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LAW

Exchange



Good Neighbors. Great Lawyers.

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The Quarterly Newsletter of:



JOHNS, FLAHERTY & COLLINS, SC

Good neighbors.
Great lawyers.

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Brian Weber

We live in Wisconsin or Minnesota, where we share a joke: we have six months of winter and six months of construction. Both can present opportunities for falls that are best prevented.

Avoiding lawsuits, whether it is your home or business, means taking care of your property. "It's very important for business," said Brian Weber, a Johns, Flaherty & Collins attorney.

"Keep your sidewalks, driveways and parking areas clear of ice and snow. Stay on top of building maintenance issues to make sure water is not draining on sidewalks or another area where the water can freeze," he said.

If you hire someone to clear these areas, Weber said it is important to have a written contract indicating the worker is an independent contractor and not an employee. The document should also hold the company harmless if sued because of a weather-related fall.

Clauses also should indicate when and where snow removal should be done—such as before the time your business would open and the minimum depth of snow when the plowing should begin. Other needs for businesses include making sure your insurance covers risks your company may have should a slip and fall occur.

Beyond winter conditions, it is important to maintain a safe place for your employees and customers. That means repairing uneven steps or flooring. Posting a sign—giving notice—warning about these conditions may minimize liability, but not prevent it.

"Posting a sign puts people on notice to take extra caution," Weber said. "A business would be less likely to have responsibility for injuries if the sign is put up, but slip and fall lawsuits can be expensive to defend even if you don't ultimately have financial liability."

While businesses are held to a higher standard than homeowners, someone falling on a sidewalk in front of your house could also result in a lawsuit. Homeowners would be wise to follow the same guidelines as businesses.

Tips to avoid slip and falls

While it may be unclear who caused a dangerous condition, it is important to be alert to the danger and to have it promptly repaired or removed to ensure a safe environment—because whatever, whoever the cause, the property owner could be held liable.

A business further needs to have company-wide awareness about the importance of maintaining the property—not just those whose job it is to clean or keep it in good repair.

What should you do?

- Clean up intermittent spills as soon as they occur and encourage others to be on the lookout for them.
- Remove snow and ice from doorways, sidewalks and parking areas.
- Eliminate clutter, particularly if it obstructs views.
- Tape or tack down mats, rugs and carpets, and make sure there are no carpet wrinkles or electrical cords or other items that could cause someone to trip.
- Always close cabinets or storage drawers.
- Keep work areas and walkways well lit.





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LEGAL DILEMMA



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The LAW EXCHANGE is published quarterly to inform our clients and colleagues of legal trends and decisions. This information should be viewed as a general summary. Please contact your Johns, Flaherty & Collins attorney for specific legal advice. If you know of someone who would like to receive this newsletter, send his/her name and address to the attention of the EDITOR, THE LAW EXCHANGE at the address below.

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Question:

My wife and I have a charity that has become really important to us. Although we aren't wealthy and don't have a large estate, we'd like to leave something for it in our will. We're struggling to decide whether to leave a definitive dollar amount or a simple percentage because we want the majority of our assets to go to our kids. What are the pros and cons we should consider?

Answer:

Attorney Greg Bonney recommends using a percentage rather than a dollar amount in your will. That allows the amount given to charity to go up or down with the size of the estate, and prevents a situation from arising where there are no assets available for other beneficiaries once the charitable bequest is paid.

Other estate planning tools can also be used to support a charity. A nonprofit tax-exempt organization could be listed as a beneficiary or partial beneficiary on a life insurance policy or retirement account. "Since a tax-exempt organization does not pay income taxes, distributions from a retirement account could be made to a charity without tax," Bonney said. "In addition, beneficiaries on life insurance policies or retirement accounts can be changed easily if you later change your mind."

An irrevocable charitable trust can also be created to benefit a charity, but you must be

willing to permanently give up control of the assets used to fund the trust. You can design the trust to provide income to you for the rest of your life, with any amounts remaining paid to a charity or charities upon your death.

You can also design the trust to provide for periodic payments to a charity, with any amount remaining distributed to your heirs after your death. Depending on the trust terms, you will be allowed to take a charitable deduction when the trust is established and funded.

"There are many factors to consider and many different options available," Bonney said. "An attorney experienced with estate planning can help you plan the best way to meet your goals."



Brent Smith

Attorney Brent Smith has again been named as a Super Lawyer in the new issue of Wisconsin Super Lawyers. The magazine, published by Law & Politics, recognizes the top 5 percent of Wisconsin attorneys as Super Lawyers. This is the second year in a row Smith has earned the distinction.

He was selected based on surveys of more than 12,000 actively practicing attorneys in Wisconsin and a nine-month process wherein Law & Politics independently researched nominees' credentials, considering factors such as years of experience, number of cases handled, verdicts, honors and awards and pro bono activity.





focus on

Charitable Goals

With a donor-advised fund, heirs will still have input on how the funds are used long after the donors are gone.

