A BEGINNER'S GUIDE TO TRADEMARKS: PART ONE—TRADEMARK BASICS

What is a Trademark?

A trademark can be any mark representing words, phrases, symbols, designs, or a combination of these that identifies your goods or services. In practice, the most common trademarks are business names and logos. Trademarks accomplish several objectives. They (1) identify the source of your goods or services; (2) provide additional legal protection for your brand; and (3) help to guard against counterfeiting and fraud. Creative and unique trademarks are the most effective in accomplishing these objectives and are easier to protect in the long run.

How Are Trademark Rights Obtained?

A common misconception is that the registration of a trademark with a state or the federal government is a requirement for any trademark rights. However, you establish some trademark rights as soon as you start using a specific trademark (*e.g.*, your business name or logo) in connection with the marketing and sale of your goods or services. But these rights established solely via trademark use are limited and generally only apply to the specific geographic area in which you're providing your goods or services with the accompanying trademark.

Why Register a Trademark with the United States Patent and Trademark Office?

Registering your trademark with the United States Patent and Trademark Office will provide you stronger, nationwide trademark rights in comparison to trademark use alone or state trademark registrations. Moreover, registering your trademark with the USPTO will allow you to protect your trademark and enforce your trademark rights both at the federal level in the United States and in foreign countries. Other benefits of registering your trademark with the USPTO include having your trademark listed in USPTO's database to provide notice to the public when searching for or considering registration of an identical or similar trademark and the use of the federal trademark registration symbol (®) to deter others from using your trademark.

EMPLOYMENT LAWSCENE ALERT: BIDEN

PROPOSED BUDGET HAS LABOR AND EMPLOYMENT SIGNALS

On March 11, 2024, President Biden released the Budget of the U.S. Government for Fiscal Year 2025. Although this proposed budget is only a proposal and unlikely to pass either the House or the Senate as currently drafted, it does provide insight into the Biden Administration's priorities and contains a number of important labor and employment components.

First, the proposed budget contains a 2.3% increase to the Department of Labor's discretionary budget and a 7% increase to the National Labor Relations Board's budget. These increases are intended to support, among other things, DOL's worker protection agencies, which focus on workers' wages and benefits, child labor, misclassification of workers as independent contractors, and workplace health and safety, and the NLRB's "capacity to enforce workers' rights to organize and collectively bargain for better wages and working conditions."

Additionally, the proposed budget seeks to establish a national comprehensive paid family and medical leave program, administered by the Social Security Administration, that would significantly expand upon the current federal Family Medical Leave Act. The new proposed plan would (1) entitle eligible workers to up to 12 weeks of partially paid leave to bond with a new child; care for a seriously ill loved one; heal from their own serious illness; address circumstances arising from a loved one's military deployment; or find safety from domestic violence, dating violence, sexual assault, or stalking; and (2) entitle workers to three days to grieve the death of a loved one. Furthermore, President Biden called on Congress to require employers to provide seven days of job-protected sick leave each year to all workers and to ensure that employers cannot penalize workers for taking time off to address their health needs, the health needs of family members, or to find safety from domestic violence, dating violence, sexual assault, or stalking. The proposed budget also notes the Administration's proposed rule that would extend overtime pay to an estimated additional 3.6 million workers by raising the salary basis from the current level of $35,568 per year ($684 per week) to $55,068 per year ($1,059 per week). This proposed rule was issued in September 2023 and is expected to be finalized in April 2024. If not challenged, this means that the required increase could go into effect as early as June 2024.

The proposed budget also significantly increases penalties for employers who violate laws overseen by the DOL, the Equal Employment Opportunity Commission, and the National Labor Relations Board. This would include penalties for laws related to workplace safety and health, wages and hours, child labor, equal opportunity, and labor organizing. The proposed budget also specifically provides the EEOC with resources to implement and enforce the

Pregnant Workers Fairness Act; continue to monitor pay equity through collection and analysis of pay data; and combat discrimination that may arise out of automated employment systems, including AI.

Even if this proposed budget is not enacted as written, it is a strong signal of what the current Administration believes is important and what its agencies will focus on from an enforcement standpoint. 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.

O'NEIL CANNON SERVES AS LEGAL ADVISOR TO ENGENDREN CORPORATION IN ITS SALE TO CUMMINS INC.

O'Neil Cannon advised Engendren Corporation in its recent sale to Cummins Inc., a global powertrain manufacturer. Over the past couple of years, Engendren has experienced tremendous growth, and it looks forward to continued advancement and expansion as Cummins invests in improving Engendren's capabilities. This support will further enable Engendren to provide world class cooling solutions for all its customers. Engendren is part of the Cummins Power Systems Business but will continue to operate independently.

