



Oakland County Legal News

www.legalnews.com/oakland

Serving the Oakland County Legal Community Since 1927

Volume 83, Number 258

Troy, Michigan

Tuesday, December 28, 2010, ONE DOLLAR

SHORT TAKES

Senate action protecting IOLTA praised by ABA

By Stephen N. Zack

In the quest for 'justice for all,' a major victory has been won. Congress has acted to protect a critical funding stream for legal aid to the poor, legal education, and the administration of justice by continuing unlimited FDIC coverage for Interest on Lawyers' Trust Accounts (IOLTA).

The issue was serious and the hour was growing late: If Congress had not extended unlimited FDIC insurance on these accounts for two more years, lawyers and their clients faced complicated ethical and financial questions about handling money involved in legal transactions. The ultimate casualty of this confusion would have been poor people whose access to the justice system comes through assistance from IOLTA-funded programs.

Like all victories, this one required a team effort with some exceptional leaders. The ABA is grateful for the tireless Congressional leadership of Senators Merkley, Enzi, Isakson, Cornyn, Johnson, Corker, and Dodd, and of Representatives Doggett, Biggert, Frank, Conyers and Bachus. ABA members, bar associations, IOLTA programs, Access to Justice Commissions and others across the country also played a crucial role by joining the effort to pass this bill. We now welcome the president's signing the measure into law.

This dramatic move helps practicing lawyers and their clients, while safeguarding funding for legal aid and the justice system. During this holiday season, it is something to celebrate.

Stephen N. Zack is president of the American Bar Association.

Man faces charges for reading wife's e-mail

ROCHESTER HILLS (AP) — A Rochester Hills man who says he learned of his wife's affair by reading her e-mail on their computer faces trial Feb. 7 on felony computer misuse charges.

Thirty-three-year-old Leon Walker used his wife's password to get into her Gmail account. Clara Walker filed for a divorce, which was granted this month.

Leon Walker tells The Oakland Press of Pontiac he was trying to protect the couple's children from neglect and calls the case a "miscarriage of justice."

Oakland County Assistant Prosecutor Sydney Turner says the charge is justified.

Privacy law writer Frederick Lane tells the Detroit Free Press the law typically is used to prosecute identity theft and stealing trade secrets. He says he questions if a wife can expect privacy on a computer she shares with her husband.

COURTS CLOSED

The Oakland County Circuit and Probate Courts will be closed Friday, Dec. 31, for the holiday.

All offices of the United States District Court and the United States Bankruptcy Court for the Eastern District of Michigan will be CLOSED on Friday, Dec. 31, for the holiday. In case of emergency, call (313) 234-5656.

The Michigan Supreme Court, the Court of Appeals, and the State Court Administrative Office will be closed for the holidays on Thursday and Friday, Dec. 30-31.

The Supreme Court, Court of Appeals, and SCAO will be open Monday through Wednesday, Dec. 27-29.

MORE INSIDE

- Calendar3
- Classified Ads2
- Court of Appeals Opinions...4
- Daily Crossword3
- Legal Notices6

SHIFTING WINDS

Farms in Michigan's Thumb in path of plans for power lines

By Tom Kirvan
Legal News

The Midwest, and Michigan in particular, is emerging as a center for clean energy.

But at a cost, of course. That price has yet to be determined for several large farm owners in Michigan's Thumb, each of whom has retained Oakland County attorney Alan Ackerman to fend off possible condemnation actions by a public utility seeking to install transmission lines through the agricultural properties.

Ackerman, who has gained national prominence as one of the top eminent domain attorneys, has filed appearances before the Michigan Public Service Commission on behalf of three clients, two located in Tuscola County and the other in adjoining Sanilac County. The land owners are in the crosshairs of plans by International Transmission Company, otherwise known as ITCTransmission, to erect

high-voltage power lines to carry the flow of electricity generated by wind energy.

"It is not a question of 'if' they are going to do this, but rather 'where' they are going to install these transmission lines," Ackerman said. "We are working to ensure that these lines are installed where they will be the least disruptive to the farming operations. It's not as simple as just going from Point A to Point B. There are all sorts of farming issues to consider, some of which I'm just learning about."

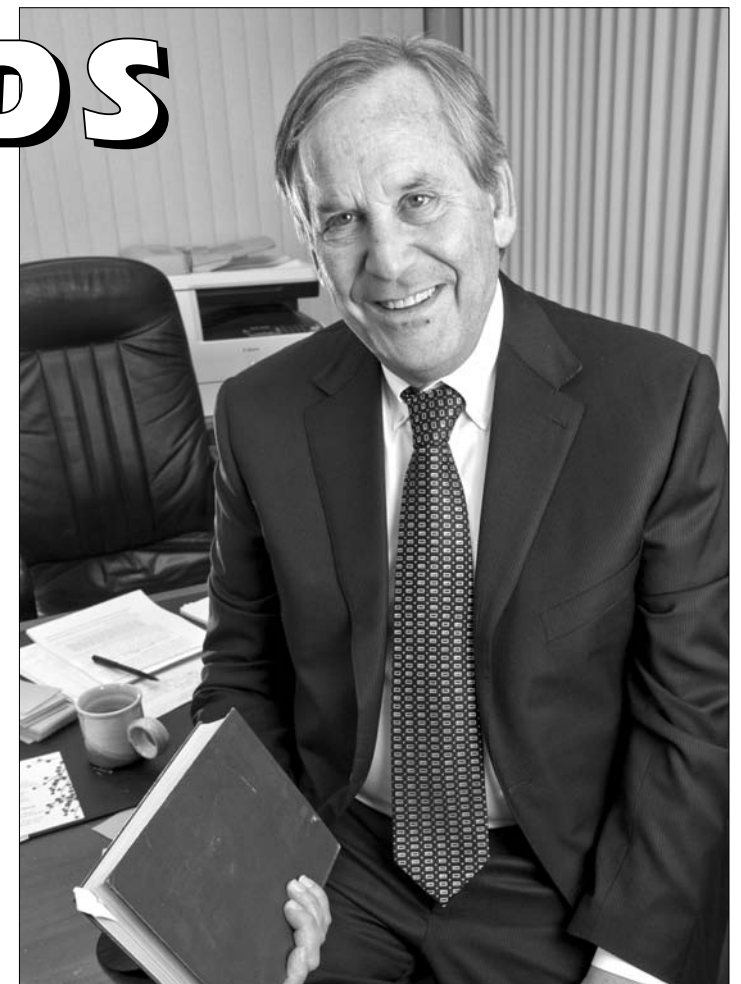
Such as "center pivot farming," the circular irrigation practice that reduces runoff and erosion while also limiting wind penetration into crop patterns, according to Michigan agricultural officials. The practice of "farming in circles" has gained in popularity over the past 25 years and has a particular foothold in Michigan's agriculturally rich Thumb area.

"The utilities, of course, want to stay out of woods and wetlands, and are

more interested in the so-called 'path of least resistance' when installing transmission lines," Ackerman said. "That path of theirs might not be the best route to follow for farms that use the 'pivot' process. It is our goal to work with them to create less of an impact on the farming operations, to locate these lines where they will be the least disruptive to business."

Over the summer months, officials from ITCTransmission held a series of open houses in the Thumb to discuss the "Thumb Loop Project," a plan to install "high-voltage transmission lines to accommodate wind development projects in the Thumb region." The "Loop" includes the counties of Huron, Tuscola, Sanilac, and St. Clair.

According to materials circulated by ITCTransmission, "Michigan's 'Clean, Renewable and Efficient Energy Act' (Public Act 295) includes the state's first Renewable Portfolio Standard. The RPS requires roughly 10 percent of the (See THUMB PROJECT, Page 5)



One of the foremost eminent domain experts in the state, Bloomfield Hills attorney Alan Ackerman has been retained to represent several large farming operations that stand in the path of a planned wind energy project.
Photo by Robert Chase



Matrimonial Lawyers gather for annual holiday dinner

The American Association of Matrimonial Lawyers Michigan Chapter hosted its holiday dinner Thursday, Dec. 9, at Bacco Ristorante in Southfield. Among those celebrating the season were (left to right) Franklin attorney Anne Cole Pierce, John Mills with Williams, Williams, Rattner, & Plunkett PC; Denise Alexander with Alexander, Eisenberg, & Spilman PLLC; and Richard Roane with Warner Norcross & Judd LLP.
Photo by John Meiu

Road Commission votes to implement an e-verify policy for business contracts

On Thursday, Dec. 16, the Road Commission for Oakland County (RCOC) voted to implement the Federal E-Verify Program that allows employers to verify that employees are eligible to work in the United States. Oakland County has already adopted E-verify as part of its procurement policy.

The E-verification program allows employers, including the RCOC, to verify employment eligibility when hiring new employees and to confirm that new contracts entered into with service consultants/vendors doing business with the RCOC comply with immigration laws. The E-verify policy for the RCOC will go into effect on March 1, 2011 potentially making the RCOC the only Michigan Road Commission to have implemented such as policy in the state.

Oakland County Commissioner Jim Runestad worked very closely with the Road Commission for Oakland County to implement the E-verification program. He has been a strong advocate for E-verify since being elected to the Oakland County Board of Commissioners in 2008.

As result of his work, Oakland County government has an E-verification policy in place due to his efforts on the issue which made E-verification a requirement this past summer when his E-verify resolution was adopted by the Board of Commissioners this year.

"I commend the Road Commission for Oakland County for implementing the E-verify policy, to ensure

that potential business partners are hiring legal workers, when seeking vendors for future county contracts. This is an example of responsible government and shows respect for taxpayers' money," stated Runestad.

He has been successful in implementing the E-verification program in Oakland County which is a requirement for all businesses, contractors, and sub-contractors, doing business with the county to use the Federal E-Verify program to demonstrate that they are employing only legal workers. He has rallied legislators in Lansing to pass E-verify bills HB 4969 and HB 4355, which he feels will protect Michigan's legal workers.

Runestad has fought for American jobs at the Michigan State Capitol in Lansing. He wants to make certain that all Michigan businesses follow the United States Immigration Laws by participating in the Federal E-verification program.

E-verify is an Internet-based, free program operated by the Federal Government that compares information from an employee's Employment Eligibility Verification Form I-9 to data from United States government records.

Oakland County Commissioner Jim Runestad is a republican, who represents the communities of White Lake and Waterford townships in District #6. He is completing his first term as an Oakland County Commissioner and will begin his second term January 5, 2011.

Court judgment will cost township taxpayers

WORTH TOWNSHIP, Mich. (AP) — The resistance by one community in Michigan's rural Thumb to a couple's plans to renovate the Lake Huron shoreline cottage has led to an \$860,000 federal court damage award against the township.

The \$100,000 limit on Worth Township's liability insurance means taxpayers in the Sanilac County community will foot the bill for their officials' delaying tactics in the zoning dispute. Township officials estimate it will cost an extra \$200 per property owner.

A federal court jury in August ruled in favor of George and Margaret Paeth, who've been trying for 10 years to renovate the cottage they bought for \$48,500 in 1998.

In recent weeks, five billboards have gone up that attack Township Clerk Marcella Bartniczak, who's also the target of a recall campaign.

Bartniczak said she can take the heat but was upset by one billboard at her children's bus stop.

"That one is just beyond the pale," Bartniczak told the Detroit Free Press for a recent story. "I'm a woman who doesn't kowtow to

people. I do my job, and I do it well."

In 2007, a Sanilac County Circuit Court judge reversed a zoning board decision involving a variance issue, clearing the way for the couple to resume work on their home.

The Paeths say within days, the township posted a stop-work order on their property, without the notice required by state law or giving them a chance to be heard.

The couple sued the township, saying that was retaliation and a violation of their due process rights. A federal jury in Detroit agreed, awarding them \$600,000 on Aug. 13. The township also must pay \$200,000 in attorneys' fees and interest.

"They feel bad that ultimately the taxpayers have to pay for the ignorance and arrogance of the township officials," said the couple's lawyer, Daniel Dalton. But, he added, "the township has acted in such a malicious and arbitrary manner toward them that they should be compensated for their loss."

The township has appealed to the 6th U.S. Circuit Court of Appeals.

Tax Benefits

New tax agreement could bring significant benefits along with delays at the IRS.

Page Two

Granholt Clemency

Governor reversed decision to release convicted killer based on family's pleas.

Page Three

Polio Vaccine

Michigan State University seeks to improve polio vaccination in Nigeria.

Back Page



6 56525 110161 8