



# JALA NEWS

*Jackson Area Landlords Association*



Volume 18/Number 1

January, 2012

## SMALL CLAIMS TRAVESTY

In the November, 2011 issue of the JALA newsletter, I wrote an article regarding the use of the correct forms. In that case, the \$2,400 in damages was disallowed by the small claims magistrate because the letter that the landlord used in itemizing the damages did not constitute a move-out checklist/notification. We explored re-filing this claim in district court, but our attorney advised against it since it would constitute the civil equivalent of double jeopardy. The plaintiff had 40 pictures documenting the damage. If this had been heard in district court, I am sure the damage judgment would have been granted.

Now let's move along to the rest of this horror story; the magistrate did grant \$700+ in back rent. The defendant claimed she had deposited the back rent in escrow during the eviction hearing so it was assumed that the judgment would be paid from that escrow account. The defendant filed a motion in the small claims court asking the magistrate to grant her request to make \$10 monthly payments on the judgment. The plaintiff answered the motion filing with a request for the following:

1. Provide information/documentation on the escrow account where the back rent had been deposited.
2. Provide supporting documentation that her current income was only \$60 every two weeks (her rental application listed her income as \$1300 per month).
3. A discovery hearing be scheduled during which time all of the defendant's assets may be revealed to demonstrate that defendant cannot afford to pay the judgment as ordered.

At the hearing on November 30th, the defendant lied and told the judge she never said the money was in an escrow account. She also reiterated that she only makes \$60 every two weeks (which is impossible to live on, so it's of questionable truthfulness). The magistrate granted her motion to pay this judgment at the rate of \$10 per month. It will take seven years to pay this judgment off, plus accrued interest. It's obvious the intent is to drag this process out until the landlord can no longer deal with it. It has been reported that this is not all that unusual and in these hard times when folks are short on money, \$10 per month is all some defendants can afford. While this defendant is sitting back paying her \$10/month, the landlord is absorbing the \$2,400 in damages to the rental and waiting for the next seven years for the back rent not received while providing this woman shelter.

The one redeeming factor in all of this is: **The installment payment order stops the plaintiff from garnishing wages and other income related to personal labor; it does not stop garnishment of bank accounts, tax returns, or other collection efforts, including property seizure.**

Hard times or not, this is not "right". The magistrate is not elected, but hired by the chief judge and the court administrator. We cannot voice our objections at the ballot box so where do we turn?

Written By Robert F. Tulloch

### **IMPORTANT REMINDER:**

**Please pay your membership and credit reporting dues in a timely manner. JALA depends on your dues to pay its monthly expenses, so please pay on time, just as you would expect your tenants to do!**

**We look forward to receiving former members back!!**

### **INSIDE THIS ISSUE**

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### **ATTENTION!!!**

**THE NEXT JALA GENERAL MEETING WILL BE HELD ON MONDAY, JANUARY 23, 2012**

**THE MEETINGS ARE HELD AT STEAK'S EATERY AND BEGIN AT 5:15 P.M. FOR DINNER; THE SPEAKER WILL BEGIN AT APPROXIMATELY 6:30 P.M.**

**PRESIDENT'S MESSAGE**

**Robert Tulloch**

Well, here we are after the JALA Board elections and we are back in the saddle again! We are looking forward to a great year after all the past trials and tribulations. Jackson's unemployment rate is falling (as of this writing) and some new companies are opening up, as well as established companies expanding. We are hoping to see an increase in the tenant pool as well as a clearing out of foreclosed homes. On the downside, we need to be very, very watchful of this new city council. Jackson Mayor Marty Griffin is a big government liberal who along with a new majority on the council may try to implement a rental housing registry with all its attendant costs and fees and intrusions into our lives and those of our tenants. Rumors abound!

One thing we need to be very careful of is enhanced lead inspections routinely implemented to "save the children". I am sure there are some "stimulus" dollars borrowed from China burning a hole in someone's pocket. Just think of all the housing that the city could tear down (after it's condemned) because of lead and deemed too expensive to remediate. Simply tear down the city and build a giant parking lot with storm water runoff directly into the Grand River.

It does not matter the political stripe, the big government supporters are on both sides of the aisle. Remember, many of these folks that run for public office think they know better than we do and crave the power to force their ideas upon us. We have an obligation to resist that with which we disagree. Remember, elections have consequences!

