

LEGAL EASE

RENEWABLE ENERGY INITIATIVES

By Tony Quarto, Attorney

Here's how the Federal Government is encouraging businesses and individuals to increase their energy efficiency.

The recent federal stimulus package, signed into law in February, contains key provisions for building and developing clean energy industries in the United States. The American Recovery and Reinvestment Act of 2009, otherwise known as the "Stimulus Bill," made significant changes to prior tax incentives for renewable energy. The

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SMITH HAUGHEY
RICE & ROEGGE

Guiding you through
the legal process.

Spring 2009

IRAS: INVESTMENT MISCONCEPTIONS

By George Bearup, Attorney

Some savvy investors are benefiting from depressed prices in this tough economy – but beware, when it comes to IRAs, all investments are not created equal.

During this economic "meltdown," we are frequently reminded that many investment opportunities can be exploited while prices are low. Individuals may be tempted to tap into their IRAs in order to take advantage of current "bargain basement" prices. Before accessing your IRA assets to seize these opportunities, it is important to remember that not all assets can be purchased and held in an IRA. Even assets that carry with them bargain prices may not be eligible to be held in an IRA without exposing the IRA owner to immediate income taxation.

Life Insurance

One asset that is statutorily prohibited as an IRA investment is life insurance. **Caution:** What may look like a permissible investment, such as an annuity contract, may in actuality be viewed by the IRS as life insurance.

The tax code also clearly states that the purchase of other unique investments by an IRA will be treated as a "distribution" to

the IRA owner – which means immediate income taxation and possible excise tax penalties if the IRA owner is under the age of 59 ½ years.

Collectibles

Prohibited investments include "collectibles," which are defined as artwork, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, musical instruments, and historical objects, e.g., documents or clothing.

Excluded from the definition of "collectibles" are U.S. gold, silver

and platinum coins, along with gold, silver, platinum, and bullion – but only if these precious metals are physically held by a trustee or custodian (not your safe deposit box!)

Businesses & Real Estate

IRA owners are often tempted to invest in closely held businesses and real estate. While these assets are technically eligible IRA investments, they carry their own set of dangers. Business deals that use IRA assets might fall under the broad umbrella of a *prohibited transaction*,

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WOMEN-OWNED BUSINESSES IN THE NEW ECONOMY

**THINKING OF STARTING A NEW BUSINESS?
HERE ARE SOME THINGS YOU SHOULD CONSIDER.**

By: Rachel Brochert Roe, Attorney

Nearly every week lately, I am contacted by a woman entrepreneur: someone who is leaving the 9 to 5 grind to start up a business that combines her passion with a way to earn a living. These women are not alone. Statistics confirm what I've suspected for years: women business owners are becoming more and more commonplace. Nationally, 28% of all businesses are owned by women. In Michigan, women own over 250,000 businesses! (*Statistics: U.S. Census Data and Small Business Administration*)

Now may be a good time for women to follow their dreams and establish a business. More and more, companies large and small are implementing commitments to diversify the companies they do business with. This means that a woman-owned business may receive a preference over a male-owned business offering the same product or service. Additionally, the Obama administration has made a commitment to advance women-owned businesses through the enforcement of a mandate requiring 5% of all federal contracts to be issued to women-owned businesses. President Obama has also pledged to strengthen Small Business Administration loan programs to ensure that minority and women-owned businesses have greater access to capital.

Protect Yourself

When establishing a new business, it is important to plan and consult with trusted advisors before taking a good idea and running with it. For instance, an attorney should be consulted regarding establishing a business entity, such as a corporation or a limited liability company. Establishing a business entity is necessary to protect the business owner's personal assets in the event that the business is not financially successful or is the subject of a lawsuit.

An attorney can also help new business owners evaluate whether any intellectual property issues exist before promoting their new idea. A business attorney will explore questions with the owner such as: Is the chosen name or logo available, or has someone else already registered that name? Is the idea patentable? Should vendors or employees be required to sign a confidentiality agreement? Would a copyright or trademark protect the business? Do you need employment contracts for your employees? If working with a business partner, an attorney can develop a "buy/sell" agreement that spells out the rights and responsibilities of each partner if one wants out of the business, dies, or becomes disabled.