The O'Neil Cannon deal team was led by Chad Richter with assistance provided by Pete Faust, Britany Morrison, Sam Nelson, Erica Reib, and Nick Chmurski.

WISCONSIN EXPANDS CHILD AND DEPENDENT CARE TAX CREDIT

Wisconsin families received a significant boost with the recent signing of Assembly Bill 1023. The bill was signed into law by Governor Tony Evers on Monday, March 4, 2024. This groundbreaking legislation, effective immediately for the 2024 tax year, expands the state's child and dependent care tax credit from 50% to 100% of the federal credit, potentially providing substantial relief to families grappling with childcare expenses.

The amended law not only doubles the benefit percentage, but it also raises the cap on

allowable childcare expenses, allowing taxpayers to claim up to $10,000 for one dependent and $20,000 for two or more dependents. Governor Evers emphasizes that this change will result in a maximum credit ranging from $2,000 to $3,500 for one dependent and $4,000 to $7,000 for two or more dependents, offering tangible financial support to Wisconsin families.

Following the rejection of the remaining components of a Republican-backed tax cut package, the political terrain surrounding tax cuts and credits has garnered significant attention. Last week, Governor Evers rejected three tax-cutting proposals: AB 1020, aimed at expanding the state's second-lowest income tax bracket; AB 1021, which sought to increase the retirement income exclusion to $75,000 for individuals; and AB 1022, which proposed raising the maximum income tax credit for married couples from $480 to $870.

Despite being the sole tax bill signed by Governor Evers among several sent by the Republican-led legislature, the impact of this legislation is far-reaching. The changes will affect more than 110,000 taxpayers, with an average benefit of over $656, according to the governor's office.

For questions or further information relating to the Wisconsin Child and Dependent Care Tax Credit, please contact Attorney Britany E. Morrison.

ATTORNEY EMILY BEHN HAS JOINED O'NEIL CANNON

Attorney Emily Behn, a *cum laude* graduate of the University of Wisconsin Law School, has joined O'Neil Cannon. Emily is a member of the firm's Litigation Practice Group, where she assists clients in a wide variety of both personal and commercial litigation matters ranging from inheritance and contract disputes to business shareholder disputes, property disputes, and renovation and construction disputes. Prior to law school, Emily studied journalism and worked in public relations telling the stories of both public and private sector clients in the health care, food and beverage, agriculture, and gaming industries. She now leverages her communications experience in her legal advocacy. We are very pleased to welcome Emily to O'Neil Cannon.

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.

WELCOME BACK, GLENN “DOC” RIVERS



In the summer of 1982, when Glenn “Doc” Rivers was a student-athlete at Marquette University, he was a messenger at our firm, running errands and playing on the firm’s softball team (he pretty much covered the entire outfield). Likely due to the tremendous training and experience he received from our firm, Doc has had great success since then. He played in the NBA for 14 years; has been a head coach in the NBA for 25 years; won an NBA championship; was named Coach of the Year in the NBA; and is now the head coach of the Milwaukee Bucks. Welcome back to Milwaukee, Doc. It was clear to us way back in 1982 that Doc was destined for great things.

THE WILAW QUARTERLY NEWSLETTER – JANUARY 2024

Newsletter Article Highlights:

- Navigating the Corporate Transparency Act: A Must-Read for Every Business Owner
- IRS Announces Changes to Estate and Gift Tax Exemptions for 2024
- Important Update for PayPal and Venmo Users: IRS Postpones 1099-K Reporting Requirement!

Firm News:

- Super Lawyers Recognizes 28 O’Neil Cannon Attorneys
- Firm Prevails in Three Cases in the Wisconsin Court of Appeals in a 45-Day Time Span
- Tax Reform Bill Passes with Advocacy from Britany Morrison and Nancy Wilson
- O’Neil Cannon Ranked in 2024 “Best Law Firms”

Click the image below to read more.

FIRM PREVAILS IN THREE CASES IN THE WISCONSIN COURT OF APPEALS IN A 45-DAY TIME SPAN

Dean Laing of our firm recently won three cases in the Wisconsin Court of Appeals in a time span of 45 days. In the first case, *Sims v. Jerusalem Missionary Baptist Church, Inc.*, Appeal No. 2022AP1590, 2023 WL 7138521 (Oct. 31, 2023), the Court of Appeals affirmed the decision of the trial court in Milwaukee County on issues dealing with whether members or directors have the authority to adopt and amend corporate by-laws. A copy of the decision can be found here.

