BRYCE DOWNEY & LENKOV LLC

Labor & Employment Newsletter
July 2016

Beware Of New OSHA Reporting Requirements

Occupational Safety and Health Administration (OSHA) recently published what some consider to be an aggressive rule regarding work place injury reporting. The new rule will take place in two phases on 8/10/16 and 1/1/17.

Phase 1

Beginning on 8/10/16, the rule will require employers to have a reasonable procedure for reporting work accidents. Employers' reporting policies must:

1. *Expressly state* that employees have a right to report work injuries and illnesses;
2. Provide a reasonable procedure for employees to report workplace injuries and illnesses;
3. Not discourage employees from reporting injuries or illnesses;
4. Assure employees that the employer will not discriminate or retaliate against them for reporting a work injury or illness.

OSHA will consider unreasonable any rule requiring immediate reporting, especially if this may lead to discipline. OSHA will consider it to be reasonable to require employees to report injuries as soon as reasonably known or recognized by the employee.

OSHA also prohibits employers from providing incentives or disincentives for employees to report workplace injuries. *Notably, OSHA will consider automatic post-injury drug testing to be a disincentive*. Instead, employers who would like to conduct post-injury drug testing must make an individualized assessment of whether the potential use of drugs or alcohol caused the injury.

Phase 2

On 1/1/17, employers will be required to electronically submit injury and illness reports to OSHA. This means increased exposure for penalties and citations from OSHA. Moreover, OSHA announced it intends to post this information on its website. While some believe that this will incentivize employers to work to reduce injuries and provide public health researchers an opportunity to study injury causation and prevention, this will also make it easy for third-parties, such as Plaintiff's attorneys, to generate increased litigation.

Practice Tip:
Employers who do not have an injury reporting procedure should create one. Employers should carefully revise any policies they may have for automatic post-accident drug testing to provide for an individualized assessment. Additionally, employers should train their supervisors on reporting procedures, how to conduct an individualized assessment and avoiding retaliation.

Chicago Employers: Are You Prepared For Paid Leave?

Paid leave laws are more than just talk. Washington D.C., Puerto Rico and over twenty cities or counties have some form of paid family and/or medical leave. Many other states, counties and cities have paid leave proposals in the pipeline. Additionally, the U.S. Department of Labor (DOL) is working on regulations that would require paid family and medical leave for federal government contractors.

On 6/22/16, the Chicago City Council passed an amendment to the Chicago Minimum Wage Ordinance, which will require Chicago employers to provide eligible employees up to 40 hours of paid sick leave per 12 months of employment. If Mayor Rahm Emanuel signs the Ordinance (which is anticipated), it will go into effect on 7/1/17.

Covered Employees and Employers

Employees are entitled to paid leave if they perform a minimum of two hours of work during a two-week period within the city of Chicago and work at least 80 hours for a covered employer in any 120-day period. Compensated time spent traveling in the City, including time spent making deliveries, making sales calls and travel related to other business activity (but not commuting), counts towards the two hour threshold.

Employers covered by the Ordinance include any individual or entity with one or more employee that maintain a business facility within the City of Chicago or that is subject to city licensing requirements. All such Chicago employers, regardless of the number of employees, are subject to this new law. However, workers subject to a collective bargaining agreement are exempt.

Leave Available

Employees accrue one hour of paid leave for every 40 hours worked, up to 40 hours per 12-month period, unless otherwise agreed upon. Exempt employees (for purposes of calculating overtime hours under the Chicago Minimum Wage Ordinance, such as minors, camp counselors and apprentices) are presumed to work 40 hours per week, unless their normal work week is less than 40 hours.

Employees may carryover half of their unused leave to the next year. If the employer is subject to the Family Medical Leave Act (FMLA), employees are entitled to carry over up to 40 hours of accrued unused leave for FMLA purposes.

Employees may use their leave under the Ordinance for their own condition or to care for certain family members. Covered family members include a child, legal guardian or ward, spouse, domestic partner, sibling, grandparent, grandchild, or any other individual related by blood or whose close association is the equivalent of a family member.

Unless otherwise agreed upon, unused accrued sick leave is not required to be paid upon termination of employment.

Employers may not count absences used under the Ordinance for purposes of discipline.

Required Notice

Employers must post a notice of employees' rights under the Ordinance in a conspicuous location at each facility where covered employees work. Employers must also provide employees with a notice advising them of the new law with their first paycheck subject to the Ordinance

Right of Action

Employees have a private right of action against employers who deny their right to use leave under the Ordinance and may recover up to three times of the amount of unpaid sick leave, interest, costs and reasonable attorney's fees.