A lawyer can also assist the business owner in reviewing contracts needed to set up the

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Stimulus Bill built upon prior renewable energy provisions contained in the Emergency Economic Stabilization Act, also known as the “Bailout Bill,” which was signed into law on October 3, 2008.

Setting the Stage: The Bailout Bill

The October 2008 Bailout Bill provided significant tax incentives for renewable energy. For example, it extended the production tax credit, which is a tax credit for producing electricity from wind, through 2009. It also contained a Small Wind Investment Tax Credit for 30% of total installed costs for small wind systems (100kW capacity or less) for home, farm or business use. Residential systems, however, were capped at \$1,000 per kilowatt capacity up to \$4,000.

The Bailout Bill also gave a credit for geothermal heat pump installations, capped at \$2,000. Finally, the bill provided a 30% residential credit, with no cap, for solar electricity.

Stimulus Bill: More Renewable Energy Incentives

The Stimulus Bill extended and expanded tax incentives for energy-related investments. This Bill extended the production tax credit available for wind through the end of 2012. Additionally, the production tax credit was extended to other renewable energy technologies, such as biomass, geothermal, landfill gas, waste-to-energy, and marine renewable. For these other renewable industries, the production tax credit is effective through 2013.

Renewable energy proponents see this production tax credit as a vital component to the development of renewable energy technologies. The credit gives renewable energy investors longer term security, and provides a mechanism for driving more extensive renewable energy technology development.

The Stimulus Bill also eliminated the prior investment tax credit dollar caps for qualified residential renewable energy technologies. The Small Wind Investment Tax Credit previously had a dollar cap of \$4000, and geothermal had a \$2000 cap. Under the Stimulus Bill, there is now an uncapped 30% credit for residential installations of small wind, solar water heating, geothermal heat pump, and solar electricity technologies.

Advocates of renewable energy development see the removal of these caps as a fundamental building block for promoting these technologies, noting that the growth of these technologies has been limited, primarily due to cost. The removal of the caps may well be the spark that ignites increased demand for these technologies.

From Incentives to Action

The legislative changes set forth above are highlights of changes designed to promote renewable energy development. These new incentives provide opportunities for both companies that are engaged in renewable energy *and* individuals who seek to increase their own energy efficiency. The enactment of the renewable energy legislation is only half the battle. It is now up to businesses and individuals to use the tools provided in the recent legislation to build our nation's renewable energy future.

The Renewable Energy Team at Smith Haughey will continue to monitor developments in legislation related to renewable energy and provide land and business owners with up-to-date information on these issues.

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WORKING IT OUT WITH A COMMERCIAL LENDER

WHAT TO DO WHEN A BUSINESS HAS NOT WORKED OUT AS PLANNED.

By Chuck Judson, Attorney



The recent tightening of credit in commercial lending markets has affected the ability of many small businesses to manage cash flow effectively. Traditionally, businesses that provided credit terms and carried accounts receivable frequently stabilized cash flow by maintaining a line of credit with a local bank. With the advent of new federal regulations and internal restrictions regarding the extension of credit, banks have been forced to evaluate credit standards for longstanding business accounts. This has created a growing number of technical loan defaults from businesses that have traditionally been able to rely upon a good credit standing.

As recently as a year ago, a business with good credit had a reasonable opportunity to refinance its debt obligations with a competitor bank. However, the international economic implications of the last quarter of 2008 froze credit markets, which served to prevent even good business opportunities from being financed. How does a business evaluate its opportunity to refinance in an uncompetitive market, and remain in business after its loans have been called?

A Four-Step Approach

There are four basic steps we counsel businesses to take when its loan relationship with a lender is coming to an end:

Step 1: Evaluate the Business

The first is to assess the business' overall situation. Can expenses be cut to maintain cash flow for the foreseeable future while industry prospects are evaluated? If the business generates parts and supplies for the automotive industry, can the business find alternative sources for its customer

base if the automobile industry does not recover?

It must be evaluated whether the business took on too much debt in relationship to its current operating revenue. This involves asking tough questions: Is there a portion of this business which could be sold, thereby freeing up either cash or, in the alternative, removing debt which is preventing the business from operating efficiently? The key to the future may very well lie in understanding the strengths and the weaknesses of current operations.

