

NATIONAL ESTATE PLANNING AWARENESS WEEK

October 21-27, 2024, is National Estate Planning Awareness Week—a timely reminder to think about your estate plan. If you haven't yet created an estate plan, we have a handy guide to help you understand the basics. You can check it out here: [Estate Planning Guide](#).

If you already have an estate plan in place, now is a great time to review it to make sure it still aligns with your needs and goals. Changes in your personal circumstances, finances, or family dynamics can significantly impact your estate plan. Additionally, don't forget to check your beneficiary designations, as those play a crucial role in ensuring that your assets are distributed according to your plan.

As always, our [Estate and Business Succession Planning](#) team at O'Neil Cannon is here to assist you with any questions or concerns you may have. We can guide you through the process of creating an initial plan or help you review and update your current plan. Let's make sure your estate plan is not just a document in a drawer, but a reflection of your current intentions to preserve your legacy.

ATTORNEY MAURA FALK HAS JOINED O'NEIL CANNON

Attorney [Maura Falk](#), a graduate of the University of Wisconsin Law School, has joined O'Neil Cannon's Family Law Practice Group. Falk focuses on helping her clients navigate the complexities of divorce, custody disputes, and other family-related legal issues. With prior experience in criminal defense, civil litigation, and a judicial internship at the Wisconsin Supreme Court, Falk offers a well-rounded approach to family law. We are pleased to have her join the firm.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service law firm that focuses on meeting the many needs of businesses and their owners. Our experienced attorneys work with businesses and their owners at all stages of the business life cycle, helping them start, grow, and transition their businesses. We also assist business owners with their personal legal needs, including tax and estate planning and family law. For more information about the services we provide, please visit our [website](#).

WHAT IS THE DIFFERENCE BETWEEN A PRIVATE FOUNDATION AND A DONOR-ADVISED FUND?

When high-net-worth individuals and families incorporate charitable giving into their estate planning, they often consider donor-advised funds and private foundations as vehicles for managing their philanthropy. Both options have unique advantages, and the choice depends on the donor's goals, level of control, and financial considerations.

Donor-advised funds are like charitable savings accounts. Donors contribute to a DAF through a sponsoring organization, receiving an immediate tax deduction, while funds can be invested or disbursed over time. DAFs are easy to set up and manage, but donors only recommend grants, with the sponsoring organization having final approval.

Private foundations, on the other hand, offer complete control. Donors can manage the foundation's investments, grant-making, and governance. Private foundations, which are legal entities, come with higher setup and ongoing costs but provide the flexibility to donate to a broader range of causes, including international organizations and scholarships.

Key differences include the level of control, setup costs, privacy, and the types of assets each can handle. DAFs are more private and simpler to maintain, while private foundations offer more control and flexibility. Both offer tax benefits, though private foundations are subject to an excise tax on investment income and must distribute 5% annually.

Choosing between DAFs and private foundations depends on the donor's needs, but some may find a combination of both to be the best fit for their philanthropic goals.

GREG LYONS HONORED FOR SAVING LIFE

Attorney [Greg Lyons](#) was recently honored, along with others, for his heroic actions in saving the life of West Bend Alderman Mark Allen who suffered a cardiac arrest. Without hesitation, Lyons stepped in and performed CPR, stabilizing the situation until paramedics arrived. As the leader of the firm's safety response team, Lyons actively promotes CPR training within the organization, resulting in many employees taking part in the life-saving training. Reflecting on the incident, Lyons humbly remarked, "I was just in the right place at the right

time. Adrenaline kicked in, and that took over.” His quick thinking and preparedness highlights the importance of CPR training in emergency situations.

Read the full story [here](#).

A BEGINNER’S GUIDE TO TRADEMARKS: PART TWO—USPTO TRADEMARK APPLICATION REQUIREMENTS

Submitting a valid trademark application to the United States Patent and Trademark Office is a straightforward process with the right assistance. In general, submitting a successful application to the USPTO to register your trademark requires three central components.

Central Components of Trademark Applications

First, a trademark application requires a detailed description of the trademark. If the trademark is your business or product’s name in standard characters, comprised only of text not in a specific font nor stylized in any form (a “standard character mark”), you must describe the spelling, punctuation, and capitalization of the text constituting the name. All other types of trademarks must be described in additional detail. For example, if the trademark is your business or product’s logo, then your logo’s words, colors, symbols, and the orientation of all elements constituting your logo must be described in as much detail as possible. Except for standard character marks, the description for any other type of trademark also requires a corresponding image sample.

