



# Oakland County Legal News

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## SHORT TAKES

### Commissioners host evening board meeting

The Oakland County Board of Commissioners announces an evening Board meeting scheduled for Wednesday, August 12, beginning at 7 p.m. The meeting will take place in the Oakland County Board of Commissioners' Auditorium, located at 1200 North Telegraph Road in Pontiac, Michigan.

The meeting is open to the public and public comment is welcome.

### Grandmas' accounts in Ponzi scheme should stay frozen, says SEC

DETROIT (AP) — Federal regulators are taking a hard line against two Michigan grandmothers who can't get access to bank accounts as a result of an alleged \$53 million Ponzi scheme.

Dylite Adams of Kalamazoo and Lily Trabulsy of Farmington Hills have joint accounts with grandsons who are snagged in a civil investigation of BBC Equities and Bravata Financial Group of Southfield.

The assets of Antonio Bravata and Richard Trabulsy were frozen on July 27.

In a court filing last Friday, the Securities and Exchange Commission said the grandmothers' accounts should stay frozen because the women were investors who deposited earnings there. The SEC says the balances, about \$9,000, are "ill-gotten gains."

Adams and Trabulsy say they need money for daily expenses. A federal judge in Detroit will decide.

### Hot-dog duo sues for right to sell franks

MONROE, Mich. (AP) — Mustard? Relish? In a southeastern Michigan city, it may be up to a federal judge.

A fledgling business called the Dog Pound is suing the city of Monroe after a plan to sell hot dogs from a cart was rejected. The city moved the case to federal court in Detroit last week because the lawsuit raises constitutional claims.

Two women, Cheri Sicuso and Rochelle Dalrymple, say they acquired a \$3,400 cart and want to add some fun to downtown Monroe. But they say they lost because businesses feared competition from their hot dogs and sausages.

Monroe Mayor Mark Worrell admits competition was a factor in the council's decision last month.

The women have names for their food, including the "Diesel Dog," a sausage with peppers and onions.

### Agency posts how-to Webcasts for unemployed

LANSING (AP) — The high number of jobless workers is swamping Michigan's Unemployment Insurance Agency, but workers now can watch a series of how-to Webcasts that could make filing for benefits easier.

The informational Webcasts were recently promoted by the agency. They're intended to get more people to sign up for benefits online and to answer questions from employers and jobless workers.

The Webcasts are generally less than 10 minutes long and include a PowerPoint presentation that viewers can print out for future reference.

Michigan has the nation's highest unemployment rate, 15.2 percent.

The Webcasts can be found at www.michigan.gov/uia.

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# INVESTING IN COMMUNITIES

Through employee contributions, firm able to support charitable causes

By CHRISTINE L. MOBLEY  
Legal News

Charity begins at home. That saying rings true for Royal Oak-based Howard & Howard Attorneys.

Through the Howard & Howard Community Reinvestment Fund (H2CRF), a wide variety of charitable organizations have benefited despite the current economic challenges.

This uniquely structured fund is proving to be recession-proof and has contributed approximately \$2.8 million dollars since its creation in 1985 and plans to surpass the \$3 million mark by next year.

Funded voluntarily by Howard & Howard employees, H2CRF is a charitable trust which aims to give back to organizations working to improve the communities in which the firm's attorneys and staff live. Howard & Howard has six offices located in Ann Arbor; Kalamazoo; Royal Oak; Las Vegas, NV; Peoria, IL; and a newly opened office in Toronto.

"I'm just very proud of all of our people and our organization," Mark Davis, president and CEO of Howard & Howard, said. "Personally, and I know a lot of my partners feel the same way, I feel like I'm blessed.

"I want to make sure that we give back to the community so that others get an opportunity to get a good education; to be well-rounded; to make a difference in someone's life — so that we can share some of what we've been fortunate enough to receive."

The fund is donor-advised and administered by the Kalamazoo Foundation. Howard



DAVIS

& Howard has an Allocation Committee that distributes the funds twice per year to chosen organizations.

Beneficiaries of the fund tend to vary from year to year, however, one continual recipient has been the United Way.

The charitable institutions are chosen by the Allocation Committee after requests are received from Howard & Howard employees for organizations that they would like to see funded by H2CRF. After receiving the request, the committee first verifies that the request is consistent with the H2CRF criteria for giving.

"The committee evaluates (requests) based on the impact on the community," Leonard Sachs, a partner with Howard & Howard who chairs the Allocation Committee, said.

Before just issuing a check, the committee also looks to see if the employee is active in the organization, which the firm strongly encourages.

"We have to make sure the employee who sponsors the request is actively involved or has a client relationship with someone who's actively involved (in the charity) so we know it's going to make a good impact in one of the communities in which we have an office," said Sachs, who is actively involved in the Peoria community where he lives and practices.

The H2CRF works with recipient organizations to establish grants, such as:

- Howard & Howard 21st Century Leaders Grant, which supports the development of leadership skills among middle school students.

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SACHS

## Law students choose path



Wayne State University Law School hosted an admissions event titled "Choosing the Law School Path" on Wednesday, July 22, in the Spencer M. Partrich Auditorium on its campus in Detroit. Among those helping prospects with their questions were (above seated, left to right) Anita Knight, WSU Development team secretary; and Felicia Thomas, director of Recruitment & Enrollment; along with (standing, left to right) Angela Space, associate director of Recruitment & Enrollment; and Marcia McDonald, director of Admissions.



Potential students get name tags and other information from Anita Knight (above, right). "At this workshop we are going to present information about everything people want to know about law school but were afraid to ask," Marcia McDonald (right) stated before addressing the attendees.

Photos by John Meiu

## OCBA UPDATE

By President Kurt E. Schlez



## Now more than ever

The year was 1934 and Franklin Delano Roosevelt was the president of the United States. It had been five years since the crash of 1929 and the country was experiencing its worst economic crisis ever. There were millions out of work; there were bread lines, tent cities and dust bowls in every state. The country was on its knees. Does any of this sound familiar?

When I made my remarks at the OCBA Annual Meeting on June 3, 2009, I posed two questions to the audience. The first question I asked was, "How many of you are worried about our economy?" I asked the audience to raise their hands and, to the last person, they all raised their hands.

We are all worried about how long and how bad it will get before this economic crisis is over and, given our history, we know it will be over sometime — just not when. The United States is far too great a nation not to get back on its feet again. However, these are scary times and, to paraphrase President Abraham Lincoln, "times that do indeed try men and women's souls."

Many of us in our lifetime have lived through recessions and large downturns in the economy, but candidly, this is the first time since the Great Depression that we in the legal profession have really felt the pinch and the squeeze of a financial nightmare. Imagine a year ago thinking that the large firms would be laying off attorneys in great numbers; that the state

and local governments would be slashing jobs — including legal jobs, placing a freeze on hiring and cutting public services; that the law school graduates would be unable to find jobs and leave the state in great numbers (studies show that up to 80 percent of all law school graduates leave the state); that Chrysler and General Motors would be in bankruptcy; and that the president of the United States would discharge the president of General Motors — at one time the largest industrial corporation in the world. Not one of us would have ever thought we would be where we are today.

The second question I asked was, "How many of you think that joining a bar association is a positive thing to do in times like these?" Again, to the last person, everyone raised their hands. I asked that question because it is interesting to note that this year marks the 75th year anniversary of the Oakland County Bar Association. That means this bar association was formed in 1934, five years after the crash of 1929 and near the bottom of the Great Depression. And what did the attorneys in Oakland County do at that time, who, candidly, were probably more scared than we are now? They said, "We need each other. We must band together and work as a team for our profession and for the public." They clearly understood and appreciated the famous Benjamin Franklin quote, "We must all hang together or we will hang separately."

(See OCBA UPDATE, Page 2)

## Appeals court splits on sex offender with no address

By DAVID EGGERT  
Associated Press Writer

LANSING (AP) — A Michigan appeals court will consider whether a homeless sex offender who lives in abandoned buildings and city parks can be punished for not registering an address or giving his whereabouts to law enforcement.

Randall Dowdy, 61, visited a Lansing shelter off and on until 2006 when he was told he could no longer go there because he was a convicted sex offender.

Dowdy was charged with not reporting a change of address within 10 days of moving, not verifying his address every three months and not paying a registration fee — all violations of the Sex Offender Registration Act.

A local judge dismissed the charges in 2008, finding it impossible for Dowdy to comply with the law since he is homeless. The Michigan Court of Appeals declined to hear the appeal after the prosecution missed a deadline.

But the state Supreme Court, on a 6-1 vote released last Friday, ordered the appeals court to take the case anyway.

"It is a thorny matter. We need some resolution," said Ingham County Prosecutor Stuart

Dunnings III, who wants the Legislature to clarify a "gaping hole" in the law. "If not, the courts will."

Michigan has nearly 26,000 non-incarcerated sex offenders on the registry who must verify their address. Dunnings could not estimate how many are homeless but said it is not uncommon.

The case seems likely to reach the high court again because the justices — while ordering the appeals court to take a crack at it first — differed on whether the charges should be tossed.

"To hold that individuals who have no residence or domicile must abide by the requirement to register or report one's residence or domicile is an unlawful and absurd proposition," dissenting Justice Diane Hathaway wrote.

Chief Justice Marilyn Kelly said the charges may have been thrown out correctly because Dowdy "simply had no residence to register."

But Justices Maura Corrigan, Stephen Markman and Robert Young Jr. said the charges should not have been dismissed.

"There is nothing 'absurd' about the state's requirements that persons convicted of sexual

(See OFFENDER ADDRESS, Page 2)

### Can Confidence Climb?

New GM worries about regaining consumer confidence.

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### Sotomayer Sworn-in

Sotomayer takes oath from Chief Justice Roberts.

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### Shrinking Revenues

Michigan's falling revenues not all tied to economy.

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# Soft PC sales send Microsoft profit down 29 percent

By JESSICA MINTZ  
AP Technology Writer

SEATTLE (AP) — There isn't much Microsoft Corp. can do to avoid what is shaping up to be a tough rest of 2009.

The same grim conditions that plagued the world's largest software maker in the first six months of the calendar year — weak computer sales, frozen corporate technology budgets — may not get worse from here, but they are not going to dissipate any time soon. However, the company expects business to brighten in the first half of the next calendar year.

That was one of the messages delivered by Microsoft Chief Financial Officer Chris Liddell in a recent conference call, after the company said revenue missed Wall Street's expectations by \$1 billion and earnings slumped 29 percent in the fiscal fourth quarter.

The results capped a fiscal year in which revenue fell for the first time since the company went public in 1986. For the full year, Microsoft said its profit slid 17 percent to \$14.6 billion, or \$1.62 per share, as sales sank 3 percent to \$58.4 billion.

Investors were displeased, sending Microsoft shares down \$2, or 7.8 percent, to \$23.56 in after-hours trading. Before the earnings report the stock had gained 3.1 percent to close at \$25.56.

Technology executives have been pressed to weigh in on whether the industry has hit its lowest point since Intel Corp.'s CEO declared in April that PC sales had "bottomed out" after their worst holiday season in six years.

Over the last few quarters, Liddell said, Microsoft "felt we couldn't necessarily see the bottom. I think that at least we are seeing signs now of the bottom."

But Liddell said the rest of the calendar year, at least, will be difficult for Microsoft. That's because the software maker's success is tethered to the PC industry, which is expected to sell fewer computers this year than last — the first such decline since 2001. Many buyers are holding on to their existing machines for longer than usual to save money in the recession. Among consumers, the hottest segment of the PC market is in low-cost "netbooks," which run Windows XP, a lower-profit product for Microsoft than the newer Windows Vista.

"For Microsoft, it's not a case where they're losing market share, or losing out to a competitor. It's purely about how their customers are behaving in the current economic climate," said McAdams Wright

Ragen analyst Sid Parakh.

Microsoft is on track to release an updated operating system, Windows 7, on Oct. 22 and a new version of its Office software in the first half of the 2010 calendar year, but neither of these events are expected to reverse Microsoft's recent fortune.

Microsoft said its profit in the quarter that ended in June sank to \$3.05 billion, or 34 cents per share. In the same period last year it earned \$4.3 billion, 46 cents per share.

Because some people buying Windows Vista computers now will get free upgrades to Windows 7 when it launches in October, Microsoft deferred \$276 million of Windows revenue. That cut its profit by 2 cents per share.

The earnings were also hurt by legal charges, severance charges and the declining value of its investments. Excluding all those items, Microsoft would have beaten Wall Street's expectations by 2 cents per share, according to a Thomson Reuters poll.

In part, Microsoft was able to keep its profit on track because it cut operating expenses by nearly \$1 billion from last year.

Microsoft's quarterly sales dropped 17 percent to \$13.1 billion. Even if the company had not deferred some Windows revenue, it still would have missed the Street view by a wide margin. Analysts were looking for \$14.4 billion in sales.

"It was not a great quarter at all," said Canaccord Adams analyst Peter Misk. "Wow," was the response I had when I saw it hit the tape."

The divisions responsible for Windows, Office, and server software, posted sales declines, as did Xbox 360 and Web advertising groups.

Big businesses renewed software license agreements at about the same rate as in the past, Liddell said. But revenue was flat, because many companies have frozen hiring or cut workers, and aren't increasing the number of software licenses they buy.

Corporate customers also bought fewer server computers.

Microsoft's online advertising business reported a wider operating loss. The Entertainment and Devices group, which makes Xbox 360, Zune and mobile phone software, also ended the quarter in the red.

Liddell, Microsoft's CFO, said he thought the company did well, considering the challenges.