Step 2: Evaluate The Owner's Role

The second step is to separate one's role as the owner of business from that of being the CEO of the business. While the business may be suffering credit related problems, it's important to evaluate the impact of those financial problems on the owner's personal finances. Typically, commercial loans require a personal guarantee of all indebtedness to be provided by the owner/CEO. Assuming the owner has guaranteed the business' debt, it is important to evaluate how this guarantee impacts personal wealth. The owner should review all of the loan documents and determine whether a cap was negotiated to limit liability on a personal guarantee. Finally, it must be understood that any further transfer or diversion of personal resources into the business after a default exists may jeopardize the owner's ability to recover that value.

Step 3: Create a Plan of Action

The third step is to develop a plan of action. By evaluating both business and

personal financial situations, the owner has provided a level of knowledge from which to evaluate options. As an example, the owner should now be in a position to evaluate whether the business is making money even though encumbered by debt, or whether the business is not capable of operating without further losses.

I recommend that clients put a pencil to paper at this stage in an effort to develop all of the options they see available. While refinancing may not seem likely, owners should evaluate how much debt their business could carry at current rates of interest in order to help better understand what can be done to direct a financial recovery. It should be determined whether or not the debt is secured or unsecured. Unsecured debt can be addressed through a Chapter 11 bankruptcy, but a Chapter 11 is less efficient to address secured indebtedness.

Owners should also evaluate whether the bank has retained sufficient collateral to pay its debt. For instance, the owner may list his business' current inventory at full cost value in maintaining the book value of the business. Nevertheless, a forced sale of that inventory could easily result in a discount of 50% or more. The same consideration applies to accounts receivable. While the owner may be counting on receivables at full value, there is at least some discount for the delay it has taken to receive payment, and there is a distinct possibility that some of those accounts receivable will not be satisfied. The purpose of this review and creation of a plan of action is to provide the owner with a level of knowledge to conduct reasonable negotiations with the bank.

Step 4: Talk to Your Lender

The final step is to communicate with the lender. While it may seem obvious, the bank

Collecting on a Debt

In the land of contracts and debts, information is king. Use information to increase the likelihood of collection.

By: Joe Belsito, Attorney

Customers who refuse to pay bills continue to frustrate businesses, especially during these challenging economic times. Companies do not typically or voluntarily engage in the business of loaning money and a customer's refusal to pay for goods or services often results in a lawsuit. Depending on the amount owed and the reason for non-payment, filing a lawsuit may or may not yield positive results. Businesses that need to collect a debt should consider taking the following steps to help make the collection process as inexpensive and efficient as possible.

As a disclaimer, collecting debts from individuals as opposed to businesses implicates a host of federal and state laws that strictly govern the methods by which a creditor may collect a debt. Violations often result in strict liability, statutory damages, and attorney fee awards. Businesses must proceed cautiously when attempting to collect any consumer debt to avoid inadvertently falling under the rubric of "collection agency" as defined by either federal or state laws.

First, a business should provide to its attorney as much documentation as possible pertaining to the debtor. The debtor's name, last known address, and any contact person all go a long way toward streamlining the complaint-drafting process. Presumably, businesses obtain this information before transacting business in the first place. Businesses should not accept project names or brand names as identification of the customer – insist on knowing the exact identity and contact information for anyone purchasing goods and services.

Second, a business should keep accurate, dated, and complete records of all business transactions. Business records of the actual debt should include the balance, any interest charged and the written agreement to pay interest on the debt if past due, and any other fees or set-offs.

Similarly, businesses should provide their attorney with copies of any signed

contract or other agreement that addresses their relationship with the debtor, or establishes an open account with the debtor. Provide copies of any communication with the debtor about the debt, as these documents may help establish an "account stated" – a special kind of debt that, not unexpectedly, receives special treatment under Michigan law.

Third, businesses should provide their attorney with the name of the person in their accounting department, or the person overseeing the company's finances and/or the debt, from whom the attorney can (if necessary) obtain an affidavit with respect to the debt and other amounts owed.

On the other hand, debtors reading this article should note that exposing the creditor's lack of documentation can put a serious chink in a lawsuit's armor. Our clients have experienced first hand the power of demanding that a creditor prove its case. If demands to provide documentation go unanswered, a dismissal of the case may result.