Second, a trademark application requires the identification of a specific goods or services class. In total, there are 45 USPTO trademark classes of goods and services determined by international agreement organized into broad categories. Each class has various respective descriptions that explain why an applicant’s goods or services qualify for a specific class. A single USPTO trademark application can have multiple descriptions, but it can only identify a single corresponding class. For example, if you operate an apparel company that sells shirts, but your company also offers a custom t-shirt printing service, then you could apply to register your trademark (e.g., your company’s name or logo) under a goods class for your shirt products, and you could also apply separately to register the same trademark in a different class for your t-shirt printing service.

Last, a trademark application requires identifying a “specimen.” A specimen is an example of a trademark used in interstate commerce that represents evidence of the trademark’s real-

life use. Specimens are what consumers see in the marketplace when they consider whether to purchase your goods or services. For instance, a specimen could be a picture of your product's packaging displaying your trademark. Common trademark specimens for services include advertisements and other types of promotional materials displaying your trademark in connection with your services. Websites promoting your goods or services in connection with your trademark are also valid specimens that can be included in your trademark applications. Successful trademark applications tend to include a variety of specimens.

How Long Is The Trademark Application Process And What Does It Cost?

Completing a trademark application does not often require considerable time or effort. But, due to the high number of trademark applications that the USPTO receives, the overall application process timeline can vary and, in some cases, it may take the USPTO over a year to complete.

A USPTO trademark application does not cost more than \$350. The bulk of the costs in the application process arises from attorneys' fees for assisting clients with identifying and gathering the relevant information for their applications or addressing later issues the USPTO flags in submitted applications. Collaborating with an experienced attorney to identify the required information and materials for your USPTO trademark application in advance of starting the application can minimize the total cost of the application process and increase the likelihood of your trademark's registration via the USPTO.

WITTENBERG WINS JUDGE TERENCE T. EVANS HUMOR AND CREATIVITY IN LAW COMPETITION, AGAIN!

O'Neil Cannon attorney [Christa Wittenberg](#) was recently announced the winner of the 2024 Judge Terence T. Evans Humor and Creativity in Law Competition, sponsored by the Eastern District of Wisconsin Bar Association. The award is given each year to one attorney whose original creative law-related writing piece is selected by the review committee. Wittenberg is honored to be the first repeat winner of the award, having previously won in 2019. The competition honors the memory of the Honorable Terence T. Evans, former judge of the U.S. District Court, Eastern District of Wisconsin, and U.S. Court of Appeals for the Seventh Circuit, who was known for his wit and creativity throughout his life and his work. At the EDWBA Annual Meeting in May, Wittenberg happily accepted the traveling trophy and brought it back to her office to display for another year. Her winning article is below.

A Point Worth Exclaiming

I have a secret love, hardly befitting a self-anointed top-notch legal writer: I love the exclamation point! There are few greater joys in life than the jovial enthusiasm conjured by that expressive mark. No wonder legal writers scoff—joviality and enthusiasm have no place in legal prose.

My closet adoration isn't all my fault. As with most of my flaws, I can blame my parents. My father has seldom written a text message or email that was not overflowing with exclamation points. In fact, when his stepmother passed away some years ago, he announced it to my sister and me with the following text message:

Girls, I have news!! Grandma Beverly passed this morning!

So sad, but we're glad she's no longer in pain! I love you both!!

That is six too many exclamation points to use to announce someone's death! Yet, outside of death announcements, I also default to the exclamation point in casual writing.

Despite my genetic predisposition toward the exclamation point, I meekly allowed law school and lawyering to beat that penchant out of me. Like one with Stockholm syndrome, I became a militant eradicator of all frivolous punctuation in legal writing. In one of my very first assignments as a young lawyer, fresh out of my federal clerkship and eager to show my legal writing chops, I was asked by a shareholder at my firm to edit a draft brief. I was horrified to see an offending exclamation point in the conclusion of the brief: "The petition must be denied!" I promptly deleted that slender eyesore and put in a modest period. Crisis averted. My colleague narrowly avoided the embarrassment of showing weakness through emphatic punctuation.

