

LAW & BORDER

The Law & You



BY DON GRAVALEC,
ATTORNEY

Our topic this month is estate planning and jointly owned assets. "Assets," for the purposes of this article fall into three main categories: investments, real property, and business interests. "Jointly owned" is referring to more than one person or entity with an ownership interest in the asset. In other words, partners. Some examples of jointly owned assets include two or more people having and ownership interest in real property, a business enterprise, or other investment.

The potential problem many people with jointly owned assets do not consider is; what happens if one or more of the partners die or become disabled? Without estate

planning, upon the death or disability of a partner, it is the Probate Court that will assume jurisdiction and management and control over that partner's interest. This can have a devastating impact upon the interests of the other partners, as it is now the Court that is overseeing the deceased or disabled partners interest. For example, if three people own a piece of real property and one dies or becomes disabled, the result could be the court ordering, or prohibiting a sale of the property even if it isn't the wishes of the other two partners. In a business, the loss of a partner can be disastrous. What is even worse, is the loss of a key person and having failed to plan for succession, only to find out the Court has become the new partner.

In order to avoid this type of dilemma, it's very important to be sure that the joint owners have a plan as to what happens if one or more become deceased or disabled. A Living Trust and a Durable Power of Attorney for Property Management which addresses any jointly owned assets, can be the way to avoid unnecessary disruption, costs, both financial and emotional, delays and lost business opportunities.

Another important tool in business succession is a partnership agreement that provides an agreed upon plan as to what to do with the business and the interests of the heirs of the deceased or disabled partner.

If you own property with someone else, or are in business with someone else, or have some other jointly owned asset, it is essential that all of the partners plan to avoid harm to the others in the event of death or disability. If you think that you might possibly be in any of the above categories, I would be glad to discuss your situation at no charge and make any recommendations so you can be certain that the outcome of your estate plan will be as you have chosen.

My name is Don Gravalec and I've been attorney for more than 27 years. My wife Naomi and I live and work here in Campo. If you have a legal question about estate planning, business law or real estate, call me at 478-1233 or come down to the Mountain Empire community center on Sheridan Road on Wednesdays between 10:30 and 1:00 for a free consultation.

Border Patrol Report

By Tony Neff

The USBP lost two agents in Southern California in 2009 both were murdered. Agent Robert Rosas and CBP officer Maribel Arteaga lead the top ten list of events that local agents experienced in 2009. Interdictions at sea are on the rise and is #2 on the list, 430 arrests were made from the high seas compared to 230 the year before. The apprehensions are for human and drug smuggling. #3 Southbound Currency seizures in conjunction with USBP, State and local agencies thwarted many instances of illegal activities including the largest Southern California seizure of \$500,000. #4 The CBP's largest narcotics seizure in the nation (by weight) was 5 tons of marijuana hidden in a tractor trailer shipment manifested as toilet paper, it was found at the Otay Mesa Cargo facility. #5 The largest group of illegal immigrants (73) apprehended by the San Diego Sector, were found in a tractor trailer at the Pine Valley Checkpoint. #6 CBP is responsible for apprehending numerous fugitives wanted by international, federal, state and local authorities. In one notable example a

homicide suspect was apprehended who was scheduled to be featured on America's Most Wanted. #7 Suspected smuggling tunnels discovered near border in Otay Mesa. #8 CBP rescues eight illegal immigrants trapped in a drain pipe, all rescued without serious injury. #9 Everyday agents find narcotics hidden in novel places or deep concealment. In two different incidents last year Agents found women pushing children in strollers with marijuana hidden underneath. #10 An off duty BP Agent nabs a sexual assault suspect, the agent noticed a woman chasing a man through traffic and jumped in to make the arrest.

In other notices from Homeland Security agriculture specialists discovered a fungal disease called black leaf spot growing on basil and did not allow it to be imported. During the period of November 1st to December 29th #31 interceptions were made of the black leaf spot on basil which is imported year round from Mexico. Travelers from Mexico have new rules governing chicharrones or cooked pork skins or rinds, also called cracklings. The

new regulations require all cooked pork skins to be crisp and crumble easily. This pertains to cargo and personal importation.

Agents inspecting southbound traffic at San Ysidro detained a Mexican national found to have hidden roosters and hens that were restrained and hidden in a special compartment hung from the underneath side of the truck. Agents believe the sedated birds were destined to be used for confrontational rooster fights and related breeding purposes. Of the 50 birds found only 34 were alive due to the smuggling method. Just last week at 4:30 in the morning agents spotted a capsized boat with people in the water near Torrey Pines State Park. Many aboard the boat fled the water and hid on the beach while several drown in the sea. The 16 Mexican nationals rescued from the overturned boat were apprehended but agents continued the search because 29 life jackets were found with the boat.

The USBP is tasked with guarding the ports of entry and border crossings and all the routes that lead to this country legal and otherwise.

