

May/June 2007

BARBEAT

Genesee County Bar Association



John Lindholm
GCBA Member Elected to
Michigan Golf Hall of Fame

Duncan, et al. v. [Genesee County]? " No."
GCBA 5K: A Crim Training Program
Vouchered Event
Changes in Probate Court Audit Procedures

GCBA Member John Lindholm Elected to Michigan Golf Hall of Fame

By Tom Waun

Fellow GCBA member John Lindholm was recently elected to the prestigious Michigan Golf Hall of Fame. John will be inducted into the Hall of Fame in a ceremony to be held on May 20 at Eagle Eye Golf Club in Lansing.

John's accomplishments as a golfer are too numerous to describe in full in this article. He has won several tournaments at the state and local level, including Michigan Amateur Championship, Michigan Metal Play Championship, Horton-Smith Championship, two Michigan Senior Amateur Championships, six Genesee County All Star Championships, three Flint City Amateur Championships, and two Flint City Senior Amateur Championships.

Additionally, John has had several runner-up finishes at the state and local levels, as well as numerous top tens. In 1997, John qualified for the United States Senior Open and, while playing with the top senior professionals, he made the cut, posting the second lowest amateur score in that tournament. He has also qualified for match play in

the U.S. Amateur, U.S. Mid Amateur, and U.S. Senior Amateur on several occasions.

The thing that most impresses me about my friend and colleague is the balance that he has achieved in his life and the priorities that he has set. To play golf at the level that John does takes a great deal of time and effort. Despite this fact, John has managed to maintain what is perhaps the best corporate practice in Genesee County at Winegarden, Haley, Lindholm & Robertson.

Most importantly, John has raised a wonderful family. He and his wife, Diane, who is also an attorney and GCBA member, have been together since their undergraduate days at U of M in Ann Arbor. They have raised successful children of whom they are very proud, including son Steven, an orthopedic surgeon in California, and daughter Sarah, an attorney in Colorado.

Probably the best example of John's setting his priorities at the right level occurred in the early 90s. At that time, John was in the midst of his golf prime.



John Lindholm

Despite this fact, he took the better part of three years off from competitive golf to work with and support his daughter, Sarah, in high school and summer amateur golf. (She was an accomplished amateur golfer in her own right.) Knowing John's fierce competitive nature and love of golf, this was a significant sacrifice, but I know one that he would easily make again if given the opportunity.

It is always nice to honor one of our members who has achieved something outside of the practice of law. John has worked hard and deserves our recognition in this regard.

Law Day 2007 Coloring and Poster Winners



1st Grade Coloring Contest
Madison Academy



2nd Grade Coloring Contest
Hill Elementary



3rd Grade Poster Contest
Perry Center City School



4th Grade Poster Contest
Perry Center City School



5th Grade Poster Contest
Rankin Elementary

Genesee County Bar Association

2006-2007 Board of Directors

PRESIDENT – Craig S. Sippell
VICE PRESIDENT – Kurtis L.V. Brown
TREASURER – David S. Leyton
SECRETARY – Timothy H. Knecht
IMMEDIATE PAST PRESIDENT – H. William Reising

Specialty Bar Board Members

Young Lawyers Delegate – Jeremy R. M. Piper
Mallory, VanDyne, Scott Bar – Trachelle C. Young
Women Lawyers Delegate – M. Cathy Dowd
Flint Trial Lawyers Representative – Morgan H. Jakeway

Board Members

| | |
|-----------------------------------|-------------------------|
| Michael J. Behm '07 | Karen L. Folks '07 |
| Orene Bryant '07 | Linda A. Pohly '07 |
| John R. Greene '08 | Dennis Lazar '08 |
| Steven W. Moulton '08 | James J. Wascha '08 |
| Peter M. Bade '09 | Erwin F. Meiers III '09 |
| Lynne A. Taft '09 | |
| Bernhardt "Chris" Christenson '09 | |

Bar Beat Editor

LindaLee Massoud
BarBeat@gcbalaw.org

Genesee County Bar Association

315 E. Court St., Flint, Michigan 48502-1611
(810) 232-6012
For editorial information, call (810) 695-7400.

Published bi-monthly by the State Bar of Michigan,
306 Townsend St., Lansing, MI 48933, for the
Genesee County Bar Association. For advertising,
call (517) 346-6315.