Similarly, in professional emails, my legal training and desire to be taken seriously compelled me to banish that beloved bang. Sure, I might want to wish my client a wonderful day, but I sure as hell wouldn't finish it off with such childish punctuation. So, I would sometimes type this: "Have a nice day." And then I would promptly delete it because that period changes everything.

"Have a nice day!" says I sincerely hope your day is happy. In contrast, "Have a nice day." says one of two things: (1) You are my opposing counsel and I know you are going to be filing a copy of this email with the court, so I'd better say something that seems cordial; or (2) I'm a serial killer and you're my next mark. Either way, it's not the message I want to send in most of my emails.

I started to wonder about the source of this shared understanding that exclamation points in legal writing are unprofessional. Was it in a footnote in our legal writing textbooks, amidst the lesson on how not to be funny?¹ Is there really any legitimate authority for this ban anyway? Actually, yes, as it turns out. In a leading legal style manual, *The Redbook*, the esteemed Bryan Garner decrees, “An exclamation mark is rarely justified in legal writing except in a direct quotation.”² Well, quote this, Mr. Garner: Nobody asked you!³

After more than a decade of living a double life—exclamation-point-teetotaling by day and exclamation-point-binging by night—I recently took a bold step: I now sometimes use exclamation points in professional emails with people who I know well enough and who have first used an exclamation point in their own emails to me. No doubt, my nomination for the Ruth La Fave Trailblazer Award is forthcoming.

Will I be using an exclamation point in my next brief? Of course not! I’m not a lunatic. But if Judge Easterbrook can whip out an interrobang in a court decision,⁴ maybe one day I will find a legal point worth exclaiming.

¹ Perhaps that footnote said, “Above all, do not use exclamation points!”

² Bryan A. Garner, *The Redbook: A Manual on Legal Style* § 1.76 (3d ed. 2013).

³ If ever Bryan Garner stumbles upon this piece of writing, this footnote is for him: I’m actually a huge fan and I generally follow all of your advice. I trust you recognize and appreciate humor when you see it.

⁴ Elevated in status by Judge Easterbrook’s nonchalant use in the decision in *Robert F. Booth Tr. v. Crowley*, 687 F.3d 314, 319 (7th Cir. 2012), the interrobang is a nonstandard punctuation mark that overlays an exclamation point and a question mark when just one won’t do. See <https://en.wikipedia.org/wiki/Interrobang>. But don’t check Westlaw to see it—the version online swaps in a “!?” instead of a proper interrobang. Isn’t that ridiculous?

Read Wittenberg’s previous award-winning article from 2019 [here](#).

20 O’NEIL CANNON LAWYERS SELECTED AS

2025 BEST LAWYERS; ANOTHER 5 NAMED BEST LAWYERS: ONES TO WATCH

We are pleased to announce 20 of our lawyers have been included in the 2025 Edition of *The Best Lawyers in America*, and an additional five have been selected as 2025 *Best Lawyers: Ones to Watch*.

The following are the O'Neil Cannon lawyers named to the 2025 lists:

Best Lawyers in America

- Doug Dehler - Litigation - Insurance
- Jim DeJong - Corporate Law, Mergers and Acquisitions Law, and Securities / Capital Markets Law
- Seth Dizard - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation - Bankruptcy
- Pete Faust - Corporate Law and Mergers and Acquisitions Law
- John Gehringer - Commercial Litigation, Construction Law, Corporate Law, and Real Estate Law
- Joseph Gumina - Employment Law - Management and Litigation - Labor and Employment
- Dennis Hollman - Corporate Law and Trusts and Estates
- Grant Killoran - Commercial Litigation and Litigation - Health Care
- JB Koenings - Corporate Law
- Kelly Kuglitsch - Employment Law - Management
- Dean Laing - Commercial Litigation, Personal Injury Litigation - Plaintiffs, and Product Liability Litigation - Defendants
- Greg Lyons - Commercial Litigation and Litigation - Insurance
- Patrick McBride - Commercial Litigation
- Joe Newbold - Commercial Litigation, Litigation - Real Estate, and Personal Injury Litigation - Plaintiffs
- Chad Richter - Business Organizations (including LLCs and Partnerships) and Corporate Law
- John Schreiber - Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law and Litigation - Bankruptcy
- Jason Scoby - Banking and Finance Law, Business Organizations (including LLCs and Partnerships), and Corporate Law
- Steve Slawinski - Construction Law

Best Lawyers: Ones to Watch

- Emily Behn - Commercial Litigation
- Trevor Lippman - Litigation - Trusts and Estates
- Erica Reib - Labor and Employment Law - Management and Litigation - Labor and

Employment

- Kelly Spott - Trusts and Estates
- Christa Wittenberg - Commercial Litigation

About Best Lawyers

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.

