



Oakland County Legal News

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Serving the Oakland County Legal Community Since 1927

Volume 82, Number 24

Troy, Michigan

Tuesday, February 3, 2009, ONE DOLLAR

SHORT TAKES

Worship service planned by Association of Black Judges of Michigan

The Association of Black Judges of Michigan will conduct their annual Worship Service on Sunday, Feb. 15, at Hope United Methodist Church in Southfield.

The event begins at 9 a.m. with breakfast followed by a group photograph at 10 a.m. The morning worship service begins at 10:30 a.m.

The church is located in Southfield at 26275 Northwestern Hwy.

For additional information, call (313) 972-5723.

Scuttled house raffle leads to lawsuit

PONTIAC (AP) — A couple whose attempt to raffle their Detroit-area home was scuttled by state regulations has filed a lawsuit seeking more than \$25,000 from a lawyer they contacted about the plan.

The Detroit Free Press recently reported that the lawsuit by Joe and Penelope VanDevellder of Waterford Township was filed in January in Oakland County Circuit Court against lawyer Phillip Strehle.

A message seeking comment from Strehle was left Saturday by The Associated Press.

The VanDevellders weren't able to sell their home for 18 months, so they decided to offer raffle tickets for the four-bedroom, 1,500-square-foot house at \$100 apiece. They say Strehle told them it was legal.

But last year's raffle was halted over legal concerns after it attracted public and media attention.

Man to face trial in murder of parents

CLARKSTON (AP) — An Oakland County man is headed to trial on charges that he fatally stabbed his parents.

Oakland County 52-2 District Court Judge Kelly Kostin last Friday ordered 25-year-old Mark Ott bound over to circuit court for trial on felony and first-degree murder charges.

He will be arraigned in Oakland County Circuit Court on Feb. 11.

Prosecutors say Ott fatally stabbed his parents, Barbara and Michael Ott, both 57. Their bodies were discovered Feb. 21, 2008, in their home in Oakland County's White Lake Township, about 30 miles northwest of Detroit.

Defense attorney Mitchell Ribitwer says he plans to bring an insanity defense at trial.

Woman waives court hearing in cyclist's death

ROYAL OAK (AP) — A 44-year-old Royal Oak woman has waived a preliminary examination in the hit-and-run death of a Detroit bicyclist.

Kimberly Dancy is to be arraigned next month in Oakland County Circuit Court. Charges include failure to stop at the scene of an accident when at fault resulting in death.

Forty-year-old Jacqueline Robinson was killed Sept. 19. Authorities say a second crash later was staged to mask the damage to Dancy's vehicle.

Dancy has been called the "Ghost Bike" driver after a bicycle painted white was left to mark the site of Robinson's death.

The Associated Press left a message last Friday seeking comment from Dancy's attorney.

MATCHMAKER Area law firm helps business clients secure funding sources

By MIKE SCOTT
Legal News

National law firm Foley & Lardner L.L.P. has launched a Senior Living Private Equity Matchmaker tool which is expected to improve the ability of firm professionals to refer potential business opportunities to its existing client base in Southeastern Michigan and around the country.

This is the latest of the firm's proprietary online private equity matchmaker software programs, designed in-house by the Foley's own IT department for its internal platform. The Senior Living Private Equity Matchmaker tool is a value-added service provided by the firm's Senior Living Industry Team, which is comprised of more than 30 attorneys across the nation.

The Senior Living Private Equity Matchmaker uses an automated search function and deal-matching capability to allow attorneys to match business owners and other entrepreneurs with alternate funding sources that may be known among the firm's clients and other contacts.

"It allows us to become more aware of funding opportunities and to more effectively network among our colleagues' professional networks said Yvette VanRipper, a partner in



VANRIPPER



OKATY

Foley's Detroit office and member of the firm's Senior Living Industry Team.

"These Private Equity Matchmakers grew out of a need to find more business referral opportunities for our clients. We felt that there was no better way to do this than to share information in a seamless way among our various firms and professionals," VanRipper said.

The investment in these proprietary private equity match-

maker tools came about largely because of client demand. A small group of clients were surveyed about the usefulness of such a service and the positive response was overwhelming, according to Michael Okaty, Foley & Lardner senior living industry chair.

The tool requires attorneys to enter a minimal amount of information into the system so that it is available to all internal stakeholders.

Unlike less flexible shared directories that may be more of a common asset in many professional service firms, Foley's proprietary software will analyze the information that is entered by individuals and when prompted, it will then match clients or contacts with potential investment partners.

This tool was initially created before the credit markets crashed late in 2008, and now Foley attorneys are utilizing the tool more than they previously anticipated, VanRipper said.

