

# Detroit Legal News

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## DAILY BRIEFS

### Prison Legal News sues to get into jail

HOWELL, Mich. (AP) — A monthly journal about prisons is being locked out of the Livingston County jail.

Prison Legal News is suing the county and Sheriff Robert Bezotte claiming its free-speech rights are being violated because authorities won't distribute the publication to inmates.

Most regular mail at the Livingston County jail is restricted to postcards.

West Brattleboro, Vt.-based Prison Legal News says it has more than 7,000 subscribers, including lawyers and judges. It reports stories about inmate rights and prison conditions. The August edition has a story about tax fraud committed in prisons.

A message seeking comment was left for the sheriff Wednesday. The jail is in Howell, 40 miles east of Lansing.

### AARP opposing state pension tax before Mich. Supreme Court

LANSING, Mich. (AP) — The AARP and other retiree groups are telling the Michigan Supreme Court that they believe a new state tax on public pensions is unconstitutional.

The retiree groups said Wednesday they filed a friend of the court brief on the matter this week.

Republican Gov. Rick Snyder's administration says the tax is constitutional and has asked the high court to review it. Oral arguments are scheduled Sept. 7.

Snyder signed the sweeping tax law earlier this year. The new law will end income tax exemptions for some types of retiree income including pensions. Eligibility to continue existing exemptions would be based on when a taxpayer was born and other factors.

The State Employees Retirement Association and the National Active and Retired Federal Employees Association joined the AARP in the new filing.

### Detroit-area groups to mark Sept. 11 with day of community service

DETROIT (AP) — A number of groups in the Detroit area plan to mark the 10th anniversary of the Sept. 11 attacks with a day of community service that is expected to include packaging food boxes, writing letters to U.S. military members and cleaning up empty homes and vacant lots.

The Arab Community Center for Economic and Social Services, known as ACCESS, announced plans this week for A-OK (Acts of Kindness) Detroit. The aim, organizers said, is to make the anniversary "a day of caring and service" by bringing people together.

Hassan Jaber, executive director of ACCESS, said community service efforts won't be limited to the anniversary.

"We want to make sure that we keep this message going long in the future, not just one day a year, but as a way of life," he said in a statement.

Groups involved include Women's Interfaith Solutions for Dialogue and Outreach in MetroDetroit, the Interfaith Leadership Council of Metropolitan Detroit, the Council of Islamic Organizations of Michigan, City Year Detroit, the United Way, University of Michigan-Dearborn and J-Serve.

Activities are scheduled on and around the Detroit campus of Focus: HOPE, a social services organization.

"With this new approach, 9/11 becomes a day to find our commonality as human beings," said Gail Katz, co-founder of WISDOM and a board member of the Interfaith Leadership Council.

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## Opening doors for the next generation

### Scholarship aims to encourage more black law students

By JO MATHIS  
Legal News

When he took his daughter to Michigan State University College of Law in 2007, Eric Sabree noted that she was just one of 10 African American freshmen in a class of 393.

By the time Aliyah graduated in 2010, the number of blacks in the freshman class had more than doubled, to 22 of 299 students.

Encouraged, and eager to see such progress continue, Sabree last year co-founded the Michigan State University College of Law Black Law Students Association Scholarship.

Sabree, who is Wayne County's deputy treasurer for land management, helped raise about \$3,000 at the recent MSU College of Law Black Law Students Association Scholarship Reception.

The planned scholarship is now funded with \$17,000, with a goal to minimally endow it at \$30,000.

Sabree has been pleased to see the efforts Dean Joan W. Howarth has made to attract top minority students from across the country who reflect diversity of culture, religion and sexual persuasion.

The Michigan State University College of Law's 2011 incoming class, which begins in two weeks, includes 27 African Americans. The expected class size is around 310.

Howarth said the BLSA Chapter at MSU Law is one of the school's strongest student organizations, not only in number of students, but also in visibility, professionalism, and leadership.

"Having graduates and other friends of the Law College provide scholarship support helps to make our high-quality education affordable, and sends a message to the students that the people who came before want to open doors for the next generation," she said.

Sabree attended night classes while work-

ing fulltime, graduating in 1996, the first year the Detroit College of Law was moved from the city to Michigan State University.

He noted that many alumni said they couldn't identify with Michigan State University, or the city of East Lansing.

"But gradually some are starting to identify with it, and we're trying to get the alumni out," he said.

Sabree recalled that when he was in law school, many African American students had financial troubles and had to leave school.

He said he hopes the scholarship will stop that from happening to bright, deserving students in the future.

