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COVID-19 response: Levine & Levine attorneys Available to serve clients virtually or in person

In the era of social distancing during the COVID-19 pandemic, we want to assure our current and prospective clients that we are here to serve you in whatever capacity you feel most comfortable. Whether it is an in-person meeting in a personal space, such as a private home or assisted living facility, public indoor or outdoor space, our law office in downtown Kalamazoo, or a virtual video conference, such as Zoom or Skype, at Levine & Levine, we are available 24/7 for your criminal defense needs, and are at the ready for your business and estate planning matters. As we navigate this uncertain time and the situation remains fluid, know that our office staff is dedicated to helping you in any way we can.

Analyzing the distribution rule changes for IRAs

By Attorney Sharan Levine

At the end of 2019, President Donald Trump signed the Further Consolidated Appropriations Act into law. The act, which claims to raise revenue, deals with retirement plans. There is good news and some bad news about the new law.

First, a big change:

Those who make contributions to their retirement plans may now delay when they are required to start taking distributions. Initially, the rules provided for the year after the year in which you turn 70-and-a-half years old. Now, the IRA owner may hold off taking distributions until age 72 – or with certain plans – until retirement. So, if you are born after June 30, 1949, your required minimum distributions do not begin until you are 72 and you may continue to make contributions until then.

Now for the bigger change:

Designated beneficiaries of IRAs (such as children of the IRA owners) are currently accustomed to stretching their distributions over their life span – or more rapidly if the beneficiary chooses to do so. But, if an IRA owner died after Jan. 1, 2020, then the designated beneficiary must withdraw the entire balance of the inherited IRA in a 10- year period. This rule does not apply to the following: the surviving spouse of the IRA owner; a minor- until the minor turns 18; a beneficiary who is not more than

10 years younger than the IRA owner; and beneficiaries who are disabled or chronically ill.

The key take away:

At a minimum, the most important thing to do is to make sure that you have designated beneficiaries of your retirement plans. Failing to take this step creates serious problems, and failing to designate beneficiaries will cause the IRA to pass through the deceased's estate with the payout period being limited to five years.

Michigan Supreme Court adopts New Discovery Rule for criminal cases in District Court

By Attorney Randall Levine

Earlier this year, the Michigan Supreme Court passed a new rule requiring the government to provide discovery to all criminal defendants in district court.

For a number of years, defendants were not entitled, as a matter of right, to receive discovery from the government in misdemeanor cases. Whether the government was required to provide information to a defendant charged with a misdemeanor, which would aid in his defense, was a matter vested solely within the discretion of the district court. With this new discovery rule in place, the government is now required to provide police reports, and other material evidence



which may be helpful to a defendant to understand specifically the evidence the government intends to use against him at trial. This will aid a defendant in plea bargaining decisions as well as the decision on whether or not he or she should exercise their constitutional right to have a jury trial.

Those being charged with a felony, providing discovery in district court prior to preliminary examination was left to the discretion of the judge, whether or not the government was required to provide it. A preliminary examination is a critical stage in the proceeding. Competent defense counsel will test the strength of the government's case by cross-examination at the exam. In order to be effective, counsel must be afforded discovery in district court prior to preliminary examination. The new court rule provides defense counsel with this opportunity.

The Michigan Supreme Court is to be commended. The new rule promotes fairness and gives defendants an opportunity to intelligently assess the evidence against them. Ultimately, this new rule will further the ends of justice.

Randall Levine on media portrayal of aide to former Governor Snyder in the Flint Water Crisis investigation

Managing Partner Randall Levine spoke out on behalf of his client, the senior advisor to former Governor Snyder, who had previously served as his transformation manager. The advisor was being unfairly portrayed in media reports regarding the ongoing criminal investigation of the Flint Water Crisis.

While never among the state and local officials charged with crimes related to the water crisis, he was required to give sworn testimony after being served with an investigative subpoena by former special prosecutor Todd Flood. He also voluntarily appeared for interviews and did not claim privilege as he had nothing to hide, Levine said.



Randall Levine

The advisor had called for an end to the criminal investigation – six years after Detroit's water source was changed to the Flint River and caused a public health crisis. The investigation, now led by Michigan Solicitor General Fadwa Hammoud and Wayne County Prosecutor Kym Worthy, was restarted and remains active.

