O'NEILCANNON
HOLLMAN DEJONG & LAING S.C.

# SEVENTH CIRCUIT UPHOLDS WISCONSIN RIGHT-TO-WORK

In March 2015, Wisconsin Governor Scott Walker signed Right-to-Work legislation into law, which allowed workers covered by union representation to not pay union dues if they do not wish to. Since its passage, the law has been under legal fire, including a failed bid for preliminary injunction to halt the law and a state circuit court ruling that found the law unconstitutional. However, in 2015, the federal district court sitting in the Eastern District of Wisconsin upheld the Right-to-Work law as constitutional, relying heavily on the Seventh Circuit's 2014 decision, *Sweeney v. Pence*, which upheld Indiana's right-to-work statute.

On Wednesday, the Seventh Circuit doubled down on its holding in *Sweeny* and upheld Wisconsin's Right-to-Work law as constitutional. The Court found that the plaintiff unions had failed to provide "any compelling reason" to overturn the *Sweeny* decision. The ruling stated that there have been no intervening developments in statutory, Supreme Court, or even intermediate appellate court law that would cause them to reevaluate their decision in *Sweeney* and that the strong dissent in *Sweeney* and a close vote to rehear the case en banc were not compelling reasons that would justify overturning a three-year old decision. The Court also rejected the unions' takings clause argument, whereby they claimed that members of the union who did not pay dues but benefitted from the unions' bargaining and political activities would be taking the unions' property without compensation. The Court found that, in the event that a taking occurred, state courts could "provide an adequate route for seeking just compensation." Although the union has stated that it is considering its next steps, it appears that Wisconsin's Right-to-Work law will continue to pass judicial scrutiny and be enforceable and constitutional.