# OCHD ELECTS GREGORY S. MAGER AS SHAREHOLDER

Gregory S. Mager has been elected shareholder in the law firm of O'Neil Cannon, and will continue his practice in the areas of civil litigation and family law, including mediation services. Mr. Mager graduated from Marquette University with an undergraduate degree in political science and philosophy, and a graduate degree in political science. He received his Juris Doctor degree from Marquette University Law School.

Mr. Mager is the Editor-in-Chief of the Wisconsin Journal of Family Law, a publication of the Family Law Section of the State Bar of Wisconsin. He was selected as a 2007 Wisconsin Super Lawyer Rising Star, *Law and Politics* and *Milwaukee Magazine*. In addition, Mr. Mager has received a Martindale-Hubbell Peer Review Rating of AV, reflecting an attorney who has reached the height of professional excellence and is recognized for the highest levels of skill and integrity. His memberships include the American Bar Association and the State Bar of Wisconsin as well as the Ozaukee, Milwaukee, Washington, and Waukesha County Bar Associations. Mr. Mager is also a member of the Society of Family Lawyers, the Lender J. Foley Matrimonial Inns of Court, the Collaborative Family Law Council of Wisconsin, Inc., and the Divorce Cooperation Institute, Inc.

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.

---

# MUST AN LLC BE REPRESENTED BY AN ATTORNEY IN A LAWSUIT?

A small business man recently called and indicated that a limited liability company he ran had been sued. He had filed a response to the allegations of the complaint with the court and sent a copy to the attorney for the plaintiff. The plaintiff's lawyer immediately filed a motion to strike the answer and for default judgment on the basis that the response was not a proper answer to the complaint because it failed to follow the requirements of an answer, and because it had not been signed by an attorney. Since the time to file a proper answer had

expired, the plaintiff asked the court for a default judgment.

About ten years ago, the Wisconsin Supreme Court was asked whether a notice of appeal by a corporation signed by an officer of the corporation who was not an attorney was valid. The court concluded that it was not a valid notice of appeal, and therefore, the appeal was dismissed. There were primarily two bases for that decision; first, under Wisconsin statutes, a corporation, except in small claims court, must be represented by an attorney, and second, in that case, the notice of appeal filed by a person who was not an attorney was determined to be the unauthorized practice of law, that is to say, the practice of law by someone other than a licensed attorney.

Wisconsin, like most states, imposes penalties for the unauthorized practice of law. The unauthorized practice of law is a crime which may result in fines or imprisonment and may be punished as a contempt of court.

While an individual is permitted to represent himself or herself in a lawsuit, a corporation is not an individual. Only a person authorized to practice law may appear in court for a corporation. The only exception is small claims court.
Limited liability companies have been permitted to exist in Wisconsin for approximately 15 years. LLCs attempt to combine some of the advantages of the partnership form of doing business and the corporate form of doing business. In many ways, LLCs attempt to avoid some of the formalities required of corporations. There are, however, risks when avoiding those formalities if, for example, there is a dispute between the owners, or, as in this recent matter, if a member of an LLC attempts to respond to a complaint. In this recent matter, a proper answer was filed within a day after our firm was retained. In addition, written arguments were made to the court relating to the discretion to be exercised by the trial court as to whether a default judgment was appropriate. Prompt action in filing a proper answer was one factor considered by the court. Significant costs were incurred in order to regain the ability to defend this lawsuit.

Whether an LLC could avoid this holding relating to corporations has not been directly addressed by the Wisconsin appellate courts. We of course would recommend that your business not be the business that has to make those arguments. Those arguments were unsuccessful ten years ago in a slightly different factual situation. In our recent case, attempting initially to avoid the cost of hiring an attorney resulted in substantially higher costs and the risk that the defendant would be barred from defending the lawsuit.