No material in *Bar Beat* reflects the opinion or endorsement of the
Genesee County Bar Association, unless otherwise stated.

Table of Contents

2 GCBA Member John Lindholm Elected to Michigan Golf Hall of Fame

by Tom Waun

4 Until We Meet Again

by Craig S. Sippell

5 Duncan, et al. v. [Genesee County]? "No."

by Glenn M. Simmington

8 GCBA 5K: A Crim Training Program Vouchered Event

by Hon. John A. Gadola

9 From the Bar to Business

10 Changes in Probate Court Audit Procedures

by Hon. Robert E. Weiss and
Hon. Jennie E. Barkey

Advertisers

Larry Day
Attorney/Mediator 3

Karl Haizer
CFE, CPA, Expert Witness 8

Yeo & Yeo
Accountants and Business Consultants 4

Nan Ruth Chardoul
Personal Property Appraisals 8

Classified Ads 4

Glenn M. Simmington
Cline, Cline & Griffin 8

Jack E. Tubbs
Flint Patent Service 4

Plante and Moran
CPAs/Business Advisors 9

Gould Engineering, Inc.
Civil, Municipal, and Land Development 6

Richard Barron
Facilitative Mediation 10

Paul Goebel Group
Insurance 7

Stevens Wealth Management Group
Investment Consultants back cover



Larry Day

Attorney & Mediator

(810) 603-3400

www.mediationday.com

MEDIATION SERVICES

(General Civil and Domestic Relations)

- ❖ **Mediation Training**—Harvard University, Nova University, State Bar of Michigan and ICLE (General Civil and Domestic Relations)
- ❖ **Experience**—Practicing mediator since 1995, and practicing lawyer for more than 30 years
- ❖ **Chairperson**—Genesee County Circuit Court Civil Mediation Committee, 2004-2005
- ❖ **Presentations**—"Preparing Yourself and Your Client for Facilitative Mediation," ADR Section, State Bar of Michigan, July 2000; "ADR," Saginaw Valley Adjusters Association, March 1996; "ADR Seminar," Genesee County Bar Association, September 1995
- ❖ **Publications**—"Private Mediation," *Bar Beat*, July 1995; "Facilitative Mediation," April 1996 and "Michigan Mediation Update," June 2004, *Michigan Lawyers Weekly*

Until We Meet Again

By Kraig S. Sippell, President

By the time you read this, my tenure as president will be ending. First and foremost, I want to thank all of those who thought enough of a simple, hardworking lawyer to place me in the position of bar association president. I am truly honored to have led this association for the past year and thank all of those who have provided such valuable assistance along the way: the entire board; Ramona, Tina, and Star; and William Reising, Kurt Brown, David Leyton, and Tim Knecht.

As the days run down on the fiscal year, I would like to take this time to also thank each and every committee chair and member for their valuable contributions to the Bar.

Before I leave, however, I would encourage all of you to make plans to attend the events that highlight our year:

2007 Annual Meeting and Awards Ceremony – Masonic Temple – May 21. The slate of officers and directors to be presented at the Annual Meeting: President Kurtis L.V. Brown, Vice President David S. Leyton, Treasurer Timothy H. Knecht, Secretary Karen L. Folks, and Directors Shayla Blau-

kenship, Orene Bryant, Ridley S. Nimmo II, and Jeremy R.M. Piper. A number of members will be given awards including the 2007 Herbert Milliken Jr., Civility of the Year Award presented to Richmond M. Riggs, the 2007 Distinguished Case Evaluator of the Year Award presented to Walter P. Griffin, the 2007 Legal Services of Eastern Michigan Pro Bono Attorney of the Year Award presented to James C. Dillard, the 2007 Centennial American Inns of Court Jerome F. O'Rourke Advocacy Award presented to Gregory T. Gibbs, and the 2006 Centennial American Inns of Court Jerome F. O'Rourke Advocacy Award presented to Robert L. Segar. Please join us for this special occasion.

Annual Bar Outing – Flushing Valley – Monday, June 4.

