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**DISTRICT JUDGE RULES THAT THE MICHIGAN STATE POLICE DO NOT USE RELIABLE BLOOD ALCOHOL TESTING PROCEDURES**

**Lansing** -- The Michigan State Police toxicology lab does not use scientific testing procedures that are reliable enough to allow the admission of a blood alcohol estimate in an OWI case in Michigan. Prosecutors in Mason County attempted to admit a blood alcohol estimate but were denied in a ruling received today by lawyers for the accused citizen. 79<sup>th</sup> Judicial District Judge Peter J. Wadel found that the state police lab witnesses refused to account for the sources of uncertainty in the testing and reporting process. The court held: "This court therefore finds that the blood test results are not reliable until the state police crime lab calculates an uncertainty budget or error rate and reports that calculation along with the blood test results."

The lead counsel for the defense is OWI/DUI expert Mike Nichols of Lansing, author of the West "OWI Handbook" for Michigan lawyers and an adjunct law professor at Thomas M. Cooley Law School in Lansing. "We are pleased that the judge took the time to require the Michigan State Police lab witnesses to verify that the lab follows the procedures and methods that have been recommended for years to ensure that juries and judges are not misled," Nichols said. "The judge got it absolutely right when he said that to report the blood alcohol estimate as a single number without a range of uncertainty is not the proper scientific procedure."

Judge Wadel took testimony over the course of nearly 2 years and 5 separate hearings. The opinion is not binding on other judges but Nichols said "we expect other judges around Michigan to use this thoughtful opinion and order as persuasive authority when analyzing similar issues. We have to be careful not to catch people who did not violate the law by being so aggressive in trying to catch those who did. No one wants to lose a loved one in a tragic OWI accident but no one wants to be a convicted or have a loved one convicted of a lifelong offense if they are not guilty."

The case will now go to a circuit judge in Ludington for further proceedings.