"Given how difficult it is for businesses to get credit right now, we realize this is a tremendous opportunity for us to tap into a group of investors who have funds and are looking to make investments outside of traditional sources," VanRipper said. "You can consider this a resource to uncover alternative funding options, which is something many business owners (See FOLEY, Page 2)

Michigan State Law Review rises in rankings

The Michigan State Law Review has once again risen in the national rankings of law journals, as reported in Washington & Lee Law School's annual law journal rankings, the authoritative source for law journal rankings.

This year marks the fifth year in a row that the Michigan State Law Review jumped up in the rankings. The journal now ranks 118 among law journals being ranked by this service, rising nearly 350 places since 2003.

Mahfouz Ackall, editor in chief of the Michigan State Law Review, explains the importance of the journal's boost in the ratings: "Authors use the rankings to decide where to publish or submit articles. A higher rank means more exposure which, in turn, means authors are more likely to accept offers to publish in the Michigan State Law Review," Ackall says. "This also means we have the opportunity to publish more high-quality pieces."

(See JOURNAL, Page 2)

Parole Board issues explored



The Oakland County Bar Association's Criminal Law Committee continued its brown bag lunch lecture series—Anatomy of Criminal Case-Year X—with a look into "Parole Board Issues" Tuesday, Jan. 20, at the OCBACenter in Bloomfield Hills. Speaking on the topic were Jerry Gleeson (left) of Miller, Canfield, Paddock, & Stone P.L.C.; and Charles Sinclair (center), field operations manager of the Michigan Dept. of Corrections, Parole Board. "We'll be going over some of the policy directives of the Michigan Dept. of Corrections to better inform practicing attorneys about the consequences of indeterminate sentencing in the state of Michigan," noted Gleeson. On hand to welcome the speakers was Paul Stablein of Flood, Lanctot, & Connor P.L.L.C.

Photo by John Meiu

DOCTOR'S CUP—District judge, attorney place first at 'pool party'

By MARK WERDER
Legal News

On Friday, Jan. 23, the first annual competition for The Doctor's Cup was held in Birmingham to crown inaugural victors and inscribe their names on a trophy commissioned to honor the Highest and Truest "Fight True" Contributions of attorney Mike Lavoie.

Lavoie, long known as "The Doctor" for reasons lost in the mists of time, has been extraordinarily active in very low profile community service dating back to the Peace Corps. Lavoie continues to this day to be deeply involved in organizing local Michigan projects to support the African villages in Burkina Faso where he was stationed and worked as a well-digger decades ago.

An attorney with Butzel Long, Lavoie is a native of Pontiac and also has been the main pillar in the Gettysburg Project, part of a Pontiac youth mentoring program begun by

retired Oakland County Circuit Court Judge Fred Mester. "Fight True" ("fight for what's true and be true to the fight") is the private slogan Lavoie has coined which he interchangeably invokes as a self-explanatory description of his selfless missions to lend a hand to those in need—and his equal commitment to the art forms of keeping a rubber chicken handy in golf matches, conducting handicapping and pairing activities under a shroud of secrecy—and cigar smoke, where possible—and asserting the FT mantle of final authority to settle all golf ethics disputes.

The Doctor's Cup trophy was commissioned by the Golden Years Foundation, a group of retired lawyers, who sought to appropriately memorialize Lavoie's unique commitment and tireless service ethic. The inaugural Doctor's Cup competition was a bumper pool and pocket billiards tournament, two other coincidental areas of the doctor's expertise.

The contest was won by the team of Oakland County 46th District Court Judge Bill Richards and Birmingham attorney Gary Ladue.

Lavoie, who will be the subject of a feature story in the winter issue of "Motion" magazine published by The Legal News, also was roasted with presentations of an Executive Clemency Order, a medical degree and license to practice medicine; "An Ode to the Doctor" penned by Assistant Oakland County Prosecutor John Slevin; a "testimonial" from a Peace Corps colleague; an invocation by retired Oakland County Prosecutor Ron Covault; and opening ceremony music excerpted from the Olympics theme in a trumpet solo by Bill Richards, only the latter of which was fit for public consumption.

Attorney Mike Lavoie officially became a "Doctor" Jan. 23 when a "medical" degree was conferred upon him from "Fight True University."



Oakland County 46th District Court Judge Bill Richards (far left) and Gary Ladue (far right) joined forces to win the inaugural Doctor's Cup competition in Birmingham last month. Celebrating their victory with them are (left to right) Mark Werder, host of the event; Mike Lavoie, namesake of the bumper pool and billiards competition; and Alan Gershel, co-chair of the Golden Years Foundation with Werder.

