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BOLHOUSE, BAAR & LEFERE, P.C.

ATTORNEYS AT LAW

SUMMER 2011

LESSONS FROM ATTICUS FINCH

The latest American actor to be honored by the U.S. Postal Service is the great Gregory Peck. The stamp portrays Peck in his role as Atticus Finch, the southern lawyer from the 1960 Pulitzer Prize-winning novel, *To Kill a Mockingbird*, by Harper Lee.

Atticus Finch was appointed to represent a black man during the depression in the state of Alabama. His client, Tom Robinson, was accused of raping a young, white woman. In addition to sharing a great story with her readers, Lee also shares a few lessons on courage, compassion and racism – lessons we all need to learn and remember, even 50 years later.

At one point Atticus tells his son, Jem, that courage is “when you’re licked before you begin but you begin anyway and you

see it through no matter what.” Lee artfully teaches us the lesson that human dignity and respect for others should be fundamental and universal. At a time when we Americans can be narrow-minded and often quick to judge and condemn, Atticus’



message to his daughter, Scout, is a lesson for all of us: “You never really understand a person until you consider things from his point of view; until you climb around in his skin and walk around in it.”

If you’ve not taken time to read this classic, I encourage you to put *To Kill a Mockingbird* on

your summer reading list. For those less inclined to read, the 1962 movie starring Peck won 3 Oscars, including Best Actor for Peck, and was nominated for 5 others. In 2003, Atticus Finch was voted the *Greatest American Film Hero* of all time by the American Film Institute. Imagine the many heroes that needed to be defeated to win this honor!

A half-century later, Atticus Finch continues to be an incredible role model for each one of us, attorney or not. And as an attorney as well as an avid stamp collector, I thank the U.S. Postal Service for reminding us of the greatest American film hero, Atticus Finch.

Rick Bolhouse focuses his practice in the areas of Family Law, Collections/Creditors’ Rights, Personal Injury and General Litigation. You can reach him at rickenb@bolhouselaw.com.

WHO HAS THE RIGHT TO THE WATER?

In addition to our wonderful Great Lakes, Michigan also has more than 11,000 inland lakes, many of which have public roads that were designed to dead end at the water. For more than 130 years, Michigan courts have determined that these roads may be used by the public to access the water for boating, fishing, swimming, and temporary anchorage. However, the law becomes less clear as to the public’s rights when it comes to recreational

activities such as sunbathing, picnicking, and lounging on shore. Michigan courts have said that anyone attempting to show that the public has rights to the water beyond mere access to it must prove that the dedicatory of the public road *intended* it to be used for additional uses such as recreational activities. Therefore, public roads that dead end at the water’s edge may generally be used to access the water, not lounge on shore.

Additionally, many lakes in Michigan have scenic boulevards running along the lake-shore. With regard to these public roads, the general public has absolutely no right to the water, either for access or for recreational activities. According to Michigan law, the right to the water is maintained by the owners of the land adjacent to, and separated from the water by, the public road.

As you head out to your favorite lake this summer, consider your legal right to access the water from a public road. You probably have the right to swim out from shore, but probably not to lie on the beach.

Jeannine Bolhouse focuses her practice in the areas of Family Law, Civil Litigation and Collections. You can reach her at jeannineb@bolhouselaw.com.

Inside this Issue:

- New Law in Town 2
- Social Media and the Law 2
- Bolhouse Law Welcomes Michelle McLean 3
- Choosing to Serve on a Non-profit Board 3
- What ‘Full Service’ Means for You 4



There's a new law in town. Effective July 1, 2011, Michigan will implement its Estate Recovery Act, a law required by the federal government since 1993, and passed in Michigan in 2007, but never implemented until now.

Estate recovery simply means that a state can seek to recover payments made on behalf of an individual receiving Medicaid from that individual's property after he or she dies.

Federal law requires certain provisions to be included in all estate recovery legislation. First, estate recovery must be pursued against Medicaid recipients who permanently reside in a long-term care facility, those over 55

NEW LAW IN TOWN

who receive certain Medicaid benefits, and those who receive Medicare as well as Medicaid. Second, estate recovery must be pursued against a Medicaid recipient's probate estate. Third, estate recovery usually occurs upon the death of the Medicaid recipient but must be delayed if there is a surviving spouse, disabled child or child under 21 years old. Finally, estate recovery legislation must include a hardship waiver provision.

At this time, Michigan's estate recovery legislation only applies to a Medicaid recipient's probate estate. Consequently, estate recovery can be avoided by planning to insure

nothing will be included in a Medicaid recipient's probate estate upon death. There are several Medicaid planning tools that can be used to accomplish this.

If you or a loved one are receiving Medicaid benefits but also have an interest in your home, have a vehicle or other assets that would be included in your probate estate, contact us to see if we cannot preserve these remaining assets for your family.

Tom Vander Hulst focuses his practice in the areas of Business Law and Estate Planning/Probate. Reach him at tomvh@bolhouselaw.com.

SOCIAL MEDIA AND THE LAW

Last month our firm won a case, in part, by presenting the contents of the defendant's WebPages, blogs, and YouTube posts to the presiding judge. While the evidence was not the proverbial "smoking gun," it definitely pushed the scales of justice in our favor.

Evidence taken from social media sites is becoming more and more common in family law cases, and privacy settings may not keep the information protected. In a New York case, the judge ruled that the defendants could have access to all of the plaintiff's private postings to MySpace and Facebook. Along with using Facebook

and MySpace, family law attorneys are also using cell phone records to expose affairs, addiction, and poor parenting. The American Academy of Matrimonial Lawyers says that over the last 5 years, 81 percent of its members have used or have faced evidence plucked from Facebook, MySpace, Twitter and other social networking sites, including YouTube and LinkedIn.