GCBA 5K Run for the Bar – Memorial Park – Friday, June 15. The race begins and ends at Memorial Park, just one block from the Genesee County Courthouse (directly across from Law Offices of Frank Turnage, et al., Mitch Dembo, et al., and The Nickola Law Firm). There will be a



Kraig S. Sippell

family-oriented pig roast starting at approximately 4 p.m., before the race. This is now a Crim Training Program vouchered event.

The ongoing strategic planning will continue into the next fiscal year under the direction of Kurtis Brown. Once again, I would like to express my sincere appreciation to all of those individuals, board members, members, and staff who have devoted countless hours to the mission of this association to remain the best that this state has to offer.

Best wishes to you and yours for a healthy and prosperous 2007 and beyond.

Sincerely,
KSS

Classified Ads

Website Designs

Terrence Sheehan of Michigan Website Designs specializes in attorney website design in Genesee County. Google & Yahoo search engine optimization designer. Keyword and meta tag specialist. Add multimedia audio & video commercials to your site. Professional service & best price first. Please visit our website at www.michiganwebsitedesigns.com or phone (810) 869-2159.

Employment Available

Genesee and Shiawasee County firm with diverse practice seeking motivated associate attorney with zero to five years experience, preferably with business, real estate, and/or litigation background. Compensation commensurate with experience and work ethic. Please send resume to jhobson@hmfldlaw.com.

Flint Patent ServiceSM

JACK E. TUBBS
REG. PATENT ATTORNEY
(810) 687-8900
www.flintpatent.com

strong valuation...strong defense



Putting a price on a business is no easy task. Yeo & Yeo's experienced valuation specialists have the *training and credibility* to be the best advocates for your clients.

- Business Valuation
- Litigation Support
- Insurance Loss Accounting
- Estate & Gift Taxes
- Succession Planning
- Fraud Investigation

Flint Office

Alan Rohde, CPA, PFS

1-800-899-4742

Saginaw Office

David Schaeffer, CPA, ABV
Thomas Hollerback, CPA, DABFA

1-800-968-0010

www.yeoandyeo.com



YEO & YEO
CPAs & Business Consultants

Duncan, et al. v. [Genesee County]? “No.”

By Glenn M. Simmington



Glenn M. Simmington

That's right. The recently filed Ingham County Circuit Court case of *Duncan, et al. v. Granholm* and the State of Michigan only feels like it has named Genesee County, and its defender program, as defendants. Two of the nine plaintiffs in this lawsuit against Governor Granholm and our fair state (no pun intended) are, indeed, alleged felons represented by assigned counsel in Genesee County, and it is reasonable to assume that in Muskegon and Berrien Counties—which between them have supplied The Michigan Coalition for Justice with the remaining seven plaintiffs—the good people involved in those counties' public defense systems feel similarly “bulls-eyed” by the lawsuit. Neither the counties nor the assigned lawyers are, however, named as defendants in the suit.

Why, then, the feeling of being targeted? And as a member of no fewer than three of the five organizations that make up the Coalition,¹ what can I say? Well ...

First, and foremost, the *Duncan* case is not about the lawyers, but about the clients. Attorneys who provide representation to indigent defendants should not be required to do so “as a labor of love.” They should be entitled to something better than (to paraphrase CDAM President Jill Price) the “low pay, late pay, and/or no pay” that has been the norm in Michigan for all of my 25 years in practice (and, I'm told, much longer). The hard truth is that, with woefully and chronically inadequate funding for indigent defense services being Michigan's stark reality, no matter how competent and hard-working a public defense attorney may be, he or she simply cannot afford to provide his or her indigent client with the level of service that could be provided to clients who are able to pay reasonable compensation. From my own experience, I can

say that the vast majority of indigent defense lawyers are devoted to their work, and we do the very best we can with what we have. Without routine access to investigators and other experts, however, it is the “what we have” part of the equation that causes our clients to receive (and there is no other way to say this, constitutionally) inadequate representation.