# PROTECTING YOUR ASSETS: AUTOMOBILE LIABILITY INSURANCE MAY NOT BE ENOUGH

“Don’t worry, I have plenty of automobile insurance.” Such a belief is shared by many individuals, including those who have just been injured in a serious automobile accident as a result of the negligence of another, and also by those who have just caused one. In either situation, insurance coverages and the amount of such coverages are of paramount importance. Insurance is a complicated subject and, therefore, it is not surprising that many people do not completely understand what coverages they have, or do not have. Insufficient protection, regardless of who caused the accident, is commonplace.

When an individual consults an attorney due to injuries that were caused by another driver, one thing an attorney does early on is evaluate the amount of insurance available to compensate the injured party. All too often with serious injury cases, there is inadequate insurance and, consequently, the injured party does not receive fair and reasonable compensation. Generally, Wisconsin does not require drivers to have automobile insurance. Even when they do have insurance, however, Wisconsin law allows insurance carriers to sell drivers as little as $25,000 per person and $50,000 per accident of automobile liability coverage. If the party causing your injuries has only $25,000 in insurance limits, but your injury claim is worth $425,000, for example, you may then be forced to try to recover the additional $400,000 from the wrongdoer’s personal non-exempt assets. A lot of people do not have any or many non-exempt assets and, as a result, injured parties are often times insufficiently compensated for their injuries.

What can you do to protect yourself and your family from an underinsured wrongdoer? One easy answer is to purchase “underinsured motorists” coverage (often referred to as “UIM” coverage). UIM coverage is purchased under your own policy and acts as supplemental coverage to the other driver’s liability limits. For example, if the wrongdoer has limits of $25,000, you have a claim worth $425,000, and you have $500,000 of UIM coverage, you would receive $25,000 from the wrongdoer’s carrier and the remaining $400,000 from your own carrier.

Why is it that so many people don’t have, or don’t have enough, UIM coverage, especially when the extra premium for UIM coverage is nominal compared to the protection it provides? Nobody effectively informed them that this coverage was available and/or its purpose was not adequately explained are the likely answers. Prior to 1995, neither insurance companies nor agents were required to inform insureds that UIM coverage was available. The Wisconsin legislature recognized this problem and the resulting shortfall to individuals injured by underinsured motorists, and insurers have since been required to provide written notice to insureds informing them of the availability of UIM coverage as well as a brief description of

the coverage. The 1995 law was helpful, but interpreting this law resulted in much confusion and debate. The Wisconsin Office of the Commission of Insurance, recognizing the importance of UIM coverage and policyholder knowledge of its availability, took action earlier this year by amending its administrative rules and creating others. While insurance companies have notice obligations that have now been clarified, policyholders should take steps to make sure they understand this important coverage.

Although “uninsured motorists” coverage (often referred to as “UM” coverage) is better understood and is found in every Wisconsin automobile liability policy as required by Wisconsin law, that law only requires that limits of $25,000 per person and $50,000 per accident be included in each policy. The previous example demonstrates that higher UM limits will also provide enhanced protection when you are injured by a wrongdoer who has no automobile liability insurance. Again, the premium for increasing your UM coverage is minimal.

On the other hand, if you cause an automobile accident, severely injuring someone, and your liability coverage is insufficient to pay the injured party’s damages, your non-exempt assets can be stripped away from you to pay the deficiency. To protect your assets and future earnings, sufficient liability insurance is necessary. Umbrella (or excess) policies minimize your personal exposure by providing supplemental coverage to your underlying policy limits. A large limits umbrella policy that supplements your automobile and homeowners’ liability policies may be well worth the additional premium cost.

Significantly, an umbrella policy purchased by you may also be utilized as a source of compensation to you; that is, when an uninsured or underinsured driver causes damages to you which exceed that wrongdoer’s insurance limits and also exceed the UM and UIM limits of your own automobile policy. However, you must specifically purchase UM and UIM coverages to be included as part of your umbrella. A common mistake is to assume that your umbrella policy includes UM and UIM coverages, just because your automobile policy has these coverages. Although not all insurance carriers offer UM or UIM coverage as part of an umbrella, those that do provide it do so at a relatively low premium cost.

