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Lawyers Realty Celebrates First Anniversary

Lawyers Realty LLC recently celebrated its first anniversary. Lawyers Realty was founded by the shareholders of Johnson, Duffie, Stewart & Weidner, P.C. to give consumers protection and choices when buying or selling real estate. Lawyers Realty is a full service real estate brokerage firm that gives every buyer and seller a team, consisting of a real estate agent to assist in marketing properties for sellers and identifying properties for buyers and an experienced real estate attorney to make sure that clients are protected at critical stages of the transaction. Sellers can choose fees from a menu of services and different commission levels to suit their needs. Dick Stewart, President of Lawyers Realty said, "We are grateful for the enthusiastic response that the public has given the revolutionary concept of our team approach that provides the protection of attorney representation at no additional cost. In our first year, we have successfully handled transactions ranging from \$40,000 to nearly \$4,000,000. Every day more people conclude that Lawyers Realty is a *better value* and a *better way* to do business." Veteran real estate agents



agree. Marian Semoff is a real estate agent with over 16 years of experience who joined the Lawyers Realty team because she felt it was a better way of doing business. "I liked the idea of having an experienced real estate attorney on my team. Here, I can concentrate on helping buyers find properties that meet their needs and helping sellers market their properties. I don't have to worry about legal pitfalls or problems because the attorneys are on call 24/7 to make sure the interests of my clients are protected. I appreciate being able to offer sellers choices in programs and commission levels instead of a one size fits all approach. I also appreciate that Lawyers Realty doesn't charge a bunch of extra fees in addition to the commission as my previous broker did." Mark Duffie, Vice President

and Broker of Record, summed it up by stating, "Why would a consumer go anywhere else when you can get the services of a full-service realtor and attorney representation for no additional cost?" For more information call 364-3000 or visit www.LawyersRealtyPA.com.

Slip and Fall and a Duty to Warn

Landowners and occupiers are responsible for keeping their buildings and grounds reasonably safe for visitors. Pennsylvania courts have noted that owners of businesses open to the public do not have to guarantee the safety of all customers and business visitors—they are not the "insurers" of the public's safety. But a business owner is responsible for the injuries suffered by patrons if the owner either knows of a potentially dangerous condition of the business premises or should know of the condition, and fails to correct it or warn customers about it.

Recently, a Pennsylvania grocery store chain was sued by a shopper who was badly injured when she fell after colliding with a store employee's cane. The employee, who was blind, was at the end of a store aisle and extended his cane into the path of the shopper. The shopper was rounding the corner, coming out of an adjacent aisle, and did not see the blind employee or his cane.

The injured shopper claimed that the grocery store chain had a duty to warn its patrons of the risks

associated with the presence of a full-time, blind employee who frequently walked the aisles of the store. The Pennsylvania court dismissed the shopper's lawsuit. The court found that the shopper "essentially classifies blind people as a harmful condition," and the court soundly rejected that characterization.

Instead, the court focused on a shopper's duty to exercise ordinary care. Because grocery stores, "with aisles bordered by high shelves stacked with merchandise," pose obvious dangers, shoppers must be on the lookout for hazards. Those hazards, the court noted, include shopping carts that "suddenly jut out," other customers' feet, or even someone's cane. Shoppers must exercise extra care when entering or exiting aisles, looking for obstacles before moving ahead.

The court also noted that everyone realizes that disabled people are capable of work and that everyone expects to encounter disabled people in public places, either in the role of a patron or in the role of an employee.

Popular Myths Regarding Forms of Ownership Under Pennsylvania Law

MYTH: It is best for a husband and wife to have one automobile titled in each of their names, since if one is in an accident it will prevent putting the house at risk.

REALITY: The form of ownership of a motor vehicle does not determine liability for damages. The best way to protect one's self is to carry adequate insurance.

MYTH: If an individual only owns personal property, he can eliminate the need for a Will by attaching notes and labels to property as to whom it has to go.

REALITY: Labels and notes are not a substitute for a Will.

MYTH: There is no need for a Will if spouses own all of their property and the property is in joint names with right of survivorship.

REALITY: In the case of a simultaneous accident, the property will pass under the intestate laws of Pennsylvania. The legislature will have written the Will of the survivor.

MYTH: A parent can reduce Pennsylvania Inheritance Tax by placing property in joint names with a child.

REALITY: If the parent dies first, taxes will be reduced. If, however, the child dies first, the parent will wind up paying inheritance tax on his or her property.

MYTH: It is best for a spouse to avoid putting everything in joint names because in the event of a divorce the other spouse is sure to get half of that property.

REALITY: Under Pennsylvania's No Fault Divorce Law, the award of property is not dependent upon whether or not the property is in joint names. Keeping property in the name of one spouse could, however, result in additional death costs.

MYTH: It is always best to have property in the joint names of husband and wife to minimize estate and inheritance taxes.

REALITY: Depending upon the size of the estate, it is sometimes much less expensive to have a significant part of a couple's assets titled in individual names. The way in which you title property has a big impact on your estate.

