

# On Law

A Monthly Publication  
from CMDA

April 2010

COMMINGS-MC CLOREY  
**CMDA**  
DAVIS & ACHO, P.L.L.C.  
ATTORNEYS & COUNSELORS AT LAW

## CMDA Expands in the Midwest

We are proud to announce that last month CMDA opened its eighth office, located in the heart of downtown Kansas City, Missouri. The office serves many clients in both Missouri and Kansas. The office was opened because of our vast legal experience and outstanding results in our municipal, insurance and business practices.

The Firm has handled numerous cases in Missouri over the past six years. The opening of this office location was a logical extension because it provides even more depth of our representation in the Midwest. The new office is being headed by James D. Conkright, our newest Partner and highly-respected attorney in both Missouri and Kansas.



James D. Conkright

James D. Conkright has over 33 years experience in municipal, insurance and products liability law. He has an outstanding reputation, not only in Missouri and Kansas, but also nationally. He began his practice at a large firm in Kansas City for 20 years before forming his own firm in 1999.

In 2009 he was selected as national Attorney of the Year by an

organization that handles products liability risks facing manufacturers and distributors of medical technology and life sciences products. Jim has had enormous success for this organization, as well as numerous municipalities throughout Missouri and Kansas.

Jim received a bachelor's degree from Pittsburg State University located in Pittsburg, Kansas. He graduated from law school at the University of Missouri at Kansas City in 1977. He enlisted in the U.S. Army and served in Vietnam. On an interesting sidenote, Jim completed his basic training at the same location as CMDA founders Owen Cummings, Bernie McClorey and Ronald Acho. He will add even more depth to our already excellent staff of attorneys.

Jim can be reached by calling (816) 842-1880 or via e-mail at [jconkright@cnda-law.com](mailto:jconkright@cnda-law.com).

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## Firm Supports Community Schools

CMDA members are active in volunteer efforts to support organizations throughout the communities where we live and work. With our headquarters located in Livonia for 45 years, we have participated in programs and initiatives on behalf of the Livonia Public Schools.



Gregory A. Roberts

Most recently, attorney Gregory Roberts was asked to speak at a reception held for State School Superintendent Mike Flanagan. The reception was attended by local business leaders, school board members, district administrators, union officers, PTSA officials and community notables. At the reception, Superintendent Flanagan was presented with the district's plans and efforts to improve the quality of public education in Livonia. Mr. Roberts addressed the ways in

which business people in the community have helped to introduce advanced business education to Livonia's students.

The Firm's attorneys also participate in the Business-Education Alliance consulting group, which sponsors a mentor program called Here 2 There. Mr. Roberts and Attorney Susan Lumetta take part by accompanying a team to the local high schools to speak with students about their career paths since high school, explaining how they have reached the current points in their careers. These presentations focus on those attributes that are important to success at work and in life. CMDA is proud to support our schools along with other organizations in all the communities we serve.



Susan Lumetta

in this  
**issue**

# CMDA Happenings

## Attorneys Gives Speech to Law School Students

Livonia attorney Gregory Ulrich recently spoke to Michigan State University College of Law students on Legal Career Opportunities and how the American Bar Association and the State Bar of Michigan provide the latest updates to lawyers on rapid changes in the law.



Gregory Ulrich

Later that evening, he met with Cooley Law School students in Lansing to focus on New and Developing Areas of Law Practice, technology and the support the American Bar Association offers to over 400,000 lawyers nationwide.

Ulrich is a member of the America Bar Association's House of Delegates, its policy making body and is a member of the State Bar of Michigan Board of Commissioners. He chairs the Technology Subcommittee of the House Resolutions and Impact Committee. He also chairs the State Bar Planning Group for the new Master Lawyers Section, where the focus is on highly experienced attorneys.

## CA Attorney Wins Case



Marcia LaCour

Marcia M. LaCour of the Riverside, CA office tried a plaintiff personal injury case to verdict last month. The client, a self-employed tile contractor, was rear-ended in stop and go rush hour traffic in 2006. He had a neck injury that took some days to manifest. He was eventually seen in the Emergency Room and then received physical therapy. His condition did not

improve and he was seen for a workup with a neurologist including an MRI and EMG, both of which were negative. Over time the client made a good recovery from his injuries. His total medical costs were \$6,380, and his lost earnings were \$9,090.

Mercury Insurance offered the client \$10,000 on the day trial started. The jury awarded \$32,968.

What is most interesting about this case is that the trial was held in a converted elementary school and the judge was an 85-year-old retired justice from the Fifth Circuit Court of Appeals. This case was resolved as part of a program to use a strike force of retired judges to hear cases outside traditional courthouses to help Riverside County, CA clear its backlog of civil cases.

Marcia also serves on the Bench-Bar Committee for the Riverside Superior Court that helped implement and monitor this program. It was especially gratifying to see the program pay off to the benefit of one of the firm's clients who had been injured in 2006 and had been awaiting redress since then.

## Attorney Gives Speech on Legalization of Medical Marijuana

Anne McClorey McLaughlin spoke to the Michigan Public Risk Management Association on March 25th on the workplace ramifications of legalization of medical marijuana in Michigan. The seminar was held at the Marriott University Place in East Lansing, to about 70 attendees.



Anne McClorey McLaughlin

## Highlights of the Tax and Benefit Provisions of 2010 Health Care Act

**P**resident Obama has recently enacted the Patient Protection and Affordable Health Care Act together with the Health Care and Education Reconciliation Act of 2010. The new law will have a significant impact on individuals and many businesses. In this month's newsletter we will provide an overview of the effects the new law will have on individuals.

The new Act mandates that most residents of the United State obtain health insurance or pay a penalty. The requirement will be effective starting in 2014. The penalty for failure to obtain the insurance would be the greater of \$750 per person in a household up to a maximum of \$2,250 or 2% of the household income.

Individuals without coverage through their employer will be able to purchase coverage through certain agencies established by the government, including the State. The agencies are required to be governmental agencies or non-profit entities established by the State. They must offer only "qualified health plans." They must establish procedures for certifying health plans as a "qualified health plan" and any health plan seeking certification must submit justification of any increase in the

payments prior to the implementation of any increase.

These agencies will be established to provide coverage for individuals and small employers. Individuals with income levels lower than 400% of the federal poverty level who purchase coverage through these agencies will be eligible for tax credits for the payment of their premiums.

Individuals who have coverage through their employers will be permitted to keep their current coverage.

The Act intends to expand Medicaid and Children's Health Insurance Program. The Act will attempt to make Medicaid available to all individuals under the age of 65 who have income of up to 133% of the federal poverty level.

Christopher G. Schultz

Christopher Schultz is a Partner in our Livonia office where he concentrates his practice on Corporate and Business Law, Estate Planning and Real Estate law. He can be reached by calling (734) 261-2400 or via e-mail at [cschultz@cmda-law.com](mailto:cschultz@cmda-law.com).

## What Is a Judgment Worth?



Robert J. Hahn

If money is owed to you because you have been awarded a judgment in a court of law, you are a judgment creditor. The party against whom the judgment is entered is a judgment debtor. Winning a judgment in a court of law is only half the battle. Obtaining payment under the judgment is the other half. Obtaining payment from a reluctant and determined judgment

debtor can turn into a lengthy and costly battle fought over a period of years with an uncertain outcome. A judgment debtor may appeal the judgment or may file bankruptcy, forestalling or preventing efforts to collect on the judgment.

If a judgment becomes final, several considerations come into play in deciding how vigorously to pursue collection efforts. First and foremost is the collectibility of the judgment debtor. If the judgment debtor appears to be collectible, one must consider the difficulty of reaching the debtor's assets. For example, an individual judgment debtor may live in fine style, giving the appearance of collectibility, but his Lincoln may be leased and his home may be owned with his spouse, preventing a judgment creditor of only one married spouse from recovering money by sale of the house. Even if the judgment debtor is not married, or the judgment is against both husband and wife, there is now a good chance the home is underwater, meaning total mortgage debt exceeds its value, or there is so little value in the property as to make sale of the property not worthwhile. A judgment debtor living large on credit cards and deeply in debt is also not a good collection prospect as they generally have no savings and frequently end up in bankruptcy court.

If the decision is made to proceed with collection of the judgment, a judgment creditor has a number of tools available to recover the money owed. The most commonly used are writs of garnishment and writs of execution.

A garnishment is a means of reaching the judgment debtor's money or property that is held by a third party (the garnishee).

In order to garnish money or assets, the judgment creditor prepares a writ of garnishment which is signed by the court. The writ is then delivered to the garnishee believed to be holding the debtor's assets. Within 14 days, the garnishee must then disclose assets held for the judgment debtor. If the garnishee discloses assets and the judgment debtor does not file a formal objection, the money held is paid to the judgment creditor. This procedure can be very effective if the judgment creditor knows where the judgment debtor banks, has brokerage accounts or where he or she is employed.

Execution is simply the seizure of assets from the judgment debtor. As with a garnishment, a writ is signed by the court directing a sheriff or qualified court officer to seize and sell the judgment debtor's property to satisfy the judgment. It is important to note that judgments are not in themselves liens on property, so a judgment standing alone does not give a creditor rights in the debtor's property. Further, the judgment lien permitted under the 2004 revisions to Michigan law is largely a toothless remedy, as the law does not permit foreclosure on the lien, preventing the judgment creditor from selling the assets liened to satisfy the judgment. The writ of execution must first be levied against the judgment debtor's personal property. If the debtor does not have sufficient personalty to satisfy the judgment, it may then be levied against real estate.

Judgment creditors also have a number of tools to reach assets that a debtor has attempted to hide by improper gifts to friends or relatives, placing assets in other parties' names, or sales for less than full value. The key to satisfying any judgment is to know the debtor's finances, to act quickly after the judgment is final, and to be creative and persistent. It will pay off in the end.

Robert J. Hahn

Mr. Hahn, an attorney in our Livonia office, concentrates his practice on commercial litigation, corporate and business law, real estate, land use and zoning and utility law. He can be reached by calling (734) 261-2400 or via e-mail at [rhahn@cnda-law.com](mailto:rhahn@cnda-law.com).

## Attorney Joins Riverside, CA Office

The Firm is happy to announce that Luis Arellano has been hired as a part-time attorney in our Riverside, California Office. He concentrates his practice on public entity defense and employment litigation.

Mr. Arellano is a 2009 graduate of the University of California, Hastings College of the Law, cum laude, and passed the California Bar in July 2009.

His employment experiences a judicial externship with the

California Supreme Court where he worked with Chief Justice Ronald George and other associate Justices. While there, he conducted legal research and writing, drafted calendar memoranda analyses for Justices and made recommendations on which matters should be granted.

Mr. Arellano also worked for a private law firm as a law clerk and was a Student Associate at the University of California Hastings Civil Justice Clinic. He can be reached by calling our Riverside office at or via e-mail at [larellano@cnda-law.com](mailto:larellano@cnda-law.com).

# CUMMINGS, McCLOREY, DAVIS & ACHO Office Locations



On Law is a monthly publication from Cummings, McClorey, Davis & Acho, P.L.C.

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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## 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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