Meth and Domestic Violence

CREATIVE COURT PROGRAM BREAKS THE CYCLE OF DOMESTIC VIOLENCE AND SUBSTANCE ABUSE

Thanks to a new pilot project, more criminal offenders passing through court are graduating from a unique program that combines counseling in both domestic violence and substance abuse, which frequently go hand in hand. One of those graduates joined officials and drug and domestic violence counselors at a press conference this week outside the East County Courthouse, where the pilot program began in June 2008.

"Meth use and domestic violence can be a deadly combination, and this new pilot integrates treatment and offers a real solution to an often fatal issue," said San Diego County Supervisor Dianne Jacob.

According to the County of San Diego's Domestic Violence Fatality Review Team, 53% of intimate partner fatality cases from 2006 through 2009 involved current or past use of methamphetamine.

Alarmed by the numbers, justices, deputy district attorneys, public defenders

and treatment professionals all realized that domestic violence offenders needed a much more structured and rigid level of care. The East County Pilot Project was initiated, addressing the dual issues of substance abuse and domestic violence.

For years, domestic violence offenders have been required to participate in a 52 week domestic violence (batterer's treatment) program. This standard Level One program did not address substance abuse issues in a significant way. After seeing offenders frequently failed drug tests in the Level One program, East County legal and treatment professionals created a Level Two pilot program, which mandates random drug and alcohol testing and group counseling.

According to counselors, most of the offenders in the existing Level One program openly admitted to using alcohol, illicit drugs and prescription pills, without the threat of being reprimanded.

When entering the Level Two pilot program, offenders must sign an agreement which notifies them that a drug testing facility will share the results of their tests with the court

and treatment counselors. The threat of admonishment from the court and treatment professionals has forced most offenders to stop their substance abuse.

"It scared me, there's no way to get around the judge and the treatment counselor when you know they're going to review your test results," said Charlene Butler, who will soon graduate from the pilot program.

Treatment in the Level Two pilot program includes a weekly group counseling session, with no more than 12 offenders to a group. Participants focus on their self-esteem while learning how drugs and alcohol can impair their ability to make good decisions. Offenders also learn how to manage their temper.

"This has changed my life. I've learned to step back and look at the situation and realize I'm not always right," said Butler. "I'm just sick of fighting and doing drugs and alcohol and thinking I was better than everyone."

Initial results indicate a 90% reduction in failed drug tests from the offenders who completed the Level Two pilot program. "I have worked on the treatment side of family violence for

many years, said Audie Brinker, Chairperson of the Substance Abuse Committee of the San Diego Domestic Violence Council. "I have seen offenders drop out prematurely when their violence and substance abuse issues could not be addressed. We knew that for many offenders, the secret would lie in a one-stop program. The Level Two option is just such an integrated program."

After a successful 18 month trial run, the pilot has generated interest in having it expand to other regions of the San Diego County court system. A system dedicated to breaking the cycle of domestic violence and substance abuse.

"We believe that court supervision means that we can ensure safety for families, and the right level of treatment for offenders," said East County Superior Court Judge, DeAnn Salcido.

Community residents who need referrals for drug treatment can contact 1-877-No-2-Meth or visit the web site at www.no2meth.org. To seek assistance for domestic violence related issues, call the San Diego Countywide Domestic Violence Hotline: 1-888-DVLINKS (1-888-385-4657)

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expensive.

"To do that, of course, saves a ton of money for the tax payers," but it can be a dilemma at times to be sure the resolution of a case is appropriate for the crime as well as cost saving. McAllister said. The East County Division has 38 attorneys, 10 paralegals, six investigators and 37 support staff as well as seven interns and others to handle criminal cases from a huge chunk of the county --- 2,000 square miles with 535,000 residents.

Issues noted

This region also has most of the county's sovereign Indian reservations, McAllister noted later during an interview. That requires sorting out cases at the District Attorney's office, which can prosecute crimes but not regulatory laws on Indian lands.

"There's an interplay between 'Well, what can we do and what can't we do' on reservations," said McAllister. "We can enforce speeding laws, for instance, but not animal control, Fish and Game or noise laws." As far as East County crime issues, he said, they include more gang violence, more vehicular deaths related to smuggling drugs and people, and the wave of abuse of

Oxycontin, a prescription pain killer common in many households. "It's just as addictive as heroin," McAllister said. "It's a heroin derivative and more expensive, but it appears to be more acceptable to many people because it's made by a pharmaceutical manufacturer." The prosecutor said his challenge to parents is to always know where their children are, no matter what ages the youngsters are, who they're with or where they are because pre-teens are illegally using the drug.

Regional crimes

Out of 4,184 felony cases and 7,823 misdemeanor cases brought to the East County division in 2009, 390 were from the Alpine Sheriff's Station, he said.

McAllister said 119 of the 390 local cases were issued as felony charges and another 167 as misdemeanors. For the entire East County, McAllister's division handled eight new homicides and 11 vehicular homicide cases, in addition to earlier cases still under way from earlier years.

"There's probably another 20 or so that are in progress in East County," McAllister said.