BRYCE DOWNEY & LENKOV LLC

General Liability Update
March 2015

Indiana Court of Appeals Holds Employer Not liable for Employee's Fatigue

In *Rodriguez v. United States Steel Corp.*, ____ N.E.3d ____, 2014 WL 7450436 (December 31, 2014), the Indiana Court of Appeals held that an employer does not have a duty to a third party motorist for allowing its employee to work 11 hour shifts and average 4-5 hours of sleep each day.

In *Rodriguez*, the plaintiff's decedent was killed when her car was struck by U.S. Steel employee, Dana Faught. It was determined that Faught was on his commute home from working an 11 hour shift and fell asleep at the wheel.

The plaintiff sought to hold U.S. Steel liable for allowing its employee to work 11 hour shifts with only 4-5 hours of sleep each day and not having a policy to combat employee fatigue. According to the plaintiff, U.S. Steel knew or should have known that the long hours and little sleep would make the employee unable to drive safely, thereby creating a hazard to other motorists. The Lake County Superior Court granted summary judgment in favor of U.S. Steel and the plaintiff appealed.

The Court of Appeals held that U.S. Steel had no duty to the plaintiff's deceden. According to the court, duty is determined by three factors: (1) The relationship between the plaintiff and the defendant; (2) the foreseeability of harm to others; (3) public policy concerns.

Here, there was no relationship between the plaintiff and the defendant. The relationship has to be between the defendant and the plaintiff, not the world at large. Moreover, unlike situations where employees get intoxicated at a company function, the working of long hours does not necessarily lead to the obvious conclusion that the employee is fatigued or that the fatigue would pose a danger to the plaintiff's decedent.

However, the element of foreseeability is far more broadly construed and is not limited to the foreseeability of Faught being so tired that he posed a danger to the plaintiff's decedent. Rather, foreseeability is determined by whether a 3rd party motorist could reasonably be a foreseeable victim of an employee suffering from work related fatigue. Here, the answer was yes, but that was not enough to impose a duty.

The third element of duty – public policy concerns – weighed in favor of there being no duty. Under this factor, courts are to look at who is in the best position to prevent the injury. According to the court, Faught himself was in the best position. It would be unreasonable and perhaps impossible for employers to monitor, control and evaluate the sleep habits and needs of employees. Faught, on the other hand, controlled his own sleep opportunities and had the ability to take breaks during his long shifts.

Based on these three factors, the court affirmed summary judgment in favor of U.S. Steel.

Thinking Point:

Plaintiff's theory has some appeal, and it would seem that a variance in the facts considered regarding the first or third factors could lead to a different result. Conceivably, work conditions that involved something more clear-cut than fatigue, i.e., excessive exposure to fumes or lighting with documented adverse physical effect s, would likely support the imposition of a duty on the employer.

The "Open and Obvious" Defense-Restored By the Illinois Supreme Court

The Illinois Supreme Court recently corrected what many in the defense bar felt was a severely erroneous decision of the Illinois Appellate Court relating to the open and obvious doctrine in premises liability cases. In *Bruns v. City of Centralia*, 2014 IL 116998 (2014), the Illinois Supreme Court reiterated the importance of reasonable foreseeability in determining whether a condition is one that might be missed by a plaintiff due to a distraction.

In *Bruns*, the facts were simple and not subject to serious dispute. The elderly female plaintiff drove to an eye clinic for a scheduled appointment, as she had done nine times previously in the prior three months. As she walked toward the clinic, she stubbed her toe on a crack. At the time, the plaintiff stated that she was looking "towards the door in the steps" of the clinic. The record notes that she had noticed the defect in the sidewalk every time she went to the clinic. Indeed, the parties agreed that the sidewalk crack was open and obvious as a matter of law. The plaintiff herself described the condition as "an accident waiting to happen."

Summary judgment was entered for the landowner on the theory that there was no duty to guard against an open and obvious condition, particularly one that was known to the plaintiff. The appellate court reversed, finding that a potential distraction presented a jury question that precluded summary judgment. The opinion of the appellate court was a quantum extension of the distraction doctrine and held that essentially that a theoretical distraction could defeat a summary judgment motion. (We reported on the appellate court decision in our March 2014 Newsletter.)

