

What you need to know about your property taxes if a transfer occurs

As co-chair of the Small Business Committee of the State Bar of Michigan's Business Law Section, Business and Real Estate Law Attorney Sharan Levine led a forum on property tax and transfer of ownership.

The program "Doffing your cap: Must you take it off or may you keep it on?" focused on transferring ownership in property and whether such transfers impact or trigger a change in property taxes.



Sharan L. Levine

"The rules for when the transfer of ownership occurs can have an impact on whether or not the real property state equalized value can be uncapped, and thus increasing the real estate tax on the property," Levine said during the forum. "If the transferor held title to the property for a long time, and a transfer causes the property to uncapped, that can increase the real estate tax bill providing the transferee with an experience that is both unanticipated and unpleasant."

The group, led by Levine, closely examined one aspect of the Property Tax Act, and went through four scenarios to determine whether the property tax would be capped or uncapped.

"Property is taxed upon a transfer and the formula for the transfer is based on the State Equalized Value (SEV), which is set in the early sections of the statute," Levine said before the group discussed the different scenarios. "Property is going to be assessed at 50% of its true cash value – that's a general rule."

Jessica Brandow, associate attorney at Levine & Levine, says that generally, transfers between spouses will not cause an uncapping. She notes that transfers to a trust by a settlor, settlor's spouse, or both, will not uncapped so long as the only present beneficiary of the trust is the settlor or settlor's spouse. Likewise, transfers to children will also avoid "uncapping."

If you are considering transferring ownership of property, and have questions about uncapping or possible tax consequences, contact our office to discuss potential issues and let us assist you with your transaction.

New regulatory requirement for small business coming in 2024

Jessica Brandow

For several years, larger companies have been subject to regulatory filing and an entire world of "corporate compliance" has evolved. Now, corporate compliance is having an impact on small businesses. Federal legislation is imposing a filing requirement on qualifying small businesses commencing in 2024. You need to be aware of the legislation, what it means and how it may affect your business. Below is some initial information about the upcoming changes; we will keep you posted about the changes and new rules as they are adopted.

Ask yourself if:

1. You are a sole proprietor of an LLC, or the sole shareholder of a corporation registered to do business with the state.
2. A member of at least 25% interest in a corporation, limited liability company, or a limited partnership.
3. A president, vice president, or treasurer- or "exercise substantial control" of such a company.
4. The company employs less than 20 full time employees and has less than \$5,000,000 in gross receipts.

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Then, you are likely subject to the requirements of the Corporate Transparency Act (CTA) passed by the federal government, and you are obligated to file a Certification Regarding Beneficial Ownership by Dec. 31, 2024. This is called a “BOI Report.”

The CTA is aimed at domestic and foreign entities – all of which file with the state offices. In Michigan, if anyone files with LARA, they will also



Jessica Brandow

need to provide the BOI report to the federal government. Certain types of companies are exempt; these primarily include entities that are separately regulated industries or are considered “large operating companies.”

You may start to receive requirements from banks to file beneficial ownership reports; if you have questions about the filing, please call our office. The form to file will be relatively straightforward and should not require a great deal of time. But if you fail to file or provide false or fraudulent information you may be subject to penalties and fines; the legislation even calls for jail time up to two years.

Levine & Levine Estate Planning and Elder Law Attorney Jessica Brandow provides clients with estate planning and trusts, and assists with long-term incapacity planning for Medicaid purposes and crisis management for those family members needing immediate entry into a nursing care facility. Licensed in Michigan and Arkansas, Brandow earned a juris doctorate and a bachelor's degree from the University of Arkansas. Before joining Levine & Levine, she was an associate attorney in Arkansas, and then operated her own practice, the Law Office of Jessica Brandow, PLLC, for three years in Michigan where she offered probate and trust administration, estate planning, real estate, and elder law, specifically Medicaid planning and qualification.



Levine & Levine defense attorneys Anastase Markou (left) and Randall Levine (middle) in a Genesee County Circuit Court hearing on behalf of their client, Richard Baird, adviser to former Gov. Rick Snyder. Courtesy photo: Jenifer Veloso, MLive

Genesee Circuit Court dismisses charges in Flint water criminal case

In October, Genesee Circuit Court Judge Elizabeth Kelly dismissed all criminal charges against Rich Baird, transformation manager to former Gov. Rick Snyder in the Flint Water Crisis case. Kelly's ruling followed a decision of the Michigan Supreme Court. Michigan's high court found that the government's use of a one-person grand jury to gain indictments against Baird and other co-defendants was improper. Levine & Levine had argued from the outset of the case that the government had improperly empaneled a one-person grand jury in an effort to avoid a preliminary examination. “The government intentionally dusted off an archaic statute and empaneled the one-man grand jury for the sole purpose of shrouding the matter in secrecy in order to avoid cross examination in a preliminary examination,” according to Randall Levine. The Michigan Supreme Court agreed and found that defendants charged by a one-person grand jury are entitled to preliminary examinations.



