dealing with Medicaid.** LTC can be an important part of this planning process.

The attorneys at Pickrel, Schaeffer & Ebeling are well-versed in Elder Care matters. They help clients develop asset protection strategies and how LTC fits into the planning process.

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## SIXTH CIRCUIT EXPANDS FMLA PROTECTIONS: NEW RULING ON IN LOCO PARENTIS FOR ADULT SIBLINGS

On December 13, 2024, in **Chapman v. Brentlinger Enterprises**, the U.S. Sixth Circuit Court of Appeals held that a woman who requested and was denied FMLA leave to care for her sister stood “in loco parentis” to her adult sister under the Act, and therefore should have been granted FMLA leave. **The Court overruled** the District Court’s holding that a parent-child relationship must have developed before the onset of the sister’s illness for Chapman to qualify for FMLA leave under these circumstances. While the Court acknowledged that the statutory text did not answer the question of whether a parent-child relationship would apply, the Court rejected the FMLA interpretations offered by the employer and instead relied upon ordinary definitions:

**The FMLA covers more than biological and adoptive families by its plain text.** A “parent” can be “an individual who stood in loco parentis to an employee when the employee was a son or daughter.” An employee can also be an in loco parentis parent. Either way, the statute defines **“son or daughter”** to mean **“a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is – (A) under 18 years of age; or (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.”**

Thus, the Court concluded that the FMLA recognizes a special relationship where one person acts “in loco parentis”—literally, in the



place of a parent—to a dependent person or “child.” Furthermore, the Court stated that both sisters would qualify for FMLA leave. In contrast, the District Court had held that an in loco parentis relationship **could not form between adult siblings** because the parent-child relationship was not established when one of the siblings was a minor. Also, the underlying condition that required one sibling to care for another had not yet manifested. The Sixth Circuit dismissed all of these arguments and held that the only necessary element to be proven in the FMLA case on the issue of whether an individual stood “in loco parentis” to another was the adult parties’ intent to form such a relationship.

**To analyze the issue of intent, the Court looked at several factors.** The Court indicated that in loco parental status would require something more than giving aid to a loved one who could use the help—the individual must also have exercised control over or assumed the other individual’s obligations in some way. The Court considered whether the loco parentis parent **(1)** is in close physical proximity to the adult loco parentis child; **(2)** assumes responsibility to support them; **(3)** exercises control or has rights over

them; **(4)** and has a close emotional or familial bond with them, akin to that of an adult child. However, the Court also cautioned, **“This list is not exclusive, no single factor is dispositive, and they should not be weighed like a math problem. But they are the types of factors we have looked to in evaluating similar in loco parentis relationships in the past and may provide guidance to courts in the future.”**

Given this latest ruling, employers should proceed with caution in denying any FMLA leave request based on the employee’s need to care for a person who is technically not a member of the employee’s family. This may involve a request for clarification about the employee’s relationship to the other individual where it is not immediately apparent. Employers may also wish to review their current policies to ensure legal compliance with the FMLA.

The attorneys at Pickrel, Schaeffer & Ebeling can help navigate this latest decision and any employee-related matters.

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## UNDERSTANDING POST-CONCUSSION SYNDROME (PCS): KNOW YOUR RIGHTS AND SEEK THE COMPENSATION YOU DESERVE

If you've been involved in an accident or hurt through no fault of your own and sustained a concussion, you may also develop long-term symptoms associated with post-concussion syndrome (PCS). PCS is a complex condition that can occur following a concussion, presenting a range of symptoms that can persist for weeks or even months. While the exact cause of PCS remains unclear, theories suggest it may result from a chemical imbalance in the brain or damage to nerve cells caused by the initial injury. The symptoms can be categorized into **physical, psychological, and cognitive domains**, each of which can significantly impact an individual's daily life.

Individuals suffering from PCS often experience **persistent headaches, dizziness, nausea, and heightened sensitivity to light and sound**. Other physical manifestations include tinnitus (ringing in the ears), blurred vision, and fatigue. These symptoms can severely hinder one's ability to engage in everyday activities or maintain employment.

The psychological toll of PCS can be profound. Many individuals report feelings of **depression, anxiety, irritability, and sudden emotional outbursts**. Changes in appetite and sleep disturbances are also common, contributing to decreased overall quality of life.

Cognitive impairments are particularly debilitating, making it **difficult for individuals to concentrate,**

**remember information, or solve problems.** This cognitive fog can exacerbate the challenges faced in both personal and professional realms.

Diagnosing PCS is challenging, as it does not manifest in conventional scans or blood tests. Healthcare professionals typically rely on a patient's medical history, the nature of symptoms, and their onset related to a head injury. **While there is no definitive cure for PCS**, various management strategies can help alleviate symptoms. These may include pacing strategies to gradually increase activities and avoid overstimulation. In some cases, healthcare providers may prescribe medications like antidepressants or anti-migraine drugs to address both psychological and physical symptoms.