The Supreme Court did not agree with the appellate court's acceptance of a theoretical distraction as creating liability for an open and obvious condition. The court noted that it had not previously adopted a precise definition of what constitutes a "distraction" and did not do so in this case. However, it did review a variety of prior Illinois precedents. Two instances of distraction were noted by the court. The first involved a worker being "distracted" from the obvious danger of an overhead power line caused by having to watch for where to place his feet and a walk rail which was part of a billboard. In another, Plaintiff was injured when he exited a port-o-potty at a construction site. He failed to notice an obvious rutted pathway as he was looking upwards because workers previously had thrown materials off a balcony from above where he was walking.

In these and other cases cited, the court made note of the fact that the destruction was reasonably foreseeable by the defendant.

In *Bruns* however, the court noted that the plaintiff failed to show any circumstance, much less a foreseeable one, which required her to divert her attention from the obvious sidewalk defect. As the court noted, the issue was not whether the plaintiff was looking elsewhere but why she might have been looking elsewhere. The important distinction is that, unlike in cases such as the ones described above, the plaintiff did not redirect her attention from the defect because of another hazard or potential hazard. The court noted that if merely looking elsewhere constituted a legal distraction, the distraction exception would swallow the "open and obvious" rule.

According to the court, the plaintiff should not be allowed to recover for a self-created distraction that was unforeseeable to the defendant. That distraction should not be solely within the plaintiff's own creation. Thus, things such as cell phone distraction and "thoughts being elsewhere" are likely not to defeat the open and obvious defense, even at the summary judgment stage.

Thinking Point:

This opinion is important in that it holds that distraction must be real and not theoretical in order to serve as an exception to the open and obvious doctrine.

Illinois House Bill Would Drastically Alter the Open and Obvious Doctrine

As noted in Bruns (above article), the open and obvious doctrine provides that if the hazard or danger posed by a condition is so open and obvious that a reasonable person should appreciate and avoid the condition, a landowner can reasonably expect such person to avoid the condition and the landowner has no duty protect the person form the condition.

House Bill 1441 was introduced to the Illinois General Assembly on February 6, 2015. The bill proposes to amend the Premises Liability Act by specifically stating that the issue of whether a condition is open and obvious may only be considered by a trier of fact in assessing the comparative fault of a plaintiff. A defendant would not be able to argue that they have no duty to the plaintiff under the open and obvious doctrine.

The bill has been referred to the House Rules Committee. It is not expected to make it to the house floor.

We will keep your apprised of its legislation status.

Illinois Appellate Court Holds that Plaintiff Is Not Entitled to Substitution of Judge

In *Bowman v. Ottney*, 2015 IL App (5th) 140215, the Illinois Appellate Court for the Fifth District joined the Third District in holding that the absolute right to a substitution of judge does not exist in a refiled action if the same judge made rulings in the prior suit that allowed the party to "test the waters."

In *Bowman*, the plaintiff originally filed a medical malpractice suit against a physician and others. In the course of that litigation, Jefferson County Judge Overstreet made rulings adverse to the plantiff on whether the plaintiff could have access to specific records and on whether certain witnesses should be barred or limited. The plaintiff voluntarily dismissed the suit under section 2-1009 of the Illinois Code of Civil Procedure. Four months later, the plaintiff refiled her suit, this time only against the physician. The new suit was by coincidence assigned to Judge Overstreet.

The plaintiff immediately filed a motion for substitution of judge pursuant to section 2-1001(a) which allows a party to seek the substitution of a judge without cause as long a the judge had not made any substantive rulings. The defendant objected, arguing that Judge Overstreet had made several substantive rulings in the voluntarily dismissed action, giving the plaintiff the opportunity to "test the waters." Judge Overstreet agreed and denied the motion. The issue was appealed on a certified question to the Fifth District.

On appeal, the appellate court noted that voluntary dismissal of the prior suit terminated that action in its entirety and the refiled action is deemed to be a new and distinct suit. However, the court also observed that the right to voluntarily dismiss an action offers serious potential for abuse when the dismissal is sought because the judge has tipped his hand and provided a litigant with the opportunity to "test the waters" and see the likely outcome of the case with that particular judge.

