

OCHD IS A FOUNDING VOLUNTEER LAW FIRM FOR THE MILWAUKEE JUSTICE CENTER

Since late 2009, OCHD attorneys have been working with Marquette University Law School and the Milwaukee Volunteer Lawyers Project to provide free legal assistance to Milwaukee County's unrepresented litigants through court-based self help desks and legal resources.

OCHD is proud to assist the Milwaukee Justice Center work to help make the communities in which we work better places to live.

ATTORNEY GRANT KILLORAN PARTICIPATES IN MACALESTER COLLEGE LEGAL STUDIES FORUM

Grant Killoran, a partner in OCHD's Litigation Practice Group, recently participated as a speaker in the Macalester College "Front Row" lecture series, a two-day event focusing on law and entrepreneurship and business, held in St. Paul, Minnesota on February 25 and 26, 2010.

Attorney Killoran was one of twelve lawyer alumni of Macalester College invited to participate in the event. There, he met with Macalester College administration, faculty, alumni and students to discuss the role of a liberal arts education in the legal training and preparation of lawyers.

Other speakers at the forum included the general counsel of a large multi-national company, a sitting United States District Judge, a sitting United States Attorney and other distinguished corporate and private practice attorneys.

NEW FCC RULING AFFECTS APPLICATION PROCESS FOR THE CONSTRUCTION OF WIRELESS COMMUNICATION FACILITIES

In an effort to "promote the deployment of broadband and other wireless services by

reducing delays in the construction and improvement of wireless networks,” the Federal Communications Commission recently issued a ruling that affects the way in which state and local governments review applications to construct wireless communication facilities, such as cell phone towers and other similar structures.

Significantly, under the new ruling, a state or local government may not deny an application for a wireless communication facility solely because one or more cell phone carriers already serve a given geographic market. Moreover, state and local governments now have a specified time period to process an application, depending on the type of structure proposed. Failure by the government to comply with these strict time periods constitutes a “failure to act” and entitles the wireless applicant to commence a lawsuit, which will be heard and decided on an expedited basis. However, this lawsuit must be filed within 30 days of the government’s failure to act.

Prior to the ruling, state and local governments had to process an application “within a reasonable period of time.” Not surprisingly, this inexact period of time led to numerous lengthy delays in the application process, frustrating many wireless service providers throughout the country.

With the new ruling in place, it is important for wireless service providers and state and local governments to understand their rights and obligations in the wireless application process.

OCHD ELECTS CHAD J. RICHTER AS SHAREHOLDER

O’Neil Cannon is pleased to announce that Attorney Chad Richter has recently been elected as a shareholder of the firm. He will continue his practice working on corporate and business law matters, including the structuring, acquisition and sale of businesses under operating and purchase agreements, as well as providing assistance on various business contracts and certifications. Attorney Richter will continue serving clients operating under franchise, dealership and agency arrangements.

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. OCHD also assists business owners with their personal legal needs including tax and estate planning, family law and litigation – including personal injury litigation.

ATTORNEY CAPREZ TO MODERATE MBA HEALTH LAW SEMINAR

Attorney Tim Caprez will moderate the upcoming Milwaukee Bar Association Health Law Section seminar “Hot Topics for Hospital In-House Counsel: What’s Keeping Us Up at Night.” The presentation will feature a distinguished panel of in-house counsel from some of the leading healthcare networks and institutions in Southeastern Wisconsin, including:

- Lorna Granger, Chief Legal Officer and Chief Compliance Officer, ProHealth Care
- Carrie Killoran, Vice President and Chief Compliance/Integrity Officer, Aurora Health Care
- Linda McPike, Associate General Counsel, Froedert and Community Health Inc.
- Jonathan Wertz, Director of Risk Management, Medical College of Wisconsin

Attorney Caprez, Co-Chair of the MBA Health Law Section, will facilitate a discussion among the panelists involving a wide-range of legal issues currently being faced by hospitals. The discussion will include practical approaches to pressing needs that hospitals and their in-house counsel face on a daily basis, and the manner in which the ever-changing laws, and regulations governing the nation’s healthcare system affect the legal parameters of hospitals’ overall patient care.

The seminar will take place on March 9, 2010, from 11:30 a.m. to 1:00 p.m. at the Milwaukee Bar Association headquarters at 424 East Wells Street, Milwaukee, WI. Registration is required. For registration information, please contact the Milwaukee Bar Association, at 414-274-6760.

CARRYOVER BASIS AND THE 2010 ESTATE TAX SYSTEM

The current state and uncertainty of the estate tax system has been a widely discussed, blogged and dissected topic since it became clear, late last year, that 2010 would be a “year without an estate tax.” There has been as much chatter, discussion and rumor mongering about what the estate tax system will look like in 2011; whether we will go back in time to the 2001 system, or forward to a new “2009 looking land” with a \$3.5 million estate tax exemption and a 35% rate.

What has been little discussed, and has the potential to have a broader impact, is the modified carryover basis rule in place in 2010. Under the pre-2010 system, upon death, most assets received a stepped-up basis to their fair market value, often dramatically reducing or eliminating the post-death income tax consequences to beneficiaries. But in 2010, the beneficiaries will not get the benefit of a step-up, but will instead have the decedent's basis in those assets carryover to them.

There is some relief available. For transfers at death to non-spouses, \$1.3 million of unrealized gain (or step-up) can be allocated to beneficiaries. Transfers to spouses or special Marital Trusts can have up to \$3 million of step-up allocated to them. The personal representative has the discretion to determine which assets to allocate step-up to, and because there are planning opportunities and strategies, that allocation should be made with the advice and counsel of a team of experts, including the attorney, CPA and valuation expert.

The best thing about our current transfer tax system is it has created the impetus for planners to do what they should have always done: build plans flexible enough to deal with changing circumstances. Now is a great time for clients to insure their plans are sufficiently flexible; flexible enough to work under the law as written now, and flexible enough to deal with whatever Congress throws at them in the future. So buckle up, it's going to be a bumpy ride.

ATTORNEY TOM CANNON IS RECOGNIZED AS ONE OF WISCONSIN'S "2010 LEADERS IN THE LAW"

Thomas G. Cannon, who is of-counsel to the law firm of O'Neil Cannon, was recently honored as a "2010 Leader in the Law" by the *Wisconsin Law Journal*. The award has been given annually, since 2003, to attorneys who "have a significant impact on the practice of law in Wisconsin." Tom has been affiliated with the firm since 1984, and is richly deserving of this prestigious award.

Tom is the second attorney of the firm to have received this award. In 2005 Dean P. Laing, the Chair of the Litigation Group, was honored as a "2005 Leader in the Law."

See Article *Wisconsin Law Journal*

DENNIS HOLLMAN PRESENTS AT THE SOCIETY OF FINANCIAL SERVICE PROFESSIONALS IN TAMPA

Attorney Dennis Hollman presented a seminar at the Society of Financial Service Professionals ("SFSP") on January 13, 2010 in Tampa, Florida. Some of the key issues in the presentation were preparing buy/sell agreements, structuring deferred compensation plans, minimizing income and other taxes, and uses of life insurance in the family business setting. SFSP is a network of over 17,000 financial service professionals that are committed to helping individuals, families, and businesses achieve financial security.

LEGISLATION MOVING FORWARD TO MAKE ROTH CONVERSIONS VIABLE IN WISCONSIN

The Wisconsin State Senate unanimously approved a bill to allow residents of all income levels to convert a Traditional IRA into a Roth IRA without penalty. The Legislature's Joint Finance Committee also approved the measure and the State Assembly will vote on the bill soon. This legislation has been strongly encouraged by financial and tax advisors because it makes Wisconsin tax law consistent with the federal law.

If this legislation becomes law, Wisconsin residents of all income levels can take advantage of converting a Traditional IRA into a Roth IRA. Prior to 2010, individuals with adjusted gross income in excess of \$100,000 could not do such a conversion. Effective 2010, the federal legislation changed, but Wisconsin was stuck under the prior rules. The advantage that a Roth IRA has over a Traditional IRA is that the funds may be withdrawn income tax free and there are no required minimum distributions for an account owner. However, any taxpayer who does convert a Traditional IRA to a Roth IRA must pay income tax on the amount converted. There are many potential planning techniques that may help to minimize this tax.

ATTORNEY LAING SECURES ANOTHER APPELLATE COURT VICTORY

On January 20, 2010, the Wisconsin Court of Appeals overturned a lower court ruling and held that, as Attorney Dean Laing had argued, an educational training reimbursement provision of an employment contract was divisible from unreasonable restrictive covenants in the contract and therefore enforceable. Attorney Laing's argument enabled the appellate court to carefully avoid opining as to whether the Wisconsin Supreme Court has established a new divisibility test under *Star Direct, Inc. v. Dal Pra*, because the provisions were best viewed to be divisible under either that standard or the previously-established test set forth in *Streiff v. American Family Mut. Ins. Co.*

While the appellate court noted that the respective reimbursement and restrictive covenant provisions "share a common backdrop" as requirements of payment under the contract, in recognizing the enforceability of the reimbursement provision, the court specifically cited Attorney Laing's argument that either provision could be stricken and the other could still be independently understood. As a result, that portion of the contract, which was not drafted by O'Neil Cannon, should and will remain in full force and effect.

A full copy of the opinion, which the appellate court recommended for publication in the official reports, can be found [here](#).

See Article *The Daily Reporter* - Friday, January 22, 2010