Sabree's co-host for the event was the Honorable Dennis Archer, class of '72). Sponsoring the evening was David Christensen, who held the reception at his law firm, Charfoos & Christensen, P.C., located in downtown Detroit at the historic Hecker-Smiley mansion on Woodward Avenue.



Among those attending the MSU College of Law Black Law Students Association Scholarship Reception were Hon. Dennis W. Archer (top left), David W. Christensen, and Eric R. Sabree; Dean Joan W. Howarth, and law students Maah Fonachu and Ryan Middleton.

## S.T.A.N.D. -ing Tall

Photo by John Meiu

**A presentation was held Aug. 2 in the Lincoln Hall of Justice to raise awareness among Third Circuit Court personnel of the variety of services provided by the S.T.A.N.D. Program and to hear from some of the families that have benefitted from its services. Among those in attendance were (l-r) Jeanette Fallon, Beryl Fletcher, Kevin Purnell, Kim Faison, Brandon Smith, Third Judicial Circuit Court Presiding Judge Leslie Kim Smyth, Conner McAslen, and program coordinator Judge Sheila Ann Gibson.**

## Wayne Law Alumni Reunion weekend set for Sept. 23-24

Wayne State University Law School and the Wayne Law Alumni Association will host the 2011 Wayne Law Alumni Reunion Weekend Sept. 23-24.

This year's reunion weekend honors graduates of the classes of 1961, 1971, 1976, 1981, 1986, 1991 and 2001.

The weekend will kick off with an alumni reception from 6:30-8:30 p.m. on Friday, Sept. 23, at the Detroit Athletic Club. On Saturday, Sept. 24, attendees will enjoy breakfast with Dean Robert M. Ackerman, faculty and student presentations, and building tours at the Law School from 8:30 a.m.-1:30 p.m. The weekend concludes with individual class dinners on Saturday evening.

"These reunions provide a remarkable opportunity for our alumni to connect with each other, as well as with Wayne Law faculty members and students," said Wayne Law Alumni Officer Kathryn Koehler. "We are thrilled to host this year's Alumni Reunion Weekend and look forward to catching up with many of our outstanding alumni."

To RSVP to the general Alumni Reunion Weekend events, visit <http://www.wsalumni-community.com/>. To RSVP for individual class dinners, visit <http://law.wayne.edu/alumni/2011reunion.php> and click on your class year.

Contact Kathryn Koehler with questions at [klkoehler@wayne.edu](mailto:klkoehler@wayne.edu) or 313-577-6199.

## ASKED AND ANSWERED

By JO MATHIS  
[jmathis@legalnews.com](mailto:jmathis@legalnews.com)



### Robin Luce Herrmann

*Robin Luce Herrmann specializes in media law at Butzel Long's Bloomfield Hills office. The former editor of The Law Review at the Detroit College of Law, Herrmann has been an adjunct professor at Oakland University teaching The Law of the Press. She is the general counsel for the Michigan Press Association, which will present a news and advertising seminar on Aug. 16 at Saginaw Valley State University.*



Robin Luce Herrmann

**Mathis:** You graduated from the Detroit College of Law in 1993. A lot has happened to the newspaper industry since then. How has the downturn affected your job as a media law attorney?

**Herrmann:** The downturn has affected many newspapers the same way it has most businesses — more limited financial and personnel resources. This means that many of my clients may not be in a position to pursue actions to protect the public's rights to know in the same way they could 20 years ago. For example, it is an unfortunate truth that sunshine laws that promote access to public meetings and public records are being systematically narrowed by public bodies that charge excessive fees, use the scare tactic of claiming access invades an individual's privacy and otherwise try to limit the public's understanding of what elected officials are deciding and how they are utilizing tax dollars. The media has been at the vanguard for decades in trying to protect and vindicate these rights — and it continues to be at the vanguard, but perhaps not as often as it might because of more limited resources.

**Mathis:** The debate is still out regarding the newspaper

industry's move to the web, and whether giving away free content was the right decision. Do you have an opinion on the matter?

**Herrmann:** I see this debate continuing for quite some time. Newspapers are using a variety of means of providing content and generating revenue for that content. I do not believe that there is a "one size fits all" approach that will be successful for everyone.

**Mathis:** From a legal stand, does a web presence complicate publishers' lives?

**Herrmann:** Overall, I think that it does complicate matters. Many of the same legal principles that govern "print" publications also govern publications on the web — so that isn't particularly complicated. However, there are additional legal issues with respect to a web presence — for example, the protections provided by the Communications Decency Act. Publishers need to understand those protections and the actions they can take to maximize those protections. The speed by which the internet spreads information and the breadth of the dissemination also creates issues that the more "traditional" publication of information did not have to address.