Loss prevention measures are the ideal way to minimize injuries and liabilities, but accidents happen and preparing for the consequences must be done proactively. Regardless of who causes the injuries, individuals have the control to increase their recovery potential and minimize their exposure through the purchase of proper and sufficient insurance.

# FOURTEEN OCHD ATTORNEYS AWARDED SUPER LAWYERS DESIGNATION

MILWAUKEE, WIS (November 16, 2007) – Fourteen attorneys from O'Neil Cannon have been selected as Wisconsin Super Lawyers for 2007.

Super Lawyers is a peer-nominated award recognizing the top 5% outstanding attorneys across the state of Wisconsin.The attorneys included in the Super Lawyer listing are: * Jim DeJong * Angela Campion * Tom Cannon * Paul Dirkse * Seth Dizard * Pete Faust  * Herb Humke III * Dean Laing * Greg Lyons * Gregory Mager * Patrick Mc Bride * Randy Nash Additionally, Dean Laing was selected as one of the Top 50 Super Lawyers in the state.

Angela Campion, Paul Dirkse, Seth Dizard, Herb Humke III, and Gregory Mager were selected as Super Lawyers Rising Stars.

O'Neil, Cannon, Hollman, DeJong, S.C. is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee, Port Washington, and Sheboygan. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

---

# OCHD SUCCESSFULLY DEFENDS BUILDER AGAINST CONSTRUCTION DEFECT LAWSUIT

Milwaukee, Wis. (October 5, 2007) – A recent Ozaukee County jury trial resulted in a decision in favor of a client of O'Neil Cannon The case involved a dispute between a homeowner and the builder of the home in which the homeowner sued the builder for alleged construction defects.

Attorney Steve Slawinski successfully defended the builder. The jury found in favor of the builder, resulting in no recovery for the homeowner. The trial court then granted the builder's motion to have the homeowner pay the builder's attorney fees, according to the terms of the contract between the two parties.

O'Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee, Port Washington, and Sheboygan. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

# CARL BUESING ELECTED TREASURER OF THE WISCONSIN ASSOCIATION OF COUNTY CORPORATION COUNSEL

Sheboygan, Wisconsin (October 9, 2007) – Carl K. Buesing, a municipal and litigation attorney with the Sheboygan office of O'Neil Cannon, was recently elected Treasurer of the Wisconsin Association of County Corporation Counsel at the group's Fall meeting in Wisconsin Dells.

The Wisconsin Association of County Corporation Counsel is a specialized bar association comprised of attorneys who represent Wisconsin counties and county boards. Under a unique arrangement with Sheboygan County, the O'Neil law firm handles all civil matters for the county, from shoreland zoning prosecutions to airport hangar lease drafting to open meeting advice. Carl Buesing has been assigned by the firm and Sheboygan County as the lead attorney for these matters and has acted as the designated Sheboygan County Corporation Counsel since 2001.

Carl has had an eclectic legal practice starting out as the district attorney of a small northern Wisconsin county where he prosecuted three homicides in his first year of office. From that early experience, he has built a litigation practice involving subjects as varied as will contests to construction contract disputes.

O'Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee, Port Washington, and Sheboygan. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

# OCHD ATTORNEYS TO PRESENT "LEGAL ENTITIES AND INTELLECTUAL PROPERTY" AT UW MILWAUKEE

Milwaukee, Wisconsin (October 9, 2007) – Attorneys Angela Campion and Chad Richter will present, "Legal Entities and Intellectual Property" at Fast Trac New Venture programs held at the UW Milwaukee Small Business Development Center on October 9 and October 18, 2007. The session will cover key legal considerations for standard business entities (sole proprietorship, general partnership, corporation, limited partnership, LLP, and LLC), how to

protect intellectual property (patents, trademarks, copyrights, licenses), using an intellectual property attorney, and tips for entrepreneurs to protect proprietary interests.

The Fast Trac New Venture Program is a program sponsored by the School of Continuing Education at the University of Wisconsin, Milwaukee. The program is designed to help participants explore entrepreneurship, develop a business concept, and write a business plan.