A La Crosse area couple wanted to find a way to continue to help charities long after they were gone, particularly their church and The Salvation Army.

Attorney Greg Bonney helped them create a donor-advised fund with the La Crosse Community Foundation. They, and later their heirs, can provide recommendations for how earnings are distributed.

“We sat down and talked with a representative from the Community Foundation about how they wanted the fund agreement worded,” Bonney said.

The donors described their interests and charitable goals in general terms in case one or more of the organizations they favored did not exist at some point in the future. Then, earnings from their fund could still go to organizations doing similar work.



“Their kids live all over the country, but with a donor-advised fund, they will still have input on how the funds are used in the La Crosse area after Mom and Dad are both gone,” Bonney said.



Stay Informed

Whether you're into Facebook, LinkedIn, Twitter or blogging, we're there. Stay informed of the latest legal news that affects you and receive top tips for everything from business and estate planning to divorce and traffic law. So choose the vehicle that's best for you and stay up-to-date between newsletters.





News

BRIEFS

Attorney **Michael Stoker** again is teaching a communications seminar for the University of Wisconsin-Madison Law School. He also is making a presentation to the La Crosse County Bar Association on modern communication tools and tips for lawyers.



Michael Stoker

Michael has also joined the fundraising committee for Causeway Interfaith Volunteer Caregivers, known as Causeway.

Attorney **Maureen Kinney** was a speaker with Timothy Jacobson, executive director of Mississippi Valley Conservancy, on conservation easements and tax opportunities with land donations before the La Crosse County Bar Association.



Maureen Kinney

She also spoke at a combined luncheon meeting of the League of Women Voters of La Crosse, American Association of University Women and the La Crosse Community Foundation on estate planning, including wills, trusts and charitable intent.

Brent Smith attended the 21st Annual Institute for Trial Practice in Waukesha in November. The institute was presented by the American Board of Trial Advocates, of which Brent is a member.



Brent Smith



Ellen Frantz

Attorneys **Ellen Frantz** and **Maureen Kinney** are supporting the Coulee Region YWCA's Tribute to Outstanding Women. They are both past recipients of the award.



Cheryl Gill

Attorney **Cheryl Gill** has joined the advisory board of The Salvation Army in La Crosse.



Brian Weber

Brian Weber has been elected vice chair of the Holmen Police and Fire Commission.



Mary Ann Duncan

Mary Ann Duncan, formerly an accountant for the Reinhart Companies, has joined Johns, Flaherty & Collins as firm administrator.



Saving Tip:

*You've decided you need a lawyer but worry about the costs. How can you save money? **Consolidate your emails***

E-mail can be a great way to communicate with your attorney. The key is to consolidate your e-mails and the information they contain as much as possible. It takes more time to answer more e-mails. It also takes more time to read and respond to lengthy messages. Consolidated, succinct messages will save your attorney time and you money.





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Attorney

PROFILE **Joe Veenstra**



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COLLINS ATTORNEYS:**

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of Counsel
- Robert D. Johns, Jr.**
Retired
- Robert P. Smyth**
- Maureen L. Kinney**
- Terence R. Collins**
- Brent P. Smith**
- Peder G. Arneson**
- Ellen M. Frantz**
- Gregory S. Bonney**
- Michael L. Stoker**
- Cheryl M. Gill**
- Brian G. Weber**
- Joseph G. Veenstra**
- Emily E. Hynek**
- Brandon J. Prinsen**

PARALEGALS:

- Lisa L. Felt**
- Bridget Mullen**
- Teresa Nielsen**



Joe Veenstra

That case—in which the ruling was affirmed on appeal—fueled his passion for practicing law and sealed his interest in finding “justice for all.”

Since that time, Veenstra, who joined the firm in 1998, has focused his practice on commercial, personal injury,

Early in his career, Joe Veenstra worked on a case that resulted in a \$900,000 judgment for his client, an independent gasoline station owner.

“It was a great example of teamwork and everyone pitching in. I enjoy the creative process of working on a case like this,” he said.

consumer and other civil litigation (including appeals), landlord-tenant law, criminal defense and civil rights.

And he’s received numerous acknowledgments for his work. He has been recognized as a Rising Star in Wisconsin Super Lawyers, a distinction given to the top 2.5 percent of Wisconsin lawyers under age 40 or who have been practicing ten years or less.

Not surprisingly, the State Bar of Wisconsin named Veenstra to its Pro Bono Honor Roll in 2009, an award given to attorneys who support equal justice under the law for Wisconsin’s most vulnerable residents.

“Practicing law is about leveling the playing field,” said Veenstra. “Helping the little guys as much as the giants is what my practice is all about.”