

## Know Your Business: *Three Key Areas that Need Your Attention*

Owni ng a small business and living in the land of “entrepreneurial bliss” can prove rewarding, yet challenging. I have counseled many small business owners and advise them of three areas of their business that need constant attention: insurance, accounting and marketing. These areas should not be delegated to an employee or independent professional without the owner’s consistent oversight. Being educated, informed and pro-active in these areas can protect the owner, the business and its future success.

### Insurance

Commercial insurance is a topic that perplexes many entrepreneurs. The tendency is to view purchasing commercial insurance in the same way as insuring a personal vehicle; however this is not the case.

Commercial insurance needs to be customized to fit the needs of a specific business, which can be challenging to determine. General liability, workers’ compensation, equipment coverage, commercial auto/fleet coverage, fiduciary or dishonesty bonds and umbrella coverage are just a few of the types of policies that may be applicable to a small business. Residential and commercial contractors have the added concern of understanding the laws in regard to ownership of job materials and the need for builder’s risk coverage.

Additionally, business owners should understand how warranty laws affect the operation of their business. If their business involves a product or service that is covered by an express or implied warranty, owners should know if general

liability coverage will protect them if a claim is made.

It is important for business owners to use a trustworthy and attentive insurance professional. It is equally as important for business owners to understand how their policy premium is calculated and how deductibles can affect their premiums and potential cash flow. Business owners should meet with their agent, at a minimum, of twice per year and inform their agent if any aspect of their business has changed.

### Accounting

Small businesses and professional offices can be havens for embezzlers. Not paying attention to a businesses’ checkbook and finances can have devastating consequences. Business owners should always compare the computerized accounting program with hard copies, such as check stubs, bank deposit receipts and invoices. Furthermore, they should never sign a blank check, even for a long-time trusted employee, and should never allow only one employee to know the accounting program’s password.

Understanding the payroll tax obligations is also a concern in managing a small business. Failing to budget for weekly, monthly or quarterly payment of payroll taxes can be costly. All too often, small business owners prioritize other expenses over payment of payroll taxes, allowing arrearage, penalties and interest to accumulate.

Finally, business owners should never hesitate to structure their written contracts or verbal obligations with a customer

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## Know Your Business (cont.)

in staggered or installment payments. If a product order requires materials to be purchased or needs set-up time, ask for a reasonable deposit or an initial payment from a customer to cover these expenses. One of my favorite general rules in business is, "You don't get what you don't ask for."

### Marketing

In my experience, there is one essential approach to small business marketing: always sell yourself first. Despite the technology of today, people still want to see a business owner's smile and shake their hand. If a customer does not believe or trust a person, the chances of selling them a product or service diminish exponentially.

It is also imperative for business owners to know their audi-

ence. Research a prospective business or individual before making that first phone call or setting up that first meeting. Discover what is important to them, and impress them with the knowledge of their business history and philosophy.

The year ahead holds promise for many small businesses. Business owners should get out there, flash their smile and shake some hands, but when back in the office, they should always know their business.

*Lisa J. Vogler, an attorney in our Traverse City office, concentrates her practice on corporate and business law, municipal law, insurance defense, and commercial and personal injury litigation. She can be reached at (231) 922-1888 or [lvogler@cmda-law.com](mailto:lvogler@cmda-law.com).*

## Sterling Heights Attorneys Obtain Dismissals of Employment Lawsuits

**S**terling Heights attorneys Timothy Ferrand and Jason Thomas recently obtained dismissal of two employment lawsuits filed in Federal Court.



*Timothy S. Ferrand*

The first lawsuit was filed by a female police officer who was disciplined as a result of work rule violations. Those violations included leaving a run without permission, engaging in an off-duty bar fight and getting into an off-duty automobile accident. The officer was suspended with pay and told to remain "fit for duty" during normal work hours. The officer violated the terms of her suspension by leaving the county to travel to northern Michigan without permission. The officer was terminated. She filed suit alleging sexual harassment.

The United States District Court, in a 30-page opinion, dismissed the lawsuit finding legitimate, nondiscriminatory reasons for the termination, including rule violations, insubordination and abandonment of duties. The Court found neither factual nor legal support for the officer's assertion that she was treated

differently because of her gender.

The second lawsuit was filed by a male police officer who was suspended and ultimately terminated for work rule violations arising out of suspected substance abuse. While off-duty, the officer was found asleep in a motor vehicle. He was not arrested or charged with an alcohol-related offense; however he was suspended by the department and ordered to undergo substance abuse treatment. He was subsequently involved in a series of off-duty incidents that led to his termination. The officer sued alleging age discrimination.

The Court granted the City and the Chief's motion and dismissed the action based on the officer's failure to file witness disclosures, failure to answer interrogatories and failure to appear for deposition.

*Timothy S. Ferrand, a partner in our Sterling Heights office, concentrates his practice on municipal liability defense and labor and employment law. He can be reached at (586) 731-5000 or [tferrand@cmda-law.com](mailto:tferrand@cmda-law.com).*



*Jason J. Thomas*

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## COMMUNITY COLLEGE CORNER



*Patrick R. Sturdy*

A Federal Appeals Court ruled that an artist's use of the University of Alabama's trademark within his paintings was protected by the U.S. Constitution First Amendment Free Speech Clause.

In litigation that cost the University of Alabama an estimated \$1.4 million in legal fees, the University claimed the artist's depictions of Alabama Crimson Tide football team violated the University trademark rights.

The Federal Appeals Court disagreed noting that the depiction of the University's uniforms in the unlicensed paintings,

prints and calendars were artistically relevant to the underlying works, and the interests in artistic expression outweigh the risks of confusion as to endorsement.

This lawsuit provides important lessons for other post-secondary institutions who seek to preserve their trademarks. The court ruling makes clear that expressive works will be provided First Amendment protection; therefore administrators need to be cautious in weighing the cost of protecting the institutions trademark.

If you have any questions about what you have read or would like additional information, Mr. Sturdy can be reached at (734) 261-2400 or psturdy@cmda-law.com.

### Attorney Profile: Allan C. Vander Laan



*Allan C. Vander Laan*

In this month's newsletter, Allan C. Vander Laan is profiled. He joined the Firm's Grand Rapids office in 2002 and was made Partner in 2012.

Mr. Vander Laan is a member of the Firm's civil litigation practice group and has tried cases for over 30 years. He represents numerous municipalities and governmental agencies throughout

Michigan in employment matters and civil rights cases, including constitutional claims arising under the First Amendment, Fourth Amendment, Eighth Amendment and Fourteenth Amendments of the United States Constitution.

Additionally, Mr. Vander Laan has a wealth of experience with insurance matters, including arson and fraudulent claims investigation and defense, subrogation cases, wrongful death and major property damage, no-fault and Personal Injury Protection.

Mr. Vander Laan frequently gives speeches and lectures to a variety of audiences on topics such as spoliation of evidence, arson investigations, Freedom of Information Act, updates in

municipal law and many others.

Andrew Brege, an attorney in our Grand Rapids office explains, "I have been working closely with Allan for the past several years. Allan prepares relentlessly for all that he does and it shows in his work product and the relationships he builds with clients. He always keeps calm and level-headed, which makes him well respected by clients, co-defendants and opposing counsel alike. It has been an honor to have him as a mentor and co-worker."

Mr. Vander Laan is a thorough, reliable attorney with the upmost integrity. He respects his clients' desire to resolve matters efficiently and finds creative solutions to save them time and money.

He is a member of the State Bar of Michigan, the Grand Rapids Bar Association and the International Association of Arson Investigators. Mr. Vander Laan received a Juris Doctor degree from Thomas M. Cooley and a Bachelor's degree in History from Calvin College.

He and his wife Melissa live in Byron Center with their twin five-year-old daughters Keira and Karlie. When not at work, he enjoys spending time with his family and taking long motorcycle rides.

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