Anti-Retaliation

Finally, the Ordinance contains an anti-retaliation provision, which prohibits employers from retaliating against employees who seek to take leave under the Ordinance.

Practice Tip:

Provided that Mayor Emanuel signs the ordinance, Chicago employers should carefully review and update their leave and attendance policies and train managers to ensure compliance with the Ordinance. Chicago employers should also make sure to post notice of employees' leave rights under the Ordinance and distribute such notice with employees' first paychecks subject to the Ordinance.

Get Ready For New Overtime Rules

Recently, the U.S. Department of Labor (DOL) released long-awaited regulations affecting certain employees who may be exempt from the FLSA overtime and minimum wage requirements, which will become effective on 12/1/16.

The Fair Labor Standards Act (FLSA) requires employers to pay employees minimum wage for all hours worked and overtime for hours worked beyond 40 hours in a workweek. The FLSA provides for a number of exemptions from these requirements. To be exempt, an employee must be (1) paid on a salaried basis, (2) paid a salary that exceeds the salary threshold and (3) meet the job duties test.

The key to the DOL's new overtime regulations rests with the salary threshold level. On 12/1/16, the minimum salary threshold will increase substantially to $913/week or $47,476/year (up from $455/week or $23,660/year). This threshold will be updated every three years beginning on 1/1/20.

Practice Tip:

As the hype surrounding these new regulations is sure to create a spike in wage and hour claims, employers need to think about how to prepare for these new regulations. Employers should identify employees, who are currently exempt but will no longer be exempt as of 12/1/16, and consider whether increasing their salaries to $47,476 will be more cost-effective than tracking and paying for overtime work. To do this, employers need to track the number of hours such exempt employees actually work, which employers may not be doing for currently exempt employees. In addition, it is important for employers to train managers to ensure they comply with these new regulations come 12/1/16.

EEOC Provides Some Guidance On Leave As An ADA Accommodation: Flexibility Is Key

Employers often ask us if they can terminate employees who are not ready to return to work but have exhausted all leave available. The Americans with Disabilities Act (ADA) requires employers to provide reasonable accommodations to employees with disabilities, if doing so would allow the employees to perform the essential functions of their jobs, unless this would cause the employer an undue hardship. Until now, there was no clear answer regarding leave as a reasonable accommodation under the ADA. However, on 5/9/16, the EEOC issued a publication entitled "Employer-Provided Leave and the Americans with Disabilities Act" ("the Publication"), which provides some clarity for employers.

The EEOC takes the position that employers may be required to provide unpaid leave as a reasonable accommodation under the ADA, even if the employee is not entitled to leave under the FMLA or some other leave policy. The EEOC's recent publication stresses the importance of flexible, rather than rigid, leave policies.

Although the Publication does not provide the exact amount of unpaid leave employers must extend, the Publication states that indefinite leave constitutes a *per se* undue hardship and is never required as a reasonable accommodation.

While the Publication indicates that maximum leave policies are not *per se* unlawful, the EEOC recommends that employers include language to clarify that they will consider requests for additional leave as a reasonable accommodation for employees who have a disability. Additionally, the Publication cautions that when employees near the end of a maximum leave policy, employers should avoid issuing letters to employees instructing them to return to work by a certain date or risk termination; instead, employers should advise employees that if they need additional unpaid leave as a reasonable accommodation under the ADA, they should ask for it as soon as possible so that the employer can consider whether to grant an extension of leave.

The Publication clarifies that employers may request information from employees or employees' health care providers to obtain a better understanding of employees' need for leave and expected return date.

Some good news for employers – The EEOC has not forgotten about the undue hardship exception. The Publication clarifies that employers may account for leave that the employee has already taken when assessing whether additional leave will create an undue hardship. The Publication also provides that an undue hardship analysis should consider:

- The amount of leave required;
- The frequency of the leave;
- Whether the employee has any flexibility with days on which leave is taken;
- Whether the need for leave is predictable or unpredictable;
- The impact of the employee's leave on coworkers; and
- The impact on the employer's operations and ability to serve customers/clients.

Finally, the Publication also reminds employers that the ADA requires employers to consider reassigning employees to a different job as an accommodation when other accommodations, including leave, fail. The new job must be vacant and the employee must qualify for the position. The EEOC's position is that if reassignment is the only remaining accommodation, the employer must place the employee in the vacant position without requiring the employee to compete with other job applicants.

Practice Tip:

While the EEOC's Publication is not binding on the courts, it is a strong indication that the EEOC will continue to focus on this issue and provides some guidance on how courts may rule. Employers should carefully review their leave policies to allow for flexibility to help reduce the risk of ADA claims, paying close attention to language regarding maximum leave allowable. Employers should also train managers on how to handle leave extension requests, explaining that a careful assessment of ADA exposure must be conducted before terminating employees who require leave due to a disability.

