

ATTORNEY BRITANY MORRISON GIVES INFORMATIONAL PPP WEBINAR

Recognizing the need to help clarify some of the potential questions posed from the new law, Attorney [Britany Morrison](#) recently presented an informational webinar entitled, “PPP Rules Under the New Flexibility Act and Loan Forgiveness FAQs.” In the webinar they discuss the new rules under the Paycheck Protection Program Flexibility Act of 2020, loan forgiveness frequently asked questions, and the “unknowns” of loan forgiveness.

O’Neil, Cannon, Hollman, DeJong and Laing remains open and will continue to monitor Paycheck Protection Program changes. For questions or further information relating to the Paycheck Protection Program, please contact Attorney [Britany Morrison](#).

ATTORNEYS ERICA REIB, JOE NEWBOLD, AND GRANT KILLORAN FEATURED IN WISCONSIN LAWYER

An article by Attorneys [Grant Killoran](#), [Joe Newbold](#), and [Erica Reib](#) entitled “The New Wave of Litigation: An Early Report on COVID-19 Claims” is featured as the cover story in the June edition of the State Bar of Wisconsin publication *Wisconsin Lawyer*. In their article they analyze the claims being filed relating to the ongoing COVID-19 pandemic in the United States.

[Read the full article here.](#)

TAX AND WEALTH ADVISOR ALERT: THE IMPORTANCE OF A DURABLE FINANCIAL POWER OF ATTORNEY

A proper estate plan covers not only what should happen upon your death, but also what should happen if you lose your decision-making skills. While planning for incapacity may be as unpleasant as planning for death, it is an important step in the estate planning process.

Planning for incapacity ensures that someone you specifically choose and trust can act on your behalf while you are unable to do so for yourself. One key document to help you plan for incapacity is the Durable Financial Power of Attorney.

A Durable Financial Power of Attorney allows you to appoint someone, your “agent” or “attorney-in-fact,” to manage your financial affairs in the event you are unable to do so for yourself. The word “durable” simply means that the power of attorney remains in effect after you become incapacitated or incompetent. These documents are fairly flexible, allowing you to give your agent broad or limited power. Further, you can choose to either give your agent immediate power or to make your agent’s power effective only once you’ve been determined to be incapacitated.

Some examples of tasks your agent can perform include paying your bills, managing your assets, filing an insurance claim, and even hiring a lawyer. It is easy to believe that a Durable Financial Power of Attorney is unnecessary if you don’t own many assets or if you own assets jointly with someone else. However, some of these actions require your agent to have specific legal authority to act on your behalf, and the Durable Financial Power of Attorney would provide your agent with that authority.

If you do not get a power of attorney and you were to become incapacitated or incompetent, then your family would need to ask the court to appoint someone to act on your behalf. Not only could the court appoint a stranger to manage your financial affairs, but also this process can be expensive, public, and time consuming. Having a proper estate plan that covers what should happen if you become incapacitated or incompetent will save you and your loved ones time and money.

Keep in mind, though, that a Durable Financial Power of Attorney would not allow your agent to continue managing your financial affairs after your death. For this reason, these documents are often drafted as part of a larger estate plan.

The attorneys at O’Neil Cannon have experience in drafting various estate plans, both simple and complex, and would be happy to discuss the estate planning process with you. If you are interested in learning more about estate planning, please contact attorney [Kelly M. Spott](#).

**GRANT KILLORAN PARTICIPATE IN 14TH
ANNUAL STATE BAR OF TEXAS BILL OF RIGHTS**

CONFERENCE

Attorney Grant Killoran, a shareholder in O'Neil, Cannon, Hollman, DeJong and Laing's Litigation Practice Group, recently co-presented a speech entitled "The Tenth Amendment: The Sword and the Shield of the States" at the 14th Annual State Bar of Texas Bill of Rights: Cutting Edge Controversies in Constitutional Law Conference. Grant also co-presented another speech at the seminar entitled "The Free Exercise and Establishment Clauses: Is Anything We Learned in Law School Still the Law."