SUCCESSFUL IN SEPARATE FLINT WATER CRISIS CASES

The Michigan Supreme Court held that a one-person grand jury lacks the authority to issue indictments. Therefore, the indictment against Baird was void and of no effect. The government's attempt to persuade Judge Kelly to reinvestigate the unlawful indictment was unsuccessful. The government has now filed



an appeal of that decision, which is pending before the Court of Appeals.

"We are extremely gratified by the Michigan Supreme Court and Genesee County's Circuit Court Judge Kelly's opinions," said Levine. "We have said from the very beginning that the government's use of the one-man grand jury was a deliberate effort to evade Mr. Baird's constitutionally-protected Sixth Amendment right to confrontation during preliminary examination."

Sixth Circuit Court of Appeals overturns lower court's ruling in Flint Water civil case

Levine & Levine attorneys representing Rich Baird, advisor to former Governor Rick Snyder, were handed a victory by the Sixth Circuit Court of Appeals on Nov. 8. In July, Baird's attorney, Sarissa Montague, and the other Flint Water defendant attorneys, argued that an earlier ruling by U.S. District Court Judge Judith E. Levy forcing defendants to testify in the children's civil trial against Veolia North America was a violation of their Fifth Amendment rights.

Montague argued that even though Baird had given testimony during a deposition in 2020, requiring him to be a witness during the same Flint Water civil trial, could be used against him during any future criminal proceedings of which Baird had been charged.

The ruling from the Sixth Circuit Court of Appeals said, "In the present case, the district court ordered the appellant state officials to testify at trial — to be witnesses against themselves — despite their invocation of their right against self-incrimination. According to the district court, appellants "waived" their right not to be witnesses against themselves at trial by voluntarily submitting to discovery deposition.

"We disagree. We conclude that the district court erroneously held that testifying at a pretrial deposition waives invocation of the privilege at a later trial in the same civil case. In doing so, we hold that a Fifth Amendment waiver does not extend to trial under these circumstances," ruled the appellate court.



Randall Levine, who argued the original case in front of Judge Levy, said, "We have argued all along that requiring our client to testify during the Flint Water Crisis civil trial against Veolia North America was in direct violation of the Fifth Amendment. Now Mr. Baird need not suffer the indignity of having to answer questions posed to him by Veolia lawyers that are designed to shift blame unjustifiably to him for a crisis which was created by others."

Anastase Markou wins major victory in animal cruelty case

Criminal Defense Attorney Anastase Markou obtained a dismissal of all pending felony criminal charges against his client, Javon Clark, who the government seized 12 dogs from claiming they were being used unlawfully in a dog fighting operation.

Kalamazoo County Circuit Court Judge Paul Bridenstine was forced to declare a mistrial after the jury was unable to reach a verdict. Markou discovered that the jury had voted 11-1 to acquit his client. While the government recharged Clark with the identical offenses, Markou successfully argued that recharging his client constituted a violation of his constitutional right to due process of law. The court agreed and dismissed the case, and ordered that the government return all of the dogs, which remained at the animal shelter.

“This is a tremendous victory for Mr. Clark,” Markou said. “At no time was he ever involved in dog fighting; contrary to the government’s accusations against him. An 11-1 vote of acquittal by the jury amounted to overwhelming evidence that the government would be unable to sustain its burden of proof. Recharging Mr. Clark with the identical crime without newly discovered evidence was a clear violation of his rights to due process of law. I am pleased that the case is finally over and that the dogs have been returned.”

Government suffers yet another setback in its effort to take family’s Prairie View Park cottage

Managing Partner Randall Levine has won another victory in the ongoing saga related to the government’s effort to take a family cottage located within the confines of Prairie View Park. In 2021, the Kalamazoo County Commission passed a resolution authorizing the county to seek condemnation of a family cottage which the family has owned for 75 years. Throughout that time, the county and the families lived peacefully together. However, the county has now taken the position that the family is no longer entitled to ownership and



is attempting to exercise its power of eminent domain. Levine & Levine has fought vigorously on behalf of family members in order to preserve their property rights and the legacy that the family cottage represents.