Is Obesity A Disability Under The ADA? Maybe Not

With obesity rates on the rise, some employers may wonder: Is obesity considered a disability under the Americans with Disabilities Act (ADA)? This issue was recently addressed in *Morriss v. BNSF Ry. Co.*, 817 F.3d 1104 (8th Cir. 2016). There, the defendant-employer made a conditional job offer to the plaintiff for a safety-sensitive position, contingent on him passing a medical review. The medical review found that the plaintiff had a body mass index (BMI) of just over 40. As a result, the defendant revoked its job offer. The defendant reasoned that the plaintiff's obesity created an increased risk that he would develop medical conditions such as diabetes. Consequently, the plaintiff sued under the ADA, arguing that his obesity created a disability or that the defendant regarded him as having a disability.

Ultimately, the court found that the plaintiff failed to show that his obesity was a "physical impairment" or that the employer regarded

him as having a physical impairment. The court noted that per the EEOC regulations, obesity is not a physical impairment unless it is a physiological disorder or condition and affects a major body system. The court held that weight is generally a physical characteristic that qualifies as a physical impairment only if it falls outside the normal range and occurs due to a physiological disorder. Additionally, the court held that the ADA did not provide protection for predisposition to an illness or disease.

This issue has not specifically been addressed by the Seventh Circuit Court of Appeals (covering Illinois, Indiana and Wisconsin). However, several lower courts have taken similar positions to the Eighth Circuit, being reluctant to find obesity as a disability except where obesity is caused by a physiological disorder. *Bryant v. Troy Auto Parts Warehouse, Inc.*, No. IP 95-1654-C-D/F, 1997 WL 441288, at *3 (S.D. Ind. Apr. 25, 1997) (finding that Plaintiff's disability did not constitute a disability under the ADA); *Revolinski v. Nat'l R.R. Passenger Corp. & Amtrak*, No. 08-C-1098, 2010 WL 2606316, at *3 (E.D. Wis. Apr. 16, 2010) (obesity is a disability under the ADA in the "rare case where the obesity is caused by a physiological disorder").

Practice Tip:

Although the *Morriss* court found that the plaintiff's obesity was not a disability subject to ADA protection, the court did not hold that obesity is never a disability. It can be when the obesity stems from a physiological impairment. Accordingly, employers should take a closer look at the underlying cause of an employee's obesity to determine whether an accommodation is required under the ADA. This will usually require employers to obtain an opinion from a medical expert pertaining to the employee. Additionally, should employers be faced with allegations of disability discrimination based on obesity, employers should consider the underlying cause of an employee's disability to assist with defending such claims.

Ongoing Legal Trends: Transgender Employees

Recent months have seen a number of developments affecting transgender employees in the workplace and elsewhere.

First, the Equal Employment Opportunity Commission (EEOC) announced its formal position on bathroom access rights for transgender employees. According to the EEOC, denying an employee equal access to a common restroom corresponding to the employee's gender identity is sex discrimination that violates Title VII. The EEOC specifically noted that a person does not need to undergo any medical procedure to be considered a transgender man or woman. While the EEOC's position is not binding on the courts, which have yet to address what employers' obligations are with respect to providing restrooms to transgender employees, it provides some guidance as to how the courts may ultimately rule on this issue.

Additionally, the U.S. Department of Education and the Department of Justice published guidance for supporting transgender students. Similarly, President Obama issued a directive to schools to allow students to use bathrooms consistent with their gender identity or lose federal funding. While these guidelines deal specifically with students, they highlight some important trends that employers can learn from to stay ahead of similar issues in the workplace.

Practice Tip:

In light of the EEOC's guidance on bathroom access for transgender employees, until this issue is decided by statute or case law, the safest practice for employers to prevent discrimination claims is to allow transgender employees to use the restroom corresponding with their gender identity.

False Claim Act Lessons & New Defend Trade Secrets Act

A recent ruling from the federal court for the Northern District of Illinois (Chicago) held that a former employee who provided documents covered under an employee confidentiality agreement to the federal government for anti-fraud purposes could not be held liable for breaching the terms of that agreement. The case arises from the context of a whistle-blowing employee who removed this information, which included a large amount of HIPAA data.

