

GRANT KILLORAN APPOINTED TO THE BOARD OF DIRECTORS OF NORTH POINT LIGHTHOUSE FRIENDS, INC

Grant Killoran, Chair of the Litigation Practice Group at O'Neil, Cannon, Hollman, DeJong and Laing S.C., recently was appointed to the Board of Directors of North Point Lighthouse Friends, Inc.

North Point Lighthouse Friends is a non-profit organization committed to increasing public awareness of the history of North Point Lighthouse Station in Lake Park in Milwaukee, Wisconsin.

North Point Lighthouse Station is located at 2650 North Wahl Avenue in Milwaukee. The North Point Lighthouse began operating in 1885 and presently is comprised of 74-foot tower made of cast iron structural steel. North Point Lighthouse Station includes the North Point Lighthouse and a two-story Queen Anne-style wood frame dwelling known as the Keeper's Quarters, which was occupied from 1888 through 1994 by lighthouse keepers and their families and U.S. Coast Guard employees. North Point Lighthouse Station was decommissioned in 1994.

North Point Lighthouse Friends manages North Point Lighthouse Station for Milwaukee County following its transfer to the County from the U.S. Coast Guard. North Point Lighthouse Friends provides opportunities to adults and children to tour North Point Lighthouse Station and participate in special programming related to it and maritime issues.

North Point Lighthouse Station was placed on the National Register of Historic Lighthouses in 1980 and the National Register of Historic Places in 1984. It was designated as a Milwaukee County Landmark in 2005.

North Point Lighthouse Station is open to the public for tours from 1:00 p.m. to 4:00 p.m. on Saturday afternoons year round, as well as tours upon request with advance reservations.

For more information regarding North Point Lighthouse Station, please go to www.northpointlighthouse.org.

ATTORNEY SLAWINSKI QUOTED IN COMMERCIAL OBSERVER: SEVENTH CIRCUIT SETS TITLE INSURANCE PRECEDENT

Steven J. Slawinski was interviewed by *Commercial Observer* recently regarding his role in the case *BB-Syndication Services, Inc. v. First American Title Insurance Co.*, 780 F.3d 825 (7th Cir. 2015). This case has set the precedent that a lender's title insurance policy does not cover construction liens that arise due to insufficient construction funding.

[Read full article here.](#)

EMPLOYMENT LAWSCENE ALERT: CAN EMPLOYEES USE FMLA TO AVOID OVERTIME?

The FMLA requires that covered employers grant eligible employees twelve weeks of unpaid leave for a serious health condition that prevents them from performing the functions of their job. FMLA leave can be taken on an intermittent basis if medically necessary. A recent case out of the United States District Court for the District of Connecticut shows the importance of correctly identifying your obligations under the FMLA and how they may differ from your obligations under other employment law statutes such as the Americans with Disabilities Act.

In *Santiago v. Department of Transportation, et al.*, the employee was diagnosed with "cluster headaches," which he said were "worse than migraines," "completely disabling," and "can last for hours to days depending on the episode." The employee and his doctor determined that his "excessive work schedule," which was essentially anything over eight hours a day or forty hours per week, was a main trigger of his headaches and suggested that his work schedule be limited. Because the employee's job required mandatory overtime, the employer stated that it could not accommodate him and that, if he could not find another job with the employer, he would either need to apply for disability retirement or be terminated. The employer stated that those were his only options if he could not perform overtime, even if he applied for FMLA leave. The employee submitted FMLA paperwork from his physician that outlined his serious health condition and stated that he could not work over eight hours per day. Because he could not perform overtime, he was placed on leave and eventually terminated.

Although the employer argued that the employee was only entitled to leave when he was

actually incapacitated, the court found that “[t]he examples in the regulation specifically provide that an employee can take leave to avoid the onset of illness, noting that ‘an employee with asthma may be unable to report for work . . . because the employee’s health care provider has advised the employee to stay home when the pollen count exceeds a certain level.’” (*citing* 29 C.F.R. § 825.115(f)).

Furthermore, the employer argued that what the employee was requesting was essentially a permanent accommodation that changed the essential functions of the job. The Court acknowledged that while the employee “might not be able to use the ADA to avoid overtime . . . employees can use their yearly allotment of 12 weeks of FMLA leave to significantly alter their schedules.” The Court went on to point out that, unlike the ADA, the FMLA does not include an “undue hardship” defense and the employer is required to provide the mandated 12 weeks of leave.