O'Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee, Port Washington, and Sheboygan. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

---

## CRYSTAL FIEBER TO PRESENT "IMMIGRATION AND YOU"

Sheboygan, Wisconsin (October 9, 2007) – On October 9 and 10, 2007, Attorney Crystal Fieber will discuss "Immigration and You" at Money Smart Week Wisconsin seminars. The October 9th session will be held at Plymouth High School at 6:00 pm, and the October 10th session will be held at Sheboygan South High School at 6:00 pm. Both sessions cover the common and expensive pitfalls to avoid when immigrating through a family member.

Crystal Fieber is an attorney with the law firm of O'Neil Cannon Crystal counsels individuals, businesses, and municipalities in a variety of areas: including, estate planning, zoning and land use, immigration, and the prosecution and defense of civil claims. She also assists municipalities and individuals with ordinance drafting and prosecution as well as eviction and foreclosure proceedings. In addition, she speaks Spanish, and utilizes this skill to assist individuals and businesses with immigration-related issues.

Money Smart Week Wisconsin is a public awareness initiative aimed at building financial knowledge to help Wisconsin residents deal with money more quickly, confidently, and shrewdly. The initiative is a creation of the Governor's council on Financial Literacy created by Wisconsin Governor Jim Doyle. For more information, visit www.moneysmartwi.org.

O'Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee, Port Washington, and Sheboygan. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

## DEAN LAING FEATURED IN FREEMAN PUBLICATIONS

Milwaukee, Wisconsin (September 14, 2007) – Dean Laing, a litigation attorney at the law firm of O'Neil Cannon was recently featured in articles appearing in the *Waukesha Freeman* and the *Oconomowoc Enterprise*.

The articles chronicled the story of Dean's family and how growing up with two brothers with cerebral palsy impacted Dean's career choice, spurring him towards an impressive career in both corporate and personal injury litigation. The article, entitled "A Brotherly Bond," appeared in the *Oconomowoc Enterprise* on September 6, 2007 and in the *Waukesha Freeman* on September 12, 2007. The complete article can be viewed by clicking here. Dean is the Practice Group Leader for the Firm's litigation practice. He has been with the firm his entire legal career, since graduating *cum laude* from Marquette University Law School in 1983. Dean has been repeatedly recognized as one of Milwaukee's and Wisconsin's top trial attorneys, and exhibits a tremendous passion for the law and his clients. He has litigated some of the largest cases in Wisconsin, including representing Mitsubishi Heavy Industries America in the Miller Park dispute, and obtaining many million dollar settlements and verdicts for his clients.

O'Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee and Port Washington. The firm was established in 1973 and is now listed as one of the Milwaukee-area's largest law firms.

---

## CHAD RICHTER TO PRESENT "THE BASICS OF FRANCHISING"

Milwaukee, Wisconsin (September 7, 2007) – On October 5, 2007, Attorney Chad J. Richter will discuss "The Basics of Franchising" at a franchise seminar presented by the UWM Small Business Development Center.

The seminar will focus on entrepreneurship through franchising. Other speakers include a franchise consultant and a current franchise owner.

Chad Richter is an attorney with the law firm of O'Neil Cannon Chad assists clients with a

variety of corporate and business law matters such as the formation and organization of various types of business entities under operating, shareholder, and subscription agreements, including the preparation of financial and disclosure documentation. Chad has focused his practice on the structuring of business relationships under franchise, licensing, and distribution arrangements, and has worked with numerous franchise and dealership models, representing both franchisors/grantors and franchisees/dealers.

The UWM – Small Business Development Center (SBDC) is a department of the University of Wisconsin – Milwaukee that works with new entrepreneurs to turn ideas into viable business concepts, and with established entrepreneurs to improve business performance.. For more information, visit www.uwm.edu.

O’Neil Cannon is a full-service legal practice focusing on business law, estate planning, and major complex litigation with offices in Milwaukee and Port Washington. The firm was established in 1973 and is now listed as one of the Milwaukee-area’s largest law firms.