In *U.S. ex rel. Cieszynski v. Lifewatch Services, Inc.*, 13 CV 4052 N.D. Il., May 13, 2016), Cieszynski filed a qui tam suit under the United States False Claims Act (FCA) against Lifewatch, his former employer. Plaintiff alleged that Lifewatch falsely billed the government for services under Medicare which had not been delivered. Plaintiff provided information consisting of confidential information including a spreadsheet containing protected personal health information of approximately 52,000 patients. Lifewatch filed a counterclaim against Plaintiff alleging that he breached both a confidentiality agreement and a privacy policy which he had signed as part of his employment with Lifewatch.

When the Plaintiff was hired by Lifewatch, he signed a confidentiality agreement agreeing not to remove any documents, records and data from the company premises except as "duty shall require." Plaintiff signed the document indicating that he had received the privacy provision and understood the need to secure personal health information under HIPAA. Upon being counter-sued, the Plaintiff/Counter-Defendant argued that both federal and state public policy protected whistleblowers such as himself from retaliation.

While Lifewatch acknowledged that whistleblowers are protected from retaliation, it claimed Cieszynski's actions went beyond the scope necessary to pursue the fraud suit against Lifewatch and was therefore actionable.

Notably, this ruling was entered only on the pleadings rather than the final merits of the case. Much of the opinion discussed what was not included in the counterclaim, such as a complete copy of the confidentiality agreement. Judge Schenkier noted that a counterclaim such as that filed by Lifewatch was theoretically and legally viable. However, in ruling for the employee, he stated:

> We must balance the need to protect whistleblowers and prevent chilling their attempts to uncover fraud against the government against an employer's legitimate expectations that its confidential information will be protected.

The key element of this balancing test as applied by the court was an analysis of whether the documents retained by a plaintiff and the ultimate disclosure of those documents went beyond the scope of the acts necessary to pursue the fraud suit. The court noted that Lifewatch did not indicate to whom the information admittedly taken by Plaintiff was disclosed. The court essentially took judicial notice that that would include at least the federal government and the employee's own attorney.

The court compared it to an earlier case arising out of the Northern District of Illinois in *U.S. ex rel. Wildhirt v. AARS Forever, Inc.*, 09C 1215 (N.D. Ill. 2013). In comparing Wildhirt to the present case, Judge Shankier noted that in *Wildhirt*, the Plaintiffs had no intention of filing a suit when they took the documents. More importantly, the employees disclosed the documents not only to their attorney and the government, but also made them public. That public dissemination coupled with the lack of intention of filing a lawsuit when the documents were taken was enough for the *Wildhirt* court to deny a Motion to Dismiss Counterclaim alleging that the Plaintiffs violated employee confidentiality, non-compete and HIPAA agreements. The disclosure in *Ciezynski* was substantially more limited in scope, which led to the employer's claim being denied.

The first lesson is that it is legally permissible for whistle-blowing employees to take and remove documents seemingly in violation of a confidentiality agreement with their employers for qui tam and likely other acceptable purposes. The second lesson is that once a person has done so, potential liability for violating the confidentiality agreements and even HIPPA will be dependent upon the use and breadth of dissemination of those records. The *Wildhirt* opinion clearly states that public dissemination of the documents exceeds acceptable parameters, and liability can attach to an employee for engaging in that type of contact. Alternatively, a more limited and focused dissemination of the documents solely to the government was found at least preliminarily to be non-actionable by the *Cieszynski* court.

Special Note:

On May 16, 2016, the federal Defend Trade Secrets Act (DTSA) became law. Trade secrets owners will now be free to pursue claims for misappropriation in federal court and seek remedies, such as a seizure order, to recover stolen trade secrets. As is specifically relevant to the above article, the DTSA provides immunity for employees and contractors who disclose trade secrets under certain circumstances, including whistleblower suits. The Act further *requires employers to provide notice of this immunity* in any confidentiality or trade secret agreement with employees or contractors. Failure to do so precludes a business from making use of the full range of remedies under the DTSA.

In order to obtain the full benefit of this new law, employers will want to incorporate the immunity notice into their relevant employment agreements and policies as soon as practicable.

Wellness Programs

Many employers offer wellness programs to encourage healthier lifestyles or help prevent disease. Some of these programs offer financial and other incentives for employees that participate to achieve certain health outcomes. Regulations under the Health Insurance and Portability and Accountability Act (HIPAA) and the Affordable Care Act (ACA) have provided employers with wellness program guidelines for years. However, more recently, the EEOC has taken an aggressive stance against various forms of wellness programs, voicing its concern that certain practices violate the Americans with Disabilities Act (ADA) and/or Genetic Information Non-Discrimination Act (GINA).

On 5/17/16, the EEOC published its final rules on wellness programs, providing guidance on how employers may comply with Title I of the ADA and Title II of GINA (which prohibits employment discrimination based on disability and genetic information). The EEOC made clear that an employer that is compliant with HIPAA as amended by the ACA, is not necessarily compliant with the EEOC's rules with respect to the ADA and GINA.