"We are a stronger company than we were a year ago," Liddell said. "However, the economy continues to be challenging and we need to lift our game to another level in fiscal 2010."



## Now more than ever

(Continued from page 1)

What is even more interesting is that the State Bar of Michigan was formed the very next year, in 1935 — the absolute pit of the Great Depression. The lawyers of that time, who had suffered for six years, understood the need and necessity to stand together. It may be an old cliché, but it's absolutely and completely true right now: In unity, there is strength. When we consider the growth of the Oakland County Bar Association, the programs that have been established and consistently maintained, the public service commitment that we have made and lived up to, the challenges that have been met and overcome and the respect we have earned as a profession, it was and is a success and the right thing to do at the right time, those 75 years ago. Now it is again the right time to stand together, to work together and, yes, to help not only each other but all those who require our skills to protect them and their families.

Since 1934, this bar association has lived through World War II, the Korean War, the Vietnam War, 9-11, the Gulf War, Afghanistan, the Civil Rights Movement, numerous social and political events, and a whole host of economic ups and downs. We have also lived through landmark decisions of the United States Supreme Court that have forever changed not only the legal landscape of the land, but the social landscape as well.

At the forefront of all these events were lawyers. Lawyers were there to provide professional leadership and guidance, to hold the steady course. That leadership and guidance role has not dissipated or changed in the last 75 years and is as strong today as it ever was. Without a doubt, the leaders in our society will continue to look to the legal profession to solve their problems and pro-

vide future solutions; lawyers truly are the fiber that binds our society together. With all of us working and participating, the OCBA will be around for at least another 75 years — growing, improving, and serving its members and the public. We do need each other.

A voluntary organization is only as good as the commitment of its membership, and now more than ever, we need the commitment of our membership. It is important that each of you become involved in one of the approximately 21 committees we have at the bar and that you participate in bar events, which provide an opportunity to associate with like-minded people, not only to improve oneself professionally, but also to develop friendships that promote civility in the profession and betterment of the bar.

As your president, it is my hope, intention and desire to leave the bar in better shape than when I took office, to be a good financial steward, to provide leadership for our members, to develop a new strategic plan, to provide a good network for our members to have social fellowship and the professional contacts, to involve more of our members in the activities of the bar, to maintain a close and continuing relationship with the bench, to help lawyers at their desks with services and education programs and, most importantly, to make sure that we enjoy what we are doing together while we are doing it.

I look forward to this year, banding together for the betterment of our profession and being part of an organization that is needed now more than ever.

*Kurt E. Schnelz, a principal shareholder in the Birmingham law firm of Schnelz Wells PC, is the 77th president of the Oakland County Bar Association.*

# New GM worries about regaining consumer confidence

By TOM KRISHER  
AP Auto Writer

DETROIT (AP) — The new General Motors Co. said last Friday it was worried about regaining consumer confidence following its exit from Chapter 11, and that its sales won't improve in 2009 as U.S. economic troubles continue.

In a sweeping review of its business filed late last Friday with the U.S. Securities and Exchange Commission, GM also said it plans to register 3.5 billion shares of stock to prepare for a public offering sometime next year.

Proceeds from the sale would be used to repay at least part of what it owes the U.S. government and other stakeholders.

GM says in the filing that the \$50 billion it received from the U.S. government is adequate for the short term, but its medium- and long-term financial health depends on its plan to continue cutting expenses as well as how many cars and trucks it sells and how much money it can get for them.

The company's sales have dropped 38 percent for the first seven months of the year compared with the same period in 2008, but the government's "cash for clunkers" program helped to slow the decline to 19 percent in July. Industry analysts are predicting further sales boosts since the program has been extended.

"The deteriorating economic and market conditions that have driven the drop in vehicle sales, including declines in real estate and equity values, rising unemployment, tightened credit markets, depressed consumer confidence and weak housing markets, are not likely to improve significantly during 2009," the company said.

It warned those problems may continue past 2009 and could deteriorate further. The company has predicted a gradual recovery after the first quarter of next year.

All companies are required to report risks like these in quarterly filings with the SEC.

GM says several improved, more efficient vehicle models heading into showrooms later this year, and it already is getting higher prices for the new version of the midsize Chevrolet Malibu and other new models.

The Detroit automaker also said it is worried about regaining consumer confidence after its recent bankruptcy filing. The company said in its SEC filing that it must convince people that it can make money again to restore confidence.

Some consumers lost confidence in GM's long-term ability to provide parts, warranties and service for its vehicles and preserve adequate car and truck resale values.

"Long-term profitability depends on our ability to convince consumers of our long-term strength," GM said.