Second, it is not about Berrien, Muskegon, or Genesee County, but about the state of Michigan. Michigan is one of only a handful of states that provides no direct compensation to attorneys representing indigent criminal defendants. Instead, it has for more than three decades relied on its individual counties to devise, and then fund, individual plans for the delivery of public defense services. The result, again, has been chronic under-funding. In Berrien County, for example, prosecutors are funded at a rate that is four times that of public defenders, and in Genesee County, the ratio is three to one. According to the preliminary findings of a legislatively authorized court funding study, in no Michigan county statewide is the ratio less than two to one.

In short, Michigan's system was well known to be constitutionally inadequate 30 years ago, and it has only gotten progressively worse since, so that it now ranks, according to a National Legal Aid and Defender Association study, as 47th among the 50 states in the provision of public defense funding and services.

Third, if it's about “the system,” it's really about the citizenry. Because of the inherent inadequacy of Michigan's public defense “system,” State Appellate Defenders Office statistics show that fully one-third of the sentencing appeals it handles are actually remanded for resentencing,

owing to errors in sentencing guidelines calculations. It would be foolish, moreover, to think that all of the sentencing errors that occur are “caught” on appeal. Worse, when one considers those cases where non-violent felons are mistakenly given prison sentences, the combined effect of these sentencing errors is avoidable waste, both in monetary and social terms, produced by a public defense system that (unlike the prosecutorial system) provides virtually no money for training regarding sentencing issues.

Not only do erroneous sentences unnecessarily diminish the “public fisc,” but because of inadequate funding, as attorneys gain experience, they also become less able to afford involvement in the provision of public defense services. Statewide, studies show an approximate 20 percent turnover rate annually in counties in which there is no full-time public defender office. Consequently, more innocent people undoubtedly are convicted, with their guilty “counterparts” going free, and Michigan citizens paying the ensuing financial and societal costs. Overall, with somewhere between 15 and 20 percent of Michigan budget annually going toward corrections, and the average cost of incarcerating a single inmate approximately \$30,000 per year, the combined financial costs attributable to wrongful convictions and erroneous sentences amount to a significant portion of the state's current projected deficit.

Fourth (remember the question: “What can I say?”), despite my three-fifths membership in the “Michigan Coalition for Justice,” I am disqualified from participating in the litigation by virtue of my status as (1) a public defender, and (2) a member, since 2003, of the Michigan Council on

Crime and Delinquency's Public Defense Task Force. Since a virtual "firewall" exists between that body and the Coalition, further, neither I nor the PDTF had any role in the Coalition's decision to focus its pre-suit "fact-finding" (i.e., that which led up to its selection of the *Duncan* plaintiffs) on any particular county, including Genesee. Neither do I have access to the "work product" of the coalition, or to any of the details of its litigation strategy. Thus, I am not privy to the ultimate aim of the litigation, in terms whether so-called "closed," "open," or "mixed" public defense systems are the preferred form. What I can say, however, is that all of the players driving the current reform effort, "The Coalition" and the PDTF included, are committed to accepting nothing less than a Michigan system for delivery of public defense services that is both state-funded and fully compliant with the State Bar of Michigan-adopted Eleven Principles of Public Defense.² And what I can say, finally, is that no matter how uncomfortable any (or all) of us may feel being placed under the microscope, the current reform effort, which seeks to ensure that there be no repeat of Michigan's many refusals to comply with its constitutional responsibilities, is deserving of our support.

¹ (Specific disclosure: my dues go to the American Civil Liberties Union of Michigan, the National ACLU, and the Criminal Defense Attorneys of Michigan, whereas, I assume, neither the New York law firm of Cravath, Swaine and Moore, nor New York's Brennan Center, would have me).

² These can be seen following this article, as well as at www.mipublicdefense.org/about/eleven.html.

The Eleven Principles of a Public Defense Delivery System February 2002 (Adopted by SBM Representative Assembly in April 2002)

1. The public defense function, including the selection, funding, and payment of defense counsel, is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel. To safeguard independence and to promote efficiency and quality of services, an independent board composed of attorneys and non-attorneys should oversee defender, assigned counsel, or contract systems. Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense. Where there is a defender office, the selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff. Since the responsibility to provide defense services rests with the state, there should be state funding and a statewide structure responsible for ensuring uniform quality statewide.

2. Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar. Historically, Michigan's private bar participation has included part time defenders, assigned counsel plan, or contracts for services. However, a "mixed system" of a defender office and an appointed counsel system provides the most effective and stable system over time. The defender office can provide a base for training programs, motion banks, investigators, and other support services. Substantial involvement of the private bar increases independence, provides support for and information about the system outside the defender office, and is a relief valve for conflicts and overload in the system. The appointment process of the attorneys should never be ad hoc, but should be according to a coordinated plan directed by an administrator who is also an attorney familiar with the varied requirements of practice in the jurisdiction.

3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished and counsel notified of the appointment, usually within 24 hours of the arrest, detention or request.

4. Defense counsel is provided sufficient time and a confidential space in which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date. Counsel should have confidential access to the client for the full exchange of legal, procedural and factual information between counsel and client. To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses and other places where defendants must confer with counsel.

5. Defense counsel's workload is controlled to permit the rendering of quality representation. Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appoint-

ments above such levels. In the absence of local standards, national caseload standards should not be exceeded, but the concept of workload (i.e., caseload adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement.

6. Defense counsel's ability, training, and experience match the complexity of the case. Counsel should never be assigned a case that counsel lacks the experience or training to handle competently, and counsel is obligated to refuse appointment if unable to provide ethical, high quality representation.

7. The same attorney continuously represents the client until completion of the case. Often referred to as "vertical representation," the same attorney should continuously represent the client from initial assignment through the trial and sentencing. The attorney assigned for the direct appeal should represent the client throughout the direct appeal. Except for emergencies, substitute or stand-in counsel should not be used as a routine method to handle additional cases. The client and the court are entitled to have the approved attorney prepare and handle the case.

8. There is parity between defense counsel and the prosecution with respect to resources, and defense counsel is included as an equal partner in the justice system. Public defense should participate as an equal partner in improving the justice system. There should be parity of workload, salaries and other resources between prosecution and defense in criminal cases in which the accused has been provided counsel at public expense. Assigned counsel should be paid a reasonable fee, taking overhead into consideration, and should be reimbursed for expenses. Where they exist, contracts with private attorneys for public defense services must never be let primarily on the basis of cost, and should specify performance requirements and the anticipated workload, and provide for contingencies such as excess cases, high profile or complex cases, and funding for expert and investigative services.

9. Defense counsel is provided with and required to attend continuing legal education. Counsel and staff providing defense services should have systematic and comprehensive training appropriate to their areas of practice and at least equal to that received by prosecutors.

10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards. The defender office (both professional and support staff), assigned counsel, or contract defenders should be supervised and periodically evaluated for competence and efficiency.

11. When there is a defender office, one function of the office will be to explore and advocate for programs that improve the system and reduce recidivism. The defense attorney is in a unique place to assist clients, communities and the system by becoming involved in the design, implementation and review of local programs suited to both repairing the harm and restoring the defendant to a productive, crime-free life in society.



Gould Engineering, Inc.
Flint, Michigan 48507
810.743.9120
www.gouldengineering.com

Let our professional staff assist you and your clients.

Site Evaluation,
MDEQ Permits,
Civil Engineering,
Land Surveying,
Land Planning, &
Expert Witness
Services

“Things that used to kill, now disable.

**In the last 20 years, deaths due to the “big three”
(cancer, heart attack and stroke) have gone down significantly.**

**But disabilities due
to those same three
are up dramatically!”**

The JHA Disability Fact Book – 2003/2004 Edition

Medical advances have had many effects. Including this:
More than ever, Disability Insurance is critical to solid financial preparations.

This State Bar of Michigan-sponsored Group Long-term Disability
Income Insurance is well-suited to professionals, with own-occupation
coverage at group rates for our members.

Sponsored by:



Administered by:



(800) 632-4591
(616) 454-8257
www.paulgoebelgroup.com



Underwritten by:

**The United States Life Insurance
Company in the City of New York**

New York, New York

*A member company of American International Group, Inc.
www.aigbenefitsolutions.com*

The underwriting risks, financial obligations and support functions associated with the products issued by The United States Life Insurance Company in the City of New York are its responsibility. The United States Life Insurance Company in the City of New York is responsible for its own financial condition and contractual obligations.

This plan is subject to the terms, conditions, exclusions and limitations of the group policy. For costs and complete details of coverage, contact the plan administrator. Coverage may vary or may not be available in all states.

