



BARBERI LAW

INSIDER

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Joe's Corner

As former President H.W. Bush was laid to rest this month, his campaign calling for "a kinder, gentler nation" resonated in remarks made by others during the weeklong celebration of his life before his burial. One public figure after another, both Democrat and Republican, suddenly came together to speak of Bush's greatness in serving our nation. It's sad that more of that nonpartisan praise couldn't have been made during his service to our country as president. The common theme of speakers, now that President Bush had died, was "respect given by Bush to those who held opinions different from his own." Often, people who get involved in politics do so to seek power. If power is being sought to serve and act in the public's best interest, then good. But, what is good for all of us then becomes a discussion that needs to be respected. One person's idea of what is good for all of us often differs from their neighbor's idea. It's OK to have differences of opinion. And, that's the lesson for all of us, we can respect the opinions of others who disagree with us without turning ugly and nasty. Let's all work together, in our own way, to respect others' opinions and get away from the polarization of today's partisan political discourse. God bless!

-Joe

What Dave's election means to me

By Joseph Barberi

A new era begins ... Barberi Law congratulates its own David Barberi on his Nov. 6 election as Isabella County's newest prosecuting attorney. As discussed above in my Joe's Corner column, with Dave's election comes the chance for him to exercise the power of his office to do good things for our county residents. Boy, am I proud!

It's not often that a father gets to see his son succeed him in a position that can only be occupied after the public has trusted him by electing him to serve them. I know David takes his responsibilities very seriously, and I must admit there was a tear or two when he was taking his oath of office publicly on Friday, Nov. 9.

David will now be working with the police, the staff of the courts, our county's judges and many other individuals in county agencies that process criminal cases. From what I hear from those in the county building and the court system, David is being received extremely well.



One nice lady said, "Thank you Mr. Barberi for giving us your son. We love working with him." I have to admit that comment caused me to pause, again, with some emotion.

I can tell you this, I really, really miss David at Barberi Law. He was passionate in his quest to represent clients, fun to work with and we all enjoyed his sense of humor, as he kidded with

us about topics of interest. With all that said, I know he will use those same skills and have that same passion when he represents all of the citizens of Isabella County.

One thing that David will take with him to the prosecutor's office is that he will exercise discretion when deciding whom to charge and what charges to bring —recognizing that he should look at every case as the first defense attorney for the accused to make sure appropriate charging decisions are made. I'm excited to know he brings that to the prosecutor's office, while at the same time, working hard to protect us all from criminals who would potentially harm us.

In closing, I'll say that David worked very, very hard to gain the trust of voters and to be elected. Now that the voters have trusted him to be their public servant, we will miss him at Barberi Law. But, we know that our loss will be the county's gain. Best of luck, David. And, oh by the way, maybe we can schedule a lunch or two to discuss current events!

Helping clear a client's name

By Joseph Barberi

In October 2017, Russell Houghton's wife had secretly hired an attorney to prepare to file for divorce. A short time later, their 10-year-old son accused Russell of physically abusing him. However, Russell was adamant that he was not responsible for the bruising on his son's body.

Russell suspected his wife was the one who injured their child. It turns out the boy later claimed that his mother had told him to tell the school and the Isabella County Department of Health and Human Services (DHHS) that it was his dad who abused him.

Russell was granted a seven-minute interview by DHHS, in which they concluded he was an abuser. They ordered that his name be placed on Michigan's Central Registry, which prevented him from volunteering to go on field trips, coach sports, etc. Mind you, up to this point, our client had no criminal record and had worked for the State of Michigan for 19 years.

The 10-year-old in question suffers from severe mental health issues, and had been known to lie quite frequently. Five months after

this incident happened, he recanted what he said originally and told a psychologist hired by DHHS that his dad did not abuse him, and that, in fact, it was his mother who had abused him and put him up to lying by promising him toys. However, even though DHHS reviewed this report from their hand-picked psychologist, they continued to refuse to do anything about removing Russell's name from the Central Registry, labeling him as a child abuser for life!

On three separate occasions in March, April and May 2018, we submitted paperwork to DHHS requesting they remove Russell's name and record from the Central Registry. DHHS never responded to any of our requests.

