

CMDA Attorney Attends Congressional Hearing on Behalf of Retired NFL Players

CMDA's Jim Acho was asked to appear on behalf of the NFL Alumni Association at a Congressional hearing on the prevention and treatment of concussions in the NFL on January 4, 2010.

Acho attended the hearing as the attorney representing former players, some of whom testified before Congress as witnesses, including longtime CMDA client and NFL Hall of Fame player Lem Barney, whose testimony was called "riveting" by the Associated Press. The purpose of the hearing was to determine the sufficiency of helmets worn by football players at all levels—Pop Warner, CYO, high school, college and professional—and whether the evolution of the helmet has lessened the frequency and severity of concussions and traumatic brain injuries. It was the third such hearing over the last 12 months, part of an ongoing effort by Congress to place pressure on both the NFL and NFL Players Association to ensure former NFL players with medical problems are not left uncovered. It is also part of Congress' attempt to force on the NCAA and NFL rule changes that provide greater protection for players. For instance, in 2009, a new rule forbidding the "horse collar" tackle was instituted in both college and professional leagues.

"The equipment that we played with was much more insufficient than they have today," explained Lem Barney, showing reporters two of his seven Pro Bowl helmets. "Ballplayers are becoming bigger, stronger and faster. The game is much quicker and much rougher, and the hits are more intense. Even with the modernization with the helmets, I think we're still going to have a lot of concussions.

The hearing was run by the House Judiciary Committee and chaired by John Conyers (D-Michigan). The hearing, held at

Wayne State University Medical School, was broadcast in part on C-SPAN and ESPN. The day included testimony from numerous doctors, NFL representatives, NFL Players Association Executive Director DeMaurice Smith, and the presidents and CEOs of companies such as Riddell, the longtime manufacturer and distributor of NFL football helmets, pads and related equipment.



Lem Barney holds up a helmet he once wore in a Pro Bowl game while testifying before the House Judiciary Committee. (photo courtesy PATRICIA BECK/Detroit Free Press)

Prior to the hearing, Acho and Barney discussed with reporters the newly instituted "88 Plan," named in honor of NFL Hall of Fame tight end John Mackey, who suffers from a traumatic brain disorder. The plan covers nursing home and adult day care for former players with traumatic brain injuries or dementia. Since its inception early last year, 35 players have qualified for coverage under the plan.

CMDA has long been and remains committed to the welfare of retired professional athletes, both locally and nationally. Please see our CMDA Happenings section on page 3 for an article on Mr. Barney's recent induction into the Detroit Lions' newly-created Pride of the Lions.

If you would like to view text of the testimony, a partial transcript of the hearing can be viewed on our website at www.cmda-law.com.

Michigan Legislation Update

RECENTLY ENACTED MICHIGAN LAWS



Municipal Utilities: Shutoff Protections

In general, municipally-owned utilities are not regulated by the Michigan Public Service Commission (MPSC). Recently enacted laws, however, add new sections to the Public Service Commission law to provide shutoff protections for municipal utility customers similar to the protections provided to customers of regulated utilities.

Karen M. Daley

Under the new legislation, municipal utilities are now required to notify the MPSC of any shutoff of service that resulted in death or serious injury and they must provide the MPSC with the procedures followed during the shutoff. In addition, the MPSC is now authorized to investigate any shutoff by a municipal utility that resulted in death or serious injury. Following an investigation, the MPSC may refer the matter to the attorney general for possible civil action.

The new legislation also requires municipal utilities to postpone shutting off a customer's electric or natural gas service for up to 21 days if the customer or a member of the household is either a critical-care customer or has a certified medical emergency. The utility must extend the postponement of shutoff under certain conditions. Additional legislation regarding municipal utilities is expected to be signed into law in the near future.

Upper Peninsula Required to be Included on Official State Publications

Some U.P. residents felt slighted last year when a state-sponsored tourism commercial showed only the lower peninsula of Michigan. As a result, the Legislature recently enacted a law that requires any illustration, image or depiction in the State of Michigan on a publication or item produced by a State department or agency to include both the Upper Peninsula and Lower Peninsula.

Architect Examinations

Under the Occupational Code, an applicant for licensure as an architect in Michigan must have at least eight years of professional experience, including six years of education, and provide certain references to the board of architects, just to sit for the exam. As a result, architectural students may not take the exam until well after they graduate with a degree. Most states have similar criteria for licensure, but allow prospective architects to take the exam soon after earning a degree. Consequently, Michigan is losing graduates of architectural programs to other states.

A bill recently signed into law amends the Occupational Code to remove the requirements regarding experience, education and references from the criteria an applicant must meet to take the exam. An individual is still required to have eight

years of experience and provide references to the board before actually being licensed as an architect.

LEGISLATION TO WATCH

Ban on hand-held cell phones while driving

A bill was recently introduced that would amend the Michigan Vehicle Code by prohibiting the use of hand-held cell phones while driving, subject to a \$100 fine. "Use" would include initiating a call, answering a call, listening to or engaging in verbal communication through the handheld device or typing, sending or receiving a text message or an instant message.

The prohibition would not apply to an individual who is using the phone to (1) report a traffic accident, medical emergency or serious road hazard; (2) report a situation in which the person believes his or her personal safety is in jeopardy; (3) report a crime; (4) carry out official duties as a police officer, law enforcement official, member of a paid or volunteer fire department or operator of an emergency vehicle; or (5) carry out duties or report an incident as a school bus driver as necessary to maintain student safety. The bill provides that enforcement could only be accomplished as a secondary action when a driver of a vehicle has been detained for another reason. The bill has been referred to the Committee on Transportation.