Financial distress among parts supply companies could disrupt parts flow and hurt GM's business, and it said it must have adequate capital to keep develop-

ing new products in a competitive market.

The company said it would register 2.5 billion common and 1 billion preferred shares in preparation for the public sale. Its executives and the government have said they expect the sale sometime in 2010, but no date has been disclosed.

Spokeswoman Julie Gibson said the company is merely authorizing 3.5 billion shares but likely would not sell that high of a number in an initial public offering. It is common practice, she said, for companies to register more shares than they issue.

Current GM stakeholders include the U.S. government, which now owns 61 percent of the Detroit company.

GM also disclosed that it already has issued 500 million shares of common stock and 360 million shares of preferred stock. There also are warrants for another 106 million common shares. It is unclear what would happen to all those shares if the company goes public.

GM said in the filing that the U.S. government owns 61 percent of the original 500 million common shares and the Canadian and Ontario governments hold 12 percent.

The rest would be owned by the United Auto Workers retiree health care trust and old GM, now called Motors Liquidation Corp.

GM emerged from bankruptcy court on July 10 after a lightning-quick 40-day stay, cleansed of much of its debt and burdensome contracts.

Just before it filed for bankruptcy protection, GM had about 611 million shares outstanding, but those shares stayed with the old GM, which now is mainly a collection of debt as well as closed plants and bad assets waiting to be liquidated.

The company also disclosed last Friday that it would not report second-quarter earnings this year, but it will disclose its performance for the three- and nine-month periods before Sept. 30. Those reports will come after the third quarter closes, and the company said they will not comply with general U.S. accounting principles. GM, however, will file reports that meet the accounting standards in 2010.

Spokeswoman Renee Rashid-Merem said GM won't file the second-quarter earnings because of the extensive work still needed to set up the books for the new company. The new company also needs to finish accounting changes made necessary by selling its good assets to the new company.

## Correction

DETROIT (AP) — In an Aug. 5 story about GMAC Inc., The Associated Press reported erroneously the percentage change and figures for the company's second-quarter revenue. GMAC's net revenue fell 22 percent to \$1.03 billion from \$1.32 billion, not 28 percent to \$1.27 billion from \$1.76 billion.

## HOWARD & HOWARD: Fund invests in communities

(Continued from page 1)

• Howard & Howard Healing Hearts Grant, which provides assistance to families of children with cancer.

• H2Blue Grant, which provides motivational speakers to teach grade school children the history of Blues music.

• Howard & Howard Future Laureates Arts Scholarship, which provides the opportunity for disadvantaged or underserved students to attend art classes.

"I think everyone has an obligation to make as big a difference as they possibly can in the lives of as many folks as possible," Sachs added. "It's really an essential component of our firm culture."

With more than 200 employees in its six offices, nearly all contribute to the fund.

"Our commitment has actually been very consistent," Sachs noted. "Virtually everybody contributes on the Community Reinvestment Fund. We ask our attorneys to give 1% of their income and our non-attorney colleagues

### Contributions to H2CRF from 2006-2008

2006: \$97,015.97  
2007: \$119,719.97  
2008: \$146,920.43

to give whatever they can afford to give. Even in these tough times everyone is still very enthusiastic about making a contribution."

Davis hopes that the H2CRF might encourage others to follow in kind.

"We're very happy with what we've been able to accomplish," Davis says of the fund. "Hopefully, this will encourage others to do the same."

"I think the key is our people," Davis says of H2CRF's continued contributions.

"Our attorneys and employees have a real commitment to giving back to the communities that we live and work in."

## OFFENDER ADDRESS: Court of Appeals splits

(Continued from page 1)

crimes periodically inform police of their living arrangements, even if they are homeless," Young wrote.

If sex offenders cannot show documents showing their address or domicile, he said, it is up to the state police to find another way to verify their whereabouts.

The Michigan Public Sex Offender Registry says Dowdy was convicted of kidnapping and 1st-degree criminal sexual conduct. His court-appointed attorney, Patrick Eagan, said Dowdy went to prison in 1985, was paroled at some point and later sent back to prison. He was released in 2002 after serving his full term.

The address Dowdy listed when leaving prison was the Volunteers of America shelter in Lansing, which later turned him away after learning of his sex offender status. His most recent address, verified in early July, is at another local shelter.

Read the order: [http://coa.courts.mi.gov/documents/SCT/PUBLIC/ORDERS/200908\\_06\\_S138351\\_15\\_138351\\_2009-08-06\\_or.pdf](http://coa.courts.mi.gov/documents/SCT/PUBLIC/ORDERS/200908_06_S138351_15_138351_2009-08-06_or.pdf)

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