In the second case, *Tikalsky v. Tikalsky*, Appeal No. 2020AP1345, 2023 WL 8447227 (Dec. 6, 2023), the Court of Appeals affirmed the decision of the trial court in Waukesha County on issues dealing with claims of undue influence in a will contest case and the authority of a trial court to sanction a litigant for misconduct. A copy of the decision can be found here.

In the third case, *Keyes v. Schmidt*, 2023AP323, 2023 WL 8613909 (Dec. 13, 2023), the Court of Appeals affirmed the decision of the trial court in Washington County on issues dealing with alleged oppression of a minority shareholder and the ability of shareholders to contractually circumvent the laws on derivative actions. A copy of the decision can be found here.

It is a rare feat to obtain a trifecta of wins from an appellate court in a 45-day time span. Congratulations to Dean on this accomplishment.

SEASON OF GIVING

The spirit of the holiday season is upon us once again and the attorneys and staff at O'Neil Cannon wanted to do something special for our community. For our annual holiday donation drive, we collected items and monetary donations to be given to Kathy's House. Kathy's House is a non-profit Hospital Guest House that provides lodging and a supportive environment to families who are experiencing personal illness or the serious illness of a loved one. The Family Program for Patients and Caregivers at Kathy's House ensures that every family facing a medical crisis, including those in financial hardship, can access needed health care and stay together during medical treatments.



From all of us at O'Neil Cannon:

"Best wishes for a wonderful holiday and a very Happy New Year!"

HARMONY OF LEGACY: A 12-DAY ESTATE PLANNING CELEBRATION (DAYS 9 TO 12)

To continue our holiday series "Harmony of Legacy: A 12-Day Estate Planning Celebration," we share with you the last days of Christmas. In case you missed the previous days you can find them here in part 1 and part 2.

Day 9: Nine Ladies Dancing = Gracefully Transferring Your Real Property at Death

Similar to the elegant and harmonious nine dancing ladies, retitling your home into the name of your Revocable Trust ensures the smooth and graceful transition of your real property to your intended beneficiaries after your death. Your Trustee will have the ability to maintain, manage, and/or sell your home upon your death. If you fail to direct the transfer of your real property during your lifetime, or even at death, the property will likely pass through a probate proceeding before making it into your Revocable Trust. If you own real property outside of Wisconsin, you also risk needing an "ancillary probate" in that particular state in order to pass the property into your Revocable Trust. Failing to retitle your real estate can be a costly "misstep" in your overall estate plan.

Day 10: Ten Lords-a-Leaping = Succession Planning for Your Business

Just as these lords leap into action, our business owners too must plan for the continuity of their business entity. More than likely, a business owner desires to transfer their business to their children. Although some business owners may not believe any planning is required, creating a succession plan for your business ensures a smooth transition of leadership, protection of business assets, and securing the prosperity of your business entity to the next generation. Effective planning now prevents potential disastrous results or depletion of assets after you have passed.

Day 11: Eleven Pipers Piping = Harmonizing Your Estate Plan with Estate Tax Avoidance Strategies

Harmonize your estate plan with effective tax strategies to minimize your tax liabilities and leave more wealth for your beneficiaries and for future generations. Starting in 2024, the gift and estate tax exemptions will increase to $13,610,000 ($27,220,000 for married couples). This allows an individual or married couple to transfer significant assets during their lifetime or at death while potentially avoiding gift or estate tax. In addition, annual tax-free gifts to individuals will increase to $18,000 per recipient from an individual (or $36,000 from a married couple). Embrace the melody and stay in tune with these high exemption levels in your 2024 gift planning. Find out more in our article Changes to Estate and Gift Tax Exemptions for 2024.

Day 12: Twelve Drummers Drumming = Celebrate and Review Your Estate Plan

On the twelfth and final day of our “12 Days of Christmas” estate planning series, we encourage you to celebrate with the beat of a drum the completion of your comprehensive estate and succession plan. Take the time to review your estate plan regularly, ensuring it still aligns with your current wishes, as well as your current circumstances. Always try to communicate with your loved ones about your goals and wishes. Celebrate the peace of mind that comes from knowing your legacy is secure and make adjustments as needed to keep your plan in harmony with the rhythm of your life.

Happy Holidays from your Estate and Business Succession Planning team here at O’Neil Cannon. We wish you and your loved ones a safe and peaceful holiday season!