The final rules have a number of highlights:

- Wellness programs must be voluntary;
- Wellness programs must be reasonably designed to have a reasonable chance of preventing disease or improving health of the participating employees, without being overly burdensome or highly suspect;

- Wellness programs may not offer financial incentives exceeding 30% of the total cost of self-only coverage; if the employee and his/her spouse are both offered the opportunity to participate in the program, the 30% threshold applies to the employee and the spouse individually;
- The 30% limit applies to any smoking cessation program that includes a medical examination; however, this limit does not apply if the program merely asks employees whether or not they use tobacco and employers can offer up to 50% of the cost of self-only coverage;
- Employers that offer wellness programs that collect employee health information must provide a notice to employees advising them what information will be collected, how the information will be used, who will receive it and what will be done to keep it confidential;
- The EEOC interprets the ADA's safe harbor to not apply to an employer's decision to incentivize or penalize employees relative to wellness programs. (However, recently *in EEOC v. Flambeau, Inc.*, 131 F. Supp. 3d 849 (W.D. Wis. 2016), the district court held that the safe harbor applies to employer wellness plans; the EEOC's appeal in *Flambeau* is pending before the Seventh Circuit).

Practice Tip:

Remember, the key to employer-sponsored wellness programs is that they be voluntary. Employers should avoid disciplining employees for not participating in wellness programs as this may create possible exposure under the ADA and/or GINA.

Employers should also ensure that they provide proper notice to employees when offering a wellness program that collects employee health information. The EEOC published a sample notice here.

Uber's Legal Battle Over Drivers Continues

Earlier this year, Uber settled two class action lawsuits with its drivers in California and Massachusetts for $100 million, allowing Uber to continue to treat those drivers as independent contractors. Of course, the settlement left the million-dollar-question (or more accurately, the billion-dollar-question) of whether its drivers are employees or independent contractors unanswered. Uber now faces yet another class action brought by its drivers in states other than California and Massachusetts who challenge their classification as independent contractors.

Whether Uber drivers are classified as independent contractors or employees makes a huge difference. If they are employees, they are entitled to overtime, expense reimbursement and workers' compensation benefits, among other benefits; if they are independent contractors, they are not entitled to any of these benefits. Worker classification is an issue that every business faces, but it is more critical for businesses in the "gig economy" that are modeled around non-traditional work arrangements.

While there have been no court decisions that settle the employee vs. independent contractor dispute, there has been some limited administrative level decisions regarding Uber driver classification. Of course, these decisions are limited in scope. For example, last summer, a California Labor Commissioner ruled that an Uber driver seeking expense reimbursement was an employee. Similarly, last winter, Oregon's Labor Commission issued an advisory opinion asserting that Uber drivers are employees. In contrast, last winter, the Florida department in charge of unemployment benefits announced that it recognizes ride-sharing drivers as independent contractors. For now, we will just have to wait and see how the courts decide on the multiple suits pending – if they ever make it to trial. Stay tuned.

Increased Penalties For EEOC Posting Violations

On 7/5/16, the EEOC increased penalties for employers who fail to post notices as required under Title VII, the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) by 150% to adjust for inflation. These statutes require employers to post notices in a conspicuous and accessible place where notices are customarily maintained. Penalties for failing to post increased from $210 to $525 per violation.

7th Circuit Finds Class Action Waivers Unenforceable

On 5/26/16, in *Lewis v. Epic Sys. Corp.*, No. 15-2997, 2016 WL 3029464 (7th Cir. May 26, 2016), the Seventh Circuit held that class action waivers in arbitration agreements are unenforceable, creating a circuit split.

In *Lewis v. Epic*, the arbitration agreement at issue provided that employees waived "the right to participate in or receive money or any other relief from any class, collective, or representative proceeding." A group of employees filed a proposed collective action in federal court, alleging that Epic violated wage and hours laws by misclassifying

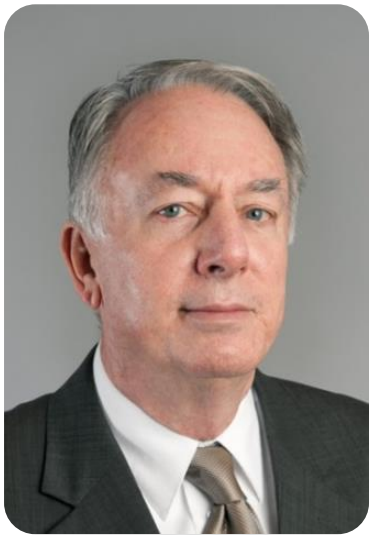
them as exempt employees. Epic sought to dismiss the case on the ground that the collective action was precluded by the class action waiver in the arbitration agreement. The District Court for the Western District of Wisconsin held that the class action waiver impedes on employees' Section 7 right to engage in "protected concerted activity" under the National Labor Relations Act (NLRA). As such, the district court refused to enforce the waiver. The Seventh Circuit affirmed the district court's decision.