Decisions like this can put employers between a rock and a hard place, where they need employees to be at work because overtime is an essential function of the job and where they have to comply with multiple laws. Employers also need to carefully evaluate their obligations to make sure that they are properly complying with all relevant employment laws.

OCHD&L IS PLEASED TO ANNOUNCE THAT ATTORNEY SAMANTHA AMORE HAS JOINED THE FIRM

Attorney Samantha M. Amore, a graduate of the University of Wisconsin Law School, has recently joined the Milwaukee law firm O’Neil Cannon She assists individuals, professionals, and business owners with estate and business planning as well as with probate and guardianship. Her prior experience preparing tax returns enables her to advise clients on gift, estate, and income tax matters.

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.

DEAN P. LAING NAMED 2016 BEST LAWYERS "LAWYER OF THE YEAR®"

O'Neil, Cannon, Hollman, DeJong and Laing S.C. is pleased to announce that Attorney Dean Laing was recently selected as the 2016 "Lawyer of the Year" for Product Liability Litigation-Defendants in the Milwaukee area. This is the second year that *Best Lawyers* has recognized Attorney Laing as the "Lawyer of the Year." In 2012, he was honored as Milwaukee's Personal Injury Litigation "Lawyer of the Year."

Only a single lawyer in each practice area and designated metropolitan area is honored as the "Lawyer of the Year," making this accolade particularly significant. These lawyers are selected based on particularly impressive voting averages received during the peer-review assessments.

Receiving this designation reflects the high level of respect a lawyer has earned among other leading lawyers in the same communities and the same practice areas for their abilities, their professionalism, and their integrity.

In addition to the Lawyer of the Year award, Attorney Laing was also listed in *The Best Lawyers in America* 2016 in Commercial Litigation and Personal Injury Litigation-Plaintiffs.

Since the list was first published in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence.

BEST LAWYERS® HONORS 15 ATTORNEYS IN 2016

O'Neil, Cannon, Hollman, DeJong and Laing S.C. is pleased to announce that 15 lawyers have been named to the 2016 Edition of *Best Lawyers*, the oldest and most respected peer-review publication in the legal profession.

Best Lawyers has published their list for over three decades, earning the respect of the profession, the media, and the public as the most reliable, unbiased source of legal referrals. Its first international list was published in 2006 and since then has grown to provide lists in over 65 countries.

"*Best Lawyers* is the most effective tool in identifying critical legal expertise," said CEO Steven Naifeh. "Inclusion on this list shows that an attorney is respected by his or her peers for professional success."

Lawyers on the *Best Lawyers in America* list are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise and undergo an authentication process to make sure they are in current practice and in good standing. O'Neil, Cannon, Hollman, DeJong and Laing S.C. would like to congratulate the following attorneys named to the 2016 *Best Lawyers in America* list:

- James G. DeJong – Corporate Law, Mergers and Acquisitions Law, Securities/Capital Markets Law
- Seth E. Dizard – Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law, Litigation-Bankruptcy
- Peter J. Faust – Corporate Law, Mergers and Acquisitions Law
- John G. Gehringer – Commercial Litigation, Construction Law, Corporate Law, Real Estate Law
- Dennis W. Hollman – Corporate Law, Trusts and Estates
- Grant C. Killoran – Litigation-Health Care
- Dean P. Laing – Commercial Litigation, Personal Injury Litigation-Plaintiffs, Product Liability Litigation-Defendants
- Gregory W. Lyons – Commercial Litigation, Litigation-Insurance
- Gregory S. Mager – Family Law
- Patrick G. McBride – Commercial Litigation
- Thomas A. Merkle – Family Law
- Steven J. Slawinski – Construction Law

Since it was first published in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. *Best Lawyers* is based on an exhaustive peer-review survey. Over 52,000 leading attorneys cast more than 5.5 million votes on the legal abilities of other lawyers in their practice areas. Lawyers are not required or allowed to pay a fee to be listed; therefore inclusion in *Best Lawyers* is considered a singular honor. *Corporate Counsel* magazine has called *Best Lawyers* “the most respected referral list of attorneys in practice.”

THE WILAW CONNECTION QUARTERLY NEWSLETTER

- “Will My Adult Child With Autism Live Independently? Estate Planning for Families of Adults With Autism Spectrum Disorders”
- “Student Loans: Recent Federal Warning Shots to Financial Institutions”
- Tax and Wealth Advisor™ Alert: “The Seven Deadly Sins of Estate Planning”
- Employment LawScene™ Alert: “Supreme Court Decides Religious Accommodation Case”
- Publication Watch: *Inside Counsel*, “Anticipating and Managing Wage and Hour Pitfalls”
- Welcome: John M. Calewarts
- Pleased to Announce:
 - Dean Laing and Greg Lyons Recognized by the NADC

- Upcoming Events:
 - *Hot Topics for Small Firms and Solo Practitioners*



EMPLOYMENT LAWSCENE ALERT: DOL ISSUES PROPOSED RULE CHANGES TO OVERTIME REGULATIONS

On March 13, 2014, President Obama signed a memorandum that launched the U.S. Department of Labor's (DOL) efforts to update the Fair Labor Standards Act's (FLSA) overtime rules for executive, administrative, professional, outside sales, and computer employees, commonly referred to as the "white collar" exemptions. To be exempt from the overtime regulations, employees must meet both a salary basis test and a job duties test. On Tuesday, June 30, 2015, the U.S. Department of Labor (DOL) released the long-awaited proposed rule regarding the expansion of overtime regulations under the Fair Labor Standards Act (FLSA). It is anticipated that, if these rules are imposed, nearly 5 million additional workers would be eligible for overtime under the FLSA's regulations.

The most drastic difference in the proposed regulations is the raise of the minimum salary requirement to qualify for the white collar exemption. Currently, the minimum salary requirement is \$455 per week (\$23,660 per year), a number that was set in 2004. The proposed rule would increase the minimum salary requirement to \$970 per week (\$50,440 per year). This figure is equal to the 40th percentile of weekly earnings for full-time, salaried employees. The proposed rule also includes an automatic adjustment to the salary threshold so that the minimum salary requirement does not become outdated. The DOL is also seeking comment on whether nondiscretionary bonuses can be included to satisfy the salary requirement.

Although the proposed rule does not specifically change any of the job duties requirements, the DOL did invite comment on whether or not these tests are working as intended or should be changed. One suggestion is that the federal job duties test would mirror the job duties test from California in which employees have to spend at least 50 percent of their time on exempt duties to qualify as exempt. The current federal test simply looks at a worker's "primary duty" and whether the employee's primary duty meets the requirements of the particular exemption classification. A change in the duties test could also significantly decrease the number of employees who qualify for the overtime exemption.

Once the proposed rule is published, likely in the next few days, there will be a sixty-day public comment period. Only after that will the DOL be able to issue a final rule. Although employers do not have to do anything at this time and cannot know exactly how these proposed rule changes will impact them until they become final, they should be staying aware of these changes. Once a final rule is published, employers will likely need to reevaluate their exempt and non-exempt classifications for their employees to make sure that they are in compliance with the final DOL rules.

LYONS RECOGNIZED BY THE NADC AS ONE OF THE FINEST LAWYERS IN THE COUNTRY

Gregory Lyons, of O’Neil, Cannon, Hollman, DeJong and Laing S.C., has been selected to the 2015 list as a member of the Nation’s Top One Percent by the National Association of Distinguished Counsel. NADC is an organization dedicated to promoting the highest standards of legal excellence. Its mission is to objectively recognize the attorneys who elevate the standards of the Bar and provide a benchmark for other lawyers to emulate.

Members are thoroughly vetted by a research team, selected by a blue ribbon panel of attorneys with podium status from independently neutral organizations, and approved by a judicial review board as exhibiting virtue in the practice of law. Due to the incredible selectivity of the appointment process, only the top 1% of attorneys in the United States are awarded membership in NADC. This elite class of advocates consists of the finest leaders of the legal profession from across the nation.

ELEVEN ATTORNEYS FROM O’NEIL, CANNON, HOLLMAN, DEJONG AND LAING NAMED LEADING LAWYERS

Eleven attorneys from O’Neil Cannon have been named “Leading Lawyers” in Milwaukee by *M Magazine* (July 2015), Milwaukee’s Lifestyle Magazine. Those attorneys are the following:

- Melissa Blair (Banking)
- Jim DeJong (Business)
- Pete Faust (Securities Offerings)

- Grant Killoran (Litigation)
- Dean Laing (Litigation)
- Greg Lyons (Litigation)
- Greg Mager (Family)
- Patrick McBride (Litigation)
- Randy Nash (Litigation)
- Steve Slawinski (Construction/Development)

The “Leading Lawyers” were selected by Avvo, a Seattle-based company that rates attorneys. Avvo’s proprietary algorithm rates all attorneys on a 10-point scale, factoring in peer endorsements as well as experience, education, training, speaking, publishing, and awards. In order to make the list of “Leading Lawyers” as published by *M Magazine*, an attorney must be ranked in the top 5-10% of his or her area of specialty.