

2015 Year in Review: *Monumental Milestone Recognized, Skilled Attorneys Hired, and Remarkable Anniversaries Celebrated*



Christopher G. Schultz

As a new year is upon us, we reflect back on 2015 and the successful year we had at CMDA. We recognized a monumental milestone, hired several attorneys, and celebrated some remarkable anniversaries.

CMDA was honored to have celebrated our 50th Anniversary in 2015. This monumental anniversary would not have been possible without Owen Cummings, the founder of the Firm. Mr. Cummings had a vision of developing a Firm whose strength rests in the service we provide our clients. We thank Mr. Cummings for the dedication and effort he has put into growing CMDA over the past 50 years.

As a way to give back to the community as we celebrated our 50th anniversary, every month throughout 2015 the Firm, employees, and clients donated 50 (or more) items to local charities, including the 17th District Veteran’s Court, Children’s Hospital of Michigan, Mittens for Detroit, Dearborn Animal Shelter, PBJ Outreach Center, Alternatives for Girls, St. Dominic Outreach Center, and The Guidance Center.

Attorneys Suzanne Bartos, Matthew Heron, David Katz, and Jennifer Richards joined our Firm in 2015.

Suzanne Bartos is an attorney in our Livonia office where she focuses her practice on labor and employment law, insurance defense, municipal law, education law, and litigation. She successfully defends civil rights, wrongful discharge, and discrimination claims in state and federal courts, as well as the U.S. Equal Employment Opportunity Commission and the Michigan Employment Security Commission. She also achieves outstanding results for clients in premise liability, breach of contract, collec-

tions, warranty disputes, and consumer protection matters. Further, she is a trusted legal advisor to school districts and community colleges on a variety of educational and governance issues. Ms. Bartos was previously with our Firm from 1985 to 2000, and we are elated to have her back at CMDA. Ms. Bartos may be reached at (734) 261-2400 or sbartos@cmda-law.com.

Matthew Heron is an attorney in our Livonia office where he focuses his practice on commercial litigation and real estate, including community association, condominium law, real estate litigation, zoning and land use. He also has extensive experience in a variety of litigation matters, including insurance coverage, non-compete agreements, automotive supplier disputes, and breach of contract. He routinely appears in both federal and state courts throughout Michigan and has argued before the Michigan Court of Appeals and the Court of Appeals for the Sixth Circuit. Mr. Heron may be reached at (734) 261-2400 or mheron@cmda-law.com.

David Katz is an attorney in our Kansas City office where he focuses his practice on insurance defense, municipal law, business litigation, and civil litigation. He prepares and files motions with all levels of Missouri state and federal courts and performs research for unique areas of law handled by our Kansas City office. While attending John Marshall Law School, he worked as a law clerk for an insurance subrogation firm in Chicago. Upon graduation, he moved back to Missouri, and we are delighted to have him at CMDA. Mr. Katz may be reached at (816) 842-1880 or dkatz@cmda-law.com.

Jennifer Richards is an attorney in our Livonia office where she focuses her practice on appellate law, law enforcement defense and litigation, municipal law, and insurance defense. She writes briefs for submission to all levels of state and federal courts, ar-

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gues cases in all levels of state and federal courts of appeals, and performs research for all areas of law handled by the Firm. She was previously a law clerk at the Firm and when she recently passed the bar exam to become an attorney, we were pleased she accepted the Firm's offer to continue her legal career at CMDA. Ms. Richards may be reached at (734) 261-2400 or jrichards@cmda-law.com.

These attorneys are all wonderful assets to the Firm, and I am sure you will hear much more about them in future newsletters.

We are pleased to announce the expansion of the Firm's Estate Planning and Elder Law practice group. **Jim Schuster**, a top Certified Elder Law attorney in Michigan, has joined our Firm as an Of Counsel attorney. He has been licensed to practice law since 1978 and practices entirely in the area of Elder Law. Mr. Schuster helps elders stay independent and in control and helps children of aging parents with the advice and legal documents they need to carry out their parents' wishes and take care of their needs. Additionally, he assists clients with the complex Nursing Home Medicaid planning process. Mr. Schuster is a welcomed addition to our Firm's Estate Planning and Elder Law practice group. He may be reached at (734) 261-2400 or jschuster@cmda-law.com.

Several employees celebrated impressive anniversaries with the Firm in 2015. **Owen Cummings**, Founder of the Firm, celebrated his 50th anniversary; **Tim Young**, an equity partner of the Firm, **Tom Laginess**, an attorney in our Livonia office, and **Janet Raffaelli**, the Firm's IT Specialist, all celebrated their 30th anniversary; **Tim Ferrand**, a partner in our Clinton Township office, **Marie Jones**, a legal assistant in our Livonia office, **Kathy Ueberroth**, a paralegal in our Livonia office, and **Jim Glover**, the Firm's Courier, all celebrated their 25th anniversary; **Patrick Sturdy** and **Jim Acho**, both partners in our Livonia office, and **Robin Thomas**, the Firm's Accounting Administrator, all celebrated their 15th anniversary; and **Anita Zischerk** and **Eileen Stoner**, both legal assistants in our Livonia office, celebrated their 10th anniversary. We are fortunate to have such an excellent group of people working at the Firm and thank them all for their dedication.

We are grateful and appreciative for the trust our clients have placed in our Firm since 1965. Thank you for your support in helping CMDA continue to be a premier law firm with office locations throughout Michigan, Kansas and California. Have a great 2016.

Christopher G. Schultz
Managing Partner

Can State and Local Governments Regulate the Use of Drones?



Karen M. Daley

Drones – also referred to as unmanned aerial vehicles (UAV), unmanned aircraft systems (UAS), and remotely piloted aircraft systems (RPAS) – are essentially aircraft without a human pilot aboard. Regardless of what they are called, one thing is clear: drones are here to stay and will increasingly be used for nonmilitary, domestic applications. The Federal Aviation Administration (FAA) estimates that there will be 30,000 drones in U.S. airspace within the next 20 years. Drones will get cheaper, faster and more reliable. There is already evidence of this: the retail giant Amazon.com has its own "Drone Store," where the average person can purchase recreational and surveillance drones ranging from \$30 to \$3,200. Drones are also available at countless mainstream retailers, including Best Buy, Walmart, and even Barnes & Noble.

WHAT ARE DRONES USED FOR?

Drones are no longer just seen as a tool of the military or a toy that people use to fly around. Drones have a host of applications, including law enforcement, land surveillance, wild-

life tracking, search and rescue operations, disaster response, border patrol, and photography. In fact, the Michigan State Police represents the first law enforcement agency in the United States that can use drones in every corner of the state. The drones are being used by the Michigan State Police to investigate accidents, search for missing persons, scout natural disasters, and conduct surveillance.



Drones are also becoming increasingly popular for commercial uses. Some examples include: use by realtors to provide an aerial view of the property; use by farmers to survey crops and monitor livestock; use by photographers for advertising and other commercial purposes; use by journalists to cover demonstrations, sporting events, or accidents; and used by retailers to deliver goods.

A LACK OF FEDERAL REGULATION

The FAA is the ultimate authority on regulating anything that

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Can State and Local Governments Regulate the Use of Drones? (cont.)

flies in the sky. Unfortunately, the FAA has been slow in establishing any type of rules concerning drones. Congress directed the FAA to promulgate rules by September 2015 to integrate the use of commercial drones into U.S. airspace. The FAA failed to meet that deadline, and instead announced in October 2015 only that all drones will be subject to registration and regulation. Finally, in December 2015, after assembling a task force to draft drone regulation rules, the FAA rolled out a drone registry website. While drones heavier than 55 pounds still need special FAA approval, anything between half a pound and 55 pounds can be registered on the website. There is a \$5 fee for each drone registered (or each fleet of model airplanes, if used exclusively for a hobby purpose). Additional regulations are not expected to become final until late 2016 or early 2017. As a result, state and local governments are filling in the regulations void by establishing their own rules concerning drone usage.

No federal law expressly prohibits municipalities from establishing laws and ordinances concerning drone usage within their own borders. Furthermore, within the legal community, there currently exists a debate as to whether the FAA has any jurisdiction over low flying recreational drones in residential areas. Therefore, there is a strong argument that state and local governments retain their broad police powers to control the use of drones within their borders, particularly at the low altitudes at which most drones operate.

STATE AND LOCAL REGULATIONS

To date it is unclear whether a state or local law or regulation governing drones would be preempted by the federal government. The FAA currently considers most forms of drones "Model Aircraft," so long as the devices remain below 400 feet, and within sight of the operator. The FAA considers larger, longer-ranged drones "Unmanned Aerial Systems," and restricts their use to public or private entities which obtain special authorization from the FAA.

Despite the uncertain landscape of drone regulation, 45 states have considered 153 bills related to drones. Nineteen states, including Michigan, have either passed legislation or adopted resolutions related to drones. At least two states have passed laws that directly address drone flight as opposed to privacy: Oregon allows property owners to sue anyone who flies a drone over private property at a height of less than 400 feet, if they have done it before and the property owners notify the operator they do not consent; and Tennessee has gone even further, criminalizing the operation of low-flying drones over private property. In April 2015, Michigan became the fourth state to outlaw drone-assisted hunting with a ban that also prohibits the use of unmanned aerial vehicles to harass hunters and anglers. In addition, a new policy enacted by the Michigan State Capitol Commission prohibits drones from flying over the Capitol grounds in Lansing.

Efforts to regulate drones are not limited to the state level; municipalities are also stepping in to regulate drones. The City Councils of New York City, Phoenix, and a handful of other cities are considering legislation to ban all commercial drone operations due to safety and privacy concerns. However, some local drone regulations have been met with resistance. When the City Council of Ferndale, Michigan proposed a law banning the use of drones on public property in response to privacy concerns of city residents, the proposal was withdrawn after a public outcry from hobbyists and business owners who use drones.

Municipalities may choose to explore other, more creative means of regulating drone operation, such as by clarifying existing property trespass laws to include aerial surveillance and operation, or by passing laws targeting the recording or video-graphic aspect of drone operation instead of the avionic operation itself. Local governments can also prosecute drone operators if the use of drones violates a law of general applicability, such as laws protecting privacy, nuisance laws, etc. In addition, there is strong evidence to suggest that local governments can use zoning ordinances to regulate the locations from which drones may be launched, landed or operated, just as they can regulate other activities that impact neighbors but are unlikely to affect those living outside of their community.

The use and regulation of drones is obviously a new area of municipal concern, but one which will become increasingly important in order to protect the health, safety, welfare, and privacy of all citizens. The thought that tiny unmanned aircraft could be invading private and public property is somewhat creepy and unnerving. On the other hand, drone technology has the potential to bring significant resources to communities. As the drone industry evolves, privacy concerns over the use of drones will persist. In the future, it will be up to the federal government, states, and local municipalities to ensure that there are adequate privacy protections against the malicious use of drones, while at the same time not creating so much regulation as to stifle drone innovation.

Ms. Daley and Ethan Vinson, a partner in our Livonia office, will be presenting "Drones: Can We Control the Invasion?" at the upcoming Michigan Association of Chiefs of Police 2016 Winter Professional Development Conference. If you are attending the Conference, please consider attending our presentation and also stop by and visit several attorneys from our Firm at Booth #77.

Karen M. Daley

Karen M. Daley is an attorney in our Livonia office and is the head of the Firm's appellate practice group. She concentrates her practice on appellate law, municipal law, and probate law. She may be reached at (734) 261-2400 or kdaley@cmda-law.com.

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Our Vision



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To reference previous issues of On Law, please visit www.cnda-law.com. Jennifer Sherman.

Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features or to be removed from the mailing list, please contact Jennifer Sherman.

On Law is intended for informational purposes only and should not be used as a substitute for individual legal advice. Please consult an attorney regarding your particular situation.

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