

TO CONVEY OR NOT TO CONVEY? THAT IS THE QUESTION - AND HOW!

When working on their estate plan, many persons change the ownership of their assets without consulting a lawyer. One change that deceptively appears inexpensive and easy is to sign a deed adding a child to the title of their home.

Parents believe that adding their children to the ownership of property will avoid probate; that after their death, the designated child will be the most fair or responsible. They expect the joint owner child to sell the real property and share the proceeds equally; to them, this child will "be in charge" when the time comes.

Naming a child as a joint owner to property can have negative and detrimental consequences.

- Adding a child is easy, but if the circumstances change, removing the child from title requires their signature which is not a guarantee.
- The transfer can cause the township or city assessor to "uncap" the property for real estate tax purposes.
- The children may end up bearing responsibility for a parent's mortgage or home equity loan.

- Upon the death of the elders, and after title is vested in the child, there is no obligation to share in the value of the property.
- If the child shares the net proceeds of a sale with their siblings, the distribution may create a gift tax consequence for the child.
- Depending on how the joint tenancy is drafted, the conveyance may cloud title requiring the involvement of a probate or circuit court.
- Deeds creating joint tenancies may also negatively impact Medicaid Eligibility. The federal government closely scrutinizes titles to assets and all transfers for 5 years preceding the date that the elder attempts to become Medicaid Eligible. Only deeds properly drafted will pass governmental scrutiny.

Before signing deeds, give full consideration to the consequences and seek counsel before assuming the transfer is the right thing to do. In the end, a well thought out estate plan will be more cost efficient.



ANASTASE MARKOU AND SARISSA MONTAGUE WIN NOT GUILTY VERDICT IN MAJOR CALHOUN COUNTY CASE



It took a Calhoun County jury less than three hours to render a not guilty verdict on three counts of life offense Criminal Sexual Conduct. Attorney Markou and co-counsel, Sarissa Montague, successfully demonstrated to the jury that the complainant had ulterior motives for making false allegations of sexual misconduct and therefore could not be believed. The defendant, a 45 year old Battle Creek man, had been held in custody for nine months awaiting trial. He faced a potential penalty of life imprisonment upon conviction. He is now free and his ordeal has come to an end. Congratulations to attorneys Markou and Montague for an excellent defense!

SARISSA MONTAGUE BATTLES CITY OF KALAMAZOO IN CAT CASE



The City of Kalamazoo thought that charging Western Michigan University Associate Professor Hill with Harboring a Dangerous Animal was going to be a “routine” matter. They found out differently, however; when attorney Sarissa Montague took up the defense of the case for Ms. Hill. Ms. Montague was able to convince the City of Kalamazoo to dismiss the case. The cat remains with its family.



This is the second successful animal case for Ms. Montague. Her prior victory involved a Kalamazoo dog. That case was also successfully dismissed and the dog continues to live with its family.



RANDALL LEVINE AND ANASTASE MARKOU WIN ACQUITTAL IN MURDER CASE



On March 26, 2010, after four hours of deliberation, a Branch County jury acquitted Musaid Saeed of two counts of Felony Murder. Mr. Saeed was defended by Randall Levine and Anastase Markou who tried the case for one week in Coldwater, Michigan. The government had alleged that Mr. Saeed, an Arab-American, had murdered two men who died from a fire set to a commercial building in downtown Coldwater owned by Mr. Saeed.

The jury was persuaded that the deaths were not caused by the defendant and rendered a unanimous verdict of acquittal on both Murder charges.

COMPLETING CORPORATE RECORDS—WHY BOTHER?

Many small businesses do not meet annually or maintain the corporate record book. Corporate maintenance is frequently on the “back burner”. But, problems arise if a bank or governmental agency demands to examine the record book. The record book must be current if a shareholder wants to consider a sale of stock or seeks a special designation such as for a minority business.

Updating an incomplete corporate record book is achieved a number of ways:

- Search government websites to retrieve Articles of Incorporation, Annual Reports, and filed registrations
- Are the Article of Incorporation and any amendments logged into the corporate record book?
- Review the by-laws; are they signed, adopted and inserted in the corporate record book?
- Is the corporate stock signed and logged into the corporate record book?
- Are meeting Minutes maintained and signed for each year?

If corrective action is required, consider, review and carefully draft prior actions. Corporate activity should be properly ratified; do not “back-date” corporate Minutes. Ethical and legitimate corrections should be approved by shareholder vote, as necessary and drafted with care. Time spent maintaining the corporate records annually is minimal and less expensive than updating later; but, should you find yourself in a situation that demands an update, scrutinize, use due care and careful drafting to bring the corporate record book current.

This newsletter is provided for informational purposes and should not be acted upon without professional advice.

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