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Americans saving more, spending less

BY MARTIN CRUTSINGER
AP Economics Writer

WASHINGTON (AP) — Americans are hunkering down and saving more. For a recession-battered economy, it couldn't be happening at a worse time.

Economists call it the "paradox of thrift." What's good for individuals — spending less, saving more — is bad for the economy when everyone does it.

Last week, the government reported Americans' savings rate, as a percentage of after-tax incomes, rose to 2.9 percent in the last three months of 2008. That's up sharply from 1.2 percent in the third quarter and less than 1 percent a year ago.

Like a teeter-totter, when the savings rate rises, spending falls. The latter accounts for about 70 percent of economic activity. When consumers refuse to spend, companies cut back, layoffs rise, people pinch pennies even more and the recession deepens.

The downward spiral has hammered the retail and manufacturing industries. For years, stores enjoyed boom times as shoppers splurged on TVs, fancy kitchen decor and clothes. Suddenly, frugality is in style.

Grace Case, 38, of Syracuse, N.Y., is a self-described recovering creditaholic. For 13 years, she charged it all — cars, clothes, repairs, vacations. She'd make only the minimum card payments to sustain her buying spree for her and her family, which includes her husband and two children.

But after being laid off 2 1/2 years ago from her job as an accountant, she landed another accounting job that cut her salary from \$60,000 to \$40,000. It was impossible to meet minimum payments on her card balances.

Now, the Cases are on a strict budget. They take "staycations," grow their own vegetables, buy only used cars and pre-pay cell phones. Case hasn't used a credit card in two years. And she's saving more.

"It's really a liberating feeling," she said. "If you want something, you have to have the money for it."

Many economists think the savings rate will keep rising, perhaps as high as 6 percent or more. So where's the money going? To savings accounts? To debt reduction?

No one knows for sure. But Robert Frank, Cornell University economist, says it doesn't much matter.

"For economic purposes, paying off debt and saving are the same," he said. "Incurring debt is negative savings; paying down debt is savings."

He sees a long-term behavioral shift. He calls the spending of the past decade or more unsustainable.

"The only way people were able to (spend heavily) was by harvesting cash out of their home equity, which was just an illusion," Frank said.

The ripple effect has been brutal. The economy shrank at a 3.8 percent annual rate in the final three months of 2008, the worst showing in 26 years. The biggest reason was that consumer spending fell for a second straight quarter, something that hasn't happened since the 1990-91 recession.

Analysts believe the hard times will persist in 2009 as consumers, squeezed by layoffs and tighter credit, delay purchases of cars and other big-ticket items.

Some experts say consumers have been so shaken by how fast their wealth has shrunk, so burned by credit card debt, that they might not resume their robust spending for years, if ever.

"People are not saving; they are building financial bomb shelters," said Mark Stevens, who runs a management consulting firm, MSCO, in Rye Brook, N.Y.

Matthew Conrad, a financial manager at Complete Wealth Management in Orange County, Calif., says he knows of people who drive a BMW or Mercedes and eat macaroni and cheese for dinner several nights a week. That suggests some are making an awkward shift from free-spending habits and are reluctant to give them up.

Today's consumers might even start to rival their penny-pinching Depression-era grandparents.

"The generation that lived through the Great Depression was very conservative in their spending and aggressive in savings," said Scott Hoyt, senior director of consumer economics at Moody's Economy.com. "I think we're going to have a set of consumers who are moving in that direction because they don't have that much faith in their assets."

AP Business Writers Anne D'Innocenzo and Eileen AJ Connelly in New York, Dave Carpenter in Chicago, Stephen Singer in Hartford, Conn., Mark Jewell in Boston and David Pitt in Des Moines, Iowa, contributed to this report.

'Meet the Presidents'



The Incorporated Society of Irish-American Lawyers (ISIAL) and the Macomb County Bar Association (MCBA) conducted a joint meeting titled "Meet the Presidents" on Wednesday, Jan. 21, at Tommy Mac's Pub in Warren. Welcoming State Bar of Michigan President Edward Pappas (center) of Dickinson Wright P.L.L.C. were (left to right) Warren attorney Sean Taylor, ISIAL president, and Arthur Garton of Garton & Vogt P.C., MCBA president. Photo by John Meiu

FOLEY: Firm matches clients with funding

(Continued from page 1)

both in Southeastern Michigan and nationally are looking for."

Senior Living Private Equity Matchmaker brings together Foley clients in this industry from around the world who are seeking capital for acquisitions, capital improvements or new construction with those who are actively pursuing private equity investment opportunities, classified as "seekers" and "sources."