Businesses should always take lawsuits seriously and promptly turn over the matter to their attorney. Waiting until the expiration of the time deadline for filing an answer with the hope that "the attorney will fix it" only leads to disappointment. The more time an attorney has and the earlier his or her involvement, the greater the likelihood of curtailing attorney fees and expenses and procuring positive results.

For attorneys, the hardest debts to litigate (and the lawsuits with the least chance of success or collection) are those "skinny" on information. The investigative legwork performed by the attorney translates into attorney fees and, in the context of debt collection, may mean throwing good money after bad.

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is also evaluating the owner's ability to understand how the current state of affairs affects her business operations. If she has evaluated the potential discounted sale of the bank's collateral properly, she should be able to evaluate whether the bank anticipates receiving payment in full. If the bank's collateral position seems secure, prospects of the bank continuing to accept interest payments from the business for a limited period of time in order to allow the business to refinance with another bank seems reasonable.

In addition, the owner's ability to recognize whether the business is actually operating at a revenue loss helps to identify whether continued operations for the business erode the limited collateral currently retained by the bank. In short, the owner should talk to the bank from a business owner's point of view. The bank's sole objective is to obtain a full repayment of its debt. Maintaining a personal relationship may be of no consequence at this time. Communication with the bank must emphasize recognition of the bank's interest as well as the business'.

It is not an easy situation when a bank initiates a default and calls its loans due. Evaluating the current business environment will help business owners put together a plan that could actually lead to a recovery of the business. A workout specialist can help owners implement many tools, including potential use of Chapter 11 bankruptcy. A properly structured workout plan will serve not only the business' best interest, but it may actually address the best interests of the lender as well.

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raisingthebar: Recent SHRR Achievements

Space does not allow publication of every success we achieve on behalf of our clients – but in each issue, we'll spotlight some of our more noteworthy accomplishments:



Tom Aycock obtained a dismissal on behalf of a plumbing subcontractor who had been sued by the owner for the alleged negligent installation of

plumbing. Although the judge originally denied the motion, Tom pointed out the judge's legal error by filing a motion for reconsideration – and he convinced the judge to reverse his earlier opinion.



Karl Butterer recently obtained dismissal of a negligence lawsuit brought against a county road commission for allegedly failing to properly operate a snowmobile trail.

The plaintiff struck a downed tree with his snowmobile and claimed that the defendant was liable under Michigan's Recreational Land Use Act. Karl immediately filed a successful motion for summary disposition, which avoided discovery costs for the client.



Pat Geary successfully represented a shipping supplies company in a case that ended in settlement. As a result, the company and a family LLC received a substantial recovery on the claim against the insurer following a fire. In addition, Smith Haughey also recently ended two other cases for the shipping supplies company, in which, with **Rachel Roe's** help, we sued to enforce two non-compete agreements and were awarded with favorable orders restricting former employees from contacting customers and prospects of the company.



Ben Hammond secured a judgment of no cause for action in a breach of contract dispute. Ben's client had been sued for a debt allegedly

owed under the terms of a contract. Following the presentation of testimony and evidence, the judge ruled that Ben's client had no responsibility to pay any further sums on the contract.



Adam Lett assisted a client in resolving a trust contest against a financial advisor who wrote himself into a senior woman's will for a significant percentage of

her \$5 million estate. The advisor ended up with nothing.

Adam Lett also represented a bank fiduciary to prevent a real estate agent from surreptitiously probating an estate of a senior woman. The agent had a lawyer write a will that gave him 40 percent of her \$3 million estate. The woman's heirs are now involved in litigation to set aside the will.



Adam Lett and Kristen Ray recently achieved a significant victory in Kent County Probate Court on behalf of one of several siblings engaged in

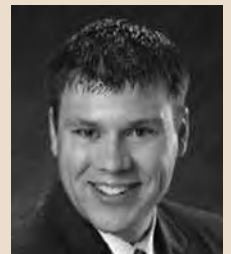
protracted litigation regarding their parents' multi-million dollar estate. For almost two years, the opposition had refused to disclose financial information regarding the assets they control and had been distributing to themselves. A two-day bench trial regarding the accounting was scheduled, which we objected to as inadequate. Ultimately, the judge ordered the appointment of a Special Master with forensic accounting experience to conduct an independent examination of the entire estate back to the earliest possible date of wrongdoing,

and ordered the siblings to pay for the examination out of funds they control. Our client will end up with a roadmap to recover any misspent assets at no cost to her.