MYTH: A parent can avoid taxation by giving everything to a child and retaining possession of the assets until death or the need for the use of the asset is eliminated.

REALITY: A gift generally requires not only the intent to make a gift, but actual delivery of physical possession. Retaining possession renders the gift ineffective. Moreover, even if donor does not retain possession, an outright gift could result in a gift tax. Even if the gift tax and estate or inheritance tax is reduced, a gift can also under some circumstances result in a higher income tax liability for the donee.

Proper planning includes the titling of property. Death taxes, income taxes, and potential claims of creditors can all be greatly affected by the form of ownership. Our estate planning professionals can help you make sure that your property is titled so that your objectives will be achieved during your lifetime and at death.

Spousal Privilege

One of the most ancient legal privileges is the spousal privilege. Pennsylvania law still recognizes that a husband and a wife may refuse to testify against each other in a criminal proceeding—the privilege belongs to the witness spouse.

Pennsylvania also recognizes that where “confidential communications” have been made by one spouse to the other, neither spouse may testify in any civil or criminal proceeding unless the other spouse waives the privilege. Communications between spouses are presumed to be confidential unless proven to be otherwise.

As with all rules, exceptions exist. Where a spouse seeks to avoid testifying about facts that he or she observed, he or she has no privilege if the charges include murder or serious sex crimes. The privilege also does not apply to cases involving certain kinds of domestic violence. In all such cases, a spouse can be subpoenaed and required to testify about facts that he or she observed. However, in all cases, both criminal and civil, unless the non-witness spouse waives the spousal privilege, spouses can never testify against each other about their confidential communications. The blanket protection given to confidential communications arises from social respect for the intimacy and privacy of marriage.

The extent of the spousal privilege was recently tested in a case where a husband drove across a four-lane highway and struck

another car, killing its driver. The husband was injured and had no recollection of the accident.

During the investigation, the husband’s wife called the police and voluntarily shared information regarding the husband’s former drug use, his current participation in a methadone program, and his treatment for bipolar disorder, depression, and dementia. She disclosed the names of the prescription drugs that the husband was taking for his psychiatric conditions.

At the time of trial, the wife refused to cooperate further and refused to testify. The court first determined that the legal issues were not related to confidential communications because the wife was simply refusing to testify about all of her knowledge and observations. However, because the husband was not charged with murder, serious sex crimes, or domestic violence, the wife was entitled to exercise her privilege to refuse to testify. When she did so, her former statements were not admissible at trial.

The privileges between attorneys and clients, health care providers and patients, counselors and clients, and clergy and parishioners are all similar to the spousal privilege and are all subject to different exceptions. The entire body of law surrounding witness privileges focuses on the social values placed on the relationships and on the need to protect the privacy and trust inherent in those relationships.



Thank You!

Thank you for choosing Johnson Duffie for your legal needs. We hope that you will continue to count on us when you need legal help. We are just a phone call away.

We also appreciate the trust that you have placed in our firm by referring your friends, family, and associates to us for legal services. Thanks!

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Helping Servicemen Reach Home for the Holidays

We all know the popular song lyric that reminds us that "There's No Place Like Home for the Holidays." But for many of our brave servicemen and women, the holiday season will be spent in military hospitals recovering from injuries sustained in battles fought to protect our country. These brave men and women of the Armed Forces, who answered the call of duty to serve our nation, will be unable to be together with friends and family during this holiday season.

Each December for the past several years, Christine Hakel, a legal assistant at Johnson Duffie, has collected and delivered pre-paid telephone calling cards to wounded servicemen at Bethesda Naval Hospital in Bethesda, Maryland. The phone cards are collected through mid-December then personally delivered to the Chaplain at Bethesda Naval Hospital who, in turn, distributes the calling cards to grateful servicemen who will be confined to the hospital during the holidays. From the very beginning of this project, the Chaplain was openly moved by the generosity and kindness of total strangers who would remember those who fought to protect our freedom. The Chaplain also described the profound gratitude of

the recipients who used the cards to reach friends and family many miles away.

Christine Hakel is also a Gold Star Mother. Her youngest son, Eric, died in a helicopter crash in October 1995 while serving as a rescue swimmer in the United States Navy. Each year, Chris and her family travel to Arlington National Cemetery to place a wreath on Eric's grave. Chris explains that when she visits Arlington National Cemetery, she "can't help but be reminded of how blessed we are as a nation to have freedom to openly celebrate our holidays because of the brave men and women in the Armed Forces who are willing to serve and protect our country." In gratitude for the sacrifice of these servicemen, Chris



and her family began the tradition of collecting and delivering phone cards to these wounded heroes.

If you would like to help our servicemen reach home for the holidays, Chris Hakel will be collecting pre-paid phone cards through the second week of December. You may mail the cards directly to Chris or drop them off at our offices in Lemoyne. And remember, "for the holidays, you can't beat home sweet home."