SEASON OF GIVING

In the spirit of the holiday season, the attorneys and staff at O'Neil Cannon recently collected items to be donated to The Women's Center in Waukesha. The mission of the Women's Center is to "*provide safety, shelter, and support to empower all impacted by domestic abuse, sexual violence, child abuse, and trafficking*."

The services offered by The Women's Center include emergency shelter for abused families, transitional living, counseling, child abuse prevention programming, legal advocacy and employment counseling. It also provides Hispanic outreach, community education programs, information and referral services, and a 24-hour hotline. If you are interested in donating or learning more about this amazing community organization, you can visit here to find more information.

Best wishes for the holiday season.

EMPLOYMENT LAWSCENE ALERT: COMPANY HOLIDAY PARTIES AND TIPS FOR AVOIDING LIABILITY

The holidays are upon us, and that means holiday parties. While holiday parties are a good time to reflect on the year and gather employees to boost morale and camaraderie, they also have potential employment law pitfalls that employers should plan to avoid. If throwing a company-sponsored holiday party, employers should keep the following in mind:

1. Prevent Sexual Harassment. Although the #MeToo movement has not changed the legal requirements related to sexual harassment, it has certainly brought such issues to the top of employer's minds, and it should stay there during the holiday season and any holiday parties. Ensure that your employees are aware of your anti-harassment policy and that they understand that harassment involving any employee at any time, including at a holiday party, will not be tolerated. Remind your employees that, while they are encouraged to have a good time at the holiday party, it is a company-sponsored event where all of the policies and rules of the company apply. If you become aware of inappropriate conduct that occurs at the holiday party, you should deal with it appropriately. Additionally, if you receive complaints about activities related to the holiday party, you must document the incident and do a proper investigation to

deal with those issues.

2. Reduce the Risk of Alcohol-Related Incidents. Employers may be subject to liability for injuries caused by employees who consume alcohol at employer-sponsored events. To avoid potential liability, employers should promote responsible drinking and monitor alcohol consumption appropriately. Employers may want to consider hosting their holiday parties at a restaurant or other off-site location where alcohol is served by professional bartenders who know how to recognize and respond to guests who are visibly intoxicated.
3. Minimize the Risk of Workers' Compensation Liability. Workers' compensation benefits may be available to employees who suffer a work-related injury or illness. To avoid this liability at a company-sponsored holiday party, the employer should make it clear that there is no business purpose to the event, that attendance is completely voluntary, and that they are not being compensated for their attendance at the event. Illnesses caused by contaminants found in food or beverages may create legal exposure if the providers are not properly licensed, so companies should use licensed third-parties who have their own insurance coverage to provide food and beverages.
4. Prevent Wage and Hour Claims. Non-exempt employees must be paid for all work-related events that they are required to attend. Therefore, to ensure that the time spent at a holiday party is not considered compensable under state or federal wage and hour law, employers should make it clear that attendance is completely voluntary, hold the party outside of normal working hours, and ensure that no work is performed during the party and that employees are not under the impression that they are performing work.

DEAN LAING SPEAKS AT SEMINAR

On November 29, 2018 Dean Laing spoke on the topic of "Procedural Issues in Litigation" at a seminar presented by the State Bar of Wisconsin on "Trending Topics in Business Litigation 2018." The panel consisted of some of the top civil litigators in Wisconsin, and the seminar was very well attended. Mr. Laing spoke on various subjects, including the use of errata sheets following depositions, sequestration of persons from depositions, and use of general objections in discovery responses.

Mr. Laing has been a speaker at over 30 legal seminars, authored over 40 journal articles and book chapters, and been involved as counsel in over 75 published/reported decisions. Over the years, Mr. Laing has received numerous recognitions for his legal work, including being selected four times as one of the "Top 10 Lawyers" in Wisconsin by *Super Lawyers*; three times as "Lawyer of the Year in Wisconsin" by *The Best Lawyers in America*; and one time as a "Leader in the Law" by the *Wisconsin Law Journal*.

Mr. Laing can be reached at 414-276-5000 or dean.laing@wilaw.com.

OCHDL EARNS RECERTIFICATION IN MERITAS

O’Neil, Cannon, Hollman, DeJong and Laing S.C. has been awarded recertification in Meritas, a global alliance of independent business law firms. O’Neil, Cannon, Hollman, DeJong and Laing S.C. joined Meritas in 2012 and, as a condition of its membership, is required to successfully complete recertification every three years.