After the county filed a condemnation lawsuit, Levine & Levine filed a motion to dismiss the complaint as the county failed to follow the mandates of the Uniform Condemnation and Procedures Act. The lawsuit was dismissed and the county agreed to pay legal fees to Levine & Levine and another law firm representing other family members in excess of \$55,000.

In 2022, the county filed another condemnation lawsuit, and Levine & Levine filed another motion to dismiss. The matter is currently pending in Circuit Court while ongoing discussions between the county and Levine & Levine continue to find a resolution.

“There are several reasons why the county is not entitled to take this family’s property. Property rights are sacrosanct in this country, and we will not simply lie down and let the government trample on our constitutionally protected freedoms, including the right to own property free from government interference. We are committed to continuing our battle and expect that ultimately the families will prevail and maintain their property rights,” said Randall Levine.

Sarissa Montague has charges dismissed in Allegan County case

Attorney Sarissa Montague convinced the Allegan County Circuit Court to dismiss criminal charges against her client, Troy Jones, based on the violation of his Sixth Amendment right to a speedy trial.

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Montague was successful in the disqualification of two Allegan County judges who had been assigned to the cases involving her client. Substantial delays in administrative processing of the case, as well as the insistence that Jones' case be heard by a fair and impartial judiciary caused Jones to remain in custody for 18 months without trial. Muskegon County Circuit Court Judge Annette Smedley, assigned to preside over the case, agreed with Montague that the delay violated her client's constitutional right to a speedy trial. Accordingly, Judge Smedley ordered that the case against Jones be dismissed with prejudice and that he be released from custody.

SARISSA MONTAGUE

Should a police officer be held to higher standards if they are charged with a crime?

Criminal Defense Attorney Sarissa Montague explained to WZZM 13 how cases involving officers work in the court of law after a former Rockford Police lieutenant was charged in connection to an Ottawa County hit-and-run crash. As a legal expert with experience in defending police officers, Montague shared with WZZM 13 that police officers should be held to the same legal standard as an everyday civilian.

Discusses how Michigan's self-defense law became pertinent in Byron Township shooting on homeowner's property

Questions about Michigan's self-defense law arose in the spring after a man armed with a gun was shot by a Byron Township homeowner while he tried to forcibly enter the person's home. In an interview with FOX 17, Montague shared that deadly force is allowed under Michigan's Self-Defense Act only when an individual believes it is necessary to prevent death, great bodily harm, or sexual assault. Montague reiterated that before shooting at another person, one should feel confident of what's going on.

Why Michigan's 1931 anti-abortion law could not be prosecuted based on latest Court of Claims ruling before the 2022 general election

In media interviews with WILX in Lansing and WOOD TV8 and WZZM 13 in Grand Rapids in September, Montague clarified that the attorney general and county prosecutors could not enforce Michigan's 1931 anti-abortion law at that time based on Court of Claims Judge Elizabeth Gleicher's ruling that the law violates the state's constitution. On Nov. 8, Michigan voters approved Proposal 3, known as Reproductive Freedom for All, which amends the state's constitution to overrule the prevailing 1931 law in Michigan that outlawed abortion without exception for rape or incest.



Reveals how a murder suspect's criminal history could be taken into future consideration

Montague spoke with WZZM 13 about how the past criminal history of the suspect in a murder case could play a role in his future. In August, 44-year-old Yenly Garcia, was charged with the murder of Kent County resident Mollie Schmidt. Garcia's history of violence against women will likely come into consideration when it comes to bond, for potential plea negotiations, and for purposes of sentencing, Montague said in her interview.



JESSICA BRANDOW

Describes how an estate plan helps give you control of who is in charge of your affairs

Earlier this year, two adult grandchildren were charged with felony murder, vulnerable adult abuse, and embezzlement of their grandfather William Fitzhugh, who died by homicide. In an interview with FOX 17, Estate Planning and Elder Law Attorney Jessica Brandow shared how estate planning can help in these situations. She explained that having an estate plan gives people the power to decide who is in charge of their affairs, who handles their money and who makes decisions for them.

ANASTASE MARKOU

Speaks with media about prosecuting decisions, HIPAA rights as it pertains to Michigan abortion cases in wake of June's U.S. Supreme Court decision

In June, the U.S. Supreme Court overturned the landmark 1973 Roe v. Wade decision that legalized abortions nationwide, triggering many state laws on abortion, including Michigan. Criminal Defense Attorney Anastase Markou spoke with WOOD TV8, WGVU News, and WZZM 13 about Michigan's 1931 ban on performing abortions, which had been on hold while being challenged in court before the Nov. 8 election.