In a statement to The Detroit News and MLive-The Flint Journal, Levine explained that his client had done everything in his power to help fix problems in Flint, but was being “unfairly vilified by a press who appears hungry to satisfy the citizens of Flint who, are justifiably angry and upset because the state has failed to act responsibly in the investigation of this matter.”

“By law, confidential information obtained by the prosecution, including testimony and documents secured pursuant to investigative subpoena, cannot be available for inspection or divulged and are exempt from disclosure under the Freedom of Information Act,” Levine said. “The state has had six years to file criminal charges. They have spent millions of dollars trying to figure out who should be held accountable. Now the state is in a financial crisis due to COVID-19. We cannot afford to keep spending taxpayer dollars trying to ‘uncover’ wrong-doing which would be obvious by now if it existed.”

Sharan Levine partners with Detroit-area attorney to create trust alimony form for ICLE

Sharan Levine, in partnership with George Gregory, an estate planning tax attorney at Kemp Klein Law Firm PC in Troy, Michigan, used their legal expertise to create an irrevocable trust alimony form for fellow lawyers.

The newly-revised form can be found online at the Institute of Continuing Legal Education's (ICLE) website, where attorneys are able to download it for their clients and create a support trust following divorce to avoid the negative tax consequences to the payor spouse caused by the 2017 Tax Cut and Jobs Act.

The Support Trust form can be downloaded from the ICLE website.

Sharan Levine discusses estate planning needs with U of M football alumni in virtual roundtable

The University of Michigan football alumni organization recently invited Sharan Levine to participate in a virtual roundtable about estate planning and strategies to help safeguard personal assets. The discussion included comments from the organization's Programming Committee Chairman Jason Cummings (moderator), and alumni members Terrence Quinn, and Jared Van Slyke.



The art of negotiating a plea agreement

By Attorney Sarissa Montague

In almost every case, a person charged with a crime is given a plea offer of some sort. There is a wide range of possible plea offers, including an offer for complete dismissal of all of the charges up to an insistence on a guilty plea to all of the charges the defendant is facing and accepting the maximum penalty. Between those two extremes there are limitless options.



Sarissa Montague

It is the job of a skilled criminal defense attorney to work to get the best plea offer possible for his/her client – doing so gives the accused a real option: accept the terms of a plea offer that he/she can live with or go to trial. This is the defendant's option, but with a skilled attorney on his/her side at least there is a reasonable choice.

There are many factors that a prosecutor considers when making a plea offer, and there are equally as many factors that a defense attorney considers when making a counter offer or advising a client on accepting an offer made. Because there is such a huge range of potential outcomes in any given situation it is very important that a person charged with a crime work with an attorney who is effective both inside, and outside, of a courtroom.

Randall Levine thwarts Kalamazoo County effort to seek condemnation of family's property within Prairie View Park

Kalamazoo County passed a resolution authorizing the condemnation of property located within the confines of Prairie View Park. Randall Levine filed suit against the county and its board of commissioners in an effort to stop the condemnation.

During the civil court proceeding, Levine argued the county board violated the Michigan Open Meetings Act for having several closed-door meetings about gaining control of the 142 feet of lakefront property on Gourdneck Lake.

The Hon. Alexander C. Lipsey of the Ninth Judicial Circuit Court agreed with Levine and ruled the Kalamazoo County commissioners violated the Michigan Open Meetings Act and quashed the condemnation resolution. The court found that the issue must be revisited in an open session at a future county commission meeting. Thereafter, the county chose to forego condemnation of the property.

"The purpose of the Open Meetings Act is to promote governmental accountability by permitting public access to official decision making and to provide a means to which the general public may better understand issues and decisions of public concern," Levine said. "This is a great win for the families as they deserve to have the right to be heard. This decision has renewed efforts with the county to reinvigorate discussions and I am optimistic now the county board of commissioners and these families will be able to reach a resolution so that they can continue to use the park together."

Being mindful of new risk management business policies during a pandemic

By Attorney Sharan Levine

Since Michigan businesses have re-opened their doors to their employees, customers and clients while battling a global pandemic, you may have seen new risk management protocols and procedures in place to help mitigate the risk of spreading COVID-19. Throughout the past six months, we have been working diligently with clients on risk management correspondence as they delicately navigate how to proceed in opening their businesses during this public health crisis. We have spent many hours combing through Gov. Gretchen Whitmer's executive orders to help our clients develop additional business policies as it pertains to COVID-19 and maintaining a safe and healthy environment for their employees and customers. This may mean a health screening upon entering the business, proper mask wearing while inside the building, a set number of customers allowed inside at once, additional cleaning and sanitizing procedures, and possibly, revised or shortened business hours.