This is significant because the Seventh Circuit's decision in *Lewis* departs from the Fifth Circuit's position that class action waivers are enforceable. This circuit split makes the issue ripe for appeal to the United States Supreme Court. If the Supreme Court affirms the Seventh Circuit's decision (or comes to a 4-4 decision), the Seventh Circuit's decision will become the law across the nation.

Practice Tip:
In light of this new decision, employers in the Seventh Circuit (including Illinois, Indiana and Wisconsin) should carefully review their arbitration agreements to ensure that they are enforceable and consider removing any provisions limiting class actions. Employers should also pay close attention to any provisions which provide that an unenforceable waiver invalidates the entire agreement and consider including a savings clause.

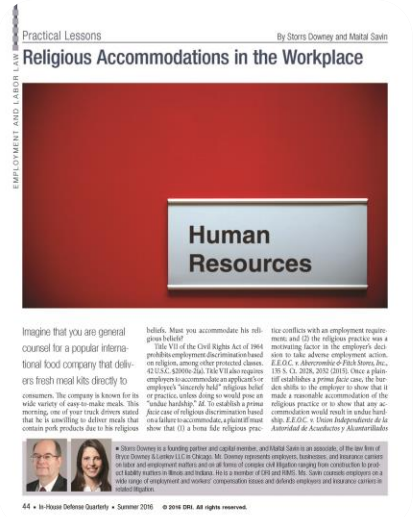
Remembering Terrence J. Madden

We are saddened to report that our longtime Capital Member, **Terry Madden**, has passed away. Terry was a legal scholar, superb trial lawyer and excellent appellate advocate. He had a passion for golf, the Goo Goo Dolls band and in his earlier days was an accomplished skydiver. Terry will be missed not only for his legal skills but also his quick wit and common sense approach to all things.



Storrs Downey & Maital Savin Published In DRI In-House Defense Quarterly Magazine

Storrs Downey and **Maital Savin's** article "Religious Accomodations In The Workplace" was published in the Summer 2016 issue of DRI In-House Defense Quarterly Magazine. Click here to view the full article.


Practical Lessons
By Storrs Downey and Maital Savin
Religious Accommodations in the Workplace
Human Resources
EMPLOYMENT AND LABOR LAW

BDL Attends The National Restaurant Association Show

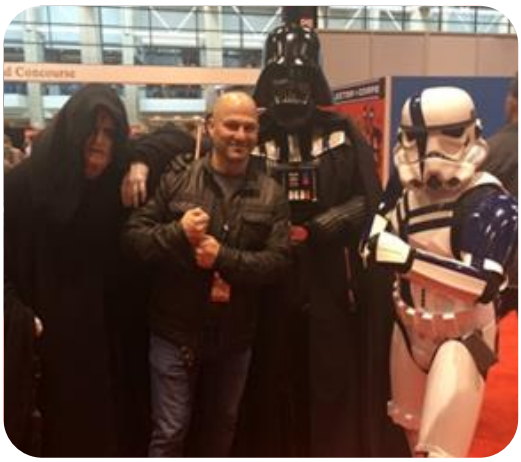
On **5/20/16**, Bryce Downey & Lenkov attended the National Restaurant Association Show. We represent many food companies, restaurants and retailors and attend various conferences to stay apprised of various developments.

BDL Is Growing!

BDL welcomes Brian Rosenblatt. Brian's practice is focused in three areas: entertainment (including media and advertising,) intellectual property and litigation. His practice focuses on entertainment transactions, media clearance and liability, advertising injury, defamation and 1st Amendment issues. He also handles intellectual property transactions and litigation, specifically copyright, trademark matters and unfair/deceptive trade practice litigation. Brian represents and has represented high-profile individuals and entities, including a former Speaker of the House of Representatives, a U.S. Presidential candidate, high-ranking officials and clergy within the Arch-Diocese, NBA All-Stars, international athletics gear manufacturers, award winning songwriters, multi-platinum selling recording artists, national recording artists, producers, record labels, managers and national platform festivals. Brian has also represented concert promoters in contract negotiations and class action litigation. He has locally and nationally worked on numerous film, television and literary projects. He counsels start-ups, media and internet companies. He serves as general counsel for on-line magazines, record labels, concert promoters and tech companies.