Employers are also finding themselves liable for their employees' off-duty posts and tweets. A hospital was recently sued for an employee's embarrassing tweets about a patient. A manufacturer was found

liable for an employee's endorsements of its product. In response, more and more prudent companies are implementing social media policies to deal with this growing problem.

Social media has gone viral as evidence in the courtroom. It has also opened the door to a host of various lawsuits. Think before you post, tweet, or blog *anything*. Remember, once you hit SEND, DELETE will not keep the information from coming back to haunt you.

Michelle McLean focuses her practice in the areas of Family Law, Criminal Law and Real Estate. You can reach her at michellem@bolhouselaw.com.



BOLHOUSE LAW WELCOMES MICHELLE MCLEAN

We are very pleased to announce that Michelle McLean has joined our firm as an Associate Attorney.

Born and raised in the Grand Rapids area, Michelle graduated from Cornerstone University with a Bachelor of Science in Business Administration. She then went on to earn her Juris Doctor, Cum Laude, from Michigan State University College of Law.

Building upon 15 years of leadership in the mortgage lending and real estate industries, Michelle has created a knowledgeable and specialized law practice that is rich with practical experience. This experience allows her to effectively repre-

sent her real estate clients as they navigate property sale and purchase, adverse possession, easements and riparian rights.

She is dedicated to consumer law practice and represents those who have fallen prey to predatory mortgage lending and foreclosure rescue scams.

Michelle has extensive experience representing clients in contested custody matters. She worked previously as a private custody evaluator for the Kent County Friend of the Court. In addition, she has been appointed in Kent County to represent both parents and children in abuse and neglect matters and also to represent individuals in non-murder

felony criminal defense and juvenile delinquency proceedings. Her family law experience includes divorce, custody, parenting time, support issues as well as grandparent rights, paternity, and adoption.

Managing Partner Joel Baar says Michelle is a welcome addition to our practice. "We are pleased to add an attorney of Michelle's caliber, ability, and expertise, and are confident that she will provide significant value to our clients, as well as leadership within our community."

If Michelle can assist you in any way please feel free to give her a call.



Michelle McLean

CHOOSING TO SERVE ON A NON-PROFIT BOARD

Like many of you, our attorneys serve on numerous Boards of Directors for various non-profit organizations. The reasons you choose to serve on such boards are wide ranging. Some of you see it as your civic duty, some believe in charitable service and some simply have a personal interest in the organization's cause.

No matter the motivation behind it, once you accept a position on a board, you have inherently accepted certain fundamental responsibilities, the key responsibility of which is to monitor the organization on behalf of the members or the public that it serves. You must act in good

faith and in the best interest of the organization as an ordinarily prudent person would in a similar situation. You are also charged with a duty of loyalty to the organization and may not use your position on the board to advance your own private interests. You must concentrate on the charitable purpose, goals and vision of the organization.

State and federal laws governing nonprofits provide various protections for you who serve on its boards. So long as you were acting in good faith and within the scope of your duties as a director, and the act or omission did not

constitute willful misconduct or gross negligence on your part, decisions made by you and the rest of the board are generally free from liability. With that said, it is good practice for every non-profit organization to cover its directors under an errors and omission insurance policy. We strongly urge you to make sure that the organizations for which you serve have such policies in place.

Thank you for *your* service to West Michigan's many non-profit organizations.

Mark Hofstee focuses his practice in the areas of Business Law, Estate Planning and Family Law. Reach him at markh@bolhouselaw.com.



Bolhouse, Baar & Lefere was proud to once again sponsor the Boy Scout Troop 292 and Cub Scout Pack 3391 float in the city of Grandville's 42nd Annual 4th of July parade. We are very proud of our Grandville Scouts!



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WHAT 'FULL SERVICE' MEANS FOR YOU

I was recently in a meeting with one of my corporate clients discussing some work that I was completing for his manufacturing company. At the end of the meeting, he asked if there was an attorney at our firm who could help him with Estate Planning. I immediately assured him there was. Reflecting on the conversation, I was a bit disappointed and embarrassed that my client did not already know that our firm has been doing Estate Planning work for over 30 years!

We want all of our clients to know that we are a "full service law firm." However, "full service law firm" is a phrase that is often heard but seldom understood. To us, "full service law firm" means the formation of long-standing partnerships with our clients by acting as more than just their

attorney, and by handling more than just a single type of case. Below are a few examples of some of the areas that our attorneys practice in:

- Corporate Transactional Work (Buy-Sell Agreements, Mergers and Acquisitions, Succession Planning)
- Business Representation
- Lien Work (Tooling Liens, Construction Liens, Judgment Liens)
- Real Estate
- Employment Matters (Employee Handbooks, Non-Compete Issues)
- Estate Planning
- Collections/Creditors' Rights

- Divorce and Family Law Issues
- Criminal Matters
- Personal Injury Matters

When our clients need help with legal issues of any kind, our full service team is there to give legal advice designed to take the confusion and uncertainty out of each and every matter. We want our firm to be your "go to" legal adviser for all matters. This is what "full service firm" means at Bolhouse, Baar & Lefere.

David Lefere focuses his practice in the areas of Business Law, Commercial Litigation and Collections/Creditors' Rights. Reach him at davidl@bolouselaw.com.