

WARD & MURPHY

ATTORNEYS AND COUNSELORS-AT-LAW

2009

Keeping up with change ...

Powers of Attorney Updated

As of September 1, 2009, the law in New York will strengthen powers of attorney. Specifically, the law is changing to make it clear that people who act as "attorney-in-fact" (the person receiving the power) have a continuing duty to the people who gave them power of attorney.

The law also makes it much more difficult for a person who receives such power to give themselves gifts, and will also permit members of a person's immediate family to challenge actions of an attorney in fact. There are a number of other changes to the power of attorney statute.

If you signed a power of attorney before September 1, 2009, it is generally still good. While the new law states that powers granted before September 1, 2009 will still be honored, it would be wise to avoid the question of whether older "gift" powers are still valid. If you have an estate plan that depends on an attorney-in-fact's ability to make gifts to help your tax position, you may want to review your documents to ensure your estate planning is up-to-date.

New fee structure for small business entities

For many years, there were substantial differences in the fees paid by "S" corporations and LLC's (limited liability companies), the two primary ways of structuring small businesses.

The new franchise fee varies based on your election under federal tax law. If you have elected to recognize the entity as a separate taxable entity under federal law, you pay a franchise tax based on the entity's own income. If you have elected to recognize the entity as a "pass-through" entity under federal law, then you pay a \$25 fee either for an LLC or for an S Corporation. Given the state's current fiscal crisis, this figure may well increase.

Driving While Intoxicated Gets More Stringent

The lesson, as always, is do not drink and drive. Today, the only sure ways to avoid the DWI charge are to take away a friend's keys, walk home, call a friend or wait

for a cab.

New York has continued to increase the penalties for driving while intoxicated. Now, in addition to the lowering of the "Blood Alcohol Content" or BAC standard from 0.10 to 0.08, New York has instituted an "Aggravated DWI" charge where BAC is greater than 0.16.

In addition, avoiding any breath test now carries an automatic six month license revocation, generally without the possibility of any interim license.

If you are stopped, be polite, keep your hands in sight and give your license and registration when asked. You do not have to admit to drinking, but if you choose not to answer such questions, be polite and be prepared to accept the fact that you may go to jail until the police finish an investigation. Sometimes a short jail stay is better in the long run.

Very often, you will be able to get a better resolution of your charge if you voluntarily seek a substance abuse evaluation and treatment.

If you are charged, you have some options and we will be willing to discuss the situation with you.

How to Reach Us...

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ThouArt Gallerage

When you visit the office, you will notice some beautiful artwork by two local artists, David Beale of Cortland and Amy Hnatko. The items are available for sale courtesy of Thou Art Gallerage. You can visit the new Gallerage at 215 Main Street on Wednesdays from 12 noon to 6pm or Saturdays from 11am to 3 pm. Call 216-2465 or visit thou-artgallery.com for more details.

Website

WARD-AND-MURPHY.COM gives you lists of documents needed in different cases, information on local courts, links to general legal resources, back issues of this newsletter and background information on the Firm. We are continually expanding and improving our website; If you have suggestions, please or email us to let us know!

Why do I get an answering machine?

We appreciate that when you call us, you want your problem solved. Sometimes, however, we are solving other problems, so you may reach an answering machine. We are generally in the office Monday through Thursday 9am to 430pm and on Friday from 9am to 12 noon. Our policy is to return all phone calls within a day. If you get the answering machine, it means we are already dealing with an emergency or meeting a commitment to a client. Please leave a message. If you leave a message, we will call you. If you believe you left a message and did not get a call back, then please call again: machines are not perfect and sometimes do not save messages promptly.

Using Forms

Sometimes you feel you do not need a lawyer and can use forms you find on-line. Sometimes you are right. Just remember to be certain you are picking the right form for your needs. We will work with people who want to do their own work on a "general representation" basis by, for example, making sure they have the right form.

Around the Community

The Firm sponsored teams both in the Groton Girls Softball league as well as the Ithaca Youth Bureau's National League. Mr. Murphy is a Boy Scout and Girl Scout leader who helps scouts with badge work. Ms. Jackson is also a Girl Scout leader and, from time-to-time, her scouts meet in our office after-hours. If you are ever interested in supporting Scouting in our community, please let us know.

Future Newsletters

With this issue, we are starting to send a link to the newsletter on our website to clients who use e-mail. If you would rather get our newsletter this way, please call or email us and we will change our address lists accordingly. If you have ideas for articles, send them along - we're always looking for new ideas!

Interns

Our interns this summer included Rowena Howland-Bolton, a sophomore at Groton High School, Katherine Walpole, a first-year at Syracuse University and Grace Park, now entering Emory University Law School in Atlanta. Each helped with various projects while started investigating a possible career in the law. If you would like to be an intern, please check our website for details.

Referrals

We welcome new clients. If you have a friend who would like to explore becoming a client, please call!

No man is above the law and no man is below it; nor do we ask any man's permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor.

Pres. Theodore Roosevelt, Third State of the Union Message 1903

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