



# “Legal News, You Can Use”

Summer 2011

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## Detroit, MI— Hands-Free Cell Phone Law

Michigan does not have a state-wide hands-free cell phone law. Michigan does however, allow localities to adopt their own cell phone usage laws. Effective in 2006, Detroit's hands-free legislation makes it a civil infraction to use a hand held mobile phone while operating a motor vehicle. This law is enforced only as a secondary offense. Since this new hands-free bill is a secondary offense, the police cannot ticket the driver unless there is a primary driving offense such as speeding or running a red light. This has led many people to question the effectiveness of a law that doesn't specifically target the driver who is clearly talking on a cellular phone without a hands-free device. Nevertheless, the new hands free law remains a secondary infraction. The fine for violation of the law is not to exceed \$100. Just like every other state that has hands free laws in effect, there are exceptions for emergency situations or if you are an on-duty public safety employee.

## Welcome Our New Attorneys Mark R. Pasquali and Sara Sastamoinen

Joseph T. Barberi, P.C. would like to welcome attorneys Mark Pasquali and Sara Sastamoinen to our firm.

Mark Pasquali grew up in the Upper Peninsula and attended Michigan State University, where he earned his undergraduate degree and graduated cum laude from the Michigan State University College of Law. After graduating from law school he worked for several years in the Lansing area specializing in estate planning and probate matters, on which he was a frequent seminar presenter. He recently received his Certificate of Completion – Probate and Estate Planning Certificate Program of the Institute of Continuing Legal Education and the Probate and Estate Planning Section of the State Bar of Michigan. Mark will

focus his legal work in the areas of estate planning, probate and trust administration and litigation, and related areas including business planning.

Sara Sastamoinen grew up in Tawas City and attended Michigan State University, where she earned a Bachelor of Arts degree in Psychology in 2005. She then attended Thomas M. Cooley Law School and obtained her Juris Doctorate, magna cum laude, in 2008. Sara will assist Mr. Barberi in the areas of Family Law, Contracts, and Civil Litigation.

We are proud to introduce them to the Mt. Pleasant community and are happy to expand our firm with their expertise.

## Did You Know?

- In Harper Woods, Michigan, it is illegal to paint sparrows to sell them as parakeets
- In Soo, Michigan, smoking while in bed is illegal
- In Belvedere, California, the City Council order reads: "No dog shall be in a public place without its master on a leash"
- In Greene, New York, it is illegal to eat peanuts and walk backwards on the sidewalks during a concert
- In Cleveland, Ohio, it is illegal to catch mice without a hunting license
- In Indiana, a person must get a referral from a licensed physician if he or she wishes to see a hypnotist unless the desired procedure is to quit smoking or to lose weight
- In Augusta, Maine it is against the law to stroll down the street playing a violin
- In Montana, it is illegal to have a sheep in the cab of your truck without a chaperone



## Discovering You are the Focus of a Criminal Investigation

By: Geoffrey K. Rettig

Your future could be in jeopardy, be sure your best interests are protected. Knowing your rights can make all the difference.

Discovering that you are the focus of a criminal investigation, or worse, being charged with a criminal offense, is a terrifying experience for any individual. Regardless of the charge, attempting to represent yourself and make your way through the criminal justice system without experienced counsel is not recommended. The simplest of assumptions and mistakes in judgment from "being too close" to the matter can haunt those caught in the criminal justice system for years after the judge drops the gavel.

From popular media, people generally know that you have the 'right to remain silent.' The problem is that most people are naïve in terms of the goals of an investigating officer or the prosecuting official. People believe that if they "just tell the truth," or what they believe or perceive to be "the truth", that they will be believed. In short, they believe they can talk their way out of the situation.

Criminal investigators recognize and rely upon this thought process and will give you ample opportunity to say things that will ultimately be used against you. Quite often, your words are misinterpreted by the investigator, or not properly preserved for later use. Remember, this is your only case. The officer may be working on hundreds of complaints a month and may not accurately remember

what you explained days or weeks after your interview.

If you are contacted by the police and they attempt to question you or a loved one, contact an attorney immediately. Generally, unless you are in custody, the investigator is not required to advise you of your rights to have an attorney present during any questioning. You are never under any obligation to speak to police. Know your rights. Exercise them and advise the investigator that you wish to consult an attorney before answering any questions. The investigator may attempt to tell you that asking to speak to an attorney will only hurt your position with the prosecutor, or that the attorney will only

advise you to not make a statement. Trust us when we say that no ethical prosecuting official will hold it against you for wanting to speak to an attorney before answering questions. Be firm and respectful to the investigator and clearly advise them that you wish to consult with an attorney before answering any questions.

If you are charged with a crime, having an attorney represent you throughout the proceedings is crucial. This is true whether you've been charged with a misdemeanor or a felony. Minor offenses can have a devastating

effect on your life, family and career. Simply pleading guilty to a "minor offense" without the advice of counsel "just to get it over with" can have severe consequences.

Alcohol offenses or minor drug possession convictions can impact your driver's license, even if you weren't driving at the time of the incident. Violations of the motor vehicle code can never be expunged!

The stigma of having a fraud or theft conviction has far reaching effects, and the law allows your credibility in the future to be attacked for these types of offenses. Don't let you or your children's "minor mistake" damage their reputation or career.