**Mathis:** As general counsel for the Michigan Press Association, you obviously deal with all sorts of issues involving news-

papers around the state. Can you briefly describe some of the more common topics you handle?

**Herrmann:** One broad category is newsgathering — i.e., obtaining the factual information with respect to a story. This includes advising our media clients on: what information they can get under the Freedom of Information Act, access to court proceedings and court records, access to meetings of public bodies under the Open Meetings Act, and how they can or cannot use information gathered from the internet, including social networking sites for a story. We also review stories in advance of publication, respond to subpoenas and requests for retraction, or defend the media when they are sued over a story. We also review advertisements for compliance with applicable law and advise on copyright and trademark issues. Recently, we have been doing quite a bit of work in reviewing and advising on Terms of Use and Privacy Policies for websites.

**Mathis:** What is it you most hope your audience of MPA members learns from you at the seminar on Aug. 16?

**Herrmann:** What we strive to do is provide very practical advice to MPA members. For example, discuss the types of advertising that are more regulated and what to watch out for. Understanding what information you can and cannot get under the Freedom of Information Act. Our job is to help our members maximize their revenue and limit their exposure to liability so they can keep their focus on what they do best: reporting and keeping the public informed.

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Official Newspaper: City of Detroit • Wayne Circuit Court • U.S. District Court • U.S. Bankruptcy Court



**Money Matters**  
Andrew Bass discusses how to plan in a world of unknowns  
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**Legal View**  
Medicaid fraud comes in many different forms  
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**Law Life**  
Nicole Black: For some lawyers social media doesn't matter  
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# HERRMANN:

## Officials often try to obstruct access to info

From Page 1

**Mathis:** During your session, you'll help newspapers avoid costly advertising errors. What are some of these errors?

**Herrmann:** You have to be a MPA member and come to the seminars for more details — but some of the advertisements that you want to be especially careful with are those dealing with housing, those that might be viewed as discriminatory, those that might be viewed as misleading, and "competitor" ads — i.e., ads where one competitor is promoting their products/services as compared to their competitor.

**Mathis:** What worries newspaper publishers most regarding the law?

**Herrmann:** I see two big-picture issues.

First, day in and day out, the most recurrent problem that the media is dealing with is public bodies and public officials that delay, resist or even obstruct access to information on how they are conducting the public's business. All too often, public officials' mindset is that the public should simply trust them to do the right thing, and there is not a need for the public to see and understand how public officials carry out their official functions. They resent questions being raised by the public and the press. Much to my dismay, I have seen instances where public officials attempt to use their power to stifle questions and commentary on their actions — as just one example, clients have been told that public officials will not comment if they cannot review a story in advance of publication because of prior "negative" coverage raising con-

cerns about compliance with the Freedom of Information Act. As a result, the lessons learned during the post-Watergate era about the importance of public scrutiny and government accountability are being ignored and/or lost. Our state legislature needs to take a hard look at our sunshine laws and amend them to address these abuses and re-commit to transparency and government accountability.

In addition, lawsuits, often claiming millions of dollars in damages, continue to be filed against individuals, organizations, and businesses (including the media) based upon their valid exercise of the rights to petition or free speech, including seeking relief, influencing action, and otherwise participating with government, or in matters of public interest. Such lawsuits, called Strategic Lawsuits Against Public Participation or SLAPPs, are often ultimately dismissed as groundless or unconstitutional, but not before the defendants are put to great expense and interruption of their productive activities.

Michigan needs an anti-SLAPP law — Texas just enacted one — to help effectively deal with such lawsuits. An anti-SLAPP law is a law that is designed to reduce and provide for early dismissal of meritless lawsuits filed against someone for exercising their First Amendment rights. Anti-SLAPP laws enable those who are the subject of a SLAPP suit to seek early dismissal and oftentimes get their legal fees reimbursed.

**Mathis:** Everybody's a blogger these days. Has that led to an increase in libel suits? Is there

anything people still don't understand about libel?

**Herrmann:** I haven't seen a major increase in libel suits relating to bloggers here in Michigan, though there are certainly a number of prominent lawsuits around the country relating to blogging and internet publications. In dealing with persons complaining about stories, I find it astounding that they don't grasp that for them to have a valid libel claim, the statements about which they are complaining have to be false. Very often, they admit that what was printed was true — but because they believe the truth portrays them unfavorably, they insist that they have a valid claim and that the publisher should do something to make them look better.