After being denied relief at the local level, we filed a request for an expunction hearing with the Michigan Administrative Hearing System Department of Licensing and Regulatory Affairs. This required us to travel to Lansing and conduct court hearings, lasting two full days. At the hearing, I cross-examined several DHHS witnesses, and then called the now 11-year-old boy, who again testified that

his dad did nothing to hurt him, and that his mother had inflicted the abuse and put him up to lying. The boy said he forgave his mother. I also called my client, who testified about his wife's past abuse, including four previous cases that DHHS had investigated with complaints against her, and never against him.

In December 2018, the Administrative Law Judge issued an 12-page decision sharply criticizing the poor investigation conducted on the part of local DHHS officials. In doing so, she ordered DHHS to expunge Russell's name from the Central Registry. Our client was very emotional and thankful for us helping to clear his name, and for allowing him to now be able to fully participate in his children's activities at school, i.e., going on field trips, coaching, etc.

After learning of the favorable decision, Russell traveled to Barberi Law's office and gave me one of the biggest bear hugs I've ever received! Russell also asked that we use his name in this article because he wanted it known that the accusations against him were totally untrue.

What happens to pets in a divorce?

By Robert Crawford

When two people get divorced, the parties to the divorce need to decide how marital property is divided, how custody is handled, who gets the house or if it is sold, etc. If they are unable to decide these things themselves, the court has the authority to make these decisions.

Generally speaking, custody of a child is decided based on the 12 best interest factors, and property is split "equitably." A frequent question when it comes to dividing property is how family pets are handled during a divorce. Fortunately, in most cases the parties are able to resolve this issue amongst themselves. My experience is that most families choose to keep the dog (or cat) with the party that remains in the marital home. In other cases one spouse may have been more interested in adopting the pet in the first place and the other spouse is happy to let him or her keep the pet. However, if the parties are unable to agree who keeps the pet, the court will make the decision and the animal's future will be determined just like any other indivisible piece of property, no different than a television or a sofa.

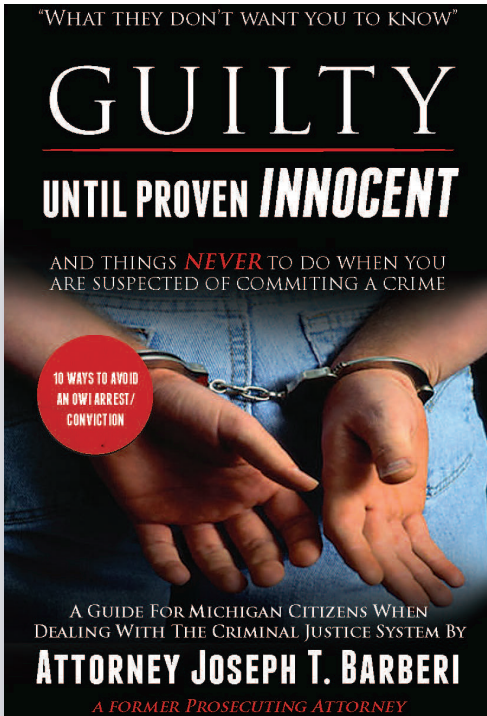
Some states, such as Illinois, have passed laws that will allow courts to make determina-



tions regarding ownership and responsibility of pets in a manner similar to how custody of a child is determined (i.e., focusing on what is best for the animal). The Illinois law reads, in part, "If the court finds that a companion animal of the parties is a marital asset, it shall allocate the sole or joint ownership of and responsibility for a companion animal of the parties. In issuing an order under this subsection, the court shall take into consideration the well-being of the companion animal." In other words, courts will

determine if the animal was acquired during the marriage (i.e., whether it's a marital asset) and, if so, then the court will give responsibility of the animal to one or both of the parties.

Over the past several years, pets in the U.S. have received more protection under the law as courts have acknowledged that animals are not merely pieces of property. If this trend continues, it's a matter of when, not if, Michigan enacts a law similar to Illinois' law.



By Joseph Barberi

It can happen to anyone. You went out with friends for the night, had a good time and are on your way home. Next thing you know, you see flashing lights in your rear-view mirror. You start to worry. You did have a few drinks, but that was hours ago. The officer asks

Should I participate in field sobriety tests?

you to get out of the car and perform field sobriety tests. What does that mean, and do you have to participate?

First, don't panic. You need to know you have the right to refuse taking such tests. They are completely voluntary, and sometimes nervousness can cause people to fail these tests. You don't want to run the risk of agreeing to something that might not turn out well for you.