Craig Neckers, John Kruis, and Kristen Ray secured orders in limine that have the likely effect of eliminating over \$1 million in damages the plaintiff hoped to claim in a medical malpractice matter.

Craig Neckers secured a summary dismissal of a 68-paragraph grievance filed with the Attorney Grievance Commission.



Todd Millar and Andy Blodgett obtained a dismissal in favor of their client, a water and sewer authority. The plaintiff claimed that his proposed development was unfairly treated when the authority established a new rate structure. Todd and Andy convinced the court that the authority had treated the plaintiff's proposed development the same as all other similarly situated developments. The client was pleased that this decisive ruling would allow it to continue implementing its recently enacted rate schedule, allowing commercial growth to continue within the authority's jurisdiction.



Craig Noland successfully represented a township fire department and the operator of a fire truck in defense of a personal injury complaint filed on behalf of a school bus driver. At the time

of the accident, the fire truck was responding to an alarm. While making a left turn at an intersection, the operator struck the school

bus. (There were no kids in the bus at the time.) At the conclusion of trial, the jury determined that the operator of the fire truck was not negligent, and thus returned a verdict in favor of defendants.

In a recent case, the plaintiff sued a township under the Religious Land Use and Institutionalized Persons Act (RLUIPA), as well as under a variety of constitutional theories, including free exercise of religion, freedom of association, freedom of assembly, and equal protection. The essence of the plaintiff's claim was that the township ZBA improperly determined that a building proposed to be constructed by the plaintiff was not a "church" for purposes of the zoning ordinance. Initially, the trial judge granted summary disposition to the plaintiff.



The township filed an immediate appeal, on which **Craig Noland** and **Bill Henn** collaborated. After briefing and oral argument, the Michigan Court of Appeals issued a

unanimous, published decision reversing the Circuit Court – for the reason that the township ZBA's denial of the plaintiff's request for a variance from the ordinance's street frontage requirement was supported by competent, material and substantial evidence, and did not violate any law or constitutional protection. The Court therefore concluded that the plaintiff's RLUIPA and constitutional claims relating to whether the proposed building was a church for purposes of the ordinance were moot.



Jack O'Loughlin was successful in obtaining a no cause verdict on behalf of our client obstetrician following a two-week jury trial in Muskegon. The case involved a forceps delivery, and included

claims against our client of failure to obtain informed consent and improper application of forceps.



Jason Thompson was successful in Leelanau Circuit Court obtaining a special exception permit for a landowner in a Critical Dunes regulatory matter.

The Circuit Court decision reversed a decision by the DEQ director to deny the permit. The DEQ has elected not to appeal. In addition, Jason was successful in convincing the State of Michigan to dismiss a State Assessors License revocation hearing against another client.

Jason Thompson also was victorious in a trial in United States Bankruptcy Court (Western District of Michigan). He represented a creditor who had sold his business to the bankruptcy debtor with seller financing. After less than two years, the debtor stopped making payments and filed for bankruptcy. SHRR successfully argued that the bankruptcy debtor, a certified public accountant, had intentionally misrepresented his financial status in connection with obtaining financing for the purchase agreement. The case required discovery and analysis of a series of financial transactions meant to hide the true state of the debtor's affairs. As a result, the Bankruptcy Court ruled the \$1.3 million debt was nondischargeable and the bankruptcy debtor is still liable to the creditor, despite his bankruptcy filing.



Jon Vanderploeg and **Marilyn Tyree** succeeded on appeal to disqualify an adverse co-defendant's attorney on the basis of his conflict-of-interest.

which prohibits "self-dealing" between the IRA owner and members of the IRA owner's family or entities that the IRA owner controls.