Health Care Licenses for Sex Offenders

In 2002, a Michigan dentist was sentenced to 12 months in jail upon his conviction for sexually assaulting a female patient after drugging her. In May of 2007, the state reinstated his license. In response, legislation has been introduced that would prevent anyone from obtaining a health care license, or having one reinstated, after being convicted of first-, second- or third-degree criminal sexual conduct. The proposed legislation has recently gained attention because of opposition by the American Civil Liberties Union (ACLU). The ACLU claims the bill unfairly penalizes youthful offenders, such as a 17-year-old convicted of having consensual sex with his 15-year-old girlfriend. If the bill is passed, these offenders could never pursue a career in medicine. The bill is currently pending in the House Committee on Health Policy.

Liability Waiver for Food Donations

A bill was recently introduced that would provide a liability waiver for food donations to nonprofit charities. Under the bill, a retail food establishment, farmer, wholesaler or distributor who donates food to a nonprofit charity would be immune from civil damages or criminal liability resulting from the nature, age, condition or packaging of the food, unless they knew or had reasonable grounds to know the food was adulterated or not fit for human consumption. The bill has been referred to the Judiciary Committee.

Karen M. Daley

A Look Back at 2009



T. Joseph Seward

Happy New Year! As 2010 is upon us, we reflect back on 2009 and the year we had at the Firm.

The Firm hired two new attorneys last year. Brandon Bolling joined our Livonia office and Marcia LaCour joined our Riverside, CA office. You may remember reading about Mr. Bolling and Ms. LaCour, as they were both featured in our August newsletter. Mr. Bolling brings with him a wealth of experience in Military Law. CMDA is pleased to incorporate this new practice area into our Firm repertoire. Ms. LaCour concentrates her practice on Municipal Law, Personal Injury Defense Litigation, General Liability Defense and Prevention and Labor and Employment Law. Both attorneys are wonderful assets to the Firm, and I am sure you will hear much more about them in coming newsletters.

Three of our employees celebrated important anniversaries with the Firm in 2009. Gerald Davis, an equity partner, celebrated his 35th year with the Firm; Robert Blamer, also an equity partner, celebrated his 30th year with the Firm; and Donna Palizzi, a legal assistant, celebrated her 20th year with the Firm.

We are fortunate to have such a wonderful group of people working at the Firm and thank them for their dedication.

To wrap up the year, the Firm held two parties for our hard-working and dedicated staff. We held our annual Breakfast with Santa at the beginning of December for the children and grandchildren of our employees. You can really appreciate the spirit of the holiday season when you see it through the eyes of children. We also hosted our Firm holiday party at the Fox Theatre in Detroit, where employees and their guests were treated to a Kenny Rogers Christmas concert.

As we begin 2010, we are proud and grateful that this year the Firm is celebrating its 45th year of assisting clients with their legal matters. I want to take this opportunity to thank all of our clients for allowing us to assist them. Whether your legal needs are for a business, municipal, insurance or personal matter, we appreciate your business and the trust that you have placed in us. Thank you for permitting us to assist with your legal needs and for helping us to continue to be one of Michigan's premier law firms. Have a wonderful 2010.

T. Joseph Seward

CMDA Happenings

Business Journal Names Top Attorneys of 2010

We are fortunate to have a hard-working and dedicated group of attorneys, paralegals, secretaries and support staff working at CMDA. Each and every employee plays a role in making our Firm one of Michigan's premier law firms. In the November/December 2009 issue of "dbusiness" magazine, a Detroit business journal, the Top Lawyers in Metro Detroit for 2010 were listed. We are proud to announce that several of our attorneys made the list. Congratulations to the following attorneys:

- Owen J. Cummings
- Ronald G. Acho
- T. Joseph Seward
- Gregory L. Ulrich
- Timothy S. Ferrand
- Christopher G. Schultz
- Jeffrey R. Clark
- Kenneth G. Galica
- Gail P. Massad

CMDA Attorney Presents Client for Induction into Pride of the Lions
Livonia attorney Jim Acho recently presented his client, Lem Barney, for his induction into the Lions' newly-created "Pride of the Lions" at Ford Field in Detroit.

The Pride of the Lions is a permanent stadium display honoring the best players in team history. The charter class is a collection of the most outstanding Lions of all-time. All 12 players are members of the Pro Football Hall of Fame, and they represent virtually every generation of Detroit Lions Football.

The Pride of the Lions is located on the old Hudson's warehouse of Ford Field (south suite levels) and includes each player's jersey number, name and years played with the Lions.



CMDA client Lem Barney (center) flanked by fellow Lions legends Billy Sims and Barry Sanders.

Mr. Acho was proud and honored to be involved in the presentation ceremony with his client.

CMDA Supports Toys for Tots

CMDA was once again a proud sponsor of the Toys for Tots program this past holiday season. This was the Firm's 13th year sponsoring the donation program for the children who are less fortunate in the surrounding area. Toys for Tots provides new toys (including gift cards) to children up to 14 years of age who reside in the Livonia and Redford areas. Employees generously donated to the Toys for Tots program this, and every, holiday season.

Attorney Presents Seminar on Estate Planning

Livonia attorney Christopher Schultz recently presented a seminar on estate planning at a local AAA branch as part of life insurance awareness month. Because of his experience with all aspects of estate planning, Mr. Schultz is frequently asked to present seminars on the subject. For assistance with any of your estate planning needs, Mr. Schultz can be reached at (734) 261-2400 or cschultz@cnda-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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