"Senior Living Private Equity Matchmaker comes at a time when access to private equity and debt is more important than ever," Okaty said. "This tool is not intended to replace the existing means of finding capital that are currently available to those in the senior living arena, but rather to enhance them by providing a marketplace for seekers and sources to connect and form mutually beneficial relationships."

The matchmaker software program allows firm attorneys to significantly expand their own individual networks with a few keystrokes. And immediately every attorney can access his or her own network of more than 1,100 colleagues globally, Okaty said. There are many instances where this tool has been beneficial. Recently a developer in southern California contacted the firm about potential investors that might be a part of Foley's client base. Okaty entered it into a database and populated it in case his colleagues might have some leads.

"It helps me better manage my time and work more efficiently," Okaty said. "So instead of setting (this request) aside for later, I can take just a few minutes and upload the information into the software and immediately it is available as part of the firm's network of resources."

"Now we just all have to get into the habit of checking this tool on a regular basis or when we know there might be clients looking for investors or hoping to invest in good ideas or businesses," he added.

As Foley attorneys populate the Senior Living Private Equity Matchmaker database with client data, the tool automatically searches for matches based on key attributes including transaction size, development stage, facility type and geographic region. When a match is identified, the system generates an e-mail notifying the Foley attorneys of their clients' potential compatibility.

There is broad interest in such a software tool. Aligning parties that seek and provide capital has long been a challenge in the senior living field, said John O'Connor, editorial director, for both Long-Term Care News and Assisted Living magazines.

"The beauty of this tool is its ability to pre-screen candidates. It creates good fits. The benefits for both sides include smoother transactions and better relationships," O'Connor said.

Senior Living Private Equity Matchmaker is one of many progressive Foley technology offerings that the firm uses to help separate it from other firms. Foley has been named to the InformationWeek 500 list for three consecutive years (2006 - 2008) for innovative client-focused technology that enables clients to better manage their legal departments.

Foley also was named to CIO magazine's 2007 CIO-100 list, which comprises global companies demonstrating technological innovation in improving products, services and relationships with clients.

Think of it as a dating tool for investors and entrepreneurs. Okaty said that in the past, it might take a few phone calls and a lunch meeting to determine that two parties weren't a good match to enter into a financial partnership.

"We let the software do all the work for us," Okaty said. "We get people together who are compatible which benefits everyone because nothing is more valuable than time in our business."

Don't ignore the IRS

BY CAROLE FELDMAN
Associated Press Writer

WASHINGTON (AP) — You've lost your job and your mortgage company is threatening foreclosure. Then, when it seems that things can't get any worse, the tax man comes calling. What's a person to do? Don't ignore the Internal Revenue Service.

"The most important thing for people to do even if they owe money is to go ahead and file that return," says Terry Lemons, senior spokesman for the IRS. The average refund last year was \$2,429. "That's a lot of money for people who are facing hardship," he said. "We encourage people to take a look at their taxes, file electronically and use direct deposit." You can get your refund in 10 days that way, versus four weeks or longer if you file by mail.

The IRS considers taxation a "pay as you go" system, said Bob Meighan, vice president for the Consumer Tax Group, part of Intuit Inc., which publishes the tax preparation software TurboTax. "Most Americans are current in tax liability as they are earning income."

But if your annual income declined because you lost a job or had other changes in your financial situation, your tax bill is likely to be lower and you could be due a larger refund.

You might find yourself eligible for a broad range of credits that you didn't qualify for before. Among them: the Earned Income Credit, education credits and the Recovery Rebate Credit.

The stimulus checks that people received last year actually were an advance payment on the Recovery Rebate Credit. Initial eligibility was determined based on 2007 tax returns.

If your financial circumstances changed, you may qualify for the rebate now, even if you didn't when the initial payments were made.

If you did get a check, you also may qualify for an additional credit if you added a child to your family in 2008.

Through 2008, Treasury processed more than 118 million stimulus payments totaling about \$96 billion. The IRS expects about \$10 billion in Recovery Rebate Credits in 2009.

The credits are \$600 for those filing individually, \$1,200 for joint filers and \$300 for each child.

The Earned Income Tax Credit was designed to help low-income workers by offsetting part of their Social Security and Medicare taxes. Since it boosts take-home pay, it is meant to provide an incentive to work. The maximum income limit is \$41,646. That declines based on filing status and the number of children in the household. The maximum credit for 2008 is \$4,824, up from \$4,716 in 2007.

Lemons says the IRS is paying close attention to the hard times and wants Americans to take advantage of every credit and deduction due them. For those who owe back taxes, the IRS is offering some assistance.