If you or someone you love has been contacted by the police to give a statement, take the time to discuss the matter with an experienced attorney first. You have no legal obligation to answer questions or give a statement. Protect your interests by asking to consult with an attorney first. Call us before talking to criminal investigators. We are here to help.

**"The stigma of having a fraud or theft conviction has far reaching effects..."**



## Top Six Reasons You Should Hire a Personal Injury Attorney

**1) Show Me the Money:** Ever wonder why insurance adjusters advise you that you do not need an attorney? It's because they know studies have shown that people represented by attorneys get larger settlements than those that don't. They would rather deal with an injured person unfamiliar with the law than with an experienced attorney;

**2) Who, What, When & Where?** A personal injury lawyer knows all the deadlines involved in a personal injury case, knows what is necessary to settle or try the case, and knows who to contact to get the case settled; and

**3) Which Doctor?:** Believe it or not, there are some doctors out there that are in the pockets of the insurance industry. An experienced personal injury attorney can advise you as to which doctors to avoid;

**4) Lien on Me:** Odds are when you settle a case, you will have to pay back liens to doctors, hospitals, medical insurers, etc. You could be left with nothing. An experienced personal injury attorney can tell you which liens are not legitimate, and can probably negotiate down the legitimate ones;

**5) Say What?** If you talk to an insurance company adjuster, the call is usually recorded. Anything you say will be used against you. Adjusters are very good at cherry-picking one or two damaging sentences out of a 30 minute conversation. If you have an attorney, let him do the talking. He knows what to say, and what not to say, plus since he won't be a witness, he can't be cross-examined on anything he says;

**6) No Win, No Pay.** Almost all personal injury attorneys work on a contingency fee basis. If they don't win, you don't pay.

## Estate and Trust Administration

By Mark R. Pasquali

It is often said that the only sure things in life are death and taxes. If that is true, the only sure thing in death is that some sort of estate and/or trust administration will be necessary. If indeed we are all mortal, that means that we will each leave behind a unique legacy. To that end, estate and trust administration represent the legal procedure by which our legacies are passed on to our loved ones. The difficult time following the death of a loved one should not be further aggravated with the myriad rules, deadlines and other duties associated with post-death estate and trust

administration. The assistance of counsel allows the family to focus on the memory of the deceased, and allows the lawyer to handle the legal process. Ignoring or delaying administration does not avoid the pertinent legal issues that must be addressed following death, and often results in adverse consequences to the estate and its beneficiaries. Please contact us so we can assist you with trust and estate administration services, or answer your questions about this process.

## This Month's Q&A Legal Tips

**Q: In a criminal case, what is the difference between a jury trial and a bench trial?**

A. A trial is an adversary proceeding in which the Prosecutor/Plaintiff must present evidence to prove the Defendant's guilt beyond a reasonable doubt. Both the Defendant and the Prosecutor have the right to a trial by a jury. A bench trial is held when both the Defendant and the Prosecutor agree to let the judge listen to the evidence and decide the case without a jury. A jury



trial is held when either the Prosecutor or Defendant requests that a jury listen the evidence, in which case, the jury is the "trier of fact" rather than the judge. After the evidence is presented, the judge or a jury will determine whether the evidence proved that the defendant committed the crime.

As in the Casey Anthony case, if the judge or jury is not convinced of the Defendant's guilt beyond a reasonable doubt they are to return a 'not guilty' verdict.



## Learn about iPug™, Your Family's New Best Friend

Why Do People Love iPug™?  
Because iPug™ Protects You and Your Family From:

- ✓ High costs of Nursing Homes
- ✓ Lawsuits
- ✓ Those that want to take away what you worked hard for.
- ✓ Children's indiscretions, their spouses and divorce.

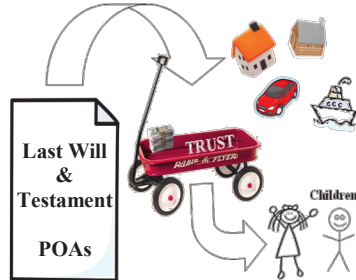
### iPug™ Keeps You In Control By:

- ✓ Allowing you to control assets until death.
- ✓ Allowing you to retain all income from your assets.
- ✓ Permitting you use of your assets during life.
- ✓ Ensuring you are able to qualify for Medicaid in the shortest period of time possible (often less than three years).
- ✓ Favorable income and estate tax treatment.

# Protecting Your Assets Without Giving Them Away or Losing Control

At Joseph T. Barberi, P.C. we know you've worked hard to achieve the life you have today. That's why we use these three strategic techniques:

**Trademarked Strategies** - To protect your business and other assets from nursing home costs, law suits, predators, your children's indiscretions or their spouses in divorce. Our protection strategy also permits you to maintain full control and customized access to your assets.



**Planning Strategies** - Planning strategies provide planning solutions for unmarried couples, widow(ers) and your pets that the law does not otherwise provide for without such planning.

**Charitable Strategies** - To memorialize the gift of the good life you have lived while you continue receiving the benefits of now.

To learn more call us at  
**(989) 773 - 3423**  
to sign-up for our

**FREE 2-Hour Estate Planning Workshop**

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