

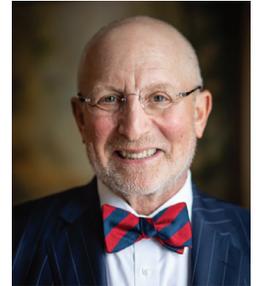


*Celebrating 40 years...* providing competent professional legal representation. Helping people by delivering compassionate service to individuals in estate planning, all business related matters including business succession, and vigorous defense to those accused of serious criminal offenses.

## Randall Levine Defends Families' Rights to Preserve Family Cottage in Fight Against Kalamazoo County

Two Kalamazoo County families took legal action against the County in an effort to preserve their family cottage within Prairie View County Park after the County filed for condemnation. The families have owned the property along Gourdsneck Lake in Schoolcraft Township for several decades; 14 years prior to the opening of the county park. The park now surrounds the property on all sides and the only access for the families is through a locked gate through which they have enjoyed access for many years.

In the summer of 2019 the County threatened to prevent the families from access to their property. Attorney Randall Levine successfully sought and obtained a court order preventing the County from locking them out of their property.



Randall Levine

The families filed joint lawsuits against the County in October 2019 to prohibit the County from an unconstitutional taking of their property. The families also accuse the County of violating the Open Meetings Act in its effort to condemn the land. A condemnation would allow the County to assert control over the property, and allow the cottage and its land to be used by the general public.

“The gist of a condemnation lawsuit is that not only do they have to offer just compensation, which they have not done, but the taking has to be what is deemed under the law as necessary,” Levine said. The families intend to resist all efforts made by the government to illegally take from them that to which they are entitled.

## Sharan Levine Analyzes How Michigan Minority-Owned Businesses Were Omitted From Gov. Whitmer's 'Michigan Jobs First' Executive Directive

In July 2019, Gov. Gretchen Whitmer signed the “Michigan Jobs First” executive directive, which expands the list of factors taken into account for a potential supplier's bid, such as considering the overall economic impact of a bid, employee compensation, and a company's track record of labor and environmental compliance. Under this directive, the Governor gives preference to Michigan businesses on state contracts.

Representing a woman-owned and registered business in Michigan, Levine & Levine saw the effects of Michigan's outdated system for awarding contracts, specifically for minority-business enterprises. In an op-ed penned by partner and attorney Sharan Levine, the client lost out on a \$30 million, five-year contract by Michigan's Department of Technology, Management and Budget to a Missouri-based business.

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## Sharan Levine Analyzes How Michigan Minority-Owned Businesses Were Omitted From Gov. Whitmer's 'Michigan Jobs First' Executive Directive *(continued)*

The \$3.5 million difference in bids between the Michigan-based and Missouri-based businesses did not take into consideration the economic impact of awarding the contract to an out-of-state company.

Michigan-based companies pay state sales tax, payroll tax, spend money on in-state vendors and have in-state employees on their payroll who also spend money and pay taxes in Michigan. In the client's case, 10 Michigan residents lost jobs equaling more than \$850,000 in total wages, as well as company bonuses. In addition, approximately \$78,000 in sales tax and \$29,000 in personal property tax within the state was also lost, annually. The loss to the state over five years equals over \$4.75 million.

As a business in Michigan, Levine & Levine lauds Gov. Whitmer's directive to promote Michigan-based businesses, but hopes the administration will take a closer look at the businesses vying for government projects and services and implement a legislative policy that prioritizes our own in-state businesses, especially minority-business enterprises.



Gov. Whitmer

## Sharan Levine Examines the World of Drug Testing: Oral Fluids are Key to Upholding Truth in Our Justice System

In a white paper published in fall 2019, Sharan Levine explained how critical it is for drug testing to be done using a reliable science and methodology. The published piece includes the expertise of Charles M. Bontempo, a pharmacist and toxicologist with 25 years-experience who has been involved in numerous studies dealing with substance absorption, distribution, metabolism, and excretion; and Dr. Curt Harper, Ph.D., F-ABFT, Toxicology Discipline Chief of the Alabama Department of Forensic Sciences, to further explain how drug detection limits vary between urine and oral fluid testing.



Sharan Levine

Many prosecutors insist upon obtaining blood draws by search warrant in serious cases; expressing a preference over breath and urine testing, which is subject to attack in several ways based on the inferiority of the science and the potential for human error in analysis. However, oral fluid testing is now being accepted in the scientific community as a reliable method for testing intoxication and impairment, and has the advantage of avoiding the cumbersome process of obtaining a search warrant and taking blood under supervised hospital conditions.

In the U.S., testing drug levels in urine was the gold standard. However, oral fluid drug testing is less invasive than blood and urine testing, requires less labor cost, is more easily transported, swift to be analyzed and less susceptible to tampering.

