

Grandville State Bank Bldg.  
3996 Chicago Drive SW  
Grandville, MI 49418  
(616) 531-7711  
[www.bolhouselaw.com](http://www.bolhouselaw.com)

# BOLHOUSE, BAAR & LEFERE, P.C.

## ATTORNEYS AT LAW

WINTER 2012

### Frank Murphy - Michigan's Only U.S. Supreme Court Justice

Almost everyone knows that Gerald R. Ford was the only American president born in Michigan. But did you know there has been only one United States Supreme Court Justice born in Michigan?

Frank Murphy had quite an impressive career before he became a Supreme Court Justice. He served as a Captain in the Army during World War I, later opened a law practice in Detroit, and soon became a U.S. Attorney for the Eastern District of Michigan. He then served as a Judge in Detroit's Recorder's Court, where he presided over the famous murder trial of Dr. Ossian Sweet, who was represented by Clarence Darrow. In 1930, Murphy was elected Mayor of Detroit, and served during the early years of the Great Depression.

As part of the New Deal, President Franklin D. Roosevelt set up the first convention of the U.S. Conference of Mayors, and Murphy was elected its first president. As a reward for his service, President Roosevelt appointed Murphy

as the Governor-General of the Philippines, to work on social justice issues. Murphy later became the High Commissioner to the Philippines (essentially the President's representative). Upon his return to Michigan in 1936, Murphy was elected Governor, where he served for 2 years. In 1939, President Roosevelt appointed him to be the Attorney General of the United States.

A year later, Murphy was nominated by Roosevelt and became a Supreme Court Justice. As a Justice, he authored 131 majority opinions and 68 dissenting opinions. He was known for his passion for civil rights and as a 'voice for the voiceless.' As he wrote in his dissent in *Falbo v. United States*, "The law knows no finer hour than when it cuts through formal concepts and transitory emotions to protect unpopular citizens against discrimination and persecution."

Murphy is perhaps best known for his vehemently dissenting opinion in *Korematsu v. United States*, which upheld the constitutionality of the govern-

ment's internment of Japanese-Americans during WW II. Murphy sharply criticized the majority ruling as "legalization of racism."

While serving on the Supreme Court during World War II, Murphy still found time to serve as an infantry officer at Fort Benning, Georgia, while on breaks from the Court. Murphy died at the age of 59 of a heart condition, still serving on the Supreme Court at the time of his death.

As a side note, a client of our firm was one of the Japanese-Americans interned by the U.S. government during WWII. Through his efforts and the efforts of many other Japanese-Americans, the 442<sup>nd</sup> Regiment of the Army, made up almost entirely of Americans of Japanese ancestry, was formed. This regiment served with honor and distinction for the remainder of WW II and became the most highly decorated regiment in the history of the United States armed forces.

Joel Baar works in the areas of Business Law, Employment Law and Real Estate/Construction Law. Reach him at [joelb@bolhouselaw.com](mailto:joelb@bolhouselaw.com).

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### Bolhouse Law Welcomes Attorney Michael Distel



Mike Distel

We are pleased to announce that attorney Michael Distel joined our firm in November.

Born and raised in the Detroit area, Mike earned his Bachelor Degree from MSU and went on to earn his JD from the University of Detroit. A litigation attorney specializing in business litigation, creditors rights, personal injury and employment related issues, Mike brings with

him a significant amount of courtroom experience, in both state and federal courts throughout State of Michigan, including jury trials and appellate advocacy. Mike's experience in the insurance industry brings a new area of expertise to our law firm, which will greatly benefit our business clients. As Managing Partner Joel Baar states, "When the opportunity to add a top-notch attorney who is well-

respected in the West Michigan legal community presented itself, we seized it. We are very pleased to have Mike on our legal team."

When Mike is not in the office, he enjoys spending time with his wife and 3 children, and playing ice hockey. Yes, the seniors league!

You can reach Mike at [miked@bolhouselaw.com](mailto:miked@bolhouselaw.com) or at our office at 616-531-7711.

## Joint vs Legal vs Physical Custody

Last month I enjoyed the privilege of being one of the presenters at the Ask-A-Lawyer seminar series put on by the Justice Foundation of the Grand Rapids Bar Association. A recurring question involved the definitions of the various forms of custody.

“Joint custody,” as defined by the Child Custody Act, specifies that a child shall reside alternately for specific periods of time with each parent and that each parent shall share decision-making authority as to the important decisions affecting the welfare of the child. “Legal” custody is decision making authority. “Physical” custody involves where the child will live. In most cases, the Court will award joint legal custody except in high conflict cases.

An award of joint legal custody affords a parent these basic rights: (1) the parent has access to the child’s confidential records; (2) the child cannot be moved more than 100 miles away from where the parent lives; and (3) the domicile of the child cannot be moved from Michigan without prior court approval. In addition, when parents who share joint legal custody cannot agree on an important decision affecting the welfare of their child, either one can petition the Court for a “best interests” hearing. The Court then decides what is in the child’s best interests.

A question remains about what is an “important decision affecting the welfare of the child.” So far, the courts have found that education, religion,

and medical care are such important decisions. In some instances, what activities a child may engage in with a parent during his or her parenting time, including going hunting, getting ears pierced, and whether or not a child needs counseling have also been deemed ‘important decisions.’

Bottom line: if the parents can’t agree, the Court will impose its decision. And I can’t overstate how important it is for parents to put aside their differences and together make the decisions about what is in the best interest of their child.

*Michelle McLean focuses her practice in the areas of Family Law, Consumer Law, Criminal Law and Real Estate. You can reach her at [michellem@bolhouselaw.com](mailto:michellem@bolhouselaw.com).*



## A New Year’s Resolution You Can Keep

With the turning of the calendar comes all the dreaded New Year’s Resolutions.

For some, it may mean joining a gym or actually getting some use out of the membership you’ve been paying for all year long but haven’t used. For others it may be a renewed commitment to saving more and spending less.

If you are anything like me, the trouble is that most of those lofty goals become distant memories by the end of February. So, as a fellow resolution specialist, I would like to challenge each of you with a New Year’s resolution that you can not only attain quite easily, but one that we will actually help you with.

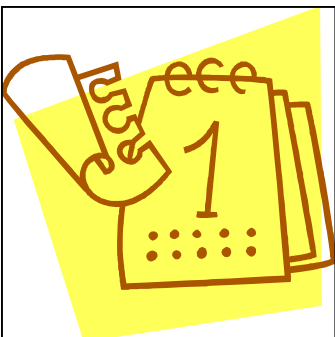
I’m talking, of course, about finally getting your estate plan in order.

For many, this task can be a bit uncomfortable to even contemplate. Who wants to think about dying? For others, it’s perhaps been a very long time since they’ve even looked at their old will.

What I can offer you is this: we will meet with you, design an estate plan that best meets your and your family’s needs, and have it completed before your free trial membership to the gym ends. And, we won’t even charge you a consultation fee if all you want to do is come in and just *talk* about estate planning.

To learn more about estate planning and the various tools we use, please visit our website at [www.bolhouselaw.com](http://www.bolhouselaw.com). For your convenience, you can download the estate planning worksheet right there if you’d like. And please feel free to contact me if you have any questions.

*Mark Hofstee focuses his practice in the areas of Business Law, Real Estate, Estate Planning and Family Law. You can reach him at [markh@bolhouselaw.com](mailto:markh@bolhouselaw.com).*



### Hollywood vs Reality

I remember reading the book *The Firm* by John Grisham, an accomplished attorney himself, when it was first published many years ago. It was a great read, was subsequently made into a movie for the big screen, and soon we'll be seeing a TV series based on it.

Hollywood has been infatuated with *the law* for decades. From Perry Mason in the 60s, to Leland McKenzie (LA Law) and Bobby Donnell (The Practice) in the 80s and 90s respectively, to the still-airing Jack McCoy (Law and Order), TV loves lawyers.

There have also been many great movies with law themes. Remember the alcoholic Frank Galvin (Paul Newman) in the courtroom drama *The Verdict*? *My Cousin Vinny* with Joe Pesci and Marisa Tomei was a highly entertaining comedy. And who could forget sleazy attorney Ned Racine (William Hurt) and steamy seductress Matty Walker (Kathleen Turner) in *Body Heat*. While interesting and perhaps even thrilling, none of these

portrayals are anywhere close to reality.

Hollywood usually shows the lawyer working on one case throughout the entire story. Most attorneys in our office are working on over a hundred cases at any given time! In Hollywood, the entire trial of a highly complex case is run in a matter of minutes at the end of the show and closing arguments take a few seconds. In reality, trials often take weeks, sometimes months, and closing arguments can last for days. And truthfully... they can be boring. Discussions that take place in Hollywood's courtrooms and judges' chambers are nothing like the discussions that take place in West Michigan's courthouses.