**Mathis:** What about all those anonymous internet posters? Do publishers need to worry about them?

**Herrmann:** In my view, when it comes to anonymous internet posters, context is determinative. For example, if an anonymous poster provides a "tip" then publishers treat that tip the way they treat every other tip — investigate, verify, etc. Publishers should periodically review their Terms of Use and what is occurring with anonymous posters on their website and make sure that their Terms of Use are effective for what they are trying to do. We have some clients that have opted to no longer allow anonymous poster/comments on their website because the comments did not fit in with what the publisher was trying to accomplish.

**Mathis:** Are you glad you concentrated on this aspect of the law? If you had to do it all over again, would you?

**Herrmann:** I really enjoy my media practice, and wouldn't change a thing. It is particularly fulfilling because not only is it a very interesting area of the law, our clients deal with so many issues of importance to the public, and by working with our clients, the public benefits by learning about what is going on in their community and their government.

# IOWA

## Iowa straw poll part circus, part politics

### Test vote could send early signal of who has potential

By Mike Glover  
Associated Press

AMES, Iowa (AP) — There's a hefty dose of circus mixed with deadly serious politics in the Iowa Republican straw poll.

The event Saturday will mark the first time Republicans in Iowa indicate publicly whom they want as their 2012 presidential nominee. It's a test vote of sorts that comes months before the precinct caucuses that kick off the party's presidential nomination fight. And it could send an early signal about who is showing potential in the race — or it could mean nothing at all.

Despite its name, however, the "straw poll" is not a poll at all — and it's certainly not scientific.

Rather, it's a fundraiser for the state GOP and a daylong political festival at Iowa State University. Presidential candidates make speeches and try to lure the most supporters to the event — with promises of food, live music and, sometimes, a lift to the site — in hopes of getting their backing in a nonbinding vote. The labor-intensive exercise gives candidates a chance to test their campaign operations and turn out supporters ahead of the winter caucuses.

"It's the first test of organizational strength," said Steve Schefler, a Republican who leads the Iowa Christian Alliance.

Past results have a mixed record of accurately predicting who is going to win the winter caucuses, much less who is heading to the White House.

Four years ago, John McCain didn't compete in the August event but he ended up winning the GOP nomination. At the same time, Mike Huckabee's surprising second-place showing demonstrated strength that spurred him on to a caucus victory.

"Huckabee was almost dead until the straw poll," said former Iowa Republican Chairman Richard Schwarm.

The one time the straw poll

was a solid predictor was in the 2000 election cycle, when George W. Bush won the straw poll, the Iowa caucuses and the White House. His father won the straw poll and the caucuses in the 1980 election cycle but lost the nomination to Ronald Reagan.

It almost always winnows the field.

Tommy Thompson dropped from the race a day after finishing sixth in the 2008 election cycle. Eight years earlier, Elizabeth Dole finished a disappointing third and was out of the race by October. Dan Quayle finished eighth that year and was gone by the next month.

The straw poll dates back to 1980 and is really a pretty simple deal. Anyone who can pay \$30 and wants to head to the Iowa State University campus can vote. Participants don't need to be Republicans but they do have to be residents of the state or students attending school in Iowa and they have to be 18 years old. Those voting — on machines the state GOP rented — must have identification. They'll be marked with indelible ink after voting. Campaigns can oversee the counting.

The results are not indicative of the views of Iowa voters overall. Instead of using a random sample, the event draws on motivated supporters, with the results highlighting which campaigns have the money and manpower to draw out supporters.

Republicans refuse to say how many tickets they'll sell or how much they plan to make, but the amount will be significant. More than 14,300 people showed up for the straw poll four years ago, down from the 23,000 who voted four years before that.

Competing in the poll are Minnesota Rep. Michele Bachmann, former pizza chain executive Herman Cain, Michigan Rep. Thaddeus McCotter, Texas Rep. Ron Paul, former Minnesota Gov. Tim Pawlenty, former Pennsylvania Sen. Rick Santorum and former House Speaker Newt Gingrich.

Former Utah Gov. Jon Huntsman and former Massachusetts Gov. Mitt Romney are not actively competing, though both are on the ballot.

Texas Gov. Rick Perry, poised to enter the race in the coming days, won't be on the ballot, though there's a write-in option

and efforts by volunteers to make sure he's well represented.

Six of the candidates have reserved space at the site and planned to erect tents to entertain and feed supporters. Renting the space cost at least \$15,000, and Paul paid the most, at \$31,000.