For example: A business owner uses his IRA assets to purchase a vacant lot next to his business plant. While the lot in the industrial park appears to be a sound long-term investment, it also permits the business owner's company to expand its plant in future years. Is it a prohibited transaction, since his business benefits from his control of the adjacent lot? If a *prohibited transaction* occurs, the penalty is clear: **all** IRA assets are deemed to be distributed to the owner and thus immediately taxable and subject to the 10% excise tax if the owner is under the age of 59 ½ years.

Another note of caution is with regard to the income tax consequences that arise from real estate or businesses held in an IRA. IRAs are generally income tax-deferred investments, designed to accumulate income until the IRA owner attains retirement age. It is possible, however, for an IRA to recognize unrelated business taxable income well before the owner's retirement. If the IRA owner's investments are debt financed, e.g., real estate that is subject to a mortgage, the IRA holder may have to report income and file an income tax return for the IRA for its *unrelated business taxable income* that exceeds \$1000 in a year.

Also, while the owner's IRA can invest in an active business as its sole owner or as a partner, that business will also cause *unrelated business income* to be recognized and reported. Or, if the IRA is pledged as collateral security for a loan, the IRA will be treated as having made a taxable distribution to the IRA owner of the pledged portion of the IRA account.

While the current turbulent economic times can create investment opportunities for those who have the cash and the courage to take advantage of them, tremendous caution needs to be exercised if IRA assets are the source of funds to be used.

George can be reached directly at gbearup@shrr.com or 231.486.4510.

Have You Heard The News?



Andy Blodgett spoke at the annual meeting of the Michigan chapter of the Association of Consulting Foresters.



Cindy Boer has been invited to serve on the Legal Issues Committee for a Spectrum Health Center for Disease Control grant entitled "How to Deliver Essential Health Care Services During an Influenza Pandemic."



Smith Haughey Rice & Roegge is pleased to announce that **Peter Boyles, David DeGraw, Craig Neckers, Craig Noland, Robert Parker,** and **Thomas Weibel** have been elected to the firm's Board of Directors.



Karl Butterer was recognized by *West Michigan Business Review* as a "Thought Leader in Entertainment Law."



Carol Carlson recently spoke to nursing students at Baker College on "Legal Issues for Nurses."



Stephen Chambers was recently presented the Madeleine Thomas Award by the Grand Traverse-Leelanau-Antrim Bar Association. This annual award is given in recognition of an attorney's service to the community,

non-profit work, and overall actions and personal contributions that make the community a better place to live and work.



Gary Eller has been appointed to serve on the State Bar District G Character and Fitness Committee by the Board of Commissioners.



Joe Engel presented "Cardiology Closed Claims: A 2009 Perspective" to a regional cardiology group.



Chris Genthner recently spoke to a hospital's board of directors on new developments in the area of credentialing.



Smith Haughey Rice & Roegge recently hired **Mariana Guzman** to serve in the internship program sponsored by the firm's Diversity Committee.



Jeff Gwillim and Rachel Brochert Roe spoke to a group of employers about the interplay

between workers' compensation, the Americans with Disabilities Act, and the Family Medical Leave Act. Rachel also gave presentations to the Traverse City Area Chamber of Commerce and the Western Michigan Chapter of the Associated Builders and Contractors. Her presentations were titled, "What Employers Need to Know about the Employee Free Choice Act." Rachel also spoke to the Michigan Credit Union League on the topic, "Updates on the Americans with Disabilities Act and the Family and Medical Leave Act."



Paralegal **Nancy Lentner** has been elected chairperson of the Legal Assistant's Section of the Grand Rapids Bar Association.



Brian Molde and Ben Hammond have been named shareholders of the firm.



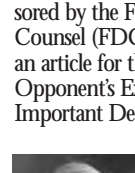
Tom McCarthy has been named "Grand Rapids *Best Lawyers* Personal Injury Litigator of the Year." He received this honor as a result of consistently being rated by his peers at the top of the Personal Injury Litigation field.



Dan Morley spoke at the 2009 Lending Conference of the Michigan Credit Union League. His presentation was titled, "Foreclosures and Understanding the Abandonment Rules."



Craig Neckers has been appointed to the faculty of the Litigation Management College, sponsored by the Federation of Defense & Corporate Counsel (FDCC). He and **Todd Millar** authored an article for the *FDCC Quarterly* titled, "The Opponent's Expert: Preparing for the Most Important Deposition in the Case".