Unless specifically requested to do so by the officer, don't get out of the car. That said, either way I suggest politely declining to perform the sobriety tests. Ask, "If I have done something wrong, can you please write me a ticket?"

If you think you are OK, and agree to the tests, here's what to expect. The most common tests are: Horizontal Gaze Nystagmus (HGN), Walk-and-Turn, and One-Leg Stand. The HGN involves looking to see if there is involuntary bouncing or jerking of the eyeball. The walk-and-turn and one-leg stand check to see if the driver can listen to and follow instructions while performing simple physical movements.

However, since these tests were established in the late 1970s, there have been numerous studies done about their effectiveness. In these studies, many sober people took the tests and failed! So, my advice to you, don't leave it to chance. Decline to take the tests, and go from there.

If the officer thinks you have failed any of these tests, he might try to administer a preliminary breath test (PBT) at the scene. In most cases, it is generally best to refuse this test, as well. A refusal will likely result in a civil infraction as well as a small fine, but it won't lead to any points on your driver's license. A refusal also will not provide potential harmful evidence against you, i.e., a .05, .06 or .07 BAC reading sometimes causes the officer to make an arrest, even though such evidence doesn't demonstrate that you're under the influence.

These are just the basics. For more information, either download or pick up a copy of our book, "Guilty Until Proven Innocent." Or, call (989) 773-3423, and we'll send you a free copy.

Barberi Law team reflects on 2018

The holiday season is often a time when we think back on all that has happened throughout the year. It's a time to reflect and be thankful for all that we have. Yes, we also may remember the negative things, but many of us try not to dwell on those.

The Barberi Law team shared what made 2018 memorable for them.

Attorney Robert Crawford is most thankful for his rescue dog, Lilly. He and his girlfriend, Amanda, traveled to Indiana in March to adopt her.

"Unfortunately, Lilly was not treated well during the first four years of her life," Robert said. "Now, she has a brother, Dallas, and lots of other dog friends that come see her and play with her. It has taken a lot of patience for Lilly to get used to normal dog life, but she is coming around and is very happy in her new home."

Attorney Tony Cavalieri said his most memorable moment was when his wife, Elise, passed Step 1 of her board exams, before starting her third year of medical school. She is studying to be a doctor.



Above left: Attorney Robert Crawford's dogs, Dallas and Lilly, relax at home. Above right: Renae Gould and her mom, Kathy Thomas, attend a family wedding.

Tami Sisco, our bookkeeper, said she is thankful for the opportunity to get closer to her brother, Don, and his kids, Lilly and Kaylee.

"They moved in just up the road from us and my sister is babysitting for the girls, so I get to see all of them several times a week!" she said.

Renae Gould, our client services coordinator, said she is thankful for something her mom made her realize in 2018.

"My mom has always put her kids before herself," she said. "She has shown me you can still be a great mom and take time for yourself. Don't feel like you don't deserve it, or that you should feel guilty about it."



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EVERY CASE WE TAKE,
WE TAKE PERSONALLY.SM

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Crustless Quiche*

- 1 sweet onion, chopped
- 1 pkg. fresh mushrooms, sliced
- 1 pkg. fresh spinach

Sauté together with 2 T. butter and add 2 T. Bragg's liquid aminos.

- 12 large eggs
- 2 c. heavy cream
- 10 oz. shredded Swiss cheese
- 8 oz. shredded parmesan cheese
- 8 oz. shredded Le Gruyere cheese

Beat eggs and cream together. Add cheeses and sautéed veggies. Do not add juice from veggies. Pour into a 9x13 baking dish and bake at 350°F for 1 hour and 10 minutes, or until center is set. You can also add other veggies, bacon or ham, if desired.

* Barb is Joe's wife, and she's famous for her good cooking!



Joe and Barb with their grandkids, Rowan, Vada, Emilia and Grant.

Estate Planning & Asset Protection



- Are monthly nursing home payments depleting your assets?
- Do you have a friend or loved one who may need nursing home care, or is currently residing in a nursing home?
- Are you private paying for nursing home costs?

Protecting your assets does not have to be complicated, and we're making it easy! Learn how to protect your assets for yourself and your loved ones by joining Attorney Mark Pasquali for a FREE workshop.

FREE WORKSHOP to be held at Barberi Law,
2305 Hawthorn Drive, Suite C, Mt. Pleasant
January 22, 2019, at 5 p.m.
CALL (989) 773-3423 to reserve your seat today!