Meritas is the only law firm alliance with an established and comprehensive means of monitoring the quality of its member firms—a process that saves clients time validating law firm credentials and experience. Meritas membership is selective and by invitation only. Firms are regularly assessed and recertified for the breadth of their practice expertise and client satisfaction. The organization’s extensive due diligence process ensures that only firms meeting the tenets of Meritas’ unique Quality Assurance Program are allowed to maintain membership. Firm performance and quality feedback are reflected in a Satisfaction Index score, which is made available online.

“We greatly appreciate the many benefits of being a member of the Meritas network and look forward to continuing our relationship with Meritas for years to come,” said Pete Faust, a member of the Board of Directors at O’Neil, Cannon, Hollman, DeJong and Laing S.C. “Meritas’ Quality Assurance Program is not just valuable for our clients seeking legal expertise around the world; it also provides us with a framework to consistently monitor and enhance the quality of our services.”

The recertification process includes exacting self-assessment, peer review by other law firms and client feedback. It examines such factors as timeliness and quality of a firm’s client service, professional conduct and adherence to Meritas policies including acknowledgment of Meritas firm or client correspondence within 24 hours.

“Businesses trust the Meritas alliance of law firms for top-tier quality, convenience, consistency and value,” said Tanna Moore, president and CEO of Meritas. “O’Neil, Cannon, Hollman, DeJong and Laing S.C. has demonstrated its commitment to world-class client service, and therefore has successfully earned its recertification in Meritas.”

OCHDL ATTORNEYS ARGUE THREE CASES

BEFORE WISCONSIN SUPREME COURT

Attorneys from O'Neil Cannon argued three cases before the Wisconsin Supreme Court this Fall term.

On September 7, 2018, Dean Laing argued the case of *Koss Corporation v. Park Bank*, Appeal No. 2016AP636, which involves the issue of a bank's liability under the Uniform Fiduciaries Act.

On November 7, 2018, Mr. Laing argued the case of *J. Steven Tikalsky v. Terry Stevens*, Appeal No. 2017AP170, which involves the issue of the circumstances under which a constructive trust can be imposed against an innocent party.

A law firm having three arguments before the Wisconsin Supreme Court in a two-month period is a rare feat. O'Neil Cannon is appreciative of the opportunity.

O'NEIL CANNON RANKED IN 2019 "BEST LAW FIRMS"

O'Neil Cannon has been ranked in the 2019 U.S. News – Best Lawyers® "Best Law Firms" list in 15 practice areas.

- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- Commercial Litigation
- Construction Law
- Corporate Law
- Family Law
- Litigation – Bankruptcy
- Litigation – Labor and Employment
- Mergers and Acquisitions Law
- Municipal Law
- Personal Injury Litigation – Plaintiffs
- Product Liability Litigation – Defendants
- Real Estate Law
- Securities / Capital Markets Law
- Tax Law
- Trusts and Estates Law

Firms included in the 2019 "Best Law Firms" list are recognized for professional excellence

with persistently impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise.

EVEN THE BRIGHTEST MINDS CAN SUFFER FROM DEMENTIA

Recently, Justice Sandra Day O'Connor, the first woman appointed to the United States Supreme Court, wrote a letter addressed to "Friends and fellow Americans" discussing her diagnosis with the beginning stages of dementia. In her letter, Justice O'Connor explained that her condition is "probably Alzheimer's disease."

Justice O'Connor, age 88, was appointed to the Supreme Court by President Ronald Reagan in 1981. Since retiring from the Supreme Court in 2006, Justice O'Conner has continued to demonstrate her commitment to public service. In 2010, Justice O'Conner began the iCivics program, which she describes as an educational program designed "to teach the core principles of civics to middle and high school students with free online interactive games and curriculum that make learning relevant and remarkably effective." As explained in her recent letter, Justice O'Connor believes her diagnosis means she can no longer help to lead this cause, but she believes the program will continue to flourish under new leadership. More information on the iCivics program can be found at www.icivics.org.

The sad news regarding Justice O'Connor's diagnosis reminds us that even the brightest minds are not immune to the devastating impacts of Alzheimer's disease and other forms of dementia. Justice O'Connor's letter might also serve as inspiration for those who suffer from dementia or who have family members or other loved ones who suffer from such conditions. You can find the full letter here.

It is important to acknowledge the significant impacts that this tragic disease can have on families and on our society as a whole. As our nation's baby boomers continue to age, the number of people impacted by dementia will likely increase significantly. According to the Alzheimer's Association, there are currently about 5.7 million people suffering from Alzheimer's disease in the United States, and that number is expected to double by 2050.