Finally, the practice of law is not nearly as fun and exciting as Hollywood would lead you to believe. (I'm thinking *Night Court* here, with Harry Anderson and John Larroquette.) Most lawyers work long hours under stressful conditions in an effort to get their clients the

best possible outcomes to the situations and problems they bring present.

We do our best to dispel Hollywood's mythical version of the practice of law. Our lawyers and staff spend time speaking at schools and other settings on what it's really like to be an attorney. We often get phone calls from young people who are interested in a legal career but would first like to spend some time talking with real lawyers at a real firm to see what practicing law is truly like before making a huge commitment. We're happy to give them that time.

In the end, being an attorney is a highly rewarding career, but very different from what is portrayed on TV and in the movies, as any visit to a real law firm or a real courtroom will show.

*Rick Bolhouse focuses his practice in the areas of Family Law, Collections/Creditors' Rights, Personal Injury and General Litigation. You can reach him at [ricken@bolhouselaw.com](mailto:ricken@bolhouselaw.com).*



Our Real Attorneys

### Help Us Feed the Hungry

We are once again partnering with a favorite West Michigan charity, Love In the Name of Christ (Love, Inc.), to help feed the homeless and hungry in our community. We are hoping this year's food drive will be as successful as last year's, and we know that with the help of our generous clients and colleagues, it will be!

We will be collecting food items, personal care products, and cleaning supplies at our offices located in downtown

Grandville (SE corner of Wilson and Chicago Drive) from Monday, January 9th through



Friday, January 27th. Items in great need include **canned asparagus and spinach, Spaghettios, ravioli, mayonnaise,**

**Miracle Whip, Chicken Helper, Tuna Helper, taco sauce, salsa, foil, plastic wrap, dishwasher soap and baby wipes.**

If you would like to contribute but are unable to bring your donation to our office, please call Barbara Stoffer at 531-7711 and she'll be happy to make collection arrangements with you.

On behalf of Love, Inc. and all who will benefit from your generosity, **THANK YOU!!!**





## **Bolhouse, Baar & Lefere Attorneys at Law**

**Richard L. Bolhouse**

**Thomas R. Vander Hulst**

**Joel W. Baar**

**David S. Lefere**

**Mark D. Hofstee**

**Michelle M. McLean**

**Michael J. Distel**

**Grandville State Bank Building  
3996 Chicago Drive SW  
Grandville, MI 49418**

**Phone: (616) 531-7711**

**Fax: (616) 531-7757**

**[www.bolouselaw.com](http://www.bolouselaw.com)**

### **Changes Brewing for Michigan's Workers' Disability Compensation Act**

In 1912, the Michigan legislature enacted the Michigan Workers' Disability Compensation Act. This Act prohibits employees from suing their employers in civil court for injuries incurred on the job, and essentially created a no-fault system under which an employee is entitled to recover certain benefits from his or her employer for injuries sustained at work regardless of who is at fault. Employees are entitled only to certain wage loss benefits, the cost of medical treatment and certain rehabilitation services. The Act protects employers from high jury awards that might put them out of business while at the same time gives workers benefits even if the injury was their fault.

The Act also requires all employers to arrange for the payment of workers' compensation benefits. This may be accomplished by purchasing insurance from a commercial insurance carrier or by obtaining approved self-insured status.

A controversial bill is currently pending in front of the Michigan Senate Committee concerning amendments to the Act. The proposed bill was triggered, in part, out of concern that the Michigan workers' compensation system costs employers too much and makes Michigan an unattractive place to do business.

Although the proposed House bill includes a variety of changes, one of the more controversial issues focuses upon the definition of "disability" and an employee's "wage earning capacity." The proposed bill provides that an injured employee can be denied benefits if that employee is "capable of earning" wages in another occupation or different job at a different employer. In other words, if an employee's injuries prevent him or her from performing his duties and responsibilities for the employer where he or she sustained the injury, the employee may not be considered disabled (and may be denied or exposed to reduced benefits) if

he or she is qualified for a job elsewhere in the market.

Critics of the proposed amendment argue that the new law would result in reductions or denials of worker's compensation benefits on the basis of "theoretical" or "virtual" job possibilities. Moreover, critics argue that Michigan's workers' compensation insurance rates have actually *declined* over recent years.

Regardless of such concerns, changes to the Michigan Workers' Compensation Disability Act appear likely. Debate will continue regarding whether the goal of reducing worker's compensation insurance premiums justifies the increased burden on employees seeking benefits.

*Mike Distel focuses his practice in the areas of business law, real estate, personal injury and civil litigation. You can reach him at [miked@bolouselaw.com](mailto:miked@bolouselaw.com).*