**ANNOUNCEMENTS!**

**JALA Web Site:**

**www.jala-mi.org**

**Credit Reports** are available through the JALA Office or directly using software for the members that have met the current criteria set forth by TransUnion, LLC and JALA.

**A credit report is your first line of defense! Arm yourself wisely!!**

**JALA OFFICE HOURS**

**Monday**  
9:00 a.m. to 5:00 p.m.

**Wednesday**  
9:00 a.m. to 2:00 p.m.

**Friday**  
9:00 a.m. to 2:00 p.m.

**Welcome New Members:**

**Patricia Mitchell**  
**Will and Deb Stoner**

*If you have questions about landlording, you may call/email JALA Attorney, Adam Howard (788-9055/ aeh@aehlaw.com) for assistance.*

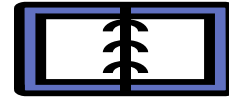
*You may also contact JALA President Robert Tulloch (596-2592/ contact@jala-mi.org) for answers to your questions.*

**FOR YOUR INFORMATION:**

**Editorials and/or articles in this newsletter are the opinion of the author and do not necessarily reflect the policies or positions of JALA.**



Equal Housing Opportunity



**CALENDAR OF EVENTS**

**JALA General Meeting**  
**Steak's Eatery**  
**Monday, January 23, 2012**  
**5:00 PM (Dinner)**  
**6:30 PM (Speaker)**

**JALA General Meeting**  
**Steak's Eatery**  
**Monday, February 27, 2012**  
**5:00 PM (Dinner)**  
**6:30 PM (Speaker)**

**JALA BOARD OF DIRECTORS/2012**

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**Sen. Randy Richardville (17th Dist.)**  
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**MEMBER SUPPORT**

If you need advice regarding any of your rental properties, please feel free to contact Robert Tulloch (JALA Board President).

Bob is generally available to answer your questions in a quick manner (517-596-2592) or you may email him at the following address: [contact@jala-mi.org](mailto:contact@jala-mi.org).

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**NOVEMBER GENERAL MEETING NOTES**

The speaker at the November JALA General Meeting was Barb Dwyer, a life-long resident of the area and my personal favorite process server.

I was shocked when Barb announced her tentative retirement at our meeting. Barb has been in the business for 30 years and of course has seen every possible situation that arises in serving papers and evicting folks.

I have always (except at the very beginning of my 25 years as a landlord) had Barb handle my service and evictions. With me, she has a 99% hit rate on personal service for money judgments and has been outstanding when it comes to the unfortunate circumstance of actual evictions. She is a fine, gentle person and I

hate to see her retire.

During the meeting, Barb explained a few things about the eviction process, the need for a set of locks for each door to the rental, and the need for sufficient labor and materials to facilitate the eviction. The court officer is required to stay at the site of the eviction until all the tenant's items are placed on the median strip, and then witness the changing of all the locks on all the entry doors to the unit. If the landlord does not plan this properly and fails to provide sufficient manpower and materials to facilitate a rapid process, it can become costly as there is a fixed charge plus an hourly rate.

One of the key functions of the court officer at the eviction is to moderate any tendency of the tenant to become loud and abusive or to call for police backup if things get nasty. The landlord must not engage in any yelling match or argument with the tenant and if the situation warrants it, to just back off at the request of the court officer until things quiet down.

Barb was so good at this and we will sorely miss her!

Submitted by Robert Tulloch

**WHAT TO DO WHEN YOU INHERIT A TENANT**  
**By: Robert Cain, Copyright Cain Publications, Inc.**  
**LJC NL, June, 2011**

Three things are at issue here:

1. The tenant's rights and your rights

2. Notification

3. Unpaid rent and prepaid rent **Landlord's and tenant's rights** The tenant's rights remain unchanged. It is as if there had been no change in landlords, except in the question of unpaid rent, which we will get to later.

The existing rental agreement remains in force, unless it is changed on 30 days' notice, as is provided in the Landlord-Tenant Laws of most states. *It is important that you get the original of the rental agreement for your files and read it carefully.* There may be provisions in it which will affect how you can deal with the tenants in the property. One of them may be the length of notice required to change any provision of the rental agreement.