We would do well to heed one of the statements that Justice O'Connor made in her letter: "It's not enough to understand [the effects of dementia], you've got to do something." At O'Neil Cannon, we remain committed to helping to protect the legacies of those who suffer from this disease. Unfortunately, there are times when a family member or other acquaintance might attempt to take advantage of a person suffering from dementia by

exerting undue influence to gain a financial benefit. These attempts to take advantage might involve unauthorized transfers or withdrawals of money from an elderly person's accounts, or improperly seeking to elicit changes to a will, trust, or other legal document. While many people diagnosed with dementia remain capable of changing their estate plans for some period of time after they are diagnosed, if such changes are the result of undue influence, then those who are impacted may have the right to pursue relief in court.

If you would like to further discuss this article, please feel free to contact Attorney Trevor Lippman at 414-276-5000 or Trevor.Lippman@wilaw.com.

CREATING ARBITRATION CLAUSES IN CONTRACTS: WHERE AND HOW

Arbitration clauses in commercial and employment contracts are increasingly popular as a means to try to settle business disputes without going through a court trial. Arbitration clauses should be clear regarding how the arbitration is to be carried out.

In addition to detailing who will hear the dispute (the arbitrator), an arbitration clause should designate a place or venue for the arbitration. This is particularly important if there is a chance the dispute will be between a private party and a foreign government. If so, the private party may wish to have any arbitration take place in a neutral country.

An arbitration clause also should make clear how the arbitration will be carried out. For example, what issues will be decided in the arbitration – and what issues, if any, should be excluded from the arbitration? There may be certain issues that are not suited to arbitration, or that cannot be arbitrated in a particular jurisdiction. In addition, arbitration clauses can specify whether the arbitration is intended to be binding or non-binding, as well as the governing law to be applied.

A "good faith negotiation" or mediation clause can be useful to allow the parties to attempt to settle their dispute before the arbitration begins, either by direct negotiation or with a third party mediator.

Also, consider language to address certain procedural issues, such as: the scope and nature of discovery and the discovery process and the arbitration hearing procedures, including rules of evidence, exhibits, court reporters, and the record (if any) of the proceeding. Arbitration clauses also can include information on the scope of allowable remedies, including whether injunctive relief is allowed or the parties can agree to limitations or exclusions of

remedies.

If you have any question, please contact Grant Killoran at grant.killoran@wilaw.com or 414-276-5000.

THE WILAW QUARTERLY NEWSLETTER

Newsletter Article Highlights:

- Family Secures Large Settlement in Contentious Inheritance Dispute
- OCHDL Proudly Sponsors Annual Archbishop's CRS Reception
- Six Questions Every Family Business Owner Should Be Asking
- Wage and Hour Liability–The Hidden Danger in Asset Acquisitions
- How to Make Spendthrift Trusts Work for You

Pleased to Announce:

- OCHDL Welcomes New Attorney Jessica K. Haskell
- Dean P. Laing Named 2019 Best Lawyers "Lawyer of the Year®" for Product Liability Litigation
- Congratulations to Our 20 Attorneys Listed in *The Best Lawyers in America*® 2019

Click the image below to read more.

EMPLOYMENT LAWSCENE ALERT: VOTING LEAVE IN WISCONSIN – WHAT YOU NEED TO KNOW

With the Wisconsin general election coming up next week on November 6, 2018, now is the time for employers to brush up on their obligations surrounding voting.

All Wisconsin employers are required to provide employees who are eligible to vote up to three consecutive hours of unpaid leave to vote while the polls are open (from 7 AM until 8

PM), and employees must request the time off prior to the election. Voting leave cannot be denied on the basis that employees would have time outside of their scheduled work hours to vote while the polls are open, but employers can specify which three hours an employee is permitted to utilize. Other than the time being unpaid, employers may not penalize employees for using voting leave. However, employers should remember that, under the FLSA, they may not deduct from an exempt employee's salary for partial day absences.

Additionally, all Wisconsin employers are also required to grant an employee who is appointed to serve as an election official 24 hours of unpaid leave for the election day in which the employee serves in his or her official capacity. Employees must provide their employers with at least seven days' notice of their need for this leave. Other than the time being unpaid, employers may not penalize employees for using election official leave.

Finally, Wisconsin employers are not permitted to make threats that are intended to influence the political opinions or actions of their employees. Specifically, employers cannot distribute printed materials to employees that threaten business shut down, in whole or in part, or reduction in salaries or wages of employees if a certain party or candidate is elected or if any referendum is adopted or rejected.