© 2007 American International Group, Inc. All rights reserved.

AG4693 (01/07)

- ***1 in 3 employed Americans over age 30 will become disabled for at least 3 months at some point during their careers* – rising to 43% for those over 40**!***
- ***This plan can be used as standalone coverage, or to pay over and above other disability benefits***
- ***Group rates make it affordable, such as a \$5,000 monthly benefit for less than \$12.05 a week†***
- ***Ideal for time-strapped professionals, application is quick and easy***

**Find out how little it costs.
Call now for your free quote:
1-800-632-4591**

* Source: Disability Survey of Full-Time Employees, America's Health Insurance Plans, August 2004

** Source: JHA Disability Fact Book, 2003/2004 Edition

† Example of \$313.40 semi-annual premium for \$5,000 a month in disability income insurance for a 30-39 year old with a 90-day waiting period, to age 65 benefit period

06673611-1341 R01/07

GCBA 5K Run for the Bar

By Hon. John A. Gadola, 5K Committee Chair

Change is planned for the annually held GCBA-sponsored 5K road race. For the past few years, the 5K has been held in April. Turnout has been fair for this fun event, despite having hit-or-miss spring weather. I certainly will not forget the six to eight inches of snow that fell the day before the first event, followed by a race day warm enough for many brave participants to wear shorts and short-sleeved shirts, all courtesy of our unpredictable Michigan weather. This year, the race committee has been busy brainstorming ways to rev up excitement and garner more participation in this community event.

The race will now be known as the GCBA 5K Run for the Bar. It will be held on Friday instead of Monday. The day will begin with a picnic at Memorial Park beginning at 4 p.m. and include a barbecue lunch and music at Memorial Park on 5th Street between Church and Grand Traverse. The race is open to all ages and skill levels, including walkers. The entire event promises to appeal to a broader audience and to be a very upbeat and lively celebration.

The Road Race Committee has been working very hard to create an event that will be an annual event for runners, walkers, the bar association, and the community in general. The Road Race Committee would also like to invite you to join us in planning this year's event.

Please contact the GCBA with any thoughts regarding the road race and picnic. Hope to see you Friday, June 15 at Memorial Park. Stay tuned for more details.

Note: Thanks to the hard work of Brian Barkey, our road race is now a vouchered race through the Crim Training Program.



Hon. John A. Gadola

The Community Resolution Center (CRC) is pleased to introduce Lakshmi Kilaru as its new executive director. Ms. Kilaru attended the University of Michigan, Ann Arbor, where she was a member of Phi Alpha Delta pre-law fraternity. She completed her bachelor's in psychology with high distinction and most recently received her juris doctorate from the University of Michigan Law School. Ms. Kilaru began volunteering at the center in 2005 and has completed the 40-hour community, 40-hour general civil, Friend of the Court, and VORP mediation trainings.

CRC serves nine counties, offering mediation and training in alternative dispute resolution. For more information, contact Lakshmi Kilaru at (810) 249-2619 or crclakshmi@sbcglobal.net.

CFE/CPA/Expert Witness

- Certified fraud examiner
- Certified internal auditor
- Certified public accountant since 1983
- \$7m recovered in past six years
- Forensic accounting, litigation support, expert witness experience
- "Have laptop, will travel"

Karl Haiser, CPA, CIA, CFE
(810) 695-0131
haisercpa@aol.com

Personal Property Appraisals of Grand Blanc

Professional Appraisals and Reports

Probate
Family Division
Insurance
Donation

Reports Critiqued, Methodology
Condition Reports written
Brokerage Services supplied
Estates Liquidated

Nan Ruth Chardoul
810-694-7153

International Society of Appraisers

American Society of Equine
Appraisers

Reports Written to Appraisal
Foundations Standards

WALTER P. GRIFFIN

Attorney at Law
ADR Facilitation/Arbitration

37 years of trial practice, including personal injury law, commercial, general defense and medical/legal litigation. Training pursuant to MCR 2.411 and MCR 3.216

Contact Walter P. Griffin at



810-232-3141 ♦ Fax 810-232-1079 ♦ wgriffin@ccglawyers.com



Laine and Shaun Marks

From the Bar to Business

The first in a series of articles about members owning non-law related businesses

Genesee County Bar Association member Shaun Marks is a recent newcomer to business ownership, notwithstanding his law practice. In 2006, Shaun and his wife, Laine, opened Cold Stone Creamery, a premium ice cream store, in the Foley Towne Square Plaza on Silver Lake Road in Fenton, Michigan.