Following the Third District decision in *Ramos v. Kewanee Hospital*, 2013 IL App (3d) 120001, the appellate court held that the absolute right to a change of judge is not absolute in a refiled action where the judge made substantive rulings in the prior suit that allowed the plaintiff to "test the waters." In *Ramos*, the plaintiff made two attempts to assert a jury demand. When the attempts were unsuccessful, the plaintiff voluntarily dismissed the suit and refiled it with a jury demand and immediately sought a substitution of judge. The appellate court affirmed the denial of the motion because the plaintiff was clearly using the ability to dismiss, refile , and move to change judges as an "end run" around the prohibition against judge shopping.

Given the fact that the refiled action was nearly identical to the previously dismissed action and that Judge Overstreet had made rulings that gave the plaintiff the opportunity to see his inclination toward the plaintiff's cause of action, the court in Bowman held that it was within Judge Overstreet's discretion to deny the motion for substitution of judge.

Thinking Point:

Bowman represents a growing trend among courts to carefully examine a plaintiff's motivation for voluntarily dismissing a suit and preventing the right to seek a change of judge from being an abusive tactic to avoid a particular judge.

Indiana Bill Would Raise Threshold for Direct Filing of Medical Malpractice Actions

The Indiana State Senate has recently passed a bill to raise the threshold for filing direct suits against qualified health care providers under the Indiana Medical Malpractice Act.

Under current Indiana law, a person who claims that a qualified health care provider committed malpractice must initially file his claim with the Indiana Department of Insurance and proceed with consideration of the claim by a medical review panel before a lawsuit may be brought.

There are a few exceptions to this administrative process. Claims involving the removal of the wrong body part, existence of a foreign object in the patient's body that is neither therapeutic nor diagnostic, or claims for less than $15,000 may be brought directly as civil actions.

Senate Bill 55 would raise the $15,000 direct file threshold to $45,000, making direct actions more likely and more in line with the jumps in the Consumer Price Index since the Medical Malpractice Act was first enacted. In fact, the bill also provides for adjustments to the direct file threshold based on the Consumer Price Index for All Urban Consumers on an annual basis after 2020.

We will monitor this bill and report on its legislative status.

Illinois Appellate Court Holds Courts Cannot Subtract Attorney Fees From Plaintiff's Recovery Before Adjudicating Health Care Liens

In *Wolf v. Toolie,* 2014 IL App (1st) 132243, the Illinois Appellate Court held that, under the Health Care Services Lien Act, plaintiff's attorney fees and cost are not to be deducted from the proceeds recovered for a plaintiff before the liens of health care service providers are adjudicated and paid.

The Illinois Health Care Services Lien Act, 770 ILCS 23/1 et seq., provides that health care professionals and health care providers shall have a lien on all claims and causes of action for the amount of the their reasonable charges up to the date of payment to the plaintiff. The total amount of all of the liens cannot exceed 40% of the verdict, judgment, award, or settlement. If the total amount of the liens is 40% or higher, then neither the liens of the health care professionals nor the health care providers hall exceed 20%. No individual professional or provider can recover more than one-third of the verdict, judgment, award, or settlement.

The Act also provides that if the health care professional and health care provider liens exceed 40%, then attorney liens under the Illinois Attorneys Lien Act shall not exceed 30% of the verdict, judgment, award, or settlement.

In *Wolf*, the plaintiff obtained a settlement of $27,000. She sought to have the recoverable amounts of the health care provider liens of $12,257.18 calculated after the attorney's fees and costs of $8,851.26 were deducted, which would mean that the lienholders would recover 40% of $18,148.74, not 40% of the $27,000 settlement. The trial court rejected Wolf's argument and awarded the lienholders their shares based on the full amount of the settlement.

The appellate court observed that the issue before it was whether health care service liens are to be calculated based on the plaintiff's total recovery or from a subtotal calculated after attorney fees and costs are deducted. The court held that, based on the clear language of the Act, the adjudication of liens is to be done using the gross recovery, not the net recovery after fees and costs are deducted.

According to the court, nothing in the Act states or even suggests that attorney fees and costs are to be deducted first. The fact that attorney fees are limited to 30% if the health care services liens exceed 40% demonstrates that the health care services liens have to be calculated first.

The court also rejected the argument that the health care service providers benefitted from the attorney's efforts and expenses and it was only fair to reduce their recovery by deducting 30% for attorney fees and costs first. The court noted that the common fund doctrine, under which parties who benefit from an attorney's efforts should have to pay a fair percentage of the attorney's fees incurred in securing a recovery, does not apply in lien recovery situations. Health care services lienholders are owed money from plaintiffs' in a creditor-debtor relationship and the Illinois Supreme Court has held that the common fund doctrine does not apply to such a relationship. Attorney fees and costs cannot be shifted, in whole or in part, onto heath care service lienholders.

Thinking Point:

While *Wolf* is certainly good news for health care service lienholders, the decision may make it harder to reach a settlement in some cases. Because lien calculations reduce the net recovery, the reduced net recovery resulting from *Wolf* may dictate a higher final settlement position in order for the plaintiff to realize a respectable recovery.

Indiana Court of Appeals Upholds Tort Claims Act Cap on All Claims for State Fair Stage Collapse

In *Van Dam Estate v. Mid-America Sound*, ____ N.E.3d ____ 2015 WL 178242 (Ind. Ct. App., January 14, 2015), the Indiana Court of Appeals held that the $5 million cap on liability under the Indiana Tort Claims Act and the related special legislation that made an additional $6 million available to those persons who settled personal injury claims following the collapse of the grandstand at the Indiana State Fair did not violate the constitutional rights of a plaintiff who chose not to settle with the State.

Under the Indiana Tort Claims Act, the State's liability for personal injury is capped at $5 million. Following the collapse of a stage at the State Fair that injured many people, the State attempted to settle most of the claims within the $5 million cap. After the initial five million dollar cap was exhausted, the following year, the legislature made available an additional $6 million to compensate the victims, but it specified that the money was available only to victims who had already released the State from liability. "To receive a distribution under this Chapter for an occurrence, an eligible person must have already released all governmental entities and public employees from any liability for loss resulting from the occurrence." Indiana Code §34-13-8-6.

Jordyn Polet was injured during the stage collapse. She declined the State's settlement offer. After Polet sued the State and others, the State asserted, as an affirmative defense, that the ITCA made it immune to Polet's claim.

Polet moved for partial summary judgment on the State's affirmative defense that it was immune under the ITCA. The trial court denied her motion. On appeal, Polet argued that the limits on the State's aggregate tort liability, as applied to her, violated the Indiana Constitution's Open Courts and Equal Privileges Guarantees.

The Court of Appeals held that the application of the ITCA liability cap to Polet did not violate the Open Court's clause of the Indiana Constitution. The court further found that the ITCA Aggregate Liability Cap is a rational means to achieve a legitimate legislative goal, and the court could found its application to Polet to be constitutional.

According to the court, it was not the lack of access to the courts that prevented Polet's recovery; rather it was the statutory limit on the State's liability. Further, the aggregate liability cap is a rational means to achieve the legitimate legislative goal of protecting public treasury.

The cap also did to violate the Equal Privileges clause of the Indiana Constitution. Where the legislature singles out one person or class of persons to receive a privilege or immunity not equally provided to others, such classification must be based on distinctive inherent characteristics that rationally distinguish the unequally treated class and the disparate treatment accorded to the legislation must be reasonably related to such distinguishing characteristics. In limiting the amount recoverable by individual and by incident, the ITCA applies equally to all claims and all incidents. As such the court could not find there was a classification in the case that implicated the Equal Privileges clause.

Thinking Point:

Van Dam serves as a reminder that governmental tort claim limitations will generally be upheld as constitutional as rationally related to protecting important governmental interests.

Indiana Court of Appeals Holds Construction Manager Owes No Duty to Independent Contractor's Employee

The Indiana Court of Appeals recently addressed the issue of the liability of a construction manager for the injuries sustained by the employee of an independent contractor. In *Lee v. GDH*, LLC, 2015 WL 291939 (Ind. Ct. App. 2015), the court upheld summary judgment for a construction manager, finding that there is no duty owed to an employee of an independent contractor except by contract or prior conduct.

In *Lee*, GDH was retained by Ivy Tech to serve as a construction manager for a project. In this role, GDH was to manage the project in the best interests of Ivy Tech and provide recommendations regarding the allocation of responsibilities for safety programs among the contractors. GDH was to stop any unsafe or hazardous work that it became aware of, but the contractors were to be solely responsible for safety precautions in connection with their work.

The plaintiff was employed by an independent contractor, PDP, and was injured when a gas line exploded on the construction site. PDP did not contract with GDH, but contracted with Ivy Tech directly. PDP's contract specifically stated that PDP shall be responsible for all safety precautions related to its work.

The plaintiff argued that GDH assumed a duty of care to the plaintiff either by contract or by assumption through its conduct. The lower court disagreed and entered summary judgment for GDH.

The appellate court summarily dispatched plaintiff's argument that GDH had a contractual duty to him. It noted that the plain reading of the contracts revealed that the contractors were responsible for the safety of their own employees. GDH's general responsibility to oversee the safety of the project was insufficient to create a duty to the plaintiff.

The court also rejected plaintiff's argument that GDH's general actions to monitor overall safety combined with its responsibility to stop unsafe/hazardous work of which it was aware constituted an assumed duty of care to the plaintiff. However, the court found that there was no assumption of any additional duty when the construction manager's actions fell within its contractual obligations and those obligations did not create a duty that flowed to the plaintiff.

Thinking Point:

This case stands for the proposition that a general construction project manager's duties to employees of independent contractors is limited to the duties assumed under its contract and assumed by its actions. Where a construction manager does not have the contractual obligation to ensure the safety of employees of independent contractors and does not actively undertake safety precautions for these employees, there is no liability.

Dismissal of Complaint for Lack of Diligence Upheld By Illinois Appellate Court

In *Carman-Crothers v. Brynda*, 2014 IL App (1st) 130280, the Illinois Appellate Court upheld the dismissal of a plaintiff's Complaint because the plaintiff failed to demonstrate reasonable diligence in attempting to obtain service of process on the defendant.

The defendant struck a pedestrian and another car on November 4, 2009. With two days remaining before the statute of limitations expired, the plaintiff filed her Complaint. Over the next seven months, the plaintiff attempted to serve the defendant six times at three different addresses. The plaintiff had learned early on that these three addresses were not valid addresses. The plaintiff finally obtained service on the defendant in September 2012 while he was incarcerated at the Vienna Correctional Center in Vienna, Illinois. The defendant had been in custody at either the Cook County jail or at Vienna since November 2010. Between the time of the underlying accident and when the defendant was finally served, three other suits against the defendant brought by other persons injured in the accident had been initiated, litigated and resolved.

Upon being served with the plaintiff's Complaint, the defendant moved to dismiss pursuant to Illinois Supreme Court Rule 103(b). That rule permits a court to dismiss an action when a plaintiff fails to exercise diligence in effecting service on the defendant and the statute of limitations has expired before service is made. The purpose behind this rule is to protect defendants from unnecessary delays in receiving service of process and to prevent plaintiff's from circumventing the statute of limitations.

Illinois case law dictates that a defendant must make a prima facie showing that the plaintiff failed to act with reasonable diligence, i.e., took too much time to obtain service. There is no set time period for obtaining service under the rule, but case law has held that a delay of as little as 5 months is presumptively unreasonable.

Once the defendant makes the prima facie showing, the burden shifts to the plaintiff to provide an explanation as to why the delay should be considered reasonable. In evaluating whether the plaintiff acted with reasonable diligence, courts look at seven factors: (1) the length of time used to obtain service; (2) the plaintiff's efforts to obtain service in that time; (3) the plaintiff's knowledge of the defendant's location; (4) the ease with which the plaintiff could have learned of the defendant's whereabouts; (5) whether the defendant had actual knowledge of the pending action; (6) any special circumstances that

affected the plaintiff's efforts; and (7) whether the defendant was actually served.

In *Carman-Crothers*, the lower court granted the Rule 103(b) motion to dismiss because, while the plaintiff did attempt to serve one summons and six alias summonses, these attempts were limited to three addresses and the plaintiff had been advised that they were not valid addresses.

On appeal, the appellate court held that the defendant had made a prima facie showing of lack of diligence by virtue of the ten-month delay in obtaining service. None of the seven factors applicable to the case weighed in favor of finding the delay to be reasonable. The plaintiff knew that the addresses at which she was attempting to serve the defendant were either vacant lots or invalid addresses. The repeated efforts were not justified. The plaintiff offered no proof of any other efforts to locate the defendant. Instead, the plaintiff argued that the delay should be excused because the defendant knew from the other suits that he would likely be sued by the plaintiff. The plaintiff also argued that the defendant's "physical transcience" was a special circumstance that warranted the delayed.

The appellate court dispensed with these arguments, noting that a plaintiff does not meet the threshold for reasonable diligence by relying only on the address for a defendant that is identified in the accident report. Further, the repeated issuance of summonses to addresses known to be vacant lots or invalid does not stop the clock on the exercise of diligence either. Accordingly, it was not an abuse of discretion for the lower court to dismiss the Complaint under Rule 103(b).

Thinking Point:

In many instances, lawsuits are filed at the close of the statute of limitations period. An unusual delay in obtaining service on the defendant is something that should be examined closer as a possible mechanism for early dismissal of the suit.

Indiana Court of Appeals Affirms Admission of Testimony of Naprapath

On February 19, 2015, the Indiana Court of Appeals upheld the admissibility of a treating naprapath regarding a plaintiff's injuries and her treatment. In *Walnut Creek Nursery, Inc. d/b/a Alsip Home & Nursery v. Barbara Banske*, _____ N.E.3d ____ (Ind. Ct. App. 2015), the court held that, even though naprapaths are not licensed physicians in Indiana, Rule 702 of the Indiana Rules of Evidence would not necessarily preclude the admission of her testimony.

Because Indiana does not license naprapaths but Illinois does, and because treatment occurred in Illinois, the court examined the status of naprapaths under Illinois law. By Illinois state statute, naprapathy is a practice that is subject to regulation and control in the public interest by the Department of Financial and Professional Regulation. No person is allowed to practice naprapathy in Illinois without a license.

According to the court, the fact that naprapathy was so regulated as a profession, the testimony of the naprapath could be helpful to assist the finder of fact's comprehension of the nature of injuries being treated. However, the scope of the naprapath's testimony would have to be limited. Because the plaintiff's treatment with the naprapath was sufficiently connected to her slip and fall injuries and because the naprapath was able to testify regarding the difference in the plaintiff's health prior to her slip and fall and subsequent to her slip and fall, her testimony would be admissible on these points.

Thinking Point:

The limitations on the testimony of naprapathy were not fully addressed by the Court of Appeals and defendants need to be prepared to distinguish *Banske* at the motion in limine stage in order to bar or curtail the possible testimony.

Recent Seminars

- On **11/13/14**, **Rich Lenkov** and **Tony May** presented "Using Surveillance In Your Workers' Compensation Claim."
- On **11/18/14**, **Jeff Kehl** and **Storrs Downey** presented **"Spills, Thrills and Bills: The True Story Behind Illinois and Indiana Premises Liability Law."**
- On **11/21/14**, **Jeff Kehl** presented **"Exploiting the Internet for Pre-Suit Investigation."**
- On **1/22/15**, **Storrs Downey** and **Maital Savin** presented **"10 Tricky Employment Termination Questions Answered."**
- On **1/22/15**, the CLM Greater Chicago Chapter CLM Greater Chicago Chapter hosted **"What Are They Thinking: Secrets Revealed From Risk Professionals."**
- On **2/5/15**, **Rich Lenkov**, **Sherri Johnson**, Senior Director of Corporate Claims, Interstate Hotels & Resorts, and **Cameron Shirley**, Director of Global Claims and Litigation Management, Starwood Hotels & Resorts, presented "General Liability and Workers' Compensation Issues Unique to the Hotel Industry" at the CLM 2015 Retail, Restaurant & Hospitality Committee Conference in Orlando, FL.
- On **2/13/15**, **Rich Lenkov** and **Maital Savin** presented "Employment Law for Workers' Compensation Professionals" in Danville, IL for CEU Institute

Legal Face-Off On WGN

Legal Face-Off is a fast paced, high energy legal podcast airing every other Friday on WGN PLUS. Each week, **Jason Whiteside** and **Rich Lenkov** provide a legal point/counterpoint perspective on the hottest issues in sports, Hollywood, politics and current events. Of course, with a couple of jabs here and there.

Our most recent episode was released on 2/19 and you can listen to it here: http://wgnplus.com/category/legal-face-off/

Please like us on Facebook and follow us on Twitter. Email legalfaceoff@gmail.com to interact with the show. Send us your questions and we will answer them on air—nothing is off limits. New! Subscribe to Legal Face-Off in Apple Podcasts.

Giving Back

Chicago Polar Plunge Benefitting Special Olympics Chicago

On **3/1/15**, the BDL Left Sharks took the Polar Plunge into 32-degree Lake Michigan. This was our third year braving freezing temperatures at North Avenue beach to raise funds and awareness for the Special Olympics Chicago. Special Olympics is the world's largest program for sports training and athletic competition for children and adults with intellectual disabilities. This year, 9 Sharks raised over **$3,000** for the Chicago Special Olympics. Congratulations Team BDL!

Hustle Up The Hancock

On **2/22/15**, Team BDL joined more than 4,000 others in the American Respiratory Health Association's Hustle Up The Hancock. Full climbers (94 flights of stairs) and half climbers hustled and raised **$3,550** for lung disease research, advocacy and education. Our best times were Robert Olszanski, Clerk, 9:49 for the half climb, and Jason Klika, Marketing Coordinator, 17:01 for the full climb. Congratulations Team BDL!

Contributors to the March 2015 General Liability Update

Bryce Downey and Lenkov attorneys who contributed to this update were Storrs Downey, Jeffrey Kehl, Frank Rowland, Daniel Cooper and Kirsten Kaiser Kus.

Free Seminars!

Our attorneys regularly provide free seminars on a wide range of general liability topics. We speak to a few people or dozens, to companies of all sizes and large national organizations. Among the national conferences at which we've presented:

- Claims and Litigation Management Alliance Annual Conference
- CLM 2014 Retail, Restaurant & Hospitality Committee Mini-conference
- National Workers' Compensation and Disability Conference® & Expo
- SEAK Annual National Workers' Compensation and Occupational Medicine Conference
- 2014 National Workers' Compensation & Disability Conference
- RIMS Annual Conference

Some of the topics we presented are:

- Risky Business: Drugs, Sexual Orientation And Guns In The Illinois Workplace
- Spills, Thrills and Bills: The True Story Behind Illinois and Indiana Premises Liability Law
- Subrogation Basics for Workers' Compensation Professionals
- Employment Law Issues Every Workers' Compensation Professional Needs To Know About

If you would like us to come in for a free seminar, please email Storrs Downey at sdowney@bdlfirm.com or Jeffrey Kehl at jkehl@bdlfirm.com We can teach you a lot in as little as 60 minutes.

Bryce Downey & Lenkov is a firm of experienced business counselors and accomplished trial lawyers who deliver service, success and satisfaction. We exceed clients' expectations while providing the highest caliber of service in a wide range of practice areas. With offices in Chicago, Crown Point, IN, Memphis and Atlanta and attorneys licensed in multiple states, Bryce Downey & Lenkov is able to serve its clients' needs with a regional concentration while maintaining a national practice. Our practice areas include:

- Business Litigation
- Business Transactions & Counseling
- Corporate/LLC/Partnership Organization and Governance
- Construction
- Employment and Labor Counseling & Litigation
- Entertainment Law
- Insurance Coverage
- Insurance Litigation
- Intellectual Property
- Medical Malpractice
- Professional Liability
- Real Estate
- Transportation
- Workers' Compensation

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