Based on his national reputation in the area of legal malpractice defense work, **Jack Oostema** was invited by the Professional Liability Committee of the Litigation Section of the American Bar Association to serve as the author of the chapter about Michigan law for a publication entitled *50-State Survey of Legal Malpractice Law*. This is a comprehensive guide to legal malpractice law throughout the country.



Tony Quarto spoke at a Michigan State University Extension wind energy workshop about wind energy contracts for land owners. Smith Haughey was an event sponsor.



Jill Quillen, Human Resources Director, was elected secretary of the Association of Legal Administrators, West Michigan Chapter.



Steve Stawski has been elected to the Board of Directors of the YMCAs Camp Manitou-lin Board.



Randy Velzen has been elected vice chair of the family law section of the Grand Rapids Bar Association. He also co-presented a section on Collaborative Divorce as part of the Annual Advanced Negotiation and Dispute

Resolution Institute, which is sponsored by the Institute of Continuing Legal Education of the State Bar of Michigan. He made this same presentation to the Traverse City Bar Association on Collaborative Divorce. Randy provides training on Collaborative Divorce for the Collaborative Law Institute of Michigan.



Shawn Worden spoke at the seminar, Medical Records Law in Michigan. His presentations were titled, "Computerization of Medical Records, Electronic Transmission and Security Issues" and "Patient Self Determination Act, Advance Directives, Minors or Incompetent Adults-Medical Records".

Introductions Are in Order



Ellen Fred serves clients in all aspects of land conservation law, including drafting and customizing conservation easements and related documents; analyzing the state and federal income, gift, and estate tax implications

of various conservation approaches; and negotiating with landowners, tax-exempt organizations, and governmental agencies. Her practice also includes counseling taxable and tax-exempt entities on corporate governance and tax-related issues as well as assisting clients with estate and gift tax planning and general real estate matters.

Ellen is licensed to practice in the state courts of Michigan and California, and she is a member of the Grand Traverse-Leelanau-Antrim Bar Association, Women Lawyers Association of Michigan, Heart of the Lakes Michigan Model Easement Revision Working Group, and the Land Trust Alliance. In addition, she serves as a member of the Board of Directors for the Hoku'upa'a School in Kealahakua, Hawaii.

Ellen received a Bachelor of Arts degree, with High Honors and High Distinction, in Russian and East European Studies from the University of Michigan; and a Juris Doctor, *summa cum laude*, with a tax concentration, from the University of California, Hastings College of the Law.



Kirsten Keilitz practices family law and represents family members in matters involving domestic relations, divorce, child custody, pre-nuptial and post-nuptial planning, and facilitative mediation. In

addition, Kirsten represents families in domestic violence, drunk driving, and other misdemeanor defense matters.

Kirsten is admitted to practice in the state courts of Michigan and the federal courts for the western district of Michigan. She is a member of the State Bar of Michigan, Grand Traverse-Leelanau-Antrim Bar Association, and the Women Lawyers Association. In addition, Kirsten is active in the community and has served as past president of both Traverse Bay Sunrise Rotary and United Way of Northwestern Michigan.

She also serves as a member of the advisory committee for the Legal Assistants Program at Northwestern Michigan College and volunteers for the Third Level Crisis Center Free Legal Clinic. Kirsten received a Bachelor of Arts degree from the University of Michigan and a Juris Doctor from Thomas M. Cooley Law School, where she was a recipient of Certificates of Merit in environmental law and environmental and toxic problems.



Mike Lewis has practiced law for more than 35 years. He represents clients in criminal investigations and prosecutions, including computer crimes, drunk driving, and negligent

homicide; and also those who are confronting family law issues, including juvenile division matters, divorce, separate maintenance, child custody, support, parenting time matters, and cases involving children born out of wedlock.

Mike is admitted to practice in the state courts of Michigan, the federal courts for the western district of Michigan, and the United States Supreme Court. He is a member of the State Bar of Michigan, Grand Traverse-Leelanau-Antrim Bar Association, Criminal Defense Attorneys of Michigan, and the General Civil Mediation Panel of the 13th Circuit Court. In addition, he serves as a commentator for both family law and criminal law seminars for the Institute of Continuing Legal Education.

