

A Look Back at 2011



T. Joseph Seward

Happy New Year! As 2012 is upon us, we reflect back on 2011 and the successful year we had at the Firm. The Firm received some significant verdicts and settlements on behalf of our clients. In addition, we hired several new attorneys, won numerous awards and celebrated some remarkable anniversaries.

The five attorneys who joined the Firm in 2011 are Mark Rouland and Carla Testani, who joined our Livonia office; Jason Thomas, who joined our Sterling Heights office; and Maurice Kane and Ryan Miller, who joined our Riverside, CA office.

Mark Rouland brings with him a wealth of experience in the areas of police liability defense, civil litigation defense, family law and labor and employment law. Mr. Rouland was a police officer from 1989 – 2003 and has been an instructor at Schoolcraft College in Livonia since 2002 where he trains law enforcement and security personnel regarding constitutional law, criminal law and procedure, rules of evidence and civil liability. Mr. Rouland can be reached at (734) 261-2400 or mrouland@cmda-law.com.

Carla Testani joined CMDA to head our Family Law Group. Whether acting as an advocate for her clients or a neutral mediator, Ms. Testani focuses her practice on divorce, child custody, child support, spousal support, paternity, adoption and nuptial agreements. For over 14 years, she has tried to minimize the economic and emotional damage to her clients while helping them face their most difficult family situations. Ms. Testani can be reached at (734) 261-2400 or ctestani@cmda-law.com.

Jason Thomas focuses his practice on municipal liability defense, insurance defense, municipal law and health care law. He has experience dealing with issues relating to land use, internet privacy and commerce clause litigation and is also a court appointed civil mediator for the Oakland County Circuit Court. Mr. Thomas can be reached at (586) 731-5000 or jthomas@cmda-law.com.

Maurice Kane has earned a reputation throughout California for his quality and cost-effective representation. The Harvard University graduate has handled employment discrimination cases in state and federal civil litigation from inception through trial in the areas of race, retaliation, sexual harassment, disability, reasonable accommodation and lack of good faith bargaining. Mr. Kane can be reached at (951) 276-4420 or mkane@cmda-law.com.

Ryan Miller focuses his practice on employment and labor law, real estate, medical malpractice, public entity defense, personal injury and business litigation. Mr. Miller can be reached at (951) 276-4420 or rmiller@cmda-law.com.

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

Michigan Lawyers Weekly, the weekly publication providing legal news to readers throughout Michigan, presents three separate awards to Michigan attorneys based on their leadership skills, noteworthy cases and notable contributions to their profession and community. We are extremely pleased that in 2011 attorneys from our Firm were recipients of each of these three awards.

Eileen Husband, a partner in our Livonia office, was awarded with the Women in the Law award and was also recognized as a leader in education law by *Crain's Detroit Business*. **Susan Lumetta**, an associate in our Livonia office, was awarded with the Up & Coming Lawyer award for her outstanding research and writing skills that have provided numerous successful results for our clients in both the State and Federal appellate courts. [Editors note: **Joe Seward** was awarded with the Leaders in the Law award, but seeing as he is the author of this article, and a pretty humble guy, he did not want it mentioned. I thought otherwise and snuck it in.]

Each year Traverse City's newspaper, *The Record-Eagle*, invites their readers to vote for their favorite businesses, services and places in the Grand Traverse area. **Haider Kazim**, an attorney in our Traverse City office, was selected by the readers as the Top

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A Look Back at 2011 (cont.)

Lawyer in the Grand Traverse Area.

Four of our employees celebrated important anniversaries with the Firm in 2011. **Vicki DeVitis**, a legal assistant, celebrated a remarkable 35 years with the Firm; **Gail Massad**, an attorney, celebrated her 25th year with the Firm; and **Ethan Vinson**, a Partner, and **Brenda Jefferson**, a legal assistant, both celebrated their 15th year with the Firm. We are fortunate to have such a wonderful group of people working at the Firm and thank them all for their dedication.

Whether your legal needs are for commercial, municipal, insurance or a personal matter, we truly appreciate your business. As 2012 is upon us and we enter our 46th year of business, we are proud and grateful for the trust that you have placed in us and for allowing us continue to be one of Michigan's premier law firms. Have a wonderful 2012.

T. Joseph Seward, Managing Partner

Michigan Legislation Update

RECENTLY ENACTED MICHIGAN LAWS

Charter School Limits Lifted



Karen M. Daley

The Governor recently signed legislation removing the cap on the number of charter schools allowed to operate in Michigan. Charter schools are public schools that receive per pupil state aid but operate independently of traditional public schools. SB 618 lifts the cap on schools authorized by universities, the primary charter school authorizer in Michigan, from its current 150 to 300 in 2012 and 500 in 2014, after which it will be removed entirely. The

legislation also provides new reporting and accountability standards for charters.

Domestic Partner Benefits Blocked

In 2004, Michigan voters approved an initiative called Proposal 04-2, to add a "defense of marriage" amendment to the State Constitution. With this constitutional amendment, Michigan became one of 30 states to ban legal recognition of same-sex unions in state constitutions. Since then, municipalities have challenged the amendment by attempting to provide same-sex domestic partner health insurance benefits to its employees. HB 4770 was recently enacted that bars these municipalities from providing such health care benefits. The measure applies to municipal and school employees and to both same-sex and straight couples. The new law does not apply to employees of the state public universities or to state government employees.

Changes to Unemployment Benefits

A bill was recently signed into law that amends the Michigan Employment Security Act with provisions that affect claimants' eligibility and disqualifications, as well as penalties and recoveries. SB 806 includes actions that disqualify an employee from collecting unemployment benefits for failing to keep their training up to date, voluntarily leaving work, missing three consecutive days of work without informing their boss, testing positive for drugs and stealing from the business. Claimants must also be "actively engaged" in seeking

work to receive benefits. In addition, after 10 weeks of state assistance, jobless workers are required to take a job or risk losing benefits if the job pays at least their area's prevailing wage or is 120 percent more than their assistance check, even if it is outside of their field of training.

Changes to Worker's Compensation Benefits

New legislation recently signed by the Governor overhauls the state's worker's compensation law. HB 5002 amends the Worker's Disability Compensation Act and does the following: requires that an injury be medically distinguishable from an employee's prior condition; provides that limitation of wage earning capacity would occur only if an employee was unable to perform all jobs paying the maximum wages in work suitable to his/her qualifications or training; changes the definition of "wage earning capacity" to include wages an employee earns or is capable of earning and provides that an employee has an affirmative duty to seek reasonably available work; includes pension and/or retirement benefits that an employee was entitled to receive among the amounts that must be deducted from weekly benefits; and allows an employee to be treated by his/her own physician after 28 days rather than after 10 days as was the case under the previous law.

Anti-Bullying Legislation

Legislation recently enacted requires schools to adopt a policy that prohibits bullying. Under HB 4163, all local districts, intermediate districts and charter schools have six months to adopt and implement a policy prohibiting bullying at school. Districts that already having a policy that complies with the provisions of the new law are not required to adopt another; however, they will have to submit a copy of their policy to the Department of Education within 60 days. In addition, school boards are required to hold at least one public hearing on the proposed policy, and after adopting a policy, the board must submit it to the Department of Education within 30 days.

Karen M. Daley

Karen M. Daley is an attorney in our Livonia office where she concentrates her practice on appellate law and municipal law. She can be reached at (734) 261-2400 or kdaley@cmda-law.com.

COMMUNITY COLLEGE CORNER



Patrick R. Sturdy

Community College administrators, staff and faculty are often called upon to deal with the nebulous area of intellectual property law. Generally, intellectual property law defines the scope and protection that applies to patents, trademarks, copyrights and trade secrets, and can extend to a variety of college activities, such as naming the mascot, protecting course materials, ensuring compliance with software licensing agreements, developing marketing materials and designing websites.

This article will concentrate on copyright protection, which is given to original works of authorship, and applies to literary, dramatic, musical and artistic works, such as poetry, novels, songs, computer software and architecture.

Copyright protection arises when a creative idea is reduced to a tangible medium, and carries with it a bundle of rights that include the rights to control the reproduction of the work, preparation of derivative works, distribution of copies of the work, public performances of the work and public display of the work.

A major issue that can arise with respect to the creation of

copyright material in the educational community is the question of who owns the material. Under the Copyright Act of 1976, only the author, or those deriving their rights from the author, can rightfully claim ownership of copyright material. As a general rule, it is the person who reduced the creative idea to a tangible medium who qualifies as the author of the work. However, an exception to this general rule exists for a category of works called "works made for hire." A work created by an employee within the scope of employment qualifies as a work made for hire. Therefore, the employer is considered the author.

The determination of whether a work falls into this category can be controlled by a number of factors, which can convolute and confuse the basic rules outlined above. Given the bundle of rights that accompany copyright ownership, the resolution of the issue of ownership, can have a profound impact on the academic community. Having a carefully written intellectual property rights policy will help administrators, staff, faculty and students understand their rights and responsibilities, while at the same time protecting the college's interest.

If you have any questions about what you have read or want additional information, Mr. Sturdy can be reached at (734) 261-2400 or psturdy@cmda-law.com.

Attorney Profile: Timothy Young



Timothy Young

In this month's newsletter Attorney Timothy Young is profiled. Mr. Young joined the Firm in 1985 as an associate. He was made Partner in 1989 and has been an Equity Partner of the Firm since 1993. He preceded Joe Seward as the Managing Partner of the Firm for a period of seven years. Prior to joining CMDA, Mr. Young was the manager of in-house counsel for an insurance company, which is where he learned all about insurance companies from the inside, how they operate

and how to successfully represent them.

Mr. Young loves the law and is devoted to obtaining the best possible outcome for his client. He explains, "Being a lawyer, I am fortunate to develop so many business relationships that, over time, develop into friendships. The law is not static and it is certainly not boring. Many of my cases are like watching a movie or reading a book involving a mystery thriller. As the case begins and as it develops, I have to put all of the pieces of the puzzle together in order to tell our story of what happened and why. We live through our own thrilling drama in these cases."

He has been complimented a number of times for the creativity and strategy that he brings to his clients. Mr. Young has been further complimented for not only recommending new and dif-

ferent strategies to obtain the best result, but for also delivering the favorable result of those strategies. He concentrates his practice on utility law, commercial litigation, municipal law, insurance coverage disputes and insurance defense litigation. Over the course of his career, Mr. Young has handled more than 35 jury trials in both State and Federal courts.

Mr. Young has extensive experience in successfully negotiating and preparing contracts with cable companies, school districts, utilities, wireless telecommunications providers and municipalities. He has served as the lead trial attorney in litigation involving unique issues regarding the transmission and delivery of electricity. In addition, he has been extremely successful in winning contract disputes for his clients resulting in favorable awards involving millions of dollars. He has developed a specialized expertise in the complicated law of indemnity.

With his "open door" policy, Mr. Young is a mentor at the Firm to his fellow partners and also to associate attorneys. He has boundless energy for his clients, the Firm and his family. He enjoys all sporting activities especially playing golf, racquetball and fitness workouts at the Detroit Athletic Club where he is a member.

Mr. Young lives in Grosse Pointe Park. He has three adult sons. Brian is a veterinarian living in Los Angeles, Kevin is a very talented actor who performs in many theaters through metro Detroit and Christopher works at the new Joe Muer Seafood Restaurant located in the Renaissance Center in Detroit.

Mr. Young can be reached at (734) 261-2400 or tyoung@cmda-law.com.

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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features should be addressed to the attention of Jennifer Sherman.

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