Pawlenty's tent will feature a Christian rock band as well as local favorites the Nadas. He'll serve up barbecue — the favored food at the event — and Dairy Queen Blizzards for dessert.

"I'm looking forward to enjoying an afternoon of great music and food with family, friends and supporters," said Pawlenty.

Bachmann also is serving up food along with country music star Randy Travis for entertainment.

"I will guarantee you (that) you will have the time of your life," Bachmann told backers at one campaign event.

Paul will bring in his son, newly elected Sen. Rand Paul, and plans to have live bands as well as an inflatable slide and dunk tanks to keep children entertained.

A carnival-like atmosphere is certain.

# IOWA

## Perry seeking to change dynamics of race

### Gov. is not participating in either straw poll or debate

By Philip Elliott  
and Steve Peoples  
Associated Press

DES MOINES, Iowa (AP) — Though he's not officially a candidate, Texas Gov. Rick Perry's visits this weekend to three important presidential nominating states threaten to overshadow any lift his would-be rivals hope to gain from a big week in Iowa.

Perry's expected entrance into the Republican race looms large over Saturday's Iowa straw poll and a nationally televised debate two days earlier — and he's not participating in either event. His all-but-certain bid comes as polls show the GOP electorate overwhelmed with the current crop of candidates as they seek someone strong to challenge President Barack Obama next fall.

All candidates — from GOP front-runner Mitt Romney on down — are bracing for a Perry candidacy.

Publicly, the field is welcoming Perry to the contest. Privately, the candidates and their advisers are discussing how to revamp their strategies for winning the nomination, given a likely new factor in the race — a telegenic Texan who is credible on social conservatives' top issues and who hails from a state where jobs have grown.

"I know Rick. I think he'll be a strong candidate, but like I said, my candidacy doesn't rise or fall depending on whether other people get into the race or not," former Minnesota Gov. Tim Pawlenty, who is languishing in polls, said Tuesday during an interview

with Radio Iowa.

Rep. Michele Bachmann's spokeswoman, Alice Stewart, acknowledged that the Minnesota congresswoman's campaign has discussed a strategy should Perry formally enter the race. But, Stewart added, "we're focused 100 percent on meeting the people in Iowa and doing well in the straw poll."

Of them all, Romney may have the most to lose.

"Our view is the more the merrier," Romney strategist Eric Fehrnstrom said as it was disclosed that Perry would visit the leadoff caucus state of Iowa on Sunday, a day after back-to-back appearances in New Hampshire and South Carolina. "Mitt Romney got into the race because he felt that what was needed was someone with a long record of experience in the private sector."

It was a sign of how Romney, a successful businessman who founded a venture capital firm before entering politics and serving one term as governor, intends to contrast himself with Perry, who has never held a private sector job and has held elected office or government positions for the last 27 years. And it also may have been a sign of just how seriously Romney's team is taking the Texan.

"Rick Perry has the potential to really hurt Romney," said Jamie Burnett, who is not affiliated with a campaign this year but was Romney's 2008 New Hampshire political director. "Obviously, he's also going to hurt everybody else in the process."

Consider: —He's the chief executive of a

state whose economy grew during the recession, a counterpoint to a Romney campaign that's focused heavily on job creation.

—He's the head of the Republican Governors Association, with deep connections to the party establishment that hasn't yet rallied around any one candidate, and long ago left former House Speaker Newt Gingrich.

—He's an outspoken supporter of states' rights, a libertarian tilt that could help him attract Texas Rep. Ron Paul backers.

—He's a staunch social conservative with a certain amount of tea party support who could cut into Bachmann's base.

—He's planted himself firmly in the Christian camp — with a prayer rally last weekend in Houston that attracted 30,000 people, and, thus, could appeal to evangelicals who have been courted heavily by Pawlenty.

Perry, to be sure, has his problems. He has drawn mixed reviews from tea party groups who question his policies on immigration, public health and infrastructure projects. And there are questions about how much credit Perry should get for Texas' job growth. He also has never run for office outside of Texas.

Even so, he has told donors, leaders and activists he would likely enter the race, and he has begun to contact uncommitted operatives in early voting states.

There's little doubt that Perry's upcoming weekend schedule was timed to jolt the race during the most important week yet of the 2012 contest.

While most of his rivals will be in Iowa, Perry will speak Saturday at a conservatives' conference in South Carolina and attend a house party in New Hampshire, two states that have early primaries.

## Publication of Minor Guardianship Petitions

At the request of the Wayne County Probate judges, when notice for a minor guardianship petition is published, please include the names of all interested parties (including names of persons whose address is known) in the publication.

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