**The debilitating effects of PCS can lead to significant financial strain.** Due to their symptoms, individuals may find it challenging to maintain employment, resulting in lost wages and increased medical expenses. The inability to engage in daily activities can also lead to additional costs related to therapy, medication, and supportive care.

Recognizing the financial implications of PCS is crucial for those affected. **Personal injury claims can provide monetary compensation for the hardships endured due to PCS.** Victims can seek compensation for medical expenses, lost income, and pain and suffering stemming from their condition. It's essential for individuals suffering from PCS to understand their rights and explore the possibility of pursuing a personal injury claim, especially if their condition is the result of someone else's negligence.

If you or a loved one is experiencing the effects of PCS because of an accident, consulting with the Personal Injury team at Pickrel, Schaeffer, and Ebeling is vitally important. **We have the experience to navigate the complexities of this type of claim and the ability to provide you with the maximum amount of damages.**

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# FMLA

## NAVIGATING FMLA AND PTO: NEW DOL OPINION CLARIFIES LEAVE POLICIES AMID WORKERS' COMPENSATION OVERLAP

On January 16, 2025, the Department of Labor (DOL) issued an Opinion Letter clarifying, for the time being, whether employers could deduct from any employer-sponsored Paid Time Off (PTO) during an employee's use of their annual 12-week FMLA allotment where the employee was receiving state workers' compensation or other disability-related compensation.

Analyzing the overlap between FMLA and other types of state or employer-sponsored benefits, the Opinion concluded that **an employer cannot unilaterally require an employee to use PTO time while being paid weekly wages** under the Workers' Compensation system or any similar benefits plan. However, the DOL also concluded that the employer could do so only with the employee's agreement. Likewise, the DOL opined that the employee would need the employer's agreement to pay out PTO benefits if an employee used FMLA time and workers' compensation benefits concurrently.

The FMLA entitles eligible employees of covered employers to take up to 12 weeks of unpaid, job-protected, unpaid leave per year for specified family and medical reasons. **The FMLA statute allows employees or employers to elect or "substitute" employer-provided paid leave for any part of the unpaid FMLA entitlement period.** Many employers run disability leave and/or workers' compensation leave concurrently with the 12-week FMLA allotment. Accordingly, employers might begin to pay out and "exhaust" the employee's PTO time while the employee is receiving disability or workers' compensation payments.

In light of this Opinion, it is important that the employee and employer agree in advance that PTO will be exhausted even though the employee is receiving wage payments from workers' compensation or other benefits plans that replace wages during a leave period.

Employers with questions regarding FMLA and Workers' Compensation benefits should **contact an attorney to ensure that they comply with these areas of "overlap"** regarding employee leave and the FMLA entitlement. The attorneys at Pickrel, Schaeffer & Ebeling can help navigate this latest decision and any employee-related matters.

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## “PARENTS’ BILL OF RIGHTS” EFFECTIVE APRIL 9, 2025

On January 8, 2025, Governor Mike DeWine signed Ohio House Bill 8 into law, which **requires public schools to establish policies on parental notification on student health and well-being, instructional materials with sexuality content, and policies for released time courses in religious instruction.** Coined the “Parents’ Bill of Rights,” the law is effective April 9, 2025, and school districts will have until July 1, 2025, to adopt said policies. The policy must be made publicly available and posted in a prominent location on each school district’s website.

### The mandatory policies must conform to the following provisions:

- State that parents have a fundamental right to make decisions concerning their child’s upbringing, education, and care.
- School district shall not prevent access to the child’s educational and health records.
- School district personnel shall be prohibited from directly or indirectly encouraging a student to withhold information from their parent(s) regarding the student’s mental, emotional, or physical health or well-being.
- School district personnel shall be required to notify parents of any substantial change in the student’s healthcare services or monitoring related to the student’s mental, emotional, or physical health or well-being, including notifying any parent of a student’s request to identify as a gender that does not align with the student’s “biological sex.”<sup>[1]</sup>
- Parents must be provided with the opportunity to review any materials that fall under the definition of “sexuality content” before class instruction,

and parents shall be permitted to withdraw their child from the lesson with the expectation that the child will be given an alternative assignment.<sup>[2]</sup>

- Instructional materials are required to be both age- and developmentally appropriate. The use of any sexuality content in grades K-3 shall be expressly prohibited.
- Adopt a “religious release time policy” that allows students to leave school grounds and earn up to two high school credits for religious instruction.

**To date, the legislature has been unclear about the penalties or remedies available if a school district fails to comply or a policy violation occurs.** Members of PSE’s team are available for guidance on formulating policies and to answer any questions school district personnel, teachers or parents, may have about the above requirements.

**[1]** House Bill 8 defines “biological sex” as “the biological indication of male and female, including sex chromosomes, naturally occurring sex hormones, gonads, and unambiguous internal and external genitalia present at birth, without regard to an individual’s psychological, chosen, or subjective experience of gender.”

**[2]** House Bill 8 defines “sexuality content” as “any oral or written instruction, presentation, image, or description of sexual concepts or gender ideology provided in a classroom setting.”