Best Lawyers: Ones to Watch recognizes associates and other lawyers who are earlier in their careers for their outstanding professional excellence in private practice in the United States.

Lawyers on *The Best Lawyers in America* and *Best Lawyers: Ones to Watch* lists are divided by geographic region and practice areas. They are reviewed by their peers on the basis of professional expertise, and they undergo an authentication process to make sure they are in current practice and in good standing.

FTC NON-COMPETE BAN ENJOINED NATIONWIDE

On Tuesday, August 20, 2024, a Texas federal judge issued a nationwide injunction prohibiting the Federal Trade Commission from enforcing its rule banning non-compete clauses. The ruling states that the agency “lacks statutory authority” to enact the rule and that the rule is “unreasonably overbroad without a reasonable explanation.” The FTC has the option of appealing the decision to the Fifth Circuit Court of Appeals. We will continue to monitor developments on this matter.

So, at least for now, employers can continue to enter into and enforce non-competes that comply with state law. Moreover, employers do not need to send out any notices about the enforceability of their current non-competes. As always, O’Neil Cannon is here for you. We encourage you to reach out with any questions, concerns, or legal issues you may have regarding your labor and employment policies and practices, including discussion and review of your existing or future restrictive covenants.

ATTORNEY JACOB LLOYD HAS JOINED O’NEIL CANNON

Attorney Jacob Lloyd, a *summa cum laude* graduate of Marquette University Law School, has

joined O'Neil Cannon's Litigation Practice Group. He brings valuable experience from interning for Chief Justice Annette Ziegler of the Wisconsin Supreme Court and Chief Judge Diane Sykes of the U.S. Court of Appeals for the Seventh Circuit, providing him with a deep understanding of state and federal judicial systems. Additionally, Lloyd has volunteered with the Marquette Legal Clinic, the Afghan Asylum Project, and the Special Olympics of Wisconsin. We are pleased to welcome Lloyd to O'Neil Cannon.

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ERICA REIB NAMED ONE OF WISCONSIN LAW JOURNAL'S POWER 30 EMPLOYMENT LAWYERS

Erica Reib leads O'Neil Cannon's Labor and Employment Practice Group. She represents businesses in state and federal courts, administrative agencies, arbitrations, and mediations; assists clients with drafting, enforcing, and defending employment agreements, restrictive covenants, and employee handbooks; provides clients with day-to-day advice, counseling, and training on labor and employment matters; and supports clients with the labor and employment aspects of transactions.

THE
POWERLIST
WISCONSIN LAW JOURNAL



ERICA REIB
O'NEIL CANNON HOLLMAN
DEJONG & LAING

Erica Reib is the head of the Labor and Employment Practice Group with Milwaukee-based O'Neil Cannon Hollman DeJong & Laing.

Reib works on a broad range of labor and employment issues for companies, including employment discrimination litigation and employment policy.

According to Reib, her law practice has been very fulfilling.

"I enjoy helping companies solve problems to try to find solutions to employment law issues," Reib said.

Reib received her undergraduate degree from West Virginia University and graduated from Marquette University Law School.

She is admitted to practice with the State Bar of Wisconsin, Eastern District of Wisconsin, Western District of Wisconsin, 7th Circuit Court of Appeals, and the Northern District of Illinois.

Reib is no stranger to award recognition and has received awards for: Joseph E. O'Neill Prize for Student Writing, 2011; Martin J. Greenberg Award, 2011; Joseph E. Tierney Jr. Award, 2011; Editor-in-Chief of the Marquette Sports Law Review, 2010-2011; CALI Award, Employee Benefits, 2010; CALI Award, Professional Sports Law, 2010; CALI Award, Amateur Sports Law Workshop, 2010; and the Posner Pro Bono Society, Sports Law Certificate.