



2025 CRITICAL LEGAL DEVELOPMENTS

VisTaTech Center, Livonia, Michigan

November 5, 2025

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MISSION STATEMENT

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The firm is a proven catalyst for success, and takes pride in anticipating and responding to our clients' needs. We help our clients with their personal and business matters, offering practical and strategic advice drawn from our decades of experience with top level expertise and value-based personalized service. We continually seek to enhance our reputation for finding creative solutions to even the most complex legal issues.

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Agenda

8:30 - 8:40	Opening Remarks	Christopher M. Williams
8:40 - 9:15	Five Common Mistakes in Business Asset Sales.....	Christopher M. Williams
9:15 - 9:45	Troubleshooting in Estate Planning – Problems and Pitfalls to Avoid.....	Jennifer K. Johnson
9:45 - 10:05	Business Valuations	Edwin Sadik
10:05 - 10:20	Break - 15 minutes	
10:20 - 11:20	Real Property Law Trivia: Is The “Deed” Really Done?	Gregg A. Nathanson and Emily M. Sullivan
11:20 - 11:35	Break - 15 minutes	
11:35 - 12:05	Your Role in Trust and Estate Administration	Matthew A. Ferrara
12:05 - 12:30	The Michigan Business Court, Business Arbitration and Mediation.....	Mark E. Merlanti

This material does not attempt to give specific legal or tax advice. For advice in particular situations, the services of competent legal, tax or financial planning advisors should be obtained.





GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
LANSING

ANITA G. FOX
DIRECTOR

Continuing Education Class Announcements/Protocol

At every classroom or speech/seminar each instructor or Provider Designated Person or Provider on-site representative shall be required, prior to the commencement of instruction, to read the following statements:

One credit is 50 minutes of instruction with no more than 10 minutes for a break. Fractional credits will not be awarded. Registration, coffee and lunch breaks, or social hours do not qualify for CE credit.

A student that arrives 10 or more minutes late or departs early will not receive CE credit.

All classroom courses must have attendance verified through a sign-in/sign-out sheet with a door monitor. Only students meeting minimum attendance requirements may receive Certificates of Completion.

Students must provide their name, address, license number (not SSN), time-in and time out. Reminders are given by the instructor to sign the attendance forms.

Providers must give Certificates of Completion to all individuals who complete the requirements of a CE course.

Providers should make students aware that licensees cannot receive CE credit for both a self-study (examination) course and a classroom course based on the same published materials.

Providers should make students aware that licensees are not allowed to receive or carry over credit for the same course in the same review period.

No conduct of insurance or other business by any means whatsoever or the reading of newspapers or publications unrelated to the courses may occur during the instructional period. Use of electronic devices is determined by the education provider. All electronic device ringers or sound effects should be turned off at the start of class. Emails, voice messages, etc. may be checked during breaks or lunch.

To facilitate learning, all students taking the course must be attentive and respectful to instructors and fellow students. ACTIVE participation is required.

Representatives of PSI and members of DIFS and/or its designees, may audit classroom courses, course materials, instructors' presentations, and course records. Audits will be conducted in a manner that will minimize disruptions.



Five Common Mistakes in Business Asset Sales

Christopher M. Williams

FIVE COMMON MISTAKES IN BUSINESS ASSET SALES

I. INTRODUCTION

A. Why are we discussing this topic?

1. Those who advise business owners will likely encounter a Business Asset Sale.
2. Business owners will be looking to their advisors to provide input into potential transactions.
3. You can add value to your clients by being familiar with these common issues.

B. Key Definitions.

1. Business Asset Sale: the sale of substantially all of the assets of a business.
2. Business Equity Sale: the sale of the ownership of a business entity (e.g., stock in the case of a corporation or membership interest in the case of a limited liability company).
3. Buyer: the buyer of substantially all of the assets of a business.
4. Seller: the seller of substantially all of the assets of a business.
5. Sign and close transaction: a transaction where the signing of the purchase agreement and the closing occur simultaneously.
6. Sign and delay transaction: a transaction where the purchase agreement is signed and the closing occurs at a later time.

C. Session Goals.

1. To be able to identify these common mistakes before they happen.
2. To understand how these "mistakes" impact Buyers and Sellers differently, as one person's "mistake" may be another person's "strategic advantage."
3. To be able to offer solutions to prevent these mistakes depending on whose interest you are representing.

II. MISTAKE #1: FAILING TO OBTAIN EXCLUSIVITY

A. Why is this important?

1. Unless a Seller is subject to a contractual exclusivity provision, a Seller could be negotiating with multiple Buyers.
2. If you are a Buyer, you could spend time and resources pursuing a deal only to lose the deal to another Buyer.

3. If you are a Seller, the absence of an exclusivity provision can be a strategic advantage, but it can also invite conflict if a Buyer believes it is implied or signal to a Buyer that Seller is not fully committed to closing a deal.

B. How to prevent this mistake.

1. Negotiate a letter of intent that includes an exclusivity provision.
2. In a sign and delay transaction, negotiate a purchase agreement which includes an exclusivity provision.
3. The exclusivity provision addresses these issues:
 - a. Exclusivity period.
 - (1) For a set time period (e.g., 60 days).
 - (2) Until a specific event occurs (e.g., termination of the agreement or closing).
 - b. Seller's prohibited actions.
 - (1) Solicitation.
 - (2) Negotiation.
 - (3) Entering into agreements (e.g., letter of intent).
 - c. Definition of a competing transaction.
 - (1) Business Asset Sale.
 - (2) Business Equity Sale.
 - (3) Merger.
 - (4) Any similar transaction.
 - d. Notice of third-party offers to Buyer.
 - e. Termination of obligations.

C. Examples.

1. Pro-Buyer Exclusivity Provision:

Exclusivity. For a period of 90 days from the date of this Agreement (the "Exclusivity Period"), the Seller, its affiliates, subsidiaries, and their respective officers, directors, employees, agents, or representatives shall not, directly or indirectly:

(a) solicit, initiate, encourage, or respond to any inquiry, proposal, or offer from any person or entity (other than the Buyer or its affiliates) relating to the acquisition of any equity interests, assets, or business of the Seller, whether by sale, merger, consolidation, or otherwise (a "Competing Transaction");

(b) engage in, continue, or participate in any discussion or negotiation with any person or entity (other than the Buyer or its affiliates) regarding a Competing Transaction;

(c) provide any non-public information or access to the Seller's books, records, or personnel to any third party in connection with a potential Competing Transaction; or

(d) enter into any agreement, letter of intent, term sheet, or other arrangement, whether binding or non-binding, with respect to a Competing Transaction.

The Seller shall immediately cease any existing discussions or negotiations with third parties regarding a Competing Transaction and shall promptly notify the Buyer in writing of any inquiry, proposal, or offer received from any third party during the Exclusivity Period, including the identity of the third party and the material terms of any such inquiry, proposal, or offer. The Exclusivity Period may be extended by the Buyer for an additional 30 days upon written notice to the Seller if the Buyer is actively pursuing due diligence or financing, provided the Buyer is not in material breach of this Agreement. This exclusivity obligation shall terminate upon the earlier of: (i) the expiration of the Exclusivity Period (including any extension), (ii) the mutual written agreement of the Parties to terminate this Agreement, or (iii) the Seller's material breach of this Agreement, as determined by the Buyer in its reasonable discretion.

2. Pro-Seller Exclusivity Provision:

Exclusivity. For a period of 45 days from the date of this Agreement (the "Exclusivity Period"), the Seller shall not actively solicit or initiate inquiries, proposals, or offers from any person or entity (other than the Buyer) relating to the acquisition of any equity interests, assets, or business of the Seller (a "Competing Transaction"). Notwithstanding the foregoing, the Seller, its affiliates, and their respective representatives may:

(a) respond to unsolicited inquiries or proposals regarding a Competing Transaction, provided that the Seller notifies the Buyer in writing within three business days of receiving such inquiries or proposals, including a general description of the inquiry (without disclosing confidential details); and

(b) provide limited, publicly available information to third parties in response to unsolicited inquiries, provided such information does not include proprietary or

confidential information unless approved by the Buyer in writing. The Seller shall have no obligation to cease existing discussions with third parties initiated prior to the date of this Agreement, provided such discussions do not advance to formal negotiations during the Exclusivity Period. The Exclusivity Period shall automatically terminate if: (i) the Buyer fails to provide written confirmation of its intent to proceed with the transaction within 30 days of this Agreement, (ii) the Buyer is in material breach of this Agreement, or (iii) the Parties fail to execute a definitive purchase agreement by the end of the Exclusivity Period, unless mutually extended in writing. Upon termination of the Exclusivity Period, the Seller shall be free to pursue any Competing Transaction without restriction.

III. MISTAKE #2: FAILING TO OBTAIN A TAX STATUS LETTER AND TAX CLEARANCE CERTIFICATE

A. Why is this important?

1. One of the reasons that a Buyer prefers a Business Asset Sale to a Business Equity Sale is to avoid assuming the liabilities of a Seller.
2. Under Michigan law, a Buyer in a Business Asset Sale can be liable for taxes owed by a Seller to the State of Michigan unless Buyer meets certain escrow requirements. MCL 205.27a.
3. Successor liability may arise for unpaid tax liabilities for any tax that is administered under the Revenue Act (including Michigan Business Tax, Corporate Income Tax, and sales, use, and withholding taxes). MCL 205.1 et seq.

B. How to prevent this mistake.

1. Buyer should escrow sufficient money to cover the amount of taxes, interest, and penalties owing the State of Michigan by Seller until Seller produces a receipt from the state treasurer or the state treasurer's designated representative showing that the taxes due are paid, or a certificate stating that taxes are not due.
2. In order to determine the amount of taxes owing by Seller, Buyer should require Seller to obtain a Tax Status Letter ("Tax Status Letter") from the Michigan Department of Treasury (the "Department") by filing a Request for Tax Clearance Certificate or Tax Status Letter, Form 5156 ("Form 5156"), as soon as possible.
3. If the Department provides a Tax Status Letter within 60 days of its receipt of Form 5156, Buyer's liability for Seller's taxes is limited to the amount disclosed in the Tax Status Letter.
4. If the Department does not provide the Tax Status Letter within 60 days of its receipt of Form 5156, Buyer is not liable for Seller's taxes.

5. Following the closing, Buyer should require Seller to file a new Form 5156 to obtain a Tax Clearance Certificate before any funds are released from escrow.
6. This process should be addressed in any letter of intent or purchase agreement.

C. Examples.

1. Failing to follow the escrow process: Seller and Buyer enter into an asset purchase agreement. Seller does not obtain, and Buyer does not require Seller to obtain, a Tax Status Letter because they do not want to wait 60 days before closing. The parties agree to place \$10,000 in escrow and Seller will file a Form 5156 to obtain a Tax Clearance Certificate after the closing. Following the closing, it is discovered that Seller owes the State of Michigan \$20,000 in unpaid taxes. As the escrow is insufficient to cover the unpaid amount, the State of Michigan may seek the balance from Buyer.
2. Following the escrow process: Seller and Buyer enter into an asset purchase agreement. Seller files Form 5156 and obtains a Tax Status Letter showing Seller owes the State of Michigan \$20,000 in unpaid taxes. The parties place \$20,000 in escrow and agree that Seller will file a Form 5156 to obtain a Tax Clearance Certificate after the closing. Seller pays the unpaid tax amount, files a new Form 5156, and obtains a Tax Clearance Certificate. Upon receipt of the Tax Clearance Certificate, Buyer releases the \$20,000 in escrowed funds to Seller. Buyer has no liability for any of Seller's taxes.

IV. MISTAKE #3: FAILING TO OBTAIN THIRD-PARTY CONSENTS

A. Why is this important?

1. In a Business Asset Sale, third-party consents may be required when specific contractual, legal, or regulatory obligations mandate approval from third parties before transferring assets.
2. Contracts may have assignment clauses which require consent from the other contracting party before a contract can be assigned.
3. Permits and licenses may not be transferable without approval from the issuing authority.
4. Certain industries require regulatory approval for transferring assets.
5. If assets are subject to liens, the lienholder's consent is often required to transfer the assets free of encumbrances.

B. How to prevent this mistake.

1. Conduct due diligence.
 - a. Review contracts, permits, and licenses.

- b. Review regulatory obligations.
 - c. Conduct lien searches.
 - 2. Start as soon as possible as obtaining third-party consents can take time.
 - 3. The purchase agreement should include representations and warranties by Seller and indemnification provisions to protect Buyer from Seller's failure to obtain third-party consents.
- C. Examples.

1. Failure to obtain third-party consent – Consequences to Buyer: Buyer purchased the assets of Seller including the rights to a key contract that accounted for 50% of Seller's revenues. Buyer did not notice that the contract included a provision which required obtaining consent to assignment from the other contracting party. The other contracting party refused to recognize Buyer as a party under the contract and canceled the contract based on Seller's default for failure to obtain consent to the assignment. Seller did not make any representations or warranties to Buyer in the purchase agreement with respect to that contract as Buyer purchased the assets on an "as-is" basis. Buyer has no recourse against Seller.
2. Failure to obtain third-party consent – Consequences to Seller: Buyer purchased the assets of Seller including the rights to a key contract that accounted for 50% of Seller's revenues. Seller made representations and warranties that no third-party consents were required. However, the key contract actually did require consent from other contracting party before it could be assigned to Buyer. The other contracting party refused to recognize Buyer as a party under the contract and canceled the contract based on Seller's default for failure to obtain consent to the assignment. Buyer sought indemnification from Seller for breach of its representations and warranties, which greatly reduced the proceeds Seller received from the sale.

V. MISTAKE #4: USING A REAL ESTATE PURCHASE AGREEMENT TO SELL ALL BUSINESS ASSETS

A. Why is this important?

1. There are different legal issues that need to be addressed in a real estate transaction and a Business Asset Sale.
2. There are many issues that real estate purchase agreements either do not address or do not address in the same way as an asset purchase agreement.

For example:

- a. UIA 1027.
- b. Employees and employee benefit plans.

- c. Inventory.
 - d. Accounts receivable.
 - e. Excluded assets.
 - f. Assumed and excluded liabilities.
 - g. Allocation of the purchase price for tax purposes.
 - h. Personal property taxes and transfer taxes.
 - i. Tax clearances and escrows.
 - j. Representations and warranties.
 - k. Indemnification.
3. Real estate brokers or salespersons may not be aware of the need to address asset specific issues.
- B. How to prevent this mistake.
- 1. Use an asset purchase agreement for the Business Asset Sale and a separate real estate purchase agreement for the real estate sale.
 - 2. Use a combined purchase agreement which addresses the sale of real estate and the Business Asset Sale as separate transactions.
- C. Examples.
- 1. Consequences to Buyer: Seller wanted to sell the assets of its car wash business and the land it is located on. Seller's real estate agent provided a real estate purchase agreement to consummate the transaction. Buyer entered into the real estate purchase agreement with Seller. The real estate purchase agreement did not require Seller to obtain a Tax Status Letter or have any money placed in escrow to protect Buyer from liability for Seller's unpaid taxes due to the State of Michigan. Following the closing, Buyer discovers that Seller owed \$50,000 in unpaid taxes that the State of Michigan is now seeking from Buyer. The real estate purchase agreement did not address unpaid tax liabilities. It is unclear what recourse Buyer has against Seller, if any. Buyer purchased the land and business assets on an "as-is" basis.
 - 2. Consequences to Seller: Seller wanted to sell the assets of its car wash business and the land it is located on. Seller's real estate agent provided a real estate purchase agreement to consummate the transaction. Buyer entered into the real estate purchase agreement with Seller. The real estate purchase agreement did not allocate the purchase price for tax purposes. Buyer and Seller agreed to a single purchase price in the real estate purchase agreement. When it is time to file their tax returns, the parties are advised by their accountants of the need to report the tax allocation to the IRS on Form 8594. Seller and Buyer

are unable to agree on the allocation because Seller wants to allocate more of the purchase price to goodwill and Buyer wants to allocate it to equipment. If they file different allocations with the IRS, it can trigger an audit. This becomes an expensive post-closing hassle as they attempt to resolve this issue months after the closing occurred.

VI. MISTAKE #5: FAILING TO NEGOTIATE THE ALLOCATION OF THE PURCHASE PRICE FOR TAX PURPOSES

A. Why is this important?

1. In an asset sale, Seller and Buyer are required to allocate the purchase price for tax purposes by assigning portions of the purchase price to individual assets (e.g., inventory, equipment, goodwill, etc.).
2. The purchase price allocation can have a significant tax impact on both Seller and Buyer.
3. Seller's tax liability depends on how the purchase price is allocated across asset classes, as different asset classes are subject to different tax rates.

For example:

- a. Allocations to depreciable assets (e.g., equipment) or inventory can result in ordinary income tax rates, which can be as high as 37% for individuals; and
 - b. Allocations to capital assets like goodwill or certain intangibles typically qualify for long-term capital gains rates (up to 20%) for individuals.
4. For Buyer, the purchase price allocation establishes the tax basis of each acquired asset, which affects future deductions.

For example:

- a. Allocations to depreciable assets with a shorter recovery period (e.g., equipment with a five – seven year recovery period) allow for faster tax write-offs through depreciation, reducing taxable income sooner.
- b. Allocations to amortizable assets with a longer recovery period (e.g., goodwill amortized on a straight-line basis over 15 years), while predictable, will take longer to write-off through amortization.

B. How to prevent this mistake.

1. Seller and Buyer should consult with their respective tax advisors to determine the tax consequences related to the allocation of the purchase price. Issues such as holding periods, state tax rules, and entity structure (e.g., C vs. S corporation) can affect outcomes.
2. Seller and Buyer should negotiate the allocation of the purchase price and include it in the purchase agreement so that there are no post-closing disputes.

3. The purchase agreement should include a clause requiring each party to file IRS Form 8594 consistent with the agreed to allocation.

C. Examples.

1. Consequences of Seller failing to negotiate the allocation of the purchase price for tax purposes: Seller is an S corporation with a single shareholder and a consulting firm with an outstanding reputation and a significant client list. Seller uses minimal office equipment and computers in connection with its business. Seller entered into an asset purchase agreement to sell substantially all of its assets to Buyer. Buyer's attorney drafted the asset purchase agreement. Seller wanted to complete the sale as quickly as possible and didn't want to pay additional legal or accounting fees to have the asset purchase agreement reviewed. The asset purchase agreement included an allocation of the purchase price. Seller accepted the allocation without seeking to negotiate it. Most of the purchase price was allocated to equipment, with only a nominal amount allocated to goodwill. At tax time, Seller's shareholder discovers that he will be paying ordinary income tax at up to 37% on most of the purchase price due to depreciation recapture, as opposed to a long-term capital gains tax rate of up to 20% on goodwill. Seller's shareholder is unhappy with this outcome.
2. Consequences of Buyer failing to negotiate the allocation of the purchase price for tax purposes: Seller is a C corporation and a manufacturing company that uses various machines to fabricate parts for the auto industry. Seller entered into an asset purchase agreement to sell substantially all of its assets to Buyer. Seller's attorney drafted the purchase agreement. Buyer wanted to complete the sale as quickly as possible. In order to save fees, Buyer's principal had his cousin, who specializes in family law, quickly review the asset purchase agreement. Buyer did not consult with an accountant. The asset purchase agreement included an allocation of the purchase price. Buyer accepted the allocation without seeking to negotiate it. Most of the purchase price was allocated to goodwill, with only a nominal amount allocated to equipment. At tax time, Buyer discovers that it must amortize most of the purchase price over a period of 15 years (for goodwill) instead of depreciating equipment over five or seven years. Buyer is unhappy with this outcome.

VII. CONCLUSION

A. Revisiting the mistakes.

1. Failing to obtain exclusivity.
2. Failing to obtain a Tax Status Letter and Tax Clearance Certificate.
3. Failing to obtain third-party consents.
4. Using a Real Estate Purchase Agreement to sell all business assets.
5. Failing to negotiate the allocation of the purchase price for tax purposes.

B. Best practices for preventing mistakes.

1. Negotiate a comprehensive exclusivity provision in a letter of intent and/or purchase agreement.
2. Have Seller file Form 5156 with the Michigan Department of Treasury as soon as possible to obtain a Tax Status Letter, escrow funds to cover any liability identified in the Tax Status Letter, and require Seller to file a Form 5156 post-closing to obtain a Tax Clearance Certificate before any escrowed funds are released.
3. Conduct due diligence to determine if any third-party consents are required and take steps to obtain such consents as soon as possible. Use representations and warranties and indemnification provisions in the purchase agreement for additional protection.
4. In a transaction involving the sale of real estate and business assets, either use separate purchase agreements or use a combined purchase agreement which covers all issues involved in the sale of real estate and business assets.
5. Consult with tax advisors to understand the consequences of the allocation of the purchase price for tax purposes, include an agreed to allocation in the purchase agreement, and include a provision in the purchase agreement requiring the parties to file IRS Form 8594 consistent with the agreed to allocation.

C. Next steps.

1. Familiarize yourself with these issues.
2. Discuss these issues with your clients.
3. Call with any questions.



**Troubleshooting in Estate Planning –
Problems and Pitfalls to Avoid**

Jennifer K. Johnson

TROUBLESHOOTING IN ESTATE PLANNING – PROBLEMS AND PITFALLS TO AVOID

- I. **BLENDED FAMILIES** (first marriages with no children; second/subsequent marriages with different children; marriages with both children who are products of the marriage and children from prior relationship; co-habitation).
 - A. Single Joint Trust vs. two (2) separate Trusts.
 1. Single Joint Trust.
 - a. Should Trust be revocable by either party after first death or irrevocable at first death/incapacity (advantages/disadvantages).
 - b. Naming a Co-trustee with a surviving spouse.
 2. Separate Trusts.
 - a. Should share for surviving spouse be distributed outright or held in Trust.
 - b. Does surviving spouse need a Co-trustee.
 3. In either case – should there be a discussion regarding use of assets for “joint expenses” or “separate living expenses” (where one spouse goes into assisted living).
 - B. Division/distribution of tangible personal property.
 1. Identifying which items belong to which spouse.
 2. Use of written memorandum to distribute tangible personal property.
 - C. Home owned by one spouse.
 1. Should surviving spouse have a right to live in the residence (i.e., include a Residence Trust)?
 - a. Determine how long beneficiary may live in residence.
 - b. Determine who pays residence expenses.
 - c. Determine whether tangible personal property is included in the Residence Trust.
 - d. Include any provisions as to eligibility (i.e., beneficiary must not be remarried/living with an unrelated party).
 - e. Consider issues in retaining principal residence exemption (PRE) for surviving spouse residing in residence.
 2. Trustee’s right to evict a surviving spouse.
 3. If home is going to surviving spouse – should it go outright to or in Trust for surviving spouse?
 - D. Not funding the Trust.
 1. Assets are in client’s sole name or clients’ joint names – not owned by Trust.
 - a. Real estate owned by husband and wife, as tenants by the entirety.
 - b. Bank/investment assets owned by husband and wife.

- c. Assets not titled in the name of the Trust may require probate.
- 2. Lack of beneficiary designations.

II. JOINTLY OWNED REAL ESTATE – AVOIDING PROBATE

- A. Not including children as co-owners during life.
 - 1. Transfer creates a taxable gift.
 - 2. Loss of step-up in basis -- children take same tax basis as parent(s).
 - 3. Need children's consent to sell/assign/transfer real estate.
 - 4. If children are sued, property may be subject to children's creditors.
- B. Use of Ladybird Deed to name remainder beneficiaries at second death.
 - 1. Avoids probate at death – automatically transfers to named beneficiary(ies) at owner's death.
 - 2. Easy for owner to transfer property during lifetime.
- C. Use of Ladybird Deed to add Trust(s) at second death.
 - 1. Avoids probate at death – automatically transfers to Trust at owner's death.
 - 2. Easy for owner to transfer property during lifetime.
 - 3. Do not have to update insurance policy to name Trust as additional insured.
- D. Transferring to Trust(s) during life.
 - 1. Avoids probate at death.
 - 2. Recommend adding Trust as “additional insured” on insurance.
 - 3. Upon sale, title company will require a current Certificate of Trust.

III. NAMING FIDUCIARIES

- A. Issues when naming a single fiduciary vs. multiple fiduciaries.
 - 1. Odd number of fiduciaries acting by majority – one fiduciary may be “left out.”
 - 2. Multiple fiduciaries required to act unanimously – what if they cannot agree?
 - 3. Tension between/among family -- family mediation or counseling might be helpful.
- B. Family member(s) vs. Independent Trustee.
 - 1. Family member may be swayed by emotions.
 - 2. Family member may not be impartial.
 - 3. Independent Trustee does not know family history.
 - 4. Increased costs/expenses with an independent Trustee.

C. Removing a fiduciary.

1. When a court finds that a Trustee's behavior is "outrageous", unless there are limiting provisions contained within the Trust, the court may (even on its own initiative) remove the Trustee and appoint a special fiduciary. Including terms regarding what type of behavior may be sufficient to justify removal and the type of duties that must be violated for removal to occur, may prove important if a nominated Trustee's appointment is a material term to the grantor.
2. If Co-trustees are unable to effectively communicate or a Trustee engages in inappropriate actions, Court may appoint a special Trustee and/or implement guardrails pertaining to unacceptable behavior.

IV. SPECIFIC BEQUESTS IN WILLS/TRUSTS

- A. Does the Estate/Trust or the beneficiary pay interim expenses between date of death and distribution (i.e., storage fees, real estate taxes, insurance, homeowner's fees, etc.) – is this spelled out in the Will or Trust?
- B. What if asset does not exist at death? Is gift null/void or is there a replacement asset?

V. BENEFICIARY DESIGNATIONS ON QUALIFIED PLAN ASSETS (TRADITIONAL IRAs, 401(k), 403(b), 457 PLANS)

- A. Naming surviving spouse as beneficiary vs. QTIP Trust for the benefit of the surviving spouse as beneficiary.
 1. Review beneficiary designations.
 2. If Trust is named as beneficiary, review Trust to confirm whether Trust qualifies as "see through".
 3. Review Trust language to confirm whether RMDs may pass directly to the spouse as an eligible designated beneficiary.
 4. Review income tax consequences of beneficiary designations with clients.
- B. Naming children as direct beneficiaries vs. naming Trust as beneficiary.
 1. Do clients want beneficiaries to receive RMDs outright? Or should these be accumulated/held in the Trust?
 2. If Trust is named as beneficiary, review Trust to confirm whether Trust qualifies as "see through".
 3. Review Trust language to confirm whether RMDs may pass directly to the children as eligible beneficiaries.
 4. Review income tax consequences of beneficiary designations with clients.
- C. Naming charities as direct beneficiaries vs. including gifts to charities in Trust.
 1. If charities are named as direct beneficiaries and also named as beneficiaries under a Will/Trust, does the charity get to "double-dip"?

- 2. Is there language in the Will or Trust reducing the gift by any outside beneficiary designation?
- D. Confirm Trust includes language allowing Trustee to use income in respect of a decedent (IRD) to pay charitable bequests.
- E. Does Will/Trust include language to equalize shares for any assets transferring directly to a beneficiary at death.

VI. GETTING COUZENS LANSKY INVOLVED

- A. Ask if clients have estate planning documents in place.
- B. Determine if any of the above scenarios are involved.
- C. Review the estate plan documents.
- D. Call us to review the documentation and offer recommendations/solutions.



Business Valuations

Edwin Sadik

BUSINESS VALUATIONS

I. PURPOSES

- A. Scope of engagement and levels of scrutiny.
- B. Gift and Estate Tax.
- C. Tax Reporting.
 - 1. IRC §338 election: stock purchase treated as asset purchase.
 - 2. IRC §1060 Gain/Loss on disposition of assets.
- D. Litigation.
 - 1. Partner/Member/Shareholder Disputes.
 - 2. Divorce.
- E. Financial Reporting.
 - 1. ASC 350 (Valuing Assets; Intangibles—Goodwill and Other):

Provides guidance on financial accounting and reporting related to goodwill and other intangibles, other than the accounting at acquisition for goodwill and other intangibles acquired in a business combination or an acquisition by a not-for-profit entity.
 - 2. ASC 805 (Business Combinations).

Provides guidance on the accounting and reporting for transactions that represent business combinations to be accounted for under the acquisition method.
 - 3. ASC 820 (Fair Value Measurement).

Sets out in a single topic a framework for measuring fair value, and requires disclosures about fair value measurements.
- F. Consulting.

II. EVOLUTION

- A. IRS Appeals Review Memo (ARM 34).
 - 1. Issued in 1920 to determine the amount of “intangible value” lost by businesses previously involved in the alcoholic beverage industry.
 - 2. Introduced – Goodwill Capitalization of excess earnings.
- B. Rev Ruling 59-60.
 - 1. Issued in 1959.
 - 2. Regarded as single most important piece of valuation literature.
 - 3. Related to Gift and Estate Taxes Outlined methods and factors to be used in valuing closely held businesses.

C. 59-60 Relevant Factors.

1. The Nature and History of the Business.
2. The Economic Outlook in General and the Condition and Outlook of the Specific Industry in Particular.
3. The Book Value of the Stock and the Financial Condition of the Business.
4. The Earnings Capacity of the Business.
5. The Dividend-paying Capacity of the Business.
6. Whether or not the Business has Goodwill or Other Intangible Value.
7. Sales of the Stock and the Size of the Block of Stock to be Valued.
8. The market price of stocks of corporations engaged in the same or similar line of business having their stocks traded in a free and open market either on an exchange or over-the-counter.

III. STANDARDS OF VALUE

A. Fair Market Value.

The price at which the property would change hands between a willing buyer and a willing seller, when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of the relevant facts.

B. Fair Value.

1. FASB 820.
2. Statutory:
 - a. Uniform Business Corporation Act: the value of the corporation's shares determined (i) immediately before the effectuation of the corporate action to which the shareholder objects, (ii) using customary and current valuation concepts and techniques..., and (iii) without discounting for lack of marketability or minority status.
 - b. Michigan Business Corporation Act MCL 450.1761(d): value of the shares immediately before the effectuation of the corporate action to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable.
 - c. Michigan Case Law: the application of discounts is fact-specific and should be considered on a case-by-case basis.

C. Strategic/Investment Value.

Value to a particular investor based on individual investment requirements and expectations.

IV. THEORY OF INVESTMENT VALUE

- A. No different than any other investment: return commensurate with risk.
- B. Investment value Principle: $\text{Value} = (\text{Expected Benefit}) / (\text{Required Rate of Return})$.
- C. Expected Benefit.

1. Financial Statement Analysis.
 2. Ratio Analysis.
 3. Comparative Analysis.
 4. Normalized Financial Statements.
 - a. Economic Reality of Business Operation.
 - b. Adjustments:
 - (1) Accounting Methods.
 - (2) Non-Operating.
 - (3) Non-Recurring.
 - (4) GAAP Compliance.
 - (5) Excess Compensation.
- D. Required Return.
1. Higher risk demands more return on investment and downward pressure on value.
 2. Lower risk demands lower return and increase value.

V. INCOME APPROACH

- A. Capitalization of Cash Flow/Earnings.
- B. Discounted Cash Flow/Earnings.
- C. Benefit Stream.
 1. Define and Estimate (Net Cash Flow/Earnings).
 2. Linear Growth vs. Non Linear Growth.
- D. Required Return.
 1. Highly Contested.
 2. Main Elements.
 - a. Risk Free Rate of Return.
 - b. Inflation Premium.
 - c. Risk Premiums.
 3. Build Up Method.
 - a. Equity Risk Premium (equity investments vs. risk free instruments).
 - b. Industry Risk Premium.
 - c. Size Risk Premium.

- d. Specific Company Risk Premium.
 - (1) Financial Risks.
 - (2) Operational Risks.
 - (3) Management Risks.
- E. Discounted Cash Flow: Non Linear Growth.
 - 1. Discount Cash Flows.
 - 2. Capitalize Terminal Year.
- F. Single Period Capitalization: Linear Growth.
 - Capitalize Benefit Stream.

VI. ASSET APPROACH

- A. Adjusted Net Assets.
 - 1. Does not Address Operating Earnings of a Business.
 - 2. Useful for Non-operating Entities.
- B. Excess Earnings Method.
 - 1. Hybrid Approach.
 - 2. Theory: value of a business is equal to adjusted net assets plus the value of intangible assets.
 - 3. Value of intangibles estimated by capitalizing earnings that exceed a reasonable return on adjusted net assets.

VII. MARKET APPROACH

- A. Value = (price/metric) x metric.
 Market Price/Cash Flow ratio x Cash Flow of subject interest.
- B. Benefits.
 - 1. Familiarity.
 - 2. Most Reliable in Theory.
 - 3. Does not Rely on Financial Forecasts.
- C. Drawbacks.
 - 1. Cost: Significant Financial Analysis on Subject and Comps.
 - 2. Data is Limited.
 - 3. Data can be Unreliable.

VIII. DISCOUNTS

- A. Highly Contested.
- B. Significant Impact.
- C. Account for Additional Risk.
- D. Lack of Control.

Advantages of a Control Position.

1. Influence Operations.
2. Influence Policies.
3. Appoint Management.
4. Select Vendors/suppliers.
5. Ability to Reorganize/liquidate.

E. Lack of Marketability.

1. Inability to Convert Investment from Illiquid Asset to Cash Creates Substantial Risk.
2. Uncertain Timing.
3. Admin and Transaction Costs.
4. Risk as to Eventual Sales Price.
5. Non-cash and Deferred Sales Proceeds.
6. Transfer Restrictions.



**Real Property Law Trivia:
Is The “Deed” Really Done?**

Gregg A. Nathanson and Emily M. Sullivan

REAL PROPERTY LAW TRIVIA: IS THE “DEED” REALLY DONE?

I. INTRODUCTION / INSTRUCTIONS

- A. Access trivia questions by scanning QR code.
- B. One team per table.

II. LETTERS OF INTENT

- A. What is the main purpose of a letter of intent?
 - 1. Create land use restrictions.
 - 2. Convey title.
 - 3. Sell life insurance.
 - 4. Outline basic economic terms of transaction.
- B. Are letters of intent binding?
 - 1. Always.
 - 2. Never.
 - 3. Sometimes.
 - 4. Only on seller.

III. STATUTE OF FRAUDS

What never satisfies Michigan's statute of frauds?

- A. Signed writing.
- B. Email with proper signature block.
- C. Text message.
- D. Telephone conversation.

IV. SECTION 1031 EXCHANGES

- A. What is not true of a Section 1031 exchange?
 - 1. Seller holds proceeds until closing on replacement property.
 - 2. Taxpayer has 45 days to identify replacement property.

3. Taxpayer has 180 days to acquire replacement property.
 4. Taxpayer must hold both properties for investment.
- B. Which is not a type of Section 1031 exchange?
1. Forward exchange.
 2. Reverse exchange.
 3. New construction exchange.
 4. Principal residence exchange.
- C. A home can never be used as part of a Section 1031 exchange.
1. Always true.
 2. Always false.
 3. It depends.
 4. As long as IRS doesn't find out.
- D. Sections 1031 and 121 can apply to the same property.
1. Always true.
 2. Always false.
 3. It depends.
 4. Only if your accountant is unethical.

V. TITLE & TRANSFER MATTERS

- A. If someone dies with property titled in their own name, what is legally required to sell it?
1. Heirs must all get along.
 2. Decedent's ghost must have moved on.
 3. Probate court letters of authority.
 4. IRS approval.
- B. What is typically recorded with a trustee's deed?
1. Inventory of trust assets.
 2. Certificate of Trust.

3. List of qualified beneficiaries.
 4. Trustee's fingerprints.
- C. To pay lower real estate taxes on property owned and occupied as your principal residence you should:
1. Give nice gift to local assessor.
 2. Open bank account in Virgin Islands.
 3. File property transfer affidavit.
 4. File principal residence exemption affidavit.
- D. Which of the following is typically prorated on a closing statement?
1. Taxable boot from like-kind exchange.
 2. Summer and winter real estate taxes.
 3. State and county transfer taxes.
 4. Attorney fees.
- E. Seller always pays real estate transfer taxes.
1. True.
 2. False.
 3. It's up to title company.
 4. It's negotiable.
- F. Which transfer is exempt from real estate transfer taxes?
1. Sale to niece or nephew.
 2. Sale to favorite charity.
 3. Gift to an old flame (hoping your spouse doesn't find out).
 4. Deed given at land contract payoff.
- G. Which transfer uncaps the property's taxable value?
1. Ladybird deed.
 2. Sale of all membership interest of single-purpose LLC.

3. Funding deed transferring residence to owner's Living Trust.
 4. Transfer of Qualified Agricultural Property.
- H. If seller is a "foreign person" for US tax purposes, under FIRPTA (Foreign Investment in Real Property Tax Act), what might buyer need to do at closing?
1. Report transaction to ICE.
 2. Pay purchase price in Bitcoin.
 3. Withhold and remit a portion of the purchase price to IRS.
 4. All of the above.
- I. What is the main difference between quitclaim and warranty deeds?
1. Warranty deed is drafted by an attorney.
 2. Warranty deed costs more.
 3. Warranty deed provides title protection.
 4. Warranty deed is necessary to convey insurable title.
- J. What should every real estate buyer obtain to ensure they have marketable title?
1. Title insurance policy.
 2. Hazard insurance policy.
 3. Property insurance policy.
 4. Seller's word.
- K. What is the best reason to add an endorsement to a title insurance policy?
1. Insure over a particular concern.
 2. Drive revenue to title company.
 3. You're confused.
 4. Siri recommended it.

VI. ENVIRONMENTAL CONCERNS

- A. Why obtain an environmental assessment before buying property?
1. It's required by law.
 2. Protect against liability for existing contamination.

3. Confirm HVAC is working.
 4. Claim EGLE (Environment, Great Lakes and Energy) reward for reporting seller.
- B. What is not part of a Phase I environmental site assessment?
1. Test for mold or lead paint.
 2. Check public records.
 3. Talk to owner or occupant.
 4. Property walk-through.
- C. What is never part of a Phase II environmental site assessment?
1. Test soil.
 2. Test groundwater.
 3. Test indoor air.
 4. Test room temperature.
- D. If property is contaminated, must seller inform buyer of the general nature and extent of known contamination?
1. No.
 2. Only if they feel like it.
 3. Only if they can't hide it.
 4. Yes.
- E. How can a buyer protect against liability for existing contamination?
1. File BEA (Baseline Environmental Assessment) with EGLE.
 2. Obtain seller representations, warranties, and indemnities.
 3. Establish environmental escrow account.
 4. All of the above.

VII. DUE DILIGENCE

- A. What does due diligence usually involve?
1. Reviewing seller's credit score.
 2. Taking seller's deposition.

3. Speaking with tenants and reviewing lease terms.
 4. Occupying property for 30-day trial period.
- B. Which of the following is a psychological defect when buying a house?
1. Water in basement.
 2. Noisy neighbors.
 3. Structural issues.
 4. Prior homicide.



Your Role in Trust and Estate Administration

Matthew A. Ferrara

YOUR ROLE IN TRUST AND ESTATE ADMINISTRATION

I. WHY IS THIS IMPORTANT

- A. CPAs, financial planners, insurance advisors, etc. all possess information and skills important to a smooth administration process.
- B. Clients and their families are looking for the same level of guidance and expertise following a death and through the administrative process on which they and their loved ones have come to rely.
- C. This is an opportunity to show the next generation why you were the trusted advisor, and lay the groundwork for creating multigenerational client relationships.

II. WHAT IS THE GAME PLAN

- A. What rules are going to control the administration?
 - 1. Do you know what estate planning documents your clients have? Are there Wills, Living Trusts, Irrevocable Trusts, funeral instructions, personal property memorandums, pre-nuptial agreements, beneficiary designations, deeds (recorded or hiding in a drawer)?
 - 2. Do you know who the other advisors are? When the attorneys, planners, CPAs, etc. know each other, it allows us to communicate directly, be prepared for difficult questions, and handle matters directly while clients are mourning their loved one.
 - 3. Having a sense of the plan ensures you know your role in that plan. Who is responsible for getting EINs, who is talking to the family about tax consequences and tax returns, who is gathering information that is going to be important going forward?
- B. Who are the key players?
 - 1. Connecting with the people your clients trust to manage events when they cannot act for themselves ensures you know who you can, and cannot, communicate with in an emergency.
 - 2. Knowing and being connected to client's other advisors ensures that questions get routed to the person with the expertise to address them.
- C. Helping manage rogue elements.

Every situation is unique, knowing about your client's family and personal connections gives you the ability to anticipate and take steps to head off potential issues.

D. Do we need to probate?

1. Probate happens when assets are owned by a single person without beneficiary designations. Between all of a client's advisors, there are countless opportunities to avoid an unneeded probate.
2. Probate increases the costs and time needed to administer assets. By proactively discussing planning with clients, you can reduce future stress.
3. Understanding a client's planning allows each advisor to check in as they make contact with the client so there is the best possible chance to avoid an added stress in a difficult time.

III. GATHERING INFORMATION AND STARTING THE ADMINISTRATION PROCESS

A. Why do you care?

1. Coordinating efforts with other advisors means less work for clients. Grieving families do not want to give the same information to multiple people. By coordinating efforts, we make client lives easier.
2. Surprises are not helpful. By working together to collect and share important information, we avoid assuming that everyone is already fully informed. This avoids situations where advisors are working at cross purposes due to a lack of information.
3. Now is your opportunity to show heirs and beneficiaries the value of your services and that continuing to work with you benefits them in the long-term.

B. Assembling the cast.

1. Who is an heir, a devisee, a beneficiary, and what is the difference?
 - a. Heirs – Those people entitled to receive property under the intestate succession statutes.
 - b. Devisees – Those people designated to receive property under the terms of a Will.
 - c. Beneficiary – Those people named in a beneficiary designation form, Trust, or similar document which effectuates the transfer of property under operation of law and contract law without the involvement of the Probate Courts.
 - d. While these terms may be used interchangeably by laypersons, it is important to distinguish between them. A decedent's surviving spouse will not receive anything as an Heir or Devisee if all the property transfers to an ex-spouse because beneficiary designations were not updated.

2. Who are the fiduciaries (Trustees, Personal Representatives, etc.)?
 - a. A Trustee's authority to act under a Trust is verified by a Certification of Trust.
 - b. A Personal Representative's authority to act under the terms of a Will is verified by Letters of Authority issued by the Probate Court.
3. Everyone else (shareholders, LLC members, general partners).

While not always a priority, it is important to know who has the ability to keep our client's businesses running during emergencies. Knowing about the key people in your client's businesses demonstrates a commitment to maintaining stability in difficult times.

C. What are the assets?

1. Assets that pass by operation of law and by contract law.
 - a. Jointly owned assets.
 - b. Assets with beneficiary, payable on death, or transfer on death designations.
2. Solely owned assets.

These will generally need to pass through probate.

3. Trust Assets.

Assets owned by a Trust or which name a Trust as beneficiary will be managed and distributed under the terms of the Trust.

4. Assets that can create surprises.
 - a. Real estate – Real estate that is not titled to work with the rest of a client's planning creates surprises that will require the involvement of the Probate Court to resolve. Confirming that all real estate is accounted for is a major issue in any administration.
 - b. Business assets – Issues are created when ownership is not titled to work with planning because of an outdated buy-sell agreement, a lack of business documentation, etc.

- c. Promissory notes, land contracts, etc. – Whether an “informal” agreement or fully documented, it is important that fiduciaries understand ongoing obligations to a decedent.
- d. Unique assets – Review art work, collections, expensive cars, etc. Failing to plan for the disposition of these assets can create headaches for fiduciaries.

D. What are the liabilities/debts?

- 1. Determining creditors.
- 2. Understanding priority of claims.
- 3. Disallowing creditor claims.

IV. WHAT NEEDS TO HAPPEN AND WHEN

A. We all want to run effective businesses and avoid surprises. By understanding the deadlines that impact affiliated advisors, we avoid inadvertently creating situations where another advisor is put under unnecessary pressure to assist a client. Instead, the administration process can work seamlessly, emphasizing the value of good advisors to clients and their families.

B. Who needs information?

- 1. Understand who is entitled to information regarding probate, trust administration, beneficiary designations, and when assets are co-owned.
 - a. Personal Representatives and Trustees are responsible for sharing information with heirs, devisees, and beneficiaries. We should not communicate information to anyone without directions from a fiduciary.
 - b. When contacted by a non-fiduciary, you can help those fiduciaries by collecting contact information and assuring the questioners that it will be shared with those responsible for administering the assets.
- 2. What are the statutory deadlines? The law requires fiduciaries to provide certain parties with information. Who does this include, exclude, and what can change the rules?
 - a. Generally, heirs, devisees, and beneficiaries are entitled to certain information, including a copy of the governing documents, notice of a fiduciary's appointment or acceptance of designation, an inventory of assets, and an accounting of the use of assets.
 - b. Timelines are different under Wills and Trusts.
 - c. Terms of a Trust can significantly modify a Trustee's duty to report, including limiting who receives information and what information they receive.

C. When do they get it?

1. Notice to heirs in probate.
2. Notices to Trust beneficiaries.
3. Notices to known and unknown creditors.

D. Other deadlines.

1. Business or quarterly tax due dates.
2. Disclaimer deadlines.
3. Tax elections.
4. Qualified plan distributions.

V. WHAT HAPPENS WHEN ASSETS ARE LOCATED IN MULTIPLE LOCATIONS

A. Assets and advisors in multiple locations.

1. Different areas of a State.
2. Multiple States.
3. Multiple Countries.

B. Heirs and beneficiaries in multiple locations.

1. What do you need to help interested persons who are out of state or out of the country?
2. Expanding your network and connecting with other professionals.

VI. HOW DO YOU FIT INTO THE PROCESS

- A. What successful strategies do you have for coordinating with other advisors?
- B. What role do you think you have in administration?
- C. What “best practices” do you use now to help clients through administrations?
- D. What tools do you use when you are coordinating with other advisors?
- E. What questions do you have about the administration process?



**The Michigan Business Court,
Business Arbitration and Mediation**

Mark E. Merlanti

THE MICHIGAN BUSINESS COURT, BUSINESS ARBITRATION AND MEDIATION

I. THE BUSINESS COURT

A. Date Implemented - January 1, 2013.

B. Premise.

C. Statutory Jurisdiction.

1. Required "Business or Commercial" Disputes.
2. Required "Business Entity" Parties.
3. Permitted "Individual Parties."
4. Non-Profit Organizations.
5. Included Disputes.
6. Excluded Disputes.
7. Monetary and Equitable Relief.
8. Assignment Procedures.
9. Counties with a Business Court - Counties with three or more Judges.

Presently: Berrien, Calhoun, Genesee, Ingham, Jackson, Kalamazoo, Kent, Livingston, Macomb, Monroe, Oakland, Ottawa, Saginaw, St. Clair, Washtenaw, and Wayne.

D. Procedures.

1. Case Management Conference.
2. Joint Case Management Plan.
3. Business Court Scheduling Order.
4. Early Use of Mediation.
5. Publishing Business Court Opinions.

E. Other Relevant Court Rules.

1. Initial Disclosures.
2. Proportionality.
3. Discovery.
4. Dispositive Motions.

F. Benefits.

1. Familiarity with Judges.
2. Availability of Business Court Opinions and Orders.
3. Time and Monetary Savings.
4. Court Costs are Limited to the Filing Fees (as compared to Arbitration).

II. ARBITRATION

A. Explanation of the Arbitration Process.

1. Selection of the Arbitrator.
2. Number of Arbitrators (1 or 3).
3. Motions.
4. Discovery.
5. Trial.
6. Written and Binding Arbitration Award.

B. Implementation.

1. By Contract. Enforceable, even if one of the parties no longer desires arbitration.
2. By "Post-Dispute Agreement."

C. Binding/Enforcement.

1. "Confirmation" of the Award in the Circuit Court (i.e. - entry of a Circuit Court Judgment).
2. Enforcement of the Judgment via Supplemental Proceedings (i.e. - collection procedures).

D. Administration Alternatives.

1. Private Arbitration.
2. Per an Arbitration Organization (AAA, JAMS etc.).

E. Procedure/Rules Alternatives.

1. Michigan's Arbitration Statute.
2. The Rules of an Arbitration Organization.

F. Arbitration Organizations.

1. AAA, JAMS.
2. Services Provided.
3. Fees Charged.

G. Advantages and Disadvantages.

1. Time and Cost Savings.
2. Avoids Adjournments from Court Over-Scheduling.
3. Limited Appellate Rights.
4. Compensation to the Arbitrator and/or the Arbitration Organization.

III. MEDIATION

A. Premise - Direct Party Participation with Counsel.

B. Explanation of the Mediation Process.

1. Non-Binding.
2. Parties Participate (those with knowledge and those with "settlement authority").
3. Attorneys Prepare Short "Summaries" (factual and legal analysis).
4. Non-Parties may Participate (Experts).
5. The Parties Select the Mediator.
6. The Mediator Is Knowledgeable of the "Subject Matter" and Applicable Law.
7. Joint and Caucus Sessions.

- 8. Discussions are Confidential.
- 9. Approaches: Facilitative and Evaluative.
- C. The Court is Empowered to Require Mediation.
- D. Mediation May be Required Prior to Litigation by Contract.
- E. Timing Considerations.
 - 1. Is Discovery Needed?
 - 2. Possible Agreement to “Limited Discovery” Prior to Mediation.
 - 3. Are Expert Opinions Needed Prior to Mediation?
- F. Advantages and Disadvantages.
 - 1. Time and Cost Savings.
 - 2. May Preserve Relationships Between the Litigants.
 - 3. The Parties Fully Participate.
 - 4. The “Settlement Agreement” May Contain “Terms” Which a Court Could Not Order.
 - e.g. – compromising regarding monetary claims.
 - compromising regarding division of assets.
 - compromising regarding disputed real estate.
 - 5. Fees Are Paid to the Mediator.

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SHELDON A. FEALK is a senior attorney of the firm. Mr. Fealk's practice has focused on the areas of commercial law, corporate law, labor law and tax controversies, including:

- Complex commercial litigation, involving such areas as corporate governance issues, contractual disputes, breach of fiduciary duty, unfair competition, covenants not to compete, fraud and deceptive trade practices, disparagement, dissolutions and other business claims
- Defense of employers in labor law disputes
- Commercial contract preparation and review
- Service as an arbitrator in business contract matters



JACK S. COUZENS, II is a shareholder of the firm. Mr. Couzens has headed the firm's estate planning group since 1978. As a Chartered Life Underwriter, he brings significant knowledge regarding insurance products to his client representation on matters of estate planning and corporate law, employee benefits law and executive compensation. His principal areas of focus have included:

- Sophisticated gift, estate, generation skipping transfer tax planning and documentation
- Wealth transfer planning and implementation
- Probate and trust administration
- Design and implementation of Wills, revocable trusts, irrevocable trusts, special needs trusts, charitable trusts and special trust agreements of various kinds
- Executive compensation arrangements, including deferred compensation and split dollar agreements
- Retirement distribution planning
- Business and personal income, gift and estate tax planning

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JERRY M. ELLIS is a senior attorney of the firm. Mr. Ellis has over 40 years' experience in insolvency, workout, restructuring and bankruptcy matters, including the related litigation. He is the former Mayor of the City of Farmington Hills, MI, providing him with a unique perspective in disputes or planning involving government entities. Examples of matters he has focused on include:

- Work with clients to resolve complex business issues, including shareholder disputes, loan renegotiations, executive terminations and restructuring
- Representation of creditors, debtors and creditor committees in Chapter 7 and 11 bankruptcy cases
- Lender representation in the workout and bankruptcies of troubled secured real estate matters, out of court loan modifications and foreclosures
- Complex business and commercial litigation

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DONALD M. LANSKY is a shareholder of the firm. Mr. Lansky has focused his practice on individual and business tax planning, business entity planning, family wealth transfers, estate planning and mergers and acquisitions. He has extensive experience in areas such as the following:

- Planning, formation, development, operation and tax compliance regarding closely held business entities
- General representation of business entities
- Tax planning with respect to partnerships, S corporations, limited liability companies and similar pass through entities
- Development of effective compensation and long-term benefit plans for business entities
- Tax planning involving mergers, acquisitions, divestitures and tax-free reorganizations
- Representation of buyers and sellers in the purchase or sale of businesses
- Preparation of estate planning documentation, including Wills, revocable trusts, irrevocable trusts, special needs trusts, qualified personal residence trusts, charitable trusts, intentionally defective grantor trusts, grantor retained annuity trusts and family limited partnerships
- Development of effective wealth transfer planning strategies and techniques
- Assistance in forming and obtaining tax rulings for private charitable foundations and public charities, as well as general legal representation for such organizations

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BRUCE J. LAZAR is a senior attorney of the firm. Martindale-Hubbell has awarded Mr. Lazar the highest rating of AV, which identifies a lawyer with very high to preeminent legal ability. In addition, Mr. Lazar has been chosen as a Michigan Super Lawyer on multiple occasions. His practice concentrates primarily in the area of commercial litigation and he has tried a multitude of cases in both state and federal courts, as well as arbitration proceedings. Along with trial work, Mr. Lazar has extensive appellate experience with many published opinions. His career has concentrated in the following areas of practice:

- Construction contract litigation matters involving a variety of private, nonprofit and government entities, covering issues such as contract interpretation, construction delay, construction defects, mechanic's liens and stop notices
- Real estate litigation
- Complex commercial litigation, including corporate governance issues, contractual disputes, breach of fiduciary duty, unfair competition, covenants not to compete, fraud and deceptive trade practices, disparagement, dissolutions and other business claims
- Representation of public pension funds
- Representation of municipal government entities
- Representation of individuals and business entities in connection with tax controversies before the Internal Revenue Service, the Michigan Tax Tribunal and other courts
- Representation of estates, trusts, trustees and beneficiaries in contested estate, trust and probate administration matters

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ALAN C. ROEDER is a shareholder of the firm. Mr. Roeder is licensed in Michigan and Colorado and concentrates his practice in the areas of estate planning and taxation, closely held business law and real estate. This has included such matters as:

- Designing, drafting, implementing and administering estate plans for a broad range of estate sizes
- Assisting closely held businesses in formation, operation, tax planning, restructuring and termination
- Executive compensation and buy-sell agreement planning
- Real estate ownership structure, tax planning, financing, sale, purchase and development
- Lease negotiation and documentation
- Client assistance in real property management
- Land use, environmental compliance and zoning

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RENARD J. KOLASA is a senior attorney of the firm. Mr. Kolasa has concentrated his practice in the areas of estate planning and taxation, closely held business law and tax-exempt organizations. This has included such matters as:

- Designing, drafting, implementing and administering estate plans for a broad range of estate sizes
- Designing and drafting trusts of all types, including charitable trusts
- Business succession planning
- Assisting closely held businesses in formation, operation, tax planning, restructuring and termination
- Assisting tax-exempt organizations get established, obtain appropriate government approvals and operate in compliance with applicable rules
- Church and ecclesiastical law matters
- Advanced wealth transfer planning and implementation

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KATHRYN GILSON SUSSMAN is a shareholder of the firm. Ms. Sussman has concentrated her practice in the areas of estate planning, estate administration, elder law and non-profit organizations, including:

- Estate and gift tax counseling
- Design and preparation of standard and sophisticated estate planning documentation
- Probate Law representation
- Representation in Guardianship/Conservatorship proceedings
- Elder Law, including Medicaid and Social Security claim representation
- Business succession planning
- Drafting trusts of all types
- Estate and trust administration for individual and corporate fiduciaries
- Contested estate representation
- Preparation of Gift and Estate Tax returns, including generation skipping analysis

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JEFFREY A. LEVINE is a shareholder of the firm. Mr. Levine's practice primarily focuses on general business counseling, business tax planning and acquisition transactions. There is a strong transactional emphasis on Mr. Levine's practice, including:

- General corporate representation including counsel to Boards of Directors, entity formation and capitalization, shareholder agreements, all contract matters, customer-supplier relationships, compensation planning, employee benefits and executive employment matters
- Mergers, acquisitions, investments, controlling interest sales, management buy-outs, joint ventures, restructuring, recapitalizations and equity incentive plan implementation
- Federal and state corporate tax planning and compliance
- Individual income tax planning
- Structure and implementation of family wealth transfer transactions

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PHILLIP L. STERNBERG is a shareholder of the firm with over 48 years of trial experience representing individuals, corporate and business clients. Mr. Sternberg's practice extends from routine through sophisticated and highly complex litigation. However, he knows it is best to avoid litigation when possible, and he will utilize aggressive and innovative negotiating strategies to avoid litigation when it's in the client's best interest. To that end, Mr. Sternberg is skilled in negotiating and drafting a variety of legal documents to avoid or resolve disputes before seeking resolution in the courts. Such documents include settlement and release agreements, confidentiality agreements, domestic relations agreements, prenuptial agreements, commercial, corporate and a variety of other documents customized to the issues at hand. He will always provide his client with an honest cost/benefit analysis, prior to engaging in litigation, so that the client can make an educated choice before proceeding.

Mr. Sternberg is both a tenacious courtroom advocate as well as a skilled and inventive theorist of the law. He has successfully pursued litigation in a broad range of categories and levels, including the state and federal appellate courts, U.S. District Court, Eastern and Western Districts of Michigan, Circuit Courts, and the U.S. Tax Court in diverse areas of law including, but not exclusively, the following:

- Business & Commercial Litigation
- Domestic Relations
- Employment Contract Litigation
- Insurance Disputes
- Investment Practices
- Negligence and Personal Injury Matters
- Probate and Trust Litigation

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LISA J. WALTERS is a shareholder of the firm. Ms. Walters concentrates her practice in the areas of estate planning, elder law, guardianships and conservatorships, probate, probate avoidance, tax planning strategies and trust and estate administration. Examples of her representation include:

- Estate and gift tax counseling
- Standard and complex estate, gift and charitable transfer planning
- Estate and trust administration for individual and corporate fiduciaries
- Durable powers of attorney for financial matters and medical treatment decisions
- Guardianship/conservatorship proceedings (including assisting in obtaining the appointment of the guardian and conservator as well as the ongoing administration)
- Advanced wealth transfer planning and implementation

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DONALD A. WAGNER is a senior attorney of the firm. Mr. Wagner's practice focuses primarily on business financing transactions and all areas of commercial lending, including:

- Real estate and commercial/asset based transactions, such as construction loans, end mortgage loans, land acquisition and development loans, revolving credit facilities, government backed loans, involving various types of real estate, including condominiums, office buildings, shopping centers, mobile home parks, health care facilities, commercial and industrial complexes, hotels, resort and marina complexes with related environmental assessment and compliance documentation
- Letters of credit, equipment leases and other specialized transactions, including documentary and commercial (sight and stand-by) letters of credit and transactions secured by letters of credit from others. Financing to and/or involving third party lessors and lessees, machinery and equipment purchase facilities, warehouse and bridge facilities, equity kicker and equity participation arrangements, demand and piggyback rights agreements relating to a variety of areas, including for example, broadcast facilities, utility assets, multi-lender participations and pension and profit sharing plans

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GREGG A. NATHANSON is a shareholder of the firm. Mr. Nathanson has concentrated his practice in the areas of real estate, business, finance, environmental and corporate law. He is a prolific publisher and speaker concerning real estate matters, including service as an editor or advisor for the Michigan Institute of Continuing Legal Education and the Michigan Land Title Association regarding real estate matters. Examples of matters he has been involved in include:

- Representation of hundreds of owners, lenders, developers, builders, corporate users, landlords, tenants, investors, local government agencies, contractors and property managers regarding real estate matters
- Lease negotiation and documentation
- Client assistance in real property management
- Environmental, including due diligence and compliance
- Real estate tax planning and economic development, including Section 1031 like kind exchanges
- Resolution of title disputes
- Real estate acquisitions and disposition

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MARK S. FRANKEL is a shareholder of the firm. Mr. Frankel is a member of the firm's litigation section and he has concentrated his practice in the arena of probate law, complex commercial litigation, real estate, bankruptcy and creditors rights, commercial and business law. He is head of the firm's Probate Litigation Group. Examples of some of the matters he has handled include:

- Representation of estates, trusts, trustees and beneficiaries in contested estate, trust and probate administration matters
- Probate Court proceedings of all types, including Will, trust and estate administration and contests, guardianships, conservatorships, trust reformations, Trustee representation and examination of accountings
- Real estate litigation and administrative proceedings, including zoning and land use proceedings, contract litigation, environmental compliance and economic development
- Resolving title disputes
- Representation of individuals and business entities in connection with tax controversies before the Internal Revenue Service, the Michigan Tax Tribunal, zoning Boards of Appeal and other courts and administrative bodies
- Complex commercial litigation, including corporate governance issues, contractual disputes, breach of fiduciary duty, unfair competition, covenants not to compete, fraud and deceptive trade practices, disparagement, dissolutions and other business claims

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DAVID A. LAWRENCE is a shareholder of the firm. Mr. Lawrence concentrates his practice on civil litigation and employment and labor law. Mr. Lawrence's trial success includes the third largest Michigan jury verdict of 2007 (*Pamela Anton and Cheryl Freeman Snipes v. SBC Global Services, Inc.*, U.S. District Court for the Eastern District of Michigan, Case Nos. 01-40198 and 01-40213, affirmed by the Sixth Circuit Court of Appeals, Case Nos. 08-1307 and 08-1325).

- Mr. Lawrence provides both advisory services and litigates matters concerning discrimination, wage/hour and all other employment issues, physician and executive employment agreements, restrictive covenants, business contracts of all types, business torts, complex commercial cases, commissioned sales representatives, shareholder/member disputes, management side labor and occupational safety and health
- Mr. Lawrence regularly practices before the state and federal trial and appellate courts of Michigan, and several other states as necessary, the Equal Employment Opportunity Commission, National Labor Relations Board, Michigan Department of Civil Rights, U.S. Department of Labor, Michigan Wage & Hour Division, Michigan Unemployment Insurance Agency, Occupational Safety and Health Administration and Michigan Occupational Safety and Health Administration

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RONN S. NADIS is a shareholder of the firm. Mr. Nadis has concentrated his practice in the area of commercial real estate. He represents institutional and private property owners in sales, acquisitions, finance, development and commercial leasing and property management issues. Representative legal matters include the following:

- Commercial real estate ownership, structure, sale, purchase and development
- Commercial real estate finance including CMBS (commercial mortgage-backed securities) and mezzanine lending and tax planning
- Office, retail and industrial lease transactions for investors, landlords, property managers and tenants
- Real estate sales and acquisitions for developers and other real estate companies, including multi-state transactions

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PHILLIP J. NEUMAN is a shareholder of the firm. Mr. Neuman focuses his practice on real estate and business litigation, including title issues, construction lien matters, contract disputes and commercial and residential landlord tenant matters. Examples of the types of matters he has handled include:

- Real estate litigation in Michigan and federal courts, including quiet title actions, title insurance coverage, mortgage priority disputes, adverse possession claims, forged deeds, construction lien foreclosure and condominium and homeowners' association lien foreclosure
- Resolution of title disputes, including reformation of recorded documents, boundary disputes
- Landlord tenant evictions and lease negotiation, drafting, interpretation, enforcement and litigation
- Commercial litigation involving business contracts of all types
- Bankruptcy matters, including non-dischargeability claims (published opinion of the Sixth Circuit Court of Appeals) and automatic stay issues

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MONICA D. MOONS is a shareholder of the firm. Ms. Moons concentrates her practice in the areas of estate planning and taxation, estate and trust administration, probate and tax litigation and real estate. This has included such matters as:

- Estate and gift tax counseling
- Design and preparation of standard and sophisticated estate planning documentation
- Estate and trust administration for individual and corporate fiduciaries
- Representation of estates, trusts, trustees and beneficiaries in contested estate, trust and probate administration litigation matters
- Probate Court proceedings of all types, including Wills, trusts and estate administration and contests, guardianships, conservatorships, trust reformations, Trustee representation and examination of accountings
- Preparation of Gift and Estate Tax returns
- Commercial and residential real estate acquisition and sale

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JOSEPH H. WENER is a shareholder of the firm. He concentrates his legal practice in the areas of real estate law, corporate and business law, commercial transactions and contracts and issues concerning Canadian law. Examples of matters he has handled include:

- Planning, formation, development, operation and tax compliance regarding closely held business entities in both the United States and Canada
- General representation of business entities
- Tax and succession planning with respect to partnerships, corporations, limited liability companies and other business organizations
- Analysis and documentation concerning mergers, acquisitions, investments, controlling interest sales, buy-outs, joint ventures, restructuring and recapitalizations
- Real estate ownership structure, sale, purchase, leasing and development
- Real estate and asset-based financing (acting for both institutional lenders and borrowers)
- Capital markets finance

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CHRISTOPHER M. WILLIAMS is a shareholder of the firm. He specializes in mergers and acquisitions, business formation and operation, and commercial real estate transactions. He has represented clients in a wide variety of industries including: automotive, construction, dentistry, engineering, food service, graphic design, health care, information technology, machining, manufacturing, marketing, mechanical contracting, real estate, retail sales, veterinary practice and website development.

Mr. Williams regularly assists clients with:

- Business purchases and sales
- Ownership buy-outs
- Business formation and organizational documents
- Contract review and drafting
- Annual meetings and record keeping
- Commercial real estate purchases and sales
- Commercial leases

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STEPHEN M. FELDMAN is a shareholder of the firm. He works primarily in the areas of business planning, estate planning and taxation. On numerous occasions, he has spoken to professional groups, including CPAs, on various tax topics. Examples of legal matters he has handled for clients include the following:

- Estate administration and probate litigation
- Resolution of Internal Revenue Service and Michigan tax liability disputes including at Michigan Tax Tribunal; U.S. Tax Court, U.S. Court of Appeals and Administrative Offices of the Internal Revenue Service (collections, appeals)
- Preparation of Estate Plan documents including charitable planning
- Assisting buyers and sellers of businesses with planning for optimal tax results
- Tax controversy litigation
- Mergers & Acquisitions

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MATTHEW A. FERRARA is a shareholder of the firm. He concentrates his practice in the areas of estate planning, probate avoidance, tax planning strategies, business formation and succession planning, probate, and trust and estate administration for clients of all ages and needs. Examples of his representation include:

- Holistic estate planning to address concerns regarding minor children, caring for older relatives, family members with disabilities, blended families, and LGBTQ+ relationships
- Design and implementation of complex estate planning including revocable, irrevocable, charitable, and asset protection trusts
- Wealth transfer, lifetime gifting, and charitable bequest planning and implementation
- Probate and trust administration from simple guidance to full-service administrative services
- Business planning including organization, buy-sell planning, and sales of businesses

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MARK E. MERLANTI is a shareholder of the firm. He is a member of the firm's litigation and real estate practice groups. He concentrates his practice in the areas of real estate and business transactions and disputes. Mr. Merlanti has broad experience regarding the trial, arbitration and mediation of business and real estate disputes, including appellate representation. Examples of the types of matters he handles include:

- Shareholder disputes
- Contract and commercial litigation disputes
- Drafting business agreements
- Real estate and quiet title litigation
- Construction contract drafting and construction litigation
- Boundary and riparian rights disputes
- Drafting commercial and residential leases
- Handling commercial and residential disputes, including landlord/tenant litigation
- Matters involving Condominium Association and Homeowners Association construction applications and disputes

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GARY SCHWARCZ works primarily in the areas of business planning, estate planning and taxation. He has spoken on numerous occasions to professional groups, including CPAs, on tax topics, including the technical aspects of partnership and S corporation taxation. Examples of legal matters he has handled for clients include the following:

- Federal and state business tax planning and compliance
- Individual income tax planning
- Planning, formation, development, operation and tax compliance regarding closely held business entities
- General representation of business entities
- Tax planning with respect to partnerships, S corporations, limited liability companies and similar pass through entities
- Tax analysis and documentation concerning mergers, acquisitions, investments, controlling interest sales, buy-outs, joint ventures, restructuring and recapitalizations
- Planning and preparation of estate planning documentation
- Tax analysis, structure and implementation regarding family wealth transfer transactions

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MICHAEL K. DOROCAK focuses his legal practice in the areas of commercial and real estate litigation and real estate and commercial transactions. Examples of his work include:

- Business and commercial litigation, including contract litigation, construction disputes, commercial and residential tax appeals, supplier disputes and appeals
- Real estate litigation, including resolution of title insurance disputes, quiet title actions, lien and mortgage priority disputes, riparian rights and water access, easement and road disputes, boundary disputes, forged or fraudulent conveyances
- Landlord tenant, including lease negotiation, preparation, interpretation, enforcement and litigation
- Documentation of commercial and real estate transactions of all types, including purchase agreements, operating agreements, leases, easement agreements, financing documents and condominium and homeowners' association documents
- Contract review and drafting
- Representation of non-profit organizations

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JENNIFER K. JOHNSON works primarily in the areas of estate planning and trust administration, as well as business and corporate law. Representative examples of her practice include:

- Drafting complex estate planning documents: Wills, codicils, trusts, financial and health care powers of attorney, deeds and ancillary documents
- Analyzing legal and tax issues related to estate planning
- Analyzing and preparing documents related to gifting strategies
- Estate and trust administration for individual and corporate fiduciaries
- Corporate and limited liability company formation and capitalization
- General representation of business entities

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JEFFREY D. RYAN works primarily in the areas of estate planning and trust administration, as well as business and corporate law. Representative examples of his practice include:

- Designing, drafting and implementing estate plans for a broad range of estate sizes
- Probate and trust administration for individual and corporate fiduciaries
- Analyzing and preparing documents related to gifting strategies
- Advanced wealth transfer planning and implementation
- Estate and gift tax counseling, including generation skipping analysis
- Corporate and limited liability company formation and capitalization
- Business succession planning
- Preparation of Gift and Estate Tax returns

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PRERANA R. BACON works primarily in the areas of litigation and dispute resolution, business and corporate and employment and labor. Ms. Bacon is a seasoned and skilled litigator with extensive experience prosecuting, defending and managing cases of varying exposure. Leveraging her unique engineering and project management background and skills and passion for the ethical practice of the law, she has successfully represented individual and business clients before federal and state tribunals and government agencies and has a proven track record of obtaining case dismissals, no-cause verdicts and negotiating favorable settlements. Ms. Bacon has also counseled organizational clients on a wide array of labor and employment, regulatory compliance, governance, business tort, contractual and general legal matters. Legal colleagues have often selected Ms. Bacon to sit on multi-arbitrator panels on their client's behalf. Ms. Bacon regularly advises clients in the following areas:

- Negligence & Intentional Tort Litigation
- Personal Injury Litigation
- Civil RICO Prosecution and Defense
- SIU & Insurance Fraud Investigation
- Insurance Coverage & Disputes
- Commercial & Business Litigation, including Directors & Officers and Shareholder Litigation
- Regulatory Compliance and Corporate Governance
- Employment & Labor Charges/Complaints/Litigation
- Intellectual Property Litigation
- E-Discovery, Document Retention and Preservation Planning

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EMILY M. SULLIVAN works primarily in the areas of commercial real estate and commercial business and corporate transactions. Ms. Sullivan regularly advises clients in the following areas:

- Reviewing and drafting real estate, commercial and asset-based financing documents for institutional lenders and businesses, including leases and secured transactional documents
- Assisting closely held and medium-sized businesses in formation and organizational matters
- Handling commercial real estate transactions, including purchase agreements and title review
- Reviewing and drafting all types of business contracts
- Business owner buy-outs, purchases and sales
- Lease negotiation and documentation
- Client assistance in real property management
- Real estate acquisitions and dispositions

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OF COUNSEL



MARK G. LANDAU is Of Counsel of the firm. Mr. Landau has focused his practice in the areas of estate planning, probate, estate administration, business succession planning and taxation. This has included such items as:

- Design and preparation of estate planning documentation, including Wills, revocable trusts, irrevocable trusts, special needs trusts, qualified personal residence trusts, charitable trusts, intentionally defective grantor trusts, grantor retained annuity trusts, and family limited partnerships
- Estate and gift tax counseling
- Buy-sell agreement design and implementation
- Estate and trust administration for individual and corporate fiduciaries
- Development of effective wealth transfer planning strategies and techniques



STEPHEN L. GUTMAN is Of Counsel to the firm. Mr. Gutman concentrates his practice in the areas of taxation, business and corporate law and trusts and estates. This has included:

- Tax litigation
- Mergers and acquisitions
- All aspects of estate planning
- Trust and estate administration

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EUGENE W. PYATENKO is Of Counsel to the firm. He focuses his practice in the areas of real estate, litigation and dispute resolution, banking and finance, construction law, business and corporate, mergers and acquisitions and medical practice management. He is a prolific speaker concerning real estate matters, banking and business transactions, bankruptcy and international business. Examples of the matters he has been involved in include:

- General commercial, banking and business transactions
- Debtor/creditor rights
- Commercial litigation and construction lien law
- Bank/borrower relationships
- All aspects of bankruptcy reorganization, including debtor reorganization not undertaken in the context of formal bankruptcy proceedings
- Establishing contacts and trade between U.S. and foreign entities with an emphasis on enterprises located within the Former Soviet Union
- Bilateral trade negotiations
- Establish joint ventures and intermediary activity between public and private sectors, ministries and government officials

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CHIARA F. MATTIESON is Of Counsel to the firm. She focuses on probate and trust litigation and administration, civil and commercial litigation and estate planning. Examples of her representation include:

- Probate litigation in areas of capacity challenges, guardianships or conservatorships, prosecuting and defending breach of fiduciary duty claims and will and trust contests
- Assisting fiduciaries in administering estates and trusts and defending fiduciaries against claims of breach of fiduciary duty
- Litigation of civil disputes in state and federal courts that are related to or arise from estate and trust matters

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EDWIN SADIK is Of Counsel to the firm. He works primarily in the areas of estate planning, probate litigation, taxation, probate, probate avoidance, tax planning strategies and trust and estate administration. Examples of his representation include:

- Sophisticated gift, estate, generation skipping transfer tax planning and documentation
- Wealth transfer planning and implementation
- Probate and trust administration
- Design and implementation of Wills, revocable trusts, irrevocable trusts, special needs trusts, charitable trusts and special trust agreements of various kinds
- Executive compensation arrangements, including deferred compensation and split dollar agreements
- Retirement distribution planning
- Closely held business succession and transition planning
- Business and personal income, gift and estate tax planning

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GEOFFREY L. SILVERMAN is Of Counsel to the firm. Mr. Silverman is a member of the firm's business and corporate, litigation and real estate practice groups. His practice areas include creditors' rights and bankruptcy, asset protection, sale and financing of real estate and businesses, shareholder and member disputes and transactional work. Mr. Silverman has served as an expert witness on various aspects of creditors' rights and asset protection. Examples of the types of matters he handles include:

- Work with clients to resolve complex business issues, including shareholder and member disputes, loan renegotiations and restructuring
- Representation of creditors, debtors and creditor committees in Chapter 7 and 11 bankruptcy cases
- Lender representation in the workout and bankruptcies of troubled business entities and their owners
- Complex business and commercial litigation
- General corporate representation

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SARA ZIVIAN ZWICKL is Of Counsel to the firm. Ms. Zwickl focuses on estate planning, probate court matters, trust administration and pre-marital/non-marital agreements. She also serves as a fiduciary for clients and as a mediator, helping parties to find peaceful resolutions to their disputes. Examples of her representation include:

- Probate matters such as modification of trusts, deceased estates, guardianships and conservatorships
- Advising and assisting fiduciaries in administering estates and trusts
- Estate planning tailored to each client's unique situation, including special needs planning

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LAWRENCE F. SCHILLER is Of Counsel to the firm. Mr. Schiller concentrates his practice on the topics of employee benefits, ERISA, pension and profit sharing plans, tax-qualified retirement plans and executive compensation law. Examples of the types of representation he has provided to clients include:

- Design, drafting, implementation and compliance documentation for all types of qualified and non-qualified employee benefit plans, including flexible benefit plans, medical expense reimbursement plans, medical savings accounts, group life insurance programs, split dollar insurance arrangements and similar programs
- Executive compensation arrangements, including deferred compensation and split dollar agreements
- ERISA interpretation, application and compliance
- Discrimination testing analysis
- Correction of plan compliance failures (IRS and DOL)
- Handling of government audits of plans (IRS and DOL)

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KENNETH F. POSNER is Of Counsel to the firm. Mr. Posner has focused his legal practice on the areas of real estate, commercial law and general litigation. Examples of his work include:

- Commercial litigation and alternative dispute resolution involving business contracts of all types
- Real estate litigation in Michigan and federal courts and administrative agencies
- Resolution of title disputes
- Landlord tenant litigation

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