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# SUCCESSION PLANNING

## SUCCESSION PLANNING – HOW IS THE OWNERSHIP OF YOUR BUSINESS TITLED?

Succession Planning for businesses has several components. **The focus that receives the most attention is the owner's exit plan and whether the owner plans to sell the business or pass it down to the next generation.** However, other aspects of succession planning are just as important, if not more important, than long-term and big-picture issues. This article addresses other aspects of Succession Planning and focuses on what happens to your ownership interest when an owner passes away.

Ownership interest is often held in the owner's name, such as that of John Smith. As a result, when John Smith passes, the ownership interest is a probate asset, meaning that the ownership interest will pass according to the terms of the Will *but not* until an estate is opened and an executor is appointed. In

addition, the value of the ownership interest will need to be reported to the Probate Court as part of the probate process, meaning that the value of your business will be a public record.

Owners have two main options to avoid the probate process at the time of death. **First, the owner may title the ownership interest with a Transfer on Death ("TOD") designee.** When held with a TOD, the ownership passes automatically to the designee at the time of death without appointing an executor. While steps should be taken to memorialize the transfer of ownership, the TOD designee is the lawful owner and can exercise ownership rights immediately. Further, the value of the business does not become a public record.

**The second option is to hold the**

**ownership interest in a trust.** During their life, the owner serves as the trustee of the trust and exercises full control over the ownership interest. Following the owner's incapacity or death, the successor trustee can immediately exercise the ownership rights. Further, the successor trustee can transfer the ownership to the beneficiaries identified in the trust, which protects the value of the business from becoming a public record.

**Your estate plan and other issues affect what method may be right for how you should hold the ownership interest in your business.**

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# SAFETY FIRST

## DON'T BECOME A STATISTIC

Ohio continues to grapple with **alarming trends in traffic violations, particularly in the areas of distracted driving, operating a vehicle under the influence (OVI), and seatbelt compliance.** The Ohio State Highway Patrol has released year-to-date statistics highlighting these growing concerns, underscoring the importance of road safety measures across the state.

Distracted Driving Violations are on the Rise. The most pressing issue from these statistics is the surge in distracted driving violations, which have reached an all-time high. Statewide, a staggering 26,466 violations have been reported so far this year. Among the counties, Franklin County leads the charge with 2,265 violations, closely followed by Lorain County with 2,109. Licking County and Warren County have also reported significant numbers, with 1,072 and 1,059 violations, respectively. This rise in distracted driving incidents raises **serious concerns about the safety of Ohio's roads and the need for increased awareness and preventive measures.**

OVI Enforcement remains a persistent challenge. In terms of OVI enforcement, the statistics also reveal a troubling trend. Year-to-date arrests for OVI total 13,843, with Franklin County again at the forefront, issuing 1,040 citations. Lorain County follows with 719 citations, while Lucas County and Clark County report 595 and 533, respectively. Montgomery County and Greene County contribute with 438 and 169 OVI citations. These figures highlight the ongoing battle against impaired driving, emphasizing the need for continued law enforcement efforts and community education on the dangers of driving under the influence.

Seatbelt compliance remains a critical aspect of traffic safety, yet violations continue to be a significant issue. Year-to-date citations for failing to wear a seatbelt have totaled 54,612, with Northeast Ohio leading the state in this category. Central Ohio, notably Franklin and Licking Counties, along with Clark County in Southwest Ohio, also report high violation numbers of 3,290 and 1,418, respectively. These statistics underscore the importance of seatbelt use as a fundamental safety measure that can **save lives and reduce injury severity in the event of an accident.**

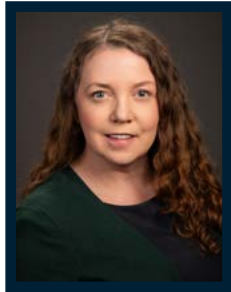
**In light of these alarming statistics, it is vital for drivers to be more vigilant and responsible on the roads.** If you or someone you know has been involved in an accident or incident that resulted in injury, Pickrel Schaeffer and Ebeling is here to help. Our fully staffed personal injury, traffic, and OVI sections are dedicated to addressing your needs and ensuring you receive the legal support necessary to navigate these challenging situations. We understand the complexities involved in traffic-related incidents and are committed to advocating for your rights. Don't hesitate to reach out to us for assistance in your time of need. Together, we can work towards safer roads and greater accountability.

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### PSE NEWSLETTER EDITORS & CONTRIBUTORS



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*The Only Law Firm You'll Ever Need®*

## KAYLEE PRICE RECEIVES 2025 RISING STAR IN LAW AWARD



**The Dayton Business Journal** named the first class of the **Rising Stars of Law**. This new initiative spotlights emerging legal industry leaders who excel in their roles and inspire peers through their innovative approaches and unwavering commitment to excellence.

Nominations were submitted, and the DBJ Editorial Board selected this year's honorees. Nominees were judged on...

- **Career History**
- **Significant Achievements**
- **Community Involvement**
- **Significant Industry Impact**

**Congratulations,** Kaylee, for being Named a 2025 Rising Star of Law Honoree.



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