Shaun enjoys the pleasures inherent with owning his own ice cream business, stating, "At my ice cream store, every customer is happy! And they're happy to pay!" Shaun appreciates that he serves a premium product in a fun, friendly atmosphere, but acknowledges that it took a lot of hard work and perseverance to realize his dream. Shaun was methodical in his business approach and spent 18 months planning and organizing hundreds of details before opening his store. His theory on business ownership is: "Conduct a long period of due diligence to be certain this is what you want to do, and learn everything you can about your endeavor. Then learn some more." He cautions that owning a business is a huge commitment of time, finances, and emotions, but believes it can be well worth it. In fact, in May, the couple opened a second store in the Grand Mall in Grand Blanc.

Like many other business owners, Shaun faces concerns of managing time-off requests, scheduling issues for teenage employees who have outside interests, and balancing all of that with his regular law-related work obligations. To accommodate the demands of his

business, Shaun had to slightly scale back his law practice to devote additional time to administrative management of his store, including taxes, insurance, payroll, accounting, and leases.

Cold Stone Creamery sells shakes, cakes, smoothies, and personalized ice cream creations. Customers can choose from dozens of items such as candy, nuts, and fruit to create something unique to suit their specific tastes. The creation is mixed together on frozen granite stone

right in front of the customer. For those who find it difficult to choose from so many options, Cold Stone Creamery offers numerous suggestions, such as Strawberry Rendezvous, Coffee Lovers Only, Breathless Boston Cream Pie, and Shaun's favorite, Peanut Butter Cup Perfection (chocolate ice cream, peanut butter, Reese's peanut butter cup, and fudge.) It's Stone Cold good!

PRESS RELEASE

A mom can never be too proud. Cathy and Kevin Dowd are pleased to announce that their son, Paul, was named non-commissioned officer of the year for the 4th Space Control Squadron. Holding a non-disclosable position, Paul celebrated the 15th anniversary of his enlistment on April 1. He has been deployed to such places as Kuwait, Greenland, and Miswa, Japan. He is looking forward to being transferred to Colorado Springs this summer. We extend our congratulations to the proud parents.

THERE'S MORE WHERE THIS CAME FROM.

- Economic damages and expert testimony
- Business and intangible asset valuations
- Fraud and forensic accounting investigations
- Insurance claims (Business interruption and PIP)
- Employment and personal injury

Peggy Jury 810.767.5350
plantemoran.com



CPAs / Business Advisors

THRIVE.

Changes in Probate Court Audit Procedures

By Hon. Robert E. Weiss, Chief Probate Judge, and Hon. Jennie E. Barkey, Judge of Probate

In response to irregularities discovered by court staff that resulted in criminal charges filed against a local attorney for embezzlement from vulnerable adults, the court hired outside auditors to improve court procedures and ensure that such a case did not happen again.

The auditors, Jim Inloes and Bob Randolph, issued a detailed report to the court on December 8, 2006, recommending numerous changes to the current audit procedures. The court adopted many of the recommendations. These proposed changes were distributed to the Probate Committee of the Genesee County Bar Association for comment. At two separate meetings of the committee, chaired by attorney John Zintsmaster, probate judges, staff, and local practitioners discussed the proposed changes. Effective March 1, 2007, the court instituted changes relative to its audit procedures. These changes have been presented to the State Court Administrative Office as proposed local administrative order 2007-03.

The most significant change involves the court's new requirement that all first accounts—including accounts with attorneys—will be audited by court staff. Conservators will have to provide the court with receipts, bank statements, canceled checks, or other documentation for all first accounts. Previously, if an attorney served as fiduciary or an attorney represented a fiduciary, accounts were not audited. Another major change is that all accounts will need to be scheduled for a hearing and allowed every year. Guardians will be ordered to file annual accountings even if the only income is Social Security. A waiver of the requirement may be obtained from the judge if there is no need to file annual accountings.