If there is no written rental agreement, the tenant has the same rights as those provided in the Landlord-Tenant Law and other applicable portions of state law and none other. In some cases there may be verbal agreements between the old landlord and tenant. The only circumstances under which those would remain in force would be if they appeared in the earnest money agreement when you purchased the property. Those might be such things as the landlord wouldn't raise the rent until a certain date, or that the tenant is allowed sixty days notice for any change.

If there is a lease in force that goes with the property, no terms of that may be changed until the term of the lease expires. It is important that you get the original of the lease and read it for the same reasons that it is important to read the rental agreement.

**Inheriting A Tenant.....Continued On Page 4**



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## ONLINE MULTI-PART COURT FORMS

During the last few months I have made statements regarding multiple copies of forms which is erroneous.

Based on the forms available on-line from the State Court Administrators Office, the d12 website, and our website, I suggested that you only need submit one copy to the court and they would make the rest of the required copies. This is incorrect. You are required to provide the court the number of copies required for service, distribution, etc.

The top of the form will say first copy Court, second copy Defendant, etc.

Additionally, when there are multiple defendants (co-habitants, etc.) **you must make copies for all the defendants.**

Submitted By **Robert F. Tulloch**  
JALA President

## IMPORTANT CREDIT REPORTER UPDATE

As was sent out by email, JALA wants to be sure you know that there was a change made to the credit reporting software dictated by TransUnion. This required our end users (JALA members) to download and install the new software from the JALA website. As you were advised by email, the "old" software will NOT work after 12/31/11, as some members found out. Hopefully, everyone that runs credit reports from their PC has already made this change, but if not and you just have not had the need to run a credit report for a while, please be sure to log in to the secure member area of the website ([www.jalamiami.org](http://www.jalamiami.org)), go to the credit reporter download, and download the "new" software from the site. **DO NOT DOWNLOAD THE "REAUTHORIZATION"!** This will not work in bringing you the new updates and required changes in the credit reporting software; once again, you must install the full version of the credit reporting software, not the reauthorization to get the changes to work and provide you the opportunity to run credit reports. Also, it's important to check your emails for JALA invoices and newsletter. We are attempting to send these by email to keep the operating costs down. JALA appreciates your attention regarding these issues!

### Inheriting A Tenant.....Continued From Page 3

**Notifying the tenant:** You are required to tell the tenant he has a new landlord. That must be done immediately upon your taking possession of the property. Follow the notification requirements in your state. If you do not notify the tenant, that does not absolve you of responsibility for the care and maintenance of the property. You may not get the rent if the tenant doesn't know you're supposed to get it!

**Unpaid and prepaid rent:** Here is where it gets a little complicated. What happens if the tenant is in arrears with the old landlord? What happens if the landlord has the last month's rent or security deposit? Can you evict the tenant because he hasn't paid the old landlord rent owed to that landlord? Rent owed the old landlord falls into two categories: First, there is rent that is owed entirely to the old landlord. Secondly, there is the rent that is owed partially to the old landlord and partially to you. Rent that is owed totally to the old landlord is no concern of yours, except to the extent that you may have a deadbeat tenant in your new property (except in the unlikely event that the old landlord assigns you the rights to the past due rent, it is not yours to collect or benefit from). The old landlord can sue the tenant for the past due rent and possibly get a judgment against him. But you are out of it. Rent that is owed partially to you is very much your concern. That should be paid to you at closing.

For example, the earnest money agreement provided by the Portland Board of Realtors provides that all prorated rents will be paid as of a specified date. It behooves you to see that you collect all rents owed to you at closing. For instance if you are closing a sale on July 15th and taking possession of the property on July 16th, you will be owed an amount equal to 15 days of rent. So if the tenant has not paid his rent for July, the old landlord has to pay you for it, regardless of whether the old landlord has collected it or not. Rent that is prepaid (such as the last month's rent or deposits), should be paid to you at closing as well. If they are not, you could be stuck with them when the tenant moves out.

**Evicting the tenant:** Here is where it gets really sticky. If the tenant has not paid the old landlord the rent for the month, you probably don't want the tenant in your property. However, you cannot give the tenant a termination notice or demand for possession notice (be sure to use whatever form or method is appropriate in your state), because the rent is not owed to you, but to the old landlord. You can give him a 30-day, no-cause notice, though (assuming that is provided for in your state or city law).