The State Bar of Texas Annual Bill of Rights Conference brings together attorneys and law professors from around the country each year to speak on emerging issues in constitutional law.

ATTORNEY JIM DEJONG FEATURED ON WISN AM 1130

Attorney [Jim DeJong](#) will be featured on *Money Sense* presented by Ellenbecker Investment Group on **WISN AM 1130**. On the show, Jim provides an overview of the implications of the COVID-19 pandemic on the M&A market. He discusses what a business owner planning to sell a business should be doing now to prepare the business to attract qualified buyers and to obtain the best price. Jim also discusses the importance of business succession planning.

Tune in to hear the show in its entirety on **Saturday, June 6th at 2:00 pm**.

The recording can be accessed [here](#).

TAX AND WEALTH ADVISOR ALERT: HOW A TRUST CAN PROVIDE ASSET PROTECTION FOR YOUR CHILDREN

Do you want to leave your children with an inheritance, but are worried about creditors taking part of that inheritance? If so, you are not alone. Fortunately, a properly established protective trust can help safeguard the money you leave behind for your children from their

creditors, including in a divorce.

Creditors can more easily reach your children's inheritances if it is given to them directly, outside of a trust. However, creditors would have more hurdles to jump through to reach your children's inheritance if it is held in a protective trust. Therefore, many parents add extra protections for their children by directing their children's inheritances to be held in a protective trust.

The trust, acting as its own separate entity, would own the assets on behalf of your children, the beneficiaries of the trust. This way, your children would not technically own the assets which makes it much more difficult for creditors to reach their inheritances. Importantly, your children would still have access to the trust assets and benefit from them. A protective trust would allow your children to be the beneficiaries and receive distributions for their health, support, and maintenance. Also, in some circumstances your children could be the Trustee of their own trust, meaning they could manage the trust assets on their own.

Not only would a protective trust safeguard your children's inheritances from obvious creditors, it would also safeguard their inheritances if they were to get a divorce. If you were to give your children their inheritances directly, they would need to take extra steps and precautions to ensure their inheritance is not comingled with marital property to prevent the inheritance from transmuting into a marital property asset. However, if the inheritance is protected in a trust, then the trust assets would remain classified as individual property under Wisconsin marital property law.

With a proper estate plan in place, you can have peace of mind knowing the money you leave behind for your children will be protected from the many threats your children may come across. If you would like to learn more about asset protection and discuss your estate planning options, please contact attorney [Kelly M. Spott](#).

ATTORNEY JOSEPH GUMINA RECENTLY FEATURED IN SUPER LAWYERS

Attorney [Joseph Gumina](#), chair of O'Neil Cannon's labor and employment law group, was recently featured in the *Super Lawyers* article "Can I Lay Off My Furloughed Employees?". In the article, Gumina shares advice regarding legal considerations employers need to be aware of when considering laying off furloughed employees during these unprecedented times. Read full article [here](#).

O'Neil Cannon remains open for its clients and we are here to help. We encourage you to reach out with any questions, concerns, or legal issues you may have, including those related to coronavirus.

THE WILAW QUARTERLY NEWSLETTER

Newsletter Article Highlights:

- \$310 Billion Added to Paycheck Protection Program and \$10 Billion Added to Emergency EIDL Grant
- Don't *Waive* Goodbye to Your Construction Lien Rights
- What Happens if My Business Can't Perform Its Contract Due to the Coronavirus?
- Estate and Tax Planning During Market Tumult and Low Interest Rates
- President Signs Families First Coronavirus Response Act Expanding Employees' FMLA Rights and Mandating Paid Sick Leave

Firm News:

- Attorney Christa Wittenberg Elected Shareholder
- Attorney Joseph Gumina Featured in *Merit Shop Contractor*
- Attorneys Christa Wittenberg and Grant Killoran Featured in *Wisconsin Lawyer*
 - Attorneys Pete Faust and Jason Scoby Quoted in the *Business Journal*

Click the image below to read more.