Changes have also been made with regard to inventories. To file the inventory, the conservator will be

required to attach documentation, such as bank statements and property tax statements, to verify the value of assets listed on the inventory. In addition, an auditor will now be assigned to the file when the inventory is filed and remain with the file until it is closed. All questions relative to the file will be directed to the auditor or a supervisor.

For several years, the probate register has scheduled an informal conference after a conservator has been suspended. Effective March 1, 2007, the conference will now be scheduled before the suspension when the Notice of Deficiency is sent to the fiduciary, typically 56 days after the due date for the account.

Finally, all new conservators are ordered to attend a seminar with the probate register within 60 days of appointment. These classes are held every Tuesday at noon in Judge Barkey's



Hon. Robert E. Weiss



Hon. Jennie E. Barkey

courtroom. The class lasts no more than one hour, and each participant receives a booklet with examples of inventories, accounts, and other necessary documents. The fiduciary will be subject to removal if he or she does not attend the seminar.

It is hoped that all of these changes will allow court staff to identify problems with accountings sooner and to provide more assistance to conservators. We are very grateful to staff for their dedication and professionalism in these times of significant change. Please be patient with court staff as they implement these new procedures.

Facilitative Mediation

Richard Morley Barron



Working with attorneys to get their clients better results, in less time, and with less expense.

www.mediate.com/rbarron

810-487-1368

Judge McAra's last District Court Committee Meeting at The Torch before his retirement in March



Judge McAra is presented with a plaque by District Court Committee Chair Jeremy Piper.



Judge McAra and Cathy Dowd



(l-r) Frank Turnage, Phil Beauvais, Judge McAra, and Judge Perry



Two more days! Judge Neithercut and Sue Jarema-Barker

Genesee County Bar Association

May Membership Meeting

featuring

Election of Officers & Awards Ceremony

Genesee County Bar Foundation Annual Meeting to follow immediately

Masonic Temple,
downtown Flint

May 21, 2007, 12:00 p.m.

Luncheon is FREE for members of the GCBA and their guest, BUT reservations are required.

Name(s)

Address

Phone

Fax your reservation to (810) 232-8310 or e-mail your reservation to rls@gcbalaw.org.

NOTE: As a courtesy, please contact the GCBA at (810) 232-6012 if you need to cancel your reservation so that money is not unnecessarily spent on the cost of your luncheon. Donations will be accepted.

Disney on Ice, sponsored by the Young Lawyers Section and funded in part from the Genesee County Bar Foundation Earl Cline Fund



(l-r) Craig Fiederlein with daughters Melanie and Emma



(l-r) Tony Vance with daughters Natalie and Caroline



Julia Black and niece Allonja Leigh Wilson



Kraig Sippell with daughter Torie



Mike Edwards and Family



Ridley Nimmo and Family



Ed Henneke and granddaughter Michelle

Investing can be a challenge...

Finding a financial advisor who cares about you doesn't have to be.

STEPHENS WEALTH MGT GROUP

Investment Consultants

Guiding your Financial Success

5206 Gateway Centre, Ste 300
Flint, MI 48507
810-732-7411

www.stephenswealthmgtgroup.com

Comprehensive Financial Planning

- *fee based investment consulting*
 - *retirement solutions*
 - *insurance*
 - *estate planning*
 - *cash flow analysis*
- Private Trust Services***

Stephens Wealth Mgt Group offers securities and investment advisory services exclusively through Raymond James Financial Services, Member NASD/SIPC



**Sherri Stephens, President
Wealth Manager, RJFS**

Over **\$350 Million** under
management

Serving Businesses and Professionals
for over 30 years.

- Named in Barron's in 2006 as one of the **"Top 100 Women Financial Advisors"**
- In 2005 Research Magazine named Sherri as one of the **"Top-Ranked Advisors in America"**
- Named as one of the **"150 Best Financial Advisors for Doctors"** in 2004, 2005 & 2006 by Medical Economics

Genesee County Bar Association
315 East Court Street
Flint, Michigan 48502-1611

PRSRT STD
U.S. Postage
PAID
Flint, MI
Permit No. 125