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Whether you are an individual, small business, or large publicly held corporation, our attorneys are dedicated to delivering skilled legal counsel and exceptional service to our clients.

## Law Notes

Fall 2016



### **MiABLE ACCOUNTS ARE UP AND RUNNING**

By Patrice M. Ticknor, Esq.

The Achieving a Better Life Experience Act (“ABLE Act”) now allows certain disabled individuals to save and invest money without jeopardizing their eligibility for needs based public benefit programs such as Medicaid and Supplemental Security Income (“SSI”). Disabled people and their family members and friends now can contribute up to \$14,000 per year without putting at risk federal means tested benefits. [Read more.](#)

### **FASTLANE TO TAX EXEMPT STATUS?**

**The IRS 1023-EZ Application**

By Timothy E. Harden, Esq.

Are you looking for an easier and quicker way to obtain tax exempt status for your charity? If so, read on to see if filing IRS Form 1023-EZ is right for you.

### **A Streamlined Application Process**

Similar in some respects to filing an Form 1040-EZ tax return, the IRS Form 1023-EZ is designed to make it easier for some nonprofit entities, usually smaller ones, to obtain tax exempt status. First, it is three pages long compared to thirty-one for the alternative, IRS Form 1023. Second, the processing

### **\$20 MILLION WRONGFUL CONVICTION SETTLEMENT IS**

**MARITAL PROPERTY IN DIVORCE**

By John J. Schrot, Jr., Esq.

Be careful with what you ask for. An Illinois man who was awarded a \$20 million wrongful-conviction settlement has to divide same with the woman he met and married while in prison but is now divorcing. He cannot exclude this fortune from the marital estate, on a claim that it is his separate property, and therefore not subject to division in the divorce.

The exonerated inmate spent 20 years incarcerated in a 1992 child-murder case after having been tried and convicted three times. His third conviction was reversed by an Appeals Court, as he was cleared by DNA evidence and freed. The DNA evidence excluded him and linked another suspect to the rape and murder of an 11 year old girl. [Read more.](#)

### **COURT DECISION BLOCKS NEW FAIR LABOR**

**STANDARDS ACT SALARY BASIS RULE**

By Randolph T. Barker, Esq.

The Fair Labor Standards Act (“FLSA”) establishes minimum wage, overtime pay and record keeping standards for covered employees who are not

time is dramatically shorter. For 2014, it was 13 days for the Form 1023-EZ versus 191 for the Form-1023. Not surprisingly, taxpayer satisfaction ratings were higher for the Form 1023-EZ. [Read more.](#)

### UNPAID INTERNS – FREE LABOR? By Sandro DiMercurio, Esq.

A long-standing practice among “for profit” private employers has been the use of unpaid student interns as a means of providing real-life experience as they advance their education. Such internships, which commonly bring the students into the employer’s workplace and operations, can quickly run afoul of the Fair Labor Standards Act (“FLSA”), the federal statute governing the payment of minimum wage and overtime, should the relationship become a benefit to the employer, rather than to the intern.

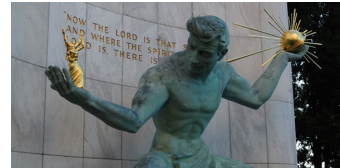
[Read more.](#)

otherwise exempt from its requirements. Under the FLSA, an employee is exempt from entitlement to overtime pay if they (a) earn at least \$455 per week (\$23,660 annually) – known as the “salary basis test”, and (b) perform performs job duties under one or more of the “white collar” exemptions (for example, executive, administrative, professional or outside sales exemption)– typically referred to as the “duties test.” The Department of Labor (“DOL”) previously published new rules more than doubling the minimum salary basis to \$913 per week (\$47,476 annually), with an effective date of December 1, 2016. ...

The change, which would have made millions of employees eligible for overtime pay, prompted multiple lawsuits. On November 22, 2016, in *State of Nevada, et al v. Department of Labor*, a Texas federal judge entered a nationwide preliminary injunction against implementation of this new salary basis rule. [Read more.](#)

## Firm News

- [Attorneys Harvey B. Wallace II, Don Carney, and Thomas M. Sullivan Named to DBusiness Magazine’s Top Lawyers 2017 List](#)
- [Attorney Harvey B. Wallace II Has Been Included in the 23rd Edition of The Best Lawyers in America in the Areas of Trust and Estates Law and Non-Profit/Charities Law](#)
- [Attorneys Named to 2016 Super Lawyers and Rising Stars Lists](#)
- [Attorneys Named to DBusiness Top Lawyers 2017 List](#)
- [Attorney Randy Barker Presents Real Estate Continuing Education Program](#)
- [Attorney Patrice Ticknor Meets with Residents of Stilwell Manor, Senior Housing in Warren](#)
- [Attorney Tim Harden Presents Tax Seminar for Real Estate Brokers and Agents](#)
- [Venerable Detroit Law Firm Berry Moorman PC Turns 90](#)
- [Attorney John Schrot Published In Michigan Lawyers Weekly](#)



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