

# O'NEIL CANNON NAMES SCHREIBER AND MAIER SHAREHOLDERS

Milwaukee, Wisconsin (January 31, 2011) – O'Neil Cannon is pleased to announce that Attorney John R. Schreiber and Attorney Joseph M. Maier have been elected as shareholders of the firm.

Attorney Schreiber will continue his practice in the Banking and Creditors' Rights practice group assisting creditors, commercial landlords and other entities, in the enforcement, collection and workout of loans, leases and other obligations.

Schreiber received his undergraduate Bachelor's degree from the University of Wisconsin and his law degree from the Marquette University Law School, *cum laude*. He was selected as a 2008, 2009 and 2010 Wisconsin Super Lawyers Rising Star, *Law and Politics and Milwaukee Magazine*, and is a member of the Board of Directors for Groundwork Milwaukee.

Attorney Maier will continue to assist businesses in employee benefit design and ERISA issues, executive compensation planning, income tax planning, state and succession planning, operation and liquidation of business entities and the creation, formation, merger and acquisition of businesses.

Maier received his B.B.A. in accounting, *summa cum laude*, from the University of Wisconsin-Milwaukee and earned his J.D., *summa cum laude*, graduating #1 in his class from the University of Wisconsin-Madison. He was a member of the UW Law Review and is a member of the Society of Financial Services Professionals.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service legal practice that primarily focuses on providing business law and civil litigation services to closely-held businesses and their owners. The firm represents corporations, institutions and partnerships at all stages of the business life cycle, helping them start, grow and transition from one generation to the next. We also assist business owners with their personal legal needs including tax and estate planning, family law and litigation – including personal injury litigation.

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## NEW WISCONSIN RULES OF CIVIL PROCEDURE GOVERNING E-DISCOVERY AND

# ELECTRONICALLY STORED INFORMATION

It is estimated that more than 90% of all information created today is stored electronically.

The Federal Rules of Civil Procedure were amended in 2006 to address such electronically stored information, or “ESI”. Effective January 1, 2011, the Wisconsin Rules of Civil Procedures also are being amended to address ESI and confirm that discovery of ESI stands on equal footing with discovery of paper documents.

The Wisconsin rules have been changed to parallel the federal e-discovery rules and make it easier to utilize existing federal authority in discovery disputes in the Wisconsin courts. But Wisconsin did not adopt the 2006 federal amendments in their entirety. The new Wisconsin rules take a slightly different approach than the federal amendments in two ways: First, some federal rules do not have Wisconsin counterparts. For example, unlike FRCP Rule 26(a), Wisconsin’s new rules make no provision for mandatory disclosure. Second, the drafters of the new Wisconsin rules thought some portions of the federal amendments should be addressed by substantive Wisconsin law, rather than by a procedural rules change.

The new Wisconsin ESI rules are:

- Wis. Stat. § 802.10(3)(jm) (the Wisconsin counterpart to FRCP 16)

This rule is being enacted to encourage courts to be more active in managing electronic discovery. It adds the need for discovery of electronically stored information to the issues that a trial court may address in issuing a scheduling order.

- Wis. Stat. § 804.01(2)(e) (the Wisconsin counterpart to FRCP 26)

This rule is being enacted to help manage the costs of discovery of ESI. It creates a “meet and confer” obligation, and states that no requests for production or inspection of ESI under Wis. Stat. § 804.09 (or responses to interrogatories by production of ESI under Wis. Stat. § 804.08(3)) can be issued until after the parties confer on a number of discovery issues. However, it does not require parties to confer before commencing other types of discovery.

- Wis. Stat. § 804.08(3) (the Wisconsin counterpart to FRCP 33(d))

This rule gives parties the option to produce electronic business records in lieu of an answer to an interrogatory. It specifies that ESI is among the types of business records that a business may provide in response to an interrogatory. But, this is an option; it is not mandatory.

- Wis. Stat. §§ 804.09(1) and (2) (the Wisconsin counterpart to FRCP 34)

These rules are the heart of the new electronic discovery rules. They govern the formulation of electronic discovery requests and responses and establish the scope and procedures regarding the discovery of ESI. They treat ESI the same as paper documents.

- Wis. Stat. § 804.12(4m) (the Wisconsin counterpart to FRCP 37)

This rule provides a “safe harbor” for the good faith, routine deletion of ESI and gives limited “immunity” from certain spoliation sanctions.

- Wis. Stat. § 805.06 (the Wisconsin counterpart to FRCP 53)

This is not a new rule, but rather its use in ESI matters is suggested by the comments to the new Wisconsin rules. It allows for the use of discovery referees or “special masters” to handle complex and/or expensive discovery issues, including those involving ESI.

- Wis. Stat. § 805.07 (the Wisconsin counterpart to FRCP 45)

This rule adds ESI to the types of materials which may be discovered by subpoena.

For more information about these new amendments to the Wisconsin Rules of Civil Procedure, contact Grant Killoran at O’Neil Cannon at 414.291.4733 or [grant.killoran@www.wilaw.com](mailto:grant.killoran@www.wilaw.com).