

**CLIENT BULLETIN**

**BAR REGISTER OF PREEMINENT LAWYERS**

The law firm is pleased to announce that for 2010, it is again listed in the Bar Register of Preeminent Lawyers. Martindale-Hubbell, the publisher, advises that Manos, Martin, Pergram & Dietz Co., LPA is the only law firm based in Delaware County that is listed.

**CITIZENS UNITED AND OHIO ELECTIONS LAW**

On January 21, 2010, the United States Supreme Court issued its decision in *Citizens United v. Federal Election Commission*. The Supreme Court ruled unconstitutional certain provisions in federal campaign laws that prohibited corporations and labor unions from using funds from the general treasury to make independent expenditures for “electioneering speech” or other speech that expressly advocated for the election or defeat of a candidate. The Court analyzed the case in terms of “freedom of speech,” and the decision effectively gives corporations and unions the same rights natural persons have regarding political speech in federal elections. Although the Court’s decision did away with spending restrictions on corporations and unions, the decision approved disclaimer and disclosure requirements in the law.

Ohio election laws currently prohibit any corporation, nonprofit corporation, or labor organization from directly or indirectly using its money or property to support or oppose a political party, a candidate for office, or “for any partisan political purpose.” In light of the First Amendment – Freedom of Speech basis of the *Citizens United* decision, there is reason to believe that Ohio’s current law, and the related criminal penalty for violations, may not be enforceable.

The effect of the *Citizens United* decision is both limited and expansive. The decision does not change the restrictions on contributions to candidates or parties. The decision does not change the law on “coordinated” expenditures with candidates or parties. The decision does not change the requirements for disclosures. What is likely to change is the nature and tone of political ads by corporations and unions. Since 1990, corporations and unions have been restricted to “issue” ads that urged a viewer to contact a candidate about an issue. Now, the ads can directly urge the viewer to vote for or against a particular candidate. While the cost of campaign advertising may remain beyond the abilities of most small corporations, the *Citizens United* decision may enable small corporations to pool their resources to make independent advocacy expenditures outside the confines of a political action committee.

**CELL PHONE SEARCH REQUIRES WARRANT**

The Ohio Supreme Court recently ruled that the Fourth Amendment to the U.S. Constitution (prohibiting unreasonable searches and seizures) protects the data stored in a cell phone. Law enforcement must now obtain a warrant from a judge to search (access or view) the contents of a cell phone unless an exception applies, such as protecting the physical safety of law enforcement or exigent circumstances.

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The Ohio Supreme Court ruled that a cell phone is not a “container,” which may be opened and viewed without a warrant. While not ruling that a cell phone is the same as a computer, the Court considered the capability of modern cell phones to receive, transmit and store large amounts of private data. The Court found that these capabilities, which are far beyond the functions of electronic address books from as few as 10 to 15 years ago, give rise to a higher expectation of privacy.

In the case of an arrest, law enforcement has the right to search a person for anything that may be used to harm the officer. If the person is to be held in custody, law enforcement can require the person to surrender all personal effects. If a cell phone is among those personal effects, before law enforcement accesses the information within it, there must be a warrant, issued on probable cause, or an applicable exception to the warrant rule. The Court left for other cases to develop how recognized exceptions to the warrant requirement will apply to accessing data on cell phones.

### **FEDERAL HOUSING AUTHORITY INCREASES UP-FRONT MIP (MORTGAGE INSURANCE PROTECTION) REQUIREMENTS ON FHA LOANS**

The Federal Housing Administration (FHA) has announced that for new FHA case numbers assigned beginning on April 5, 2010, the up-front mortgage insurance protection (MIP) premium will be increased from the current premium of 1.75% of the loan amount to 2.25% on both purchases and refinances. The monthly MIP premium is not being changed.

### **OHIO LICENSE AND REGISTRATION RENEWAL LATE FEES**

As you may have seen on the news or in the local newspapers (or by e-mail if you have registered online with the Ohio Bureau of Motor Vehicles), effective October 1, 2009, with the passing of House Bill 2, if you renew your vehicle registration or driver’s license MORE than seven (7) calendar days AFTER the expiration date, you will be charged a \$20 late fee. This affects renewing any vehicle registration, whether completed online, over the phone, in person, or through the mail. If you are unsure as to the expiration date of your vehicle registration, it is printed on the vehicle registration.

### **2010 STANDARD MILEAGE RATES**

The Internal Revenue Service has issued the 2010 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Effective January 1, 2010, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 50 cents per mile for business miles driven
- 16.5 cents per mile driven for medical or moving expenses
- 14 cents per mile driven in service of charitable organizations

The new rates for business, medical and moving purposes are slightly lower than last year’s. The mileage rates for 2010 reflect generally the lower transportation costs compared to a year ago.

**\*\*NOTICE\*\***

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.