Mike received a Bachelor of Arts degree with honors from Michigan State University and a Juris Doctor from Wayne State University Law School.



Tom McCarthy originally joined Smith Haughey in 1978 and, with the exception of three years during which he worked with a small plaintiff firm, he has been

an important part of Smith Haughey's litigation team ever since. He recently returned to Smith Haughey and focuses his trial practice in the representation of catastrophically injured people.

Tom maintains a statewide practice representing people and families whose lives have been damaged through the negligent or wrongful conduct of others. He is a Fellow of the American College of Trial Lawyers and a member of the American Board of Trial Advocates. Tom was named "Grand Rapids Personal Injury Litigator of the Year" for 2009 by Best Lawyers in America and serves as Co-Chair of the firm's Plaintiff Personal Injury Practice Group.

In addition to his trial practice, Tom has worked as a neutral facilitative mediator since 1989. He has been certified to mediate cases in the United States District Court for the Western District of Michigan since 1995 and is on the list of court-approved mediators in that court and many state courts.



Brian Pearson practices in the areas of construction law, legal malpractice defense, and medical malpractice defense. He previously served as an officer in the United States Army where he earned the Bronze Star Medal for his

actions as company commander while deployed in support of Operation Iraqi Freedom II.

Brian is admitted to practice in the state courts of Michigan. He is a member of the State Bar of Michigan, Grand Rapids Bar Association, Michigan Defense Trial Counsel, and the American Inns of Court. He is also a member of the West Point Society of Michigan and the American Legion.

Brian received a Bachelor of Science degree in International Relations from the United States Military Academy at West Point and a Juris Doctor from Indiana University, where he was on the Dean's List, involved in the International Law Society, and a Moot Court participant.



Kristen Ray represents clients involved in legal malpractice defense, commercial litigation, and construction cases. Prior to joining Smith Haughey, Kristen served as an attorney at the Committee for Public

Counsel Services in New Bedford, Massachusetts.

Kristen is admitted to practice in the state courts of Michigan and Massachusetts, as well as in the federal courts for the Western District of Michigan. She is a member of the State Bar of Michigan, Massachusetts Bar Association, Federal Bar Association, Grand Rapids Bar Association, Michigan Defense Trial Counsel, and Grand Rapids Young Professionals.

She received a Bachelor of Arts degree in Mathematics from Butler University and a Juris Doctor, *cum laude*, from Suffolk University Law School, where she was a member of the Dean's List and a recipient of the Suffolk University Law School Jurisprudence Award.



Ron Schuknecht has more than 25 years of experience representing creditors and trustees in bankruptcy court. In addition to bankruptcy law, he practices in the areas of real estate law, misdemeanor criminal defense, and family

law. Ron is admitted to practice in the state courts of Michigan, the federal courts for the Western District of Michigan, and the Michigan Court of Appeals. He is a member of the State Bar of Michigan, Federal Bar Association, National Association of Bankruptcy Trustees, and the American Bankruptcy Institute. He is also a member of Northwestern Michigan College's Open Scholarship Committee.

Ron received a Bachelor of Arts degree from Michigan State University and a Juris Doctor, *cum laude*, from Thomas M. Cooley Law School.

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business, such as bank loan documents, real estate leases, and equipment contracts. A lawyer can assist in drafting sales and service contracts that legally spell out the rights and obligations of the parties and your options if things don't go as planned. Business lawyers can also help the owner navigate the maze of government permitting or licensing if applicable to the business. Finally, a lawyer will outline the hiring requirements that will take the business to the next level. Specifically, examining whether the worker is an independent contractor or employee is important – and mistakes in this area can be costly.

Build a Team

Other professionals to consider hiring when building a new business team include an accountant, a commercial insurance agent, a banker versed in Small Business

Administration lending practices, a public relations and marketing firm, a web master, and a professional employer organization. Each of these professionals brings their own perspective and recommendations to build a successful business.

The economy has caused all of us to become more introspective, and to ask ourselves what we value most. If you've always wanted to own your own business, now may be the right time. Opportunities abound for women-owned businesses – and with the right business team, your dream can become a reality!

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