Just as DNA testing has freed many people improperly incarcerated, oral fluid drug testing has the capacity to free the right individuals, and to protect those who need to be protected from a person misusing drugs. Correcting the misconceptions associated with oral fluid testing will go a long way toward fulfilling the purpose of our criminal justice system: upholding truth and justice.

## Sarissa Montague Offers a Key Take Away From the State Bar of Michigan's Marijuana Law Conference

Levine & Levine defense attorney Sarissa Montague attended the fourth annual Marijuana Law Conference, sponsored by the State Bar of Michigan's Marijuana Law Section, along with the Institute of Continuing Legal Education.



Attorney Sarissa Montague

With Michigan's legalization of marijuana in 2018 – and sales beginning Dec. 1, 2019 -- the issue of operating under the influence of marijuana has come to the forefront of criminal law practices throughout the state. The Marijuana Law Conference gave Montague further insight about this complicated topic and how it pertains to the law.

Montague noted the relationship between being under the influence of cannabis and driving is completely different from the relationship between being under the influence of alcohol and driving. The risk of treating the two situations the same is fundamentally unfair to those accused of operating under the influence of marijuana. The frequency of use, the amount of use and the length of time that one has used are among numerous factors that must be considered when determining one's ability to operate a vehicle.

While the Impaired Driving Commission recommends using Field Sobriety Tests when determining if a driver is impaired, Montague argued there is an issue with this practice because the standard Field Sobriety Tests are not validated to determine a person's impairment from marijuana. To this date, it is still unclear how Michigan will prosecute cases of operating under the influence of marijuana.

## Digital Assets — They're Not Just Referring to Your Bank Account Anymore

Managing valuable digital assets is increasingly of concern in estate planning. If you have developed digital assets — websites, games, designs, photos, all sold or viewed digitally — you need to be aware of their value. You also need to identify the asset in your estate plan: Referencing the asset, transferring and/or incorporating the asset into your trust or estate plan are critical.



Think about who you would want to designate to serve as trustee or administrator of your digital assets. This person may — or may not — be the successor trustee of your other more routine assets. For instance, your spouse and/or children may not be the best person to manage an online asset.

There are multiple issues regarding the management of digital assets, including maintaining your online accounts, usernames and passwords. Another area of attention involves maintaining or closing social media accounts associated with a loved one upon their death. Some people want their accounts closed down immediately, while others have gathered genealogical history, family photos, and other significant information that they want others to share after their death.

We encourage you to give some thought about what you want and need to do to protect or close out your digital interests or transfer them to others. Engage your estate plan lawyer to help you put your cyber space footprint into words.

### Criminal Defense Lawyer Sarissa Montague Applauds Domestic Violence Trauma Court Initiative

The Kalamazoo County Prosecutor's Office announced plans to establish a Domestic Violence Trauma Court to help break the cycle of domestic abuse in the county in a news conference covered by MLive.com, WWMT Channel 3 and WMUK 102.1.



“As defense lawyers our first responsibility, first and foremost, is to ensure that the rights of people accused of crimes are not violated. This is a responsibility that we take very seriously at Levine & Levine, and it is also a responsibility that is at the heart of the Kalamazoo Defender's Office,” Montague, who sits on the board of the newly formed Kalamazoo Defenders, said in media interviews. “But in addition to protecting the constitutional rights of the accused, I believe that our job as defense lawyers is to do what we can to help our clients so their tomorrow is better than their yesterday.”

### Attorney Anastase Markou Provides Expertise to Media in Fourth Amendment Case

WZZM 13 featured Levine & Levine Criminal Defense Attorney Anastase Markou as a legal expert regarding a Michigan Supreme Court decision that overturned a 2015 DUI case due to a Fourth Amendment violation.



*Attorney Anastase Markou*

In the court case, a Wyoming, Michigan, woman drove home just before 2:30 a.m. in September 2015 when she hit a guardrail and concrete barrier on the off ramp on U.S. 131 at the 54th Street exit. The woman wasn't seriously injured so she left her car there and took an Uber home without reporting the accident to police. A couple of hours later after finding the abandoned vehicle, Wyoming Police officers knocked on the woman's front door, and entered without permission. She was then handcuffed and arrested.

After a jury found her guilty of driving drunk and failing to report an accident, the Michigan Supreme Court determined the woman's Fourth Amendment rights were violated, and therefore the judgment was reversed.

“In this particular case, the Michigan Supreme Court rested its decision on the premise that the police are not allowed to enter into someone's home without a warrant,” Markou told WZZM. “The police did not have a warrant in this case so in my opinion, this is a very strong opinion by the Michigan Supreme Court that enforces everyone's Fourth Amendment rights.”