One interesting sidelight is that even if the old owner could not evict or terminate the tenant without running afoul of the "retaliation" section of the Landlord/Tenant law, you can as the new owner. And, you may want to if the tenant has made a series of nuisance complaints. There is no way it could be considered retaliation for a complaint the tenant made about the old landlord to city or state authorities. In fact, barring an incredible excuse, it is advisable to send such a tenant a 30-day notice, and get rid of him.

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## BEWARE OF NEW SCHEME!

By Charyl Wozniak

One of our JALA Members had the following situation happen to them, and they wanted to be sure everyone was aware that the possibility of this happening to another landlord certainly does exist:

After one of their tenants was evicted out of the rental property our member owns, he went over there to clean up the terrible damage and attempt to get the place cleaned up. While he was fixing some things in the property, a man came to the door and asked our member if this particular property had been condemned yet. Our member was shocked and said, "No, why?!" The man responded that the tenant that had been living there told him that the house was being condemned and that for a bit over \$400 he could come in and strip the entire house of copper piping. Of course, he paid the ex-tenant over \$400 and came back in a few days to collect his copper piping.

Of course, the house was NOT condemned! The previous tenant lied to the man about the condemnation of the property, which cost him over \$400 and left him with empty hands.

Fortunately, when this man showed up to collect his piping our member was there working on the place! Had he not been, all the piping in the home would have been stripped and you can imagine the cost of replacing that!!!

In closing, be sure to beware and use caution with every landlording step you take! It seems that there is always going to be someone trying make a buck off you illegally!

# TRICKS AND CONS THAT TENANTS USE

Most of the sneaky little tricks listed below can easily be thwarted with proper tenant screening and a little landlord/tenant knowledge:

### The Old "Fake Credit Report"

**Trick:** With today's computer technology, it is quite easy for a tenant to fake a credit report. Anyone can get a free copy of their own credit report online and make a few modifications on it before printing it out and presenting it to an innocent, unsuspecting, unfairly impressed landlord.

### The Old "Totally Fake Identity"

**Trick With Great Credit Report:** Fake ID's are sold to under-aged kids who want to get into bars all over the country. It is easy enough for a con-man/woman tenant to get a fake ID to match his friend's or relative's credit report and present him/herself as that person. It is a good idea to check ID's carefully and verify as much information in that person's name as possible.

**The Old "I'm a Victim of Identity Theft" Trick:** A popular excuse for a bad credit report. Blame it on identity theft!

**The Old "My Spouse Ruined My Credit" Trick:** A popular excuse for divorced deadbeats. Blame it on the Ex!

**The Old "Fake Social Security Number" Trick:** Many fraudster rental applicants present fake social security numbers on their rental application. Often it is their child's or a made up number that brings incorrect or no results. When asked for an explanation, they may pretend they don't understand why this happened.

Tricks And Cons.....Continued on Page 7



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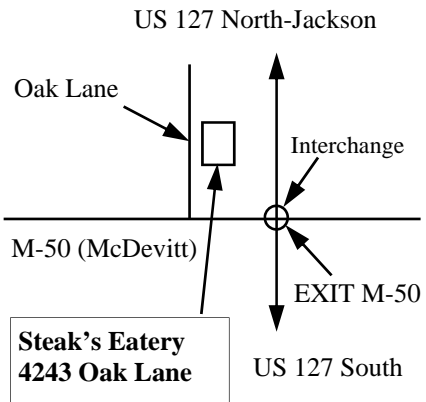
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The next general meeting will be held Monday, January 23, 2012. The speaker will be 12th District Court Judge Michael Klaeren who will give a presentation and then will take questions from the audience.



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Tricks and Cons.....Continued From Page 6



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**The Old "Self Employed With Fake Income Records" Trick:** Self employed tenants are among the most difficult references to verify. Why? It's because as their own boss, the tenant prospect is giving you his own references on himself. Is it possible he might exaggerate his success and income and create corresponding exaggerated reference material? You bet it is; possible AND probable!

**The Old "Threaten the Landlord With a Discrimination Suit" Trick:** A common tactic of a disgruntled rental reject. This trick works on many scared and inexperienced landlords.

**The Old "Move In FREE" Trick:** The tenant shops rentals with desperate landlords who offer a free first month and no security deposit. They live free until they get tired of stringing the poor sucker along.

**The Old "This Place Needs Work" Trick:** One of the oldest negotiating tactics in the book is to insult the product (or rental property in this case) with depreciating comments and requests for repairs and/or improvements to be done. An eager landlord is often side-tracked from the screening process by these decoy tactics.

**The Old "Fake Injury Threatening Lawsuit" Trick:** Some tenants, usually when they hit hard times, will pretend to get hurt on the property and blame it on the landlord's negligence. They first call and ask about the landlord's insurance coverage. Then, while cleverly hinting they might sue you, they may ask for free or reduced rent for a while because they have medical expenses. Then, they find an opportunistic attorney to help them commit insurance fraud by suing you for a settlement.

Reprinted From The LJC NL, KS, June, 2011



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# CONSIDERATIONS FOR TENANT BACKGROUND CHECKS

By **Lonnie Smrkovski (Landlords of Mid-Michigan—LLOM, Lansing, MI)**

Background checks of tenant applications are, of course, very important in the selection of prospective residents and normally include the standard checks regarding credit, evictions, employment, income, and landlord references. While these factors are related to the anticipation of prompt payment of rent, there seems to be little said about criminal background checks.

Why may criminal background checks be desirable? For the same reason we may not want convicts who have committed certain crimes living in our own neighborhood. Tenants deserve to live in a clean, safe environment which is free of potential criminal threats or other problems.

No doubt, there are many who have committed crimes, paid their debt to society, learned their lesson, and go on to trying to lead good lives. Depending on the offense and circumstances, a landlord may well give consideration to such an applicant. Many convictions are for non-violent or other crimes that may not present a threat to your business or your tenants.

Is this discrimination? Conviction for crimes does not seem to be a protected class. Under the Fair Housing Act, the following are protected: Race, color, religion, sex, national origin, those with disabilities, marital status, age, social orientation, and source of income.

Michigan has a very large prison population (more than surrounding states). Our prison system has been costing Michigan taxpayers 1.6 billion dollars per year for the last several years. In an attempt to reduce costs, thousands of prisoners have been released or otherwise paroled and a number of prisons have been closed. On release and/or parole, they are looking for housing. Obviously, many convicts released from prison have low paying jobs or none at all. Clearly, they cannot qualify as housing applicants based on their lack of income. They may, however, be financially supported by family members. I think it safe to say that criminals convicted for drug offenses, violent crimes (including sex offenders), and others who have committed serious offenses pose a possible threat to landlords and tenants are of the most concern.

According to the National Center for Missing and Exploited Children, there are an estimated 739,853 registered sex offenders in the USA (2010 statistical data). That is 236 per 100,000 populations. Michigan has 47,329 (per 100,000 population, 477)! To access the Michigan Public Sex Registry go to [www.mipsor.state.mi.us](http://www.mipsor.state.mi.us) and do your search. You will be required to know their name and age (approximate). Information on the offender includes a photo, name, date of birth, address, and the specific crime for which they were convicted. There is no charge for the search.

One should keep in mind that Michigan's Criminal History Records include arrest information provided by law enforcement when a person is charged with a crime punishable by over 93 days, which includes all felonies and serious misdemeanors. Other misdemeanor offense are reported with fingerprints after conviction IF the sentence includes incarceration with fines and costs totaling more than \$100 (source: Michigan State Police).

For inquiries on applicants outside the area where your rentals are, you may wish to contact the appropriate courts in the jurisdiction where the applicant lives. (Jackson, Michigan has the 12th District Court website for access to public legal records and the site web address is: [www.d12.com](http://www.d12.com)).

Criminal background checks have been made easier with the advancement of record keeping and computer technology. There are numerous internet sights on which one can obtain (for a fee) all kinds of public record information including criminal convictions. Some are state specific, and others will do a nationwide search of public records. Again, these sites do charge a fee.

The Michigan State Police provides the Internet Criminal History Access Tool (ICHAT) allowing the search of public records contained in the Michigan Criminal History Record maintained by the department. Warrant information and suppressed records are not available, nor are federal, tribal, and criminal records from other states. Inquiries in other states would have to be done directly with the state of interest.

To perform a search through ICHAT, the minimal information required is a person's full name and date of birth. A fee of \$10 per search is charged. The search site is [www.michigan.gov/ichat](http://www.michigan.gov/ichat). You will be asked to register if you are a new customer, or simply log in if you are already registered. You may wish to confirm the information with an applicant (source: Michigan State Police).

If in doubt about renting to an applicant with unusual circumstances, landlords may wish to check with the local housing authority and/or seek legal counsel.

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### ANIMALS LEFT IN ABANDONED RENTAL PROPERTIES

At the last general meeting where Barb Dwyer spoke, a member (me) asked about animals that are abandoned by their owners when they vacate their rental units. I have received numerous calls on this issue, all the way from rats to a really nasty sounding pitbull on the other side of the door. In general, the historical response from authorities has been “not our problem”. No one was aware of any specific regulations regarding situations such as these, so I contacted the Jackson County Sheriff’s Department and received the following response from Captain Brad Piros:

*“I certainly understand your concern and it's unfortunate these ani-*

*mals are being left behind. Generally, our Animal Control Officers respond to neglect cases, viscous dogs, and dogs on the loose. If the owner of the animal cannot be located, I would encourage your members to transport any animals they feel comfortable doing so with to the Animal Shelter on Spring Arbor Road. If they have a situation they feel is criminal neglect, or if the animal is not able to be transported due to potential danger, etc., I would advise them to contact 911 and we can assist.”*

The open question of course is determining if the rental unit/ animals have in fact been abandoned. If the rent has not been paid and the utilities are shut off, if the tenants vehicles are gone, if mail is accumulating in the mailbox and best of all, if the neighbors say

“They moved” you can be pretty sure they have abandoned the unit. If they have been served with an eviction notice or summons and complaint and no one answers the door after repeated attempts at contacting them, you can at least make a preliminary assumption that the unit is abandoned. Post a notice of “abandoned unit” on the entrances to the rental stating that you will take possession in seven days unless you are contacted by the tenant. Assuming you have a provision in your lease for immediate inspection in emergencies or a 24-hour notice of inspection for non-emergencies, post a notice on the door that you are entering the building for either an emergency inspection in four hours or a routine inspection in 24 hours. Call their phone and leave a message informing them of the inspection, then wait. Enter the premises cautiously calling out that you are inspecting. Quickly assess any condition that might be an emergency which could damage your property. Take note of any animals in the premises. If the animals are caged and have food and water wait until the period noted on the abandoned property posting has expired to take them to the animal shelter as suggested earlier. Otherwise, take them immediately. If you are concerned about a potentially dangerous animal, call 911 as was suggested by Captain Piros. A dog or cat left loose in an apartment without attention can become bored and very destructive. Cats in particular create havoc by urinating on carpets. I have had to tear out carpets, padding and soak the underlayment in Clorox to kill the odor. It’s a very expensive effort!

Submitted by Robert Tulloch, JALA President

# JALA Newsletter/www.jala-mi.org

Jackson Area Landlords Association  
761 W. Michigan Ave., Suite K  
Jackson, Michigan 49201

(517) 782-4384/E-Mail: [jala@jala-mi.org](mailto:jala@jala-mi.org)

January, 2012

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ADDRESS SERVICE REQUESTED

## OFFICE HOURS

Monday: 9:00 a.m. to 5:00 p.m.

Wednesday: 9:00 a.m. to 2:00 p.m.

Friday: 9:00 a.m. to 2:00 p.m.



### MEETING LOCATION

The next general meeting will be held  
Monday, January 23, 2012  
Time: 5:30 menu/6:30 speaker  
Steak's Eatery

*The speaker for the January 23, 2012 General Meeting will be the Honorable Judge Michael Klaeren from the 12th District Court. Judge Klaeren will give a presentation and then will take questions from the membership.*

**IN ORDER TO EXPEDITE THE MEETING, NO DINNER ORDERS WILL BE TAKEN AFTER 5:30 PM. THIS WILL ENHANCE THE EXPERIENCE FOR EVERYONE INVOLVED!**

**50/50**  
**Winner:**

**Paul Friedland**  
**(\$38)**



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