



Legal Perspectives

from Abrahams Kaslow & Cassman LLP

Communication and Fees

by: John W. Herdzina

The most common complaints that clients have about lawyers are (i) the failure of lawyers to promptly communicate, e.g., not keeping the client informed about developments in a client matter or not promptly responding to a client's inquiries; and (ii) surprises regarding the amount of attorney fees charged.

If the client entrusts an important matter to a lawyer, then the lawyer must appropriately communicate with the client. Fees, however, are different. It takes some work by the lawyer and the client up front to establish open communication between them with respect to fees. This communication is required to prevent problems down the road.

The lawyer must take it upon himself or herself to clearly articulate to the client what the amount and timing of the anticipated fees will be, ask the client for his or her approval, and then put that understanding in an engagement letter to the client.

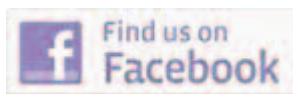
The engagement letter should clearly set forth the scope of the legal work to be performed, the amount of the fees and charges anticipated, the typical form of statements to be issued, and the timing of expected payment. The use of engagement letters should be automatic and precede the performance of any legal work for a new client. Over time, as the client and lawyer continue to work together and new matters arise, the need for an engagement letter lessens. However, before a client gives a directive for the lawyer to proceed with legal

work, a client should always feel comfortable asking for an estimate of how much it will cost and how long it will take.

We know our clients come to us so that their matters are handled expertly and with a view to maximizing potential gains and, when necessary, minimizing potential losses. Abrahams Kaslow & Cassman LLP prides itself on providing the highest quality legal services in the most efficient and cost effective manner. We watch our costs just as closely as our clients watch theirs, so that we can keep our fees reasonable.

With this goal in mind, a variety of different fee arrangements are possible and can be negotiated with clients. In most situations, our fees are based upon the hourly rates of our professionals. Other possible fee arrangements include fixed fees, contingent fees, or a combination that may be mutually beneficial for both parties.

It is essential to the achievement of a mutually beneficial and satisfying relationship that all questions about fees and services get answered. We want to talk about fees up front because when it comes to fees, no one likes surprises.



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Attorney Spotlight

AK&C Represents James Skinner Baking Company in New Production Plant in Texas

Attorneys Harvey Cooper, Tim Kenny, Nick Dafney, Ryan Kunhart and Katie Kotlik recently represented the James Skinner Baking Company with its purchase of a former Sara Lee baking production facility in Paris, Texas. The AK&C attorneys represented Skinner in the drafting and negotiating of the real estate purchase, Texas Enterprise Fund and financing agreements. A link to Governor Rick Perry's press release regarding Skinner's purchase is below:

<http://www.governor.state.tx.us/news/press-release/17992/>

Earth Day Omaha board member, Jennifer Rattner, helped to organize the 23rd Annual Earth Day Omaha on Saturday, April 20, 2013. The free event featured exhibit booths, children's activities, demonstrations and short speaker sessions, plus live music from top local bands and food from area vendors.



Aaron Weiner is a member of the B'nai B'rith Omaha chapter and is involved in organizing its 59th Omaha Sports Banquet. This year's banquet will be held on Thursday, May 23, 2013 and will feature the legendary Tom Osborne.

Attorneys Nicole Seckman Jilek, Katie Kotlik and Jennifer Rattner sponsored a table at Girls Inc. Girls Nite Out Event.



Attorney Jen Rattner, Angela Terry, Angela Dunne and attorney Katie Kotlik.



Brook Schumacher, attorney Nicole Seckman Jilek, and Stephanie Luetkenhaus.

Nicole Seckman Jilek and Katie Kotlik attended the Greater Omaha Young Professionals Summit. Did you see their picture in the Omaha World-Herald? In case you missed it, here it is!



The nation's most elite law firms were recognized recently in the LexisNexis® Martindale-Hubbell® 2013 U.S. Top Ranked Law Firms list, which was published in the December 24, 2012, issue of Fortune magazine.

We are pleased to be recognized as one of the Top Ranked Law Firms in the Midwest. Compiled by LexisNexis Martindale-Hubbell, the list includes 2,421 firms located across the nation. To be eligible as a 2013 U.S. Top Ranked Law Firm, the firm must have a minimum of 10 attorneys and at least 33% of its attorneys must have achieved an AV Preeminent® rating.

AV Preeminent® is the highest possible Martindale-Hubbell Peer Review Rating designation. It indicates that the individual attorney is an established practicing lawyer whose local peers have observed him or her to be "Very High to Preeminent" in legal ability and to have "Very High" ethical standards. All of the attorneys in our firm who have been rated by LexisNexis Martindale-Hubbell have received the AV Preeminent® rating.

More than 254,000 law firms were considered in the selection process, but less than one-half of one percent of firms across the nation made the final cut. The list is the only one of its kind to exclusively contain U.S. law firms.



Congratulations to Aaron D. Weiner for being selected as Jewish Federation of Omaha's 2012-2013 Volunteer of the Year for the ADL/CRC. (Anti-Defamation League and Community Relations Committee).

After participating in countless mediations as a litigator and advocate for business clients over the last 23 years, Aaron D. Weiner has expanded his services to include acting as a mediator. Mr. Weiner has completed over 50 hours of training to become a certified Nebraska Mediator. As a mediator, Mr. Weiner will serve as a go between to help parties settle commercial disputes, making practical use of his decades of experience in contract disputes, real estate law, landlord tenant law, and franchise law. Mr. Weiner is also now affiliated with the Concord Mediation Center here in Omaha, providing pro bono and discounted mediation services to those in need.

Thank you Omaha for voting Abrahams Kaslow & