

Grand Rapids LEGAL NEWS

Official Newspaper of General Circulation Devoted to Courts, Financial, Real Estate, Business and Miscellaneous News

VOLUME 74 - NUMBER 42

WEDNESDAY, JANUARY 13, 2010

\$60.00 PER YEAR — IN ADVANCE
\$1.75 SINGLE COPY PRICE

DULY NOTED

Velzen Elected Chair of Grand Rapids Bar Association Family Law Section

Randall L. Velzen, a shareholder in the Grand Rapids office of Smith Haughey Rice & Roegge, has been elected chairperson of the Family Law Section of the Grand Rapids Bar Association.

Velzen focuses his practice on family law and was one of the first attorneys in western Michigan to complete collaborative law training through the Collaborative Law Institute of Michigan. In this up-and-coming area of divorce law, prior to becoming involved with the divorce litigation process, the parties and attorneys sign a contract committing to try to settle the case. The primary benefit of collaborative law is that from the onset of the divorce process all parties are committed to settling the case, rather than pursuing litigation. This method is thought to be more honest and less damaging to the families involved.

He is currently on the state board for Collaborative Professionals (Collaborative Practice Institute of West Michigan). He is also a founding member of the Collaborative Divorce Professionals of West Michigan. In addition, Velzen is very active in the Grand Rapids Bar Association (GRBA). As well as serving as chairperson of the GRBA's Family Law Section, Randy also currently serves on the executive committee of the Alternative Dispute Resolution Section.

Smith Haughey has offices in Ann Arbor, Grand Rapids, and Traverse City.



Paul T. Sorensen

Primerus sets the bar high for law firm certification

by Cynthia Price
Legal News

The International Society of Primerus Law Firms is an innovative Grand Rapids-based initiative which transfers the trend to third-party certification seen nationally in many other industries to the legal field.

Primerus also dovetails nicely with West Michigan ethics and values, making it an idea whose time has come.

John Buchanan, who generally goes by Jack, created Primerus years ago after a series of events that started with what he saw as widespread disrespect for the legal profession.

In the early 1990s, Buchanan became disturbed by the increasing lack of esteem for lawyers, which he found to be at odds with what he knew about them. "Throughout my career it was a great honor to be a lawyer — we didn't do it for the money — it was honored, it was really something important." Begun with the first spate of lawyer jokes in the 1980s, the first Bush administration, with Vice President Dan Quayle — himself a lawyer — in the lead, underscored that negative attitude.

At the same time, the 1977 decision in *Bates v. State Bar of Arizona* opened up the field of advertising for lawyers. Buchanan feels this led to two very negative trends: first, the types of advertisements run cheapened the profession, and second, there were attorneys who pulled in work through advertising who really did not know what they were doing.

Buchanan's first salvo in the battle against this denigration of the legal profession was to fight ads with ads: he started running general print ads that promoted what lawyers do, and what the legal profession does for society. One, for example, showed Stalin, Hitler and then-well-known bad guy Ayatollah Khomeini, and said "Three leaders who knew how to streamline the legal system." Or, in a direct hit at Quayle, something like "The top ten reasons there are too many lawyers in this country — the Bill of Rights."

Though Buchanan, whose law firm at the time was called Buchanan and Bos, did not enter into the fray for the purpose of promoting his own business, he did have the foresight to keep careful track. "Before" surveys

showed that the firm was a familiar name to 11% of those asked; after the ad campaign, 66% knew the name.

The next step in Buchanan's battle was to create a brochure, again distributed by his own firm, on "How to Judge a Lawyer." The advertisements included a way to request copies of the brochure. The content guided potential clients through the questions they needed to ask in order to get the very best representation.

At that point, a funny thing happened. Buchanan started getting a lot of calls from other lawyers and law firms, wondering if they could run his ads in other cities, or use his brochure in their offices.

While Buchanan was pondering what to do about those requests, he began to think: "I don't want anyone to use those materials who is not a good lawyer." That thought led to the obvious question, "Well, what do I mean by a good lawyer?"

He began to focus on thinking that through. Himself a well-respected lawyer with an excellent track record in serving his clients, Buchanan developed six principles that, if followed, made a law firm stand out.

Primerus calls these the "Six Pillars," and they are:

Integrity. Clients should be able to entrust their sensitive legal matters to someone with high standards.

Excellent Work Product. Even more than winning or losing, a lawyer should be sure that records are kept reliably, communications are clear and accountable, promises are kept, and there is an adequate amount of follow-through. The lawyer should have knowledge and expertise in his or her specialty.

Reasonable Fees, based on what is customary in a given area.

Continuing Education. Education doesn't end with a law degree. Continuing Legal Education is critical to staying at the top.

Civility. As officers of the court, lawyers must show respect to others including opposing attorneys.

Community Service. The law, fundamentally, exists to hold communities together. Good attorneys must give back to their communities, including pro bono service.

The more Buchanan thought about these principles and what he saw as the



LEGAL NEWS PHOTOS BY CYNTHIA PRICE

John "Jack" Buchanan



Benefits offered Primerus law firms include this slick, informative publication, *Paradigm*, published quarterly. The magazine has Primerus-specific information as well as articles of general interest to attorneys, such as, in this Fall 2009 issue, "Managing to Get Your Clients Heard in Washington."

growing public need for guidance on how to choose a lawyer, the more he thought that some kind of pre-screening service would be valuable. Thus, Primerus was born.

The International Society of Primerus Law Firms basically entails two prongs of activity. First, to use a term that described particularly well what Primerus set out to do in the beginning, it is a "seal of approval" of law firms around the country and, in fact, the globe.

Second, it is a "match-making service" between those approved law firms and potential clients.

To be sure that the seal of approval is warranted, Primerus has high standards itself for documentation and investigation. Senior Vice President of Membership Development, Scott Roland, oversees that work, but the final decision is made by a third party board of accreditation. Primerus firms

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Court of Appeals decision on Meijer

At the beginning of 2010, Meijer Inc. attracted a lot of headline attention by asking the Michigan Supreme Court to review a Court of Appeals decision on their election law violation case.

The legal case hinges on interpretation of who has jurisdiction over such violations, and whether that jurisdiction is exclusive.

In 2009, Meijer admitted to a possible violation of the Michigan Campaign Finance Act (MCFA) in funding the recall campaigns of officials in Acme Township, near Traverse City, who had blocked Meijer's development plans.

The admission was made to the secretary of state, Terri Lynn Land, who fined them \$190,000.

But in early 2008 the county prosecutor for Grand Traverse County had subpoenaed documents to support his own investigation, possibly leading to

criminal charges. Meijer and its law firm, Dickinson Wright PLLC, objected, and the lower court agreed that only the secretary of state had jurisdiction over MCFA and only at her discretion could the Michigan Attorney General be called in to press criminal charges.

The decision said that "[T]he Legislature, having vested exclusive jurisdiction in the Secretary of State to investigate and resolve campaign violations or to refer them to the Attorney General for criminal prosecution, the Prosecuting Attorney has no statutory jurisdiction to investigate or prosecute violation."

Following are some of the conclusions of the Court of Appeals decision in question, made by Hon. Elizabeth L. Gleicher, Hon. Kathleen Jansen and Hon. Karen M. Fort Hood, reversing the lower court:

"The MCFA imbues the secretary

of state with responsibility to enforce campaign finance laws by authorizing the secretary to "correct" and "prevent" violations. MCL 169.215(10). But nothing in the MCFA supplies the secretary with the power to prosecute criminal infractions. Rather, the MCFA expressly provides only that the secretary may "commence a hearing to determine whether a civil violation of this act has occurred," and may impose a "civil fine." MCL 169.215(11) (emphasis added). "Civil infractions are not crimes and are not punishable by imprisonment or by 'penal fines.'" *Saginaw Pub Libraries Bd of Comm'rs v 70th Dist Court Judges*, 118 Mich App 379, 387; 325 NW2d 777 (1982). And the MCFA specifically contemplates the potential imposition of criminal liability for violators irrespective whether the secretary has imposed a civil fine: "Unless otherwise specified in this

act, a person who violates a provision of this act is subject to a civil fine of not more than \$1000.00 for each violation. A civil fine is in addition to, but not limited by, a criminal penalty prescribed by this act." MCL 169.215(14) (emphasis added).

"The secretary of state's broad powers to investigate, conciliate, and remediate election law infringement, and to assess civil fines, simply does not establish in the secretary exclusive jurisdiction with respect to the criminal provisions of the MCFA. We discern no language in MCL 169.215, or elsewhere in the MCFA, that plainly conveys to the secretary a prosecutorial function, or any language that attenuates the traditional criminal enforcement powers of prosecutors. Nor do we detect any legislative intent that informal methods of

MEIJER continues page 2

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must submit detailed records and are reviewed every year.

Buchanan says, "Even my own law firm could get kicked out if it doesn't stick to the standards." He is still Of Counsel to Buchanan and Buchanan, and

Primerus shares their suite.

Law firms must have under 50 attorneys, and there can be only one law firm per geographic area specializing in any practice. There are now Primerus law firms in more than 100 cities, in 43 states, and in Canada, Mexico, England

and the U.S.

The "dating service" aspect comes in through a later development, which is cultivation of regional and national clients who are looking for excellent firms in other markets. Primerus holds "convocations" where clients meet law firms as

well as become educated on the latest law.

Primerus offers many other services to the chosen firms, such as web site optimization, liability insurance, and legal education opportunities.

More information is available at www.primerus.com.

The Grand Rapids Legal News

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PUBLISHED EVERY WEDNESDAY

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Paid in Advance If Not Paid in Advance
\$60.00.....12 months \$70.00.....12 months

Grand Rapids Legal News (USPS 225-740) is published weekly for \$60.00 per year by Detroit Legal News Publishing, LLC, 1409 Allen Dr., Suite B, Troy, MI 48063. Periodical postage paid at Grand Rapids, MI POSTMASTER: Send address changes to the Grand Rapids Legal News, 1430 Monroe Ave N.W., Ste. 140, Grand Rapids, MI 49505.

THE GRAND RAPIDS LEGAL NEWS serves the Courts and the Legal Profession, County and Municipal Governments, and the General Public, by the Publication of Court Proceedings and other legal and public information. It is the only official paper of its kind published in Kent County.

Available news from the courts and the several record offices of the City and County is published fully and completely. The Legal News assumes no responsibility, however, for failure to report any matter inadvertently omitted or withheld from it.

The record items as printed in the Grand Rapids Legal News are given just as they are furnished from public records and do not necessarily affect the credit or business standing of the parties mentioned. We shall be pleased to publish any explanation of the items that may appear from time to time at the request of the parties interested.



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As provided in Act 93, Public Acts of Michigan for 1933, amending Section 14116, Compiled Laws of Michigan for 1929, the Legal News meets all statutory requirements for the publication of all legal notices in any and all courts in Kent County.

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Official Publication of the Circuit & Probate Courts of the County of Kent
and the U.S. District Courts for the "State of Michigan"

COMING EVENTS

Jan. 18: **Kenneth Boykin speaks in Lansing at Cooley Law School**, 5 p.m., Temple Building sixth floor auditorium. Boykin, editor of The Daily Voice online news site, a CNBC contributor, and a *New York Times* best-selling author of three books, *Beyond the Down Low: Sex, Lies and Denial in Black America*, *Respecting the Soul*, and *One More River to Cross*, will speak at the Martin Luther King Jr. Day celebration. Free, open to the public. Boykin was appointed by former Pres. Bill Clinton to the U.S. presidential trade delegation to Zimbabwe, and is founder and first board president of the National Black Justice Coalition.

Jan. 26: **Grand Rapids Bar Probate Section Meeting** (Joint meeting with West Michigan Estate Planning Council or WMEPC), 4-5:15 p.m., University Club, 111 Lyon St. NW, 10th floor, Grand Rapids. "Taking Your Own Online Connection Offline for Corporate Success" John Hill, Director of Alumni Career Services at Michigan State University, will discuss using your contacts on LinkedIn, Twitter and other sites to accentuate your offline business. Free to WMEPC members; \$10 for Probate Members who are not WMEPC members. To register, contact Deb Perrin at 616-698-7787.

Jan. 28: **Grand Rapids Bar ADR Annual Meeting**, University Club, 111 Lyon St NW, Ste 1025, Grand Rapids. The Annual Meeting portion will begin promptly at noon; please be present to vote. Followed by "Winning Mediation Strategies - From the User's Perspective" with panelists Jay Cragwell of Warner Norcross & Judd, Melanie DeStigter of the Law Office of Melanie DeStigter, Richard Gaffin of Miller Canfield Paddock & Stone and Judith Simonson of Hastings Mutual Insurance Company; moderator: Tom Koernke, Koernke & CramptonTo register, visit www.grbar.org, select the event on the January calendar, and click under Event Registration.

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THE PUBLISHER

Deadline Notice

The deadline for legal notices to be published in the Grand Rapids Legal News is 3:00 p.m. Monday. The deadline for advertisements is 1:00 p.m. Friday, and ads requiring a proof must be submitted by 1:00 p.m. Wednesday for the next edition.

The Grand Rapids Legal News is published every Wednesday.

If you have any questions, please feel free to call the Grand Rapids Legal News at (616) 454-9293. Thank You.

Mental health repeal has legal impacts

by Mike Scott
Legal News

There is debate over what the legal ramifications – and legal system impact – could be if the Michigan State Legislature elects to cut state funding by as much as \$600 million in the coming year.

The human impact could be significant. But there is a legal impact as well that some lawyers and judges predict could cause local courts to see an increase in mental health patients appearing before them.

Health care providers from around the state are rallying against the possible repeal of PA 248, a law enacted in 2004. This bill restrained Michigan Medicaid from restricting access to drugs used to treat mental illness through the prior authorization process.

The possible repeal of PA 248 has been discussed in recent months in the Michigan Legislature as a way to cut costs and balance the state budget. Opponents of the repeal say that the move could have a disastrous impact on treating mental health illnesses around the state. Proponents say the cuts can be funneled to fund other statewide programs.

"If this bill does pass, my question is how they are going to pay for the cost of medications for tens of thousands of residents around the state," said Roberta Sanders, CEO of New Center Community Mental Health Services in Detroit, a behavioral health organization for consumers, staff and the metro Detroit community.

Proponents of the bill estimate that the state could see \$5 million in revenue from supplemental rebates paid by pharmaceutical companies, said Mark Reinstein, president and CEO of the Michigan Association for Mental Illness.

In essence, these rebates are generally paid by pharmaceutical companies, which believe that such a rebate will mean that their drugs will receive "preferred" status by a state. That in theory would then lead to additional drug sales for the pharmaceutical companies, Reinstein said.

Financially cutting costs could mean that patients around the state that rely on prescription drugs to help treat schizophrenia, bipolar or other such mental diseases would not be able to get any state funding to cover the cost. The monthly cost of such drugs can range from \$600 to \$1,500, Sanders said.

The legal issue at hand is twofold. First is the potential impact on the legal system, which could see an influx in residents being afflicted by mental health illnesses if many can no longer afford their medications.

"There may be fewer services available for some of these (mental health patients)," said Mercedes Varasteh Dordeski, an associate attorney with a specialty in health care with Frank, Haron, Weiner & Navarro, PLC, Troy. "Not everyone who has such illnesses is in the low-income demographic, but overwhelmingly that is the case."

Individuals with such illnesses as schizophrenia that go unchecked often do run into legal issues, Dordeski said. That could result in an added burden on court clerks, probation officers, and judges, she added. It could mean more taxpayer money being spent to not only address issues of these patients through the court system, but also possibly in correctional institutions.

"The more clients you see the less time you are able to spend individually with your clients, even as a public defender," Dordeski said.

Provisions were put into law in 2004 that limited the authority of insurance companies to impose prior authorization on certain prescription drugs, said Mark Cody, an attorney with Michigan Protection and Advocacy in Lansing. In some cases, mental health patients have been introduced to the concept of prescription switching, where their regular medications are switched for lower-cost generic drugs based on insurance company demands.

There isn't a clearly set standard for how individuals could challenge mental health cuts or various forms of prescription

switching legally, Cody said.

"If someone was denied a certain prescription drug that they had used before, we'd want to hear about it," Cody said.

However, whether there is a legal right of mental health patients to legally challenge such denials would have to be determined on a case-by-case basis, Cody said.

"If it adhered to an existing policy, there might not be much you can do," Cody explained.

Dordeski admitted that she has not followed this issue on a daily basis, but said in her view one of the elements missing in this case is careful analysis by state legislators as to how mental health monies have been used in the past. She acknowledged that budget cuts aren't always a bad thing, particularly if money is not being used efficiently.

"What I would hope is that they aren't cutting just for the sake of cutting, but that there is research into which programs are making the best use of these funds," Dordeski said. "I would also hope they are measuring how much of this money ultimately has helped (mental health patients)."

If the \$600 million in state funding does disappear, mental health patients will still be forced to get treatment from somewhere, Sanders said, and that often means more trips to the emergency room, community mental health facilities, and other inpatient care units. These types of health care are significantly more costly than treating mental health conditions with the appropriate medications.

The challenges for health care providers who predict a statewide disaster if such funding is cut off is that it is difficult to quantify the costs of these patients being treated at a higher level of the health care continuum, Sanders said.

"Treating these illnesses with newer medications that are proven to help patients is the cheapest, most preventative way to handle this situation," Sanders said.

Prescription switching and denying mental health patients the ability to afford their drugs is

a recipe for disaster, said Judge Dawnn Gruenberg, of the 37th District Court in Macomb County.

"Why not give the people who need a mental health drug for stability what they need because there is a chance that dangerous things could occur if they don't get the treatment they need," Judge Gruenberg said. "There are a number of issues I have seen in cases where medication was changed for a person who had (a brain disease)."

Gruenberg believes that if the state can keep people with mental illnesses stable, you can help keep them out of a high-cost jail center or hospital.

"If that happens they can become a more productive part of society," Gruenberg said.

If the State Legislature does decide to cut some of this funding, there isn't much that mental health care advocates can do, Dordeski said. Since there are cuts being made to departments around the state because of Michigan's dire budget situation, there wouldn't be much of a case in alleging discrimination against people with disabilities, she added.

"Cuts are happening across the board; we see it with our schools and municipalities," Dordeski said. "(Proponents of mental health issues) can voice their dissatisfaction or protest, but if as a society we could sue a state legislature every time they passed a bill some people didn't like, we'd never get anything done."

"There's really nothing that can be done to challenge the



Mercedes Varasteh Dordeski