Argues why shooting death of mother of twin children was in the 'heat of passion'

Markou, the defense attorney of a Kalamazoo man convicted of shooting and killing the mother of their twin children, shared how the incident happened in the heat of passion. During the sentencing hearing for his client, Markou argued that his client, Darien Gilleylen, was in the heat of passion when he shot Shaquita Lewis. Gilleylen was the father of two of Lewis' children, a set of twins who were 14 at the time of the shooting. It was a bizarre situation where two of them got into a dispute and one of them is dead and not the other, WWMT Channel 3 reported Markou saying in court.

RANDALL LEVINE

Analyzes that dashcam videos serve the public, but are not mandated by law

After a deadly shooting involving an Allegan County Sheriff's deputy who did not have a body cam or dash camera in his vehicle, Managing Partner Randall Levine spoke with FOX 17 about whether law enforcement dashcam recordings are required by law. Though not required, Levine shared that recordings are becoming part of public expectation.

Tells Detroit Free Press there must be 'reasonable credibility' for obligation to report in ex-NHL player's sex assault case

When the police report of a decade-old sexual assault case involving Reid Boucher, a former NHL player who had been playing in the international Kontinental Hockey League, and a 12-year-old girl in Ann Arbor was re-released to the Detroit Free Press, it showed what USA Hockey and Ann Arbor Public Schools officials knew about the sex assault case.

LEVINE & LEVINE IN THE MEDIA

Levine, who has represented those accused or under investigation for failing to report, told The Detroit Free Press it's a gray area without knowing the exact details the school had. In his interview, Levine said he believes courts now interpret the law to require reporting of less information than it did in prior years, but also said rumors can fly in schools and false accusations are serious.



RANDALL LEVINE AND ANASTASE MARKOU

Randall Levine and Anastase Markou analyze cooperation deals, jury selection process in plot to kidnap Michigan Governor Gretchen Whitmer federal trial

During the federal trial of four men charged in the alleged 2020 conspiracy plot to kidnap and kill Michigan Governor Gretchen Whitmer in retaliation for her COVID-19 restrictions, Levine & Levine criminal defense attorneys Randall Levine and Anastase Markou spoke with FOX 17 and WZZM 13, analyzing how government cooperation deals could influence either side of the case, and the process of selecting a fair and impartial jury in such a high-profile case.



RANDALL LEVINE, ANASTASE MARKOU, SARISSA MONTAGUE

Levine & Levine attorneys offer legal analysis in case against former GRPD officer Chris Schurr in shooting death of Patrick Lyoya

In the wake of the shooting death of 26-year-old Patrick Lyoya by former Grand Rapids Police officer Chris Schurr on April 4, 2022, Levine & Levine criminal defense attorneys Randall Levine, Anastase Markou and Sarissa Montague were featured legal experts in the media as circumstances surrounding the case unfolded throughout the coming months. Levine talked to WOOD TV8 about the process that follows a police-involved shooting and how it requires time and patience from the community. In an interview with WZZM 13, Markou said he was not surprised about the Kent County Prosecutor Chris Becker's decision to charge Schurr with second-degree murder. When Circuit Court Judge Nicholas Ayoub ruled a jury must decide whether Schurr is guilty or not guilty of second-degree murder in Lyoya's death, Montague told WOOD TV8 it was the "completely correct" decision.



OFFICE HIGHLIGHTS

FAA grants Randall Levine instrument rating

Managing Partner Randall Levine has obtained an instrument rating from the Federal Aviation Administration (FAA). Levine studied with Upper Peninsula pilots, father and son, Bill and Jake Van Effen, during the summer in order to gain their endorsement for the instrument check ride. The Van Effens are largely responsible for Levine's success, devoting many hours of flight time with him concentrating on navigating "under the hood." An instrument rating allows a pilot to fly using instruments only without regard to low visibility. Congratulations to Randall on this accomplishment.



PRECIOUS MOMENTS WITH MOE

Moe traveled back and forth between Michigan's Upper Peninsula this summer, where he enjoyed his time at the lake, and acted as copilot for the flights between Marquette and Kalamazoo. He routinely attends many meetings in Kalamazoo, laying quietly on the floor of the conference room and is a comfort to all who step off the elevator.