Taxpayers who lost a job, rely solely on Social Security or welfare, or who face "devastating illness or significant medical bills" may be able to have collection actions suspended.

For those facing financial hardship, missing a payment on an installment agreement with the IRS won't necessarily result in suspension of the agreement. The agency said people should call the IRS to discuss their situation.

The IRS has put together a series of answers to "What If?" questions to help taxpayers in financial distress. They can be found on its Web site, at <http://www.irs.gov/newsroom/article/0,,id201853,00.html>.

Don't forget, tax experts say, that unemployment insurance benefits are taxable as income. If you didn't opt to have federal or state income tax withheld or file estimated taxes, you could find yourself with a tax bill that you cannot pay. "However, the expenses that you incur to find a job are deductible to the extent that you can itemize," provided you are not looking for a job for the first time, Meighan said.

People struggling financially also could find themselves with a bigger tax bill if they withdrew money from an Individual Retirement Account or 401(k) and didn't have taxes withheld. There also is a 10 percent penalty if you're under 59 1/2 years old, with a few exceptions. In addition, the amount you withdraw is considered income and is taxed. Depending on the amount withdrawn, it could push you into a higher tax bracket.

There's some help, though, for people who lost their homes to foreclosure and had their debt forgiven by their financial institution.

"When debt is forgiven, you potentially have a taxable event," said Jackie Perlman, senior tax researcher at H&R Block Inc. "It's just as if someone gave you money to pay off your mortgage and that money is potentially income to you."

Under certain circumstances, you may not have to pay taxes on that forgiven debt. "It has to be your main residence, not a rental, not a vacation home," said Perlman.

Also, the forgiveness cannot be more than \$2 million.

Economists have said the country entered into recession in December 2007. Compared with previous recessions, consumers are being hit particularly hard this time. The recession helped push about 2.25 million homes into foreclosure in 2008, according to Federal Reserve estimates. In December, the Mortgage Bankers Association said 1 in 10 American homeowners with a mortgage was in foreclosure or behind in payments. More than 10 million people are unemployed.

For people who find they don't have the money to pay their tax bills, experts have this advice:

—Pay as much as you can when you file your taxes.

—Consider asking the IRS for an installment agreement to pay over time. There is an application on line. "The general rule is that if your bill is \$25,000 or less the IRS will be pretty amenable to an installment agreement," Perlman said.

—Look for other sources of payment, including putting the bill on a credit card. But, beware of the interest rate the credit card company charges — it could be higher than the one charged by the IRS.

—Some 401(k) plans allow hardship withdrawals to pay taxes. However, these distributions are taxable and may be subject to penalty. "It's not a great solution," Perlman said. "You're getting taxed on money you're using to pay your tax."

—Ask the IRS for a short-term hardship extension, using form 1127. However, the installment payment or other extension options are usually easier to obtain.

—Offer to settle the tax liability for less than the full amount owed. This "offer in compromise" is difficult to obtain. To get it, there must either be doubt that the full amount could ever be collected; doubt that the tax liability is correct; or what is called "effective tax administration," with exceptional circumstances. To be eligible for compromise in such a case, the taxpayer must demonstrate that paying the full amount would create economic hardship or would be unfair and inequitable.

On the Net:
IRS web site: www.irs.gov

JOURNAL: Review rises in rankings

(Continued from page 1)

Ackall expects the journal's rise in the rankings to continue because of the past and present Law Review membership. "The rise in rankings shows that the Michigan State Law Review is making a significant contribution to the legal community through the articles we publish."

Washington & Lee determines a law journal's rank using a composite of a journal's impact-factor and total cites-count during the preceding eight years. Impact-factor is the average number of annual citations per article in each issue. The cites-count is the total number of citations to the journal over the past eight years. The ranking takes into account citations in cases, other journals, and other external sources.

Complete rankings and a description of the methodology are available at <http://lawlib.wlu.edu/LJ/index.aspx>.

Founded in 1931, the Michigan State Law Review is edited and published entirely by students at Michigan State University College of Law. The Law Review publishes four issues per year and also sponsors symposia focusing on current legal topics. For more information about the Law Review, visit <http://msulr.law.msu.edu/>.

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FOUNDED 1927
Oakland County Legal News
(ISSN 1523-3146)

Published daily, Monday through Friday, by The Detroit Legal News Publishing L.L.C.
Bradley L. Thompson II, President
Suzanne Favale, Publisher

Tom Kirvan, Editor in Chief
Eric Kent Franz, Editor
Christine Mobley, Assistant Editor
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