ATTORNEYS PETE FAUST AND JASON SCOBY RECENTLY QUOTED IN THE BUSINESS JOURNAL

Attorneys Pete Faust and Jason Scoby were recently quoted in the *Business Journal* in an article about advising their clients on the Economic Injury Disaster Loan (EIDL) program and the Paycheck Protection Program (PPP). The *Business Journal* article, addressed how funds should be applied and documented, and the options available to those who did not receive funds in the initial round. O'Neil, Cannon, Hollman, DeJong and Laing remains open and ready to help you. For questions or further information relating to the PPP and EIDL programs, please speak to your regular OCHDL contact.

The full article titled "Top tips for Milwaukee-area businesses that received PPP funds, and businesses that didn't" was published on April 23, 2020 in the *Business Journal*.

EMPLOYMENT LAWSCENE ALERT: CARES ACT PROVIDES EMPLOYERS A TEMPORARY WINDOW TO ASSIST EMPLOYEES BY MAKING TAX-FREE STUDENT LOAN PAYMENTS

For the period from March 27, 2020 through December 31, 2020, the CARES Act permits employers to pay directly, or to reimburse employees for, up to \$5,250 of qualifying employee student loan payments.

Like many CARES Act provisions, this new opportunity results from an expansion of an existing law or program. In this case, the ability for an employer to assist employees with student loan payments arises from an amendment to Internal Revenue Code Section 127, which governs Educational Assistance Programs (EAPs). Qualifying payments made as a fringe benefit under an EAP are excluded from the employee's income and are deductible to the employer.

The \$5,250 limit is the amount that employers are currently permitted to contribute, tax-free, for tuition assistance under an EAP. Through the end of this calendar year, it is also the combined limit for student loan repayment assistance and any other education-assistance payments that an employee may receive.

Essential business employers seeking ways to reward or retain employees during the

pandemic should consider whether tax-free payment of student loan debts would meet payroll and employee-acknowledgment objectives. If your company currently sponsors an EAP, student loan payments may now be made under the current EAP document. Companies wishing to newly implement an EAP in order to take advantage of this tax-favored student loan repayment assistance opportunity can do so by properly adopting a written plan document satisfying IRS content requirements.

Existing Educational Assistance Program Requirements

The existing tax code EAP rules remain in effect. To qualify for tax (and payroll tax) exclusion under Internal Revenue Code Section 127, an EAP must:

- provide benefits exclusively to employees of the employer;
- provide only qualified educational assistance benefits (and only up to \$5,250 per employee);
- be documented as a separate written program established by the employer and disclosed to employees;
- be funded solely by the employer;
- not allow employees a choice between educational assistance benefits and cash (or other taxable remuneration); and
- not discriminate in favor of highly compensated employees (\$130,000 in 2020) or provide more than 5% of total benefits in any year to 5%-or-more owners.

Additional Detail

The student loan payments made under an EAP must relate to education of the employee, not of their child or spouse. Employer payments may be for principal or interest, but employees are not permitted to deduct any interest payment made by employers. Where appropriate, employers making student loan payments under an EAP may, therefore, wish for such payments to be allocated only to principal so as to maximize the tax benefit to employees.

Employers interested in providing tax-free student loan payment assistance to employees should consider doing so, either by amending the operation of an existing, or by adopting a new, EAP. Employers who may already be providing post-tax student loan payment assistance to employees can now temporarily convert this form of compensation into a pre-tax benefit, which will permissibly reduce both employee income taxes and employer payroll tax expenses.

O'Neil Cannon remains open during this time and is here to help. We encourage you to reach out with any questions, concerns, or legal issues you may have, including those related to employee benefits and fringe benefits as impacted by COVID-19-related business changes or legislation.