BDL At C2E2

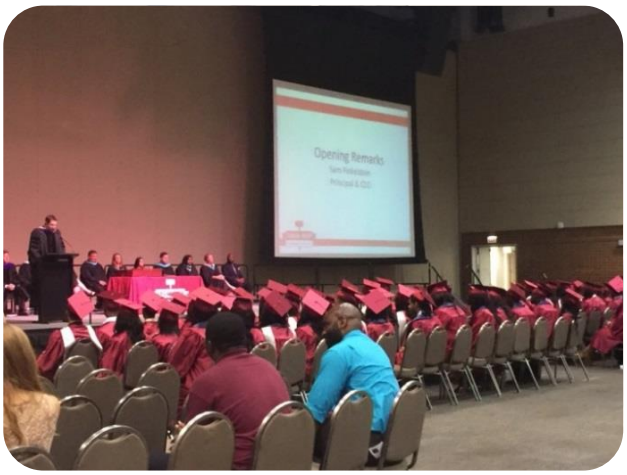
BDL regularly attends events that showcase new industry trends. This month, **Rich Lenkov** (who handles entertainment law, as well as workers' compensation) and Jason Klika stopped by the Chicago Comic and Entertainment Expo. C2E2 showcases the latest trends and upcoming happenings in the entertainment industry. C2E2 is well attended by celebrities, enthusiasts and plenty of characters!



Giving Back

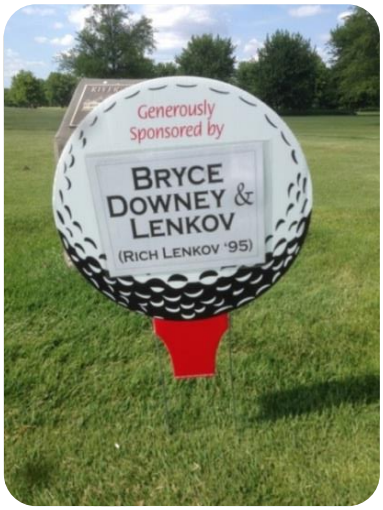
Congratulations To The Chicago Legal Prep Class of 2016

Bryce Downey & Lenkov congratulates the Chicago Legal Prep Academy's inaugural graduating class. The legal-themed charter school, founded in 2012, held its first commencement on **6/4/16**. **Rich Lenkov** serves on Chicago Legal Prep Academy's Advisory Board.



Northern Illinois University Law Golf Outing

Rich Lenkov and Bryce Downey & Lenkov LLC proudly sponsored NIU's 12th Annual Law Golf Outing at the River Heights Golf Course on **6/3/16**. Proceeds from the event were donated to NIU's Alumni Council Scholarship, which is awarded to a third-year student at graduation. Rich serves on NIU's Board of Visitors .



Geoff Bryce Skates To Raise Funds For Cancer

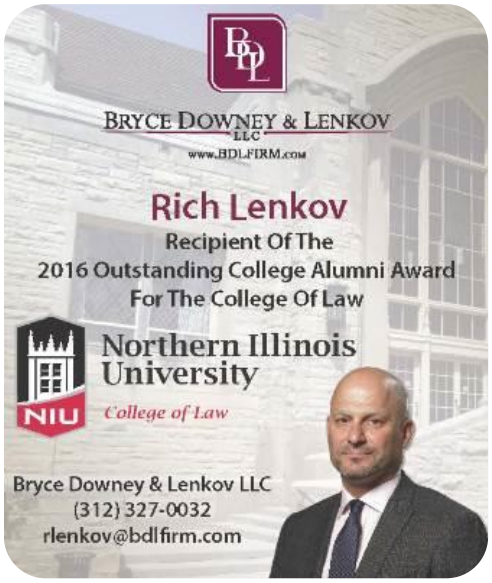
On **4/23/16**, **Geoff Bryce** and the Windy City Skaters skated in the American Cancer Society Walk & Roll. This fundraiser focuses on honoring cancer survivors, increasing awareness and raising funds for the American Cancer Society.

Congratulations Sally Mendoza On Your Retirement

Bryce Downey & Lenkov would like to thank Sally Mendoza for almost 10 years of service as Office Administrator. We wish you well in retirement!

Rich Lenkov Receives Northern Illinois University's 2016 Outstanding College Alumni Award

Rich Lenkov was honored with the 2016 College Of Law Outstanding Alumni Award from the NIU Alumni Association. Click Here to read more.



Recent Seminars

- On **6/16/16**, **Tina Paries** presented "Drafting and Negotiating Construction Contracts" to the National Business Institute.

