

CLASSIFYING INDEPENDENT CONTRACTORS AND EMPLOYEES

Hiring independent contractors in place of employees to work on the business's behalf appears advantageous; the business owner does not pay taxes, benefits or provide insurances. But worker's compensation insurance companies and the State of Michigan are examining how workers are classified. As a consequence businesses may pay higher worker's compensation insurance premiums and payroll taxes associated with employees.

More than simply issuing a 1099 form there are a number of factors determining whether a worker is an independent contractor, such as whether the worker:

- has a federal identification number;
- has filed an assumed name certificate with the county;
- maintains its own separate place of business;
- furnishes all of his/her own materials and equipment to perform the task;
- realizes a profit or suffers a loss as a result of the service rendered;
- has a written contract spelling out the employer/employee relationship.

This list is non-exhaustive. The State of Michigan declared the misclassification of independent contractors a hot issue. Misclassification of workers creates an uncompetitive playing field for those who properly

classify their employees and loss of tax revenue for the state.

Governor Granholm created the Interagency Task Force on Employee Misclassification to make recommendations for more effective mechanisms to enforce employee misclassification and to work cooperatively with local, state and federal enforcement agencies, including the IRS. The task force held hearings during the summer.

We recommend you review the classification of your personnel and examine the status of your workers. Penalties could be severe for failure to accurately classify the worker and for payment of premiums and taxes.

WELCOME OUR NEW ATTORNEY: SARISSA K. MONTAGUE



Sarissa K. Montague joined Levine & Levine as an associate attorney. Ms. Montague practices in the areas of Labor and Employment, Real Estate, Business Law and Criminal Defense.

Ms. Montague was a Law Clerk for the Honorable Curtis J. Bell, 9th Circuit Court Judge, Family Division. During her tenure as law clerk she performed legal research, wrote memoranda and reports on a variety of family law issues.

Prior to attending law school, Ms. Montague had extensive experience working in the fields of Employment and Real Estate.

As an Operations/Personnel Manager of an area Employment Agency, Ms. Montague became familiar with the needs and challenges faced by professional, industrial and retail businesses. Additionally, she served as an intermediary between employees and employers, addressing employment issues faced by both parties.

Ms. Montague spent a number of years deeply entrenched in the New York City Real Estate Market where she was involved in the buying, selling, and management of New York City properties, including rentals, cooperatives, condominiums and commercial properties.

Ms. Montague has had a lifelong interest in the area of Criminal Law and her education focused on studying and researching Criminal Law.

Ms. Montague is a member of the Kalamazoo County Bar Association, the State Bar of Michigan and the American Bar Association.

She is a 2007 graduate cum laude of Michigan State University College of Law. She graduated with honors and magna cum laude in 1997 from Union College in Schenectady, New York.

ANASTASE MARKOU WINS MAJOR VICTORY IN CRIMINAL CASE



Federal District Court Magistrate Joseph Scoville granted habeas corpus relief upon the request of Anastase Markou. The court found that Mr. Markou's client had been poorly represented by another Kalamazoo law firm. The court vacated the client's lengthy prison

sentence due to the excellent and persuasive advocacy of Mr. Markou. The result is that several years will be cut from the sentence and this man is expected to be home with his family soon.

ESTATE PLANNING

It is autumn - and time to review financial and legal matters that were ignored during the summer - and perhaps for years. Reviewing your estate plan should be a priority. Where to begin: Consider updating your Will or Trust if

- your children have grown up, you have a special needs child, or need to provide for a parent;
- the Personal Representative of your Will or Successor Trustee of your Trust are no longer appropriate for your needs;
- your financial or marital status changed.

Review the beneficiaries of your life insurance policies and retirement plans:

- Have the retirement plans changed or have you moved to a different financial advisor?
- Naming a parent as beneficiary seemed logical when the children were babies; today this designation is neither relevant nor appropriate.
- Have you identified charities or churches that no longer exist or to whom you no longer belong?

Review and update antiquated Designation of Patient Advocate or Durable Power of Attorney.

- Is your advocate still relevant in your life? If so, initial and date the document to indicate your intention to maintain its current effect.
- Check the agent identified in the Power of Attorney. Can

they manage the tasks required, if necessary?

- We recommend you, your young adult children and your family elders consider and sign Powers of Attorney and Health Care Directives.

Note: Estate tax exclusion:
2008: \$2,000,000;
2009: \$3.5 million;
2010: \$0;
2011: \$1,000,000.

So, before you start raking leaves, take time to organize your files, and reflect on your and your family's needs and wishes.

RANDALL LEVINE NAMED AS ONE OF MICHIGAN'S TOP 100 TRIAL LAWYERS



In August, 2008, The American Trial Lawyers Association named Randall Levine as one of the ATLA Top 100 Trial Lawyers from Michigan having met the standards required for selection to the membership of the Top 100 Trial Lawyers.

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