Sharan Levine

In all cases, our clients' number one concern has been safety. The safety of their employees. The safety of their customers and clients. And the safety of their business. Our clients have shared with us that it is heartbreaking for them to create these increased safety protocols, but it is absolutely necessary for them in order to maintain safety in their place of business, and continue to operate during and after this pandemic. If they do not have risk management policies in place as it pertains to COVID-19, it could be a detriment to their business.

While we may not like having to wear a mask as we get our hair cut or don't want to reduce our time shopping inside our favorite store, we all need to be mindful about why these new risk management rules are in place: To be safe and to help protect those around us. If we can keep that in mind as we venture outside of our homes, we will come out of this pandemic with a greater sense of grace, dignity and compassion for one another.

LEVINE & LEVINE IN THE MEDIA

Sharan Levine shares business law insight into The Boy Scouts of America's Chapter 11 bankruptcy protection

WWMT featured Business Law Attorney Sharan Levine regarding the Boy Scouts' Chapter 11 filing in February 2020 and its impact on pending criminal sexual conduct lawsuits against the organization. She explained that one of the first things a bankruptcy court determines is if the filing is to avoid responsibility, or to deal with lawsuits and debt in the most honorable way possible.

"It's to get a handle on, and try to get a sense of the scope of all the lawsuits, and try to bring them under an umbrella, where they can be managed," Levine told WWMT. "Right now, we do not know what will happen, but we do know there's a process in place in which each and every case will be analyzed and assessed in the court in order to determine its outcome."

Randall Levine speaks on 'Second Amendment Sanctuary' counties in Michigan

Managing Partner and Criminal Defense Attorney Randall Levine spoke with FOX 17 about Second Amendment sanctuary counties in Michigan.

Levine noted that while some counties across Michigan are considering becoming Second Amendment sanctuary counties, there isn't any immediate threat to gun owners, as current state laws and regulations regarding Concealed Pistol Licenses still apply. Levine explained that the CPL law doesn't change if a county becomes a Second Amendment sanctuary.

Criminal defense attorney weighs in on "Second Amendment sanctuary" counties



By Julie Dunmire



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Anastase Markou receives national media attention in Lakeside Academy case

Criminal Defense Attorney Anastase Markou received national media attention when it was announced he would represent Heather McLogan, a former nurse at Lakeside Academy who is being charged in connection with the death of 16-year-old Cornelius Fredrick.

“This is a terrible tragedy. Our hearts go out to his loved ones and the Kalamazoo community. However, justice cannot be served by an injustice,” Markou told news outlets, including CNN, WOOD TV8, WWMT Channel 3, MLive-The Kalamazoo Gazette, FOX 17 and WWJ News Radio in Detroit. “My client, Heather McLogan, has done nothing criminal and when the evidence is in, she will be vindicated.”



Anastase Markou

In late April, Kalamazoo Department of Public Safety arrived at Lakeside Academy and found Fredrick unresponsive. Police said the teenager was restrained after throwing a sandwich in the cafeteria. McLogan is one of three Lakeside staff members charged in the case.

Markou told media that his office, together with McLogan, want to emphasize their sympathy for the family. However, McLogan was not involved in the restraint of Fredrick and did not do anything wrong, Markou said.

Sarissa Montague: Michigan is doing a ‘good job’ looking at issue of impaired driving and marijuana use

During an interview with FOX 17, Criminal Defense Attorney Sarissa Montague praised law enforcement and state officials for taking a cautious look into the issue of impaired driving and marijuana use, before creating a policy on it.

“It’s a really tough thing to tackle,” Montague told FOX 17 during an interview outside the Allegan County Courthouse. “It is very smart to be taking a slow approach to figure out a way to actually stop the behavior that we want to stop.”

Montague said that marijuana and alcohol have to be treated independently.

She said more time is needed to explore the issue. There’s a number of aspects that need to be considered like how much marijuana consumption is too much, the reasons why it’s taken and its effects on different body types.