- On **6/14/16, Geoff Bryce** presented "Understanding Title Insurance" to the National Business Institute.

- On **6/1/16**, **Jeanmarie Calcagno** presented "Shoulder Workers' Compensation Case Presentations" and "Work Comp Foot and Ankle Injuries" to Midwest Orthopaedic Consultants.
- On **4/7/16**, **Rich Lenkov** presented "Stratified General Liability Claims: Fast Tracking and Other Techniques" at the CLM 2016 Annual Conference in Orlando, FL with:
    - Eric Spalsbury (Director Of Risk Management, Stanley Steemer)
    - Michelle Middendorf (Workers' Compensation Manager, Stanley Steemer)
    - Joe Skinger (Account Manager, CorVel Corporation)

Upcoming Seminars

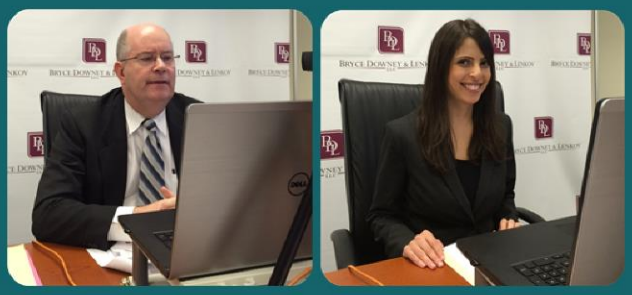
- On **8/21-8/24/16**, **Rich Lenkov** and **Justin Nestor** will present at the 71st Annual Workers' Compensation Educational Conference & 28th Annual Safety & Health Conference. Click Here for more info and to register
- On **9/15/16**, **Jeanmarie Calcagno** will present "State Law -- Consequences And Outcomes" at the NAMSAP 2016 Annual Meeting & Educational Conference. Click Here for more info and to register
- On **9/23/16**, **Jeanmarie Calcagno** will present "Lower Back Injury Claims" on behalf of Lorman Educational Services
- On **9/28/16**, **Storrs Downey** will present "The Ever Expanding Scope of the ADA: Accommodations, Remote Work, Transgender Issues, Defining Disability in Light of the ADAAA, Intersection of ADA and FMLA and the Interactive Process" at the 12th Annual National Employment Practices Liability Insurance ExecuSummit. Click Here for more info and to register

Free Webinars

Bryce Downey & Lenkov hosts monthly webinars on pressing issues and hot topics:

What you said about our 3/8/16 webinar, "Top 10 Employer Mistakes"

"Good practical advice, real-life examples."
"Good content for litigation avoidance."
"It was objective and straightforward."
"Good advice about growing list of protected rights under NLRB."



Recent

Hiring Do's And Don'ts (With Video Examples)
Is Your Independent Contractor Actually An Employee?
10 Tricky Employment Termination Questions Answered
Risky Business: Drugs, Sexual Orientation And Guns In The Illinois Workplace

If you would like a copy of any of our prior webinars, please email Marketing Coordinator Jason Klika at jklika@bdlfirm.com.

Contributors to the March 2016 Labor & Employment Newsletter

The Bryce Downey & Lenkov attorneys who contributed to this newsletter were **Storrs Downey**, **Maital Savin** and **Frank Rowland**.

Cutting Edge Legal Education

If You Would Like Us To Come In For A Free Seminar, Click Here Now Or Email Storrs Downey At sdowney@bdlfirm.com

Our attorneys regularly provide free seminars on a wide range of labor and employment law topics. We speak to a few people or dozens, to companies of all sizes and large national organizations. Some of the topics we presented are:

- Hiring Do's And Don'ts (With Video Examples)
- Is your Independent Contractor Actually An Employee?
- 10 Tricky Employment Termination Questions Answered.
- Risky Business: Drugs, Sexual Orientation And Guns In The Illinois Workplace.
- Employment Law Issues Every Workers' Compensation Professional Needs To Know About.

Who We Are

Bryce Downey & Lenkov is a firm of experienced business counselors and accomplished trial lawyers committed to delivering services, success and satisfaction. We exceed clients' expectations everyday while providing the highest caliber of service in a wide range of practice areas. With offices in Chicago, Schererville, IN, Memphis and Atlanta, and attorneys licensed in multiple states, we are able to serve our clients' needs with a regional concentration while maintaining a national practice.

Our attorneys represent small, mid-sized and Fortune 500 companies in all types of disputes. Many of our attorneys are trial bar certified by the federal court and have been named Leading Lawyers, AV Preeminent and were selected to Super Lawyers and Risings Stars lists. Our clients enjoy a handpicked team of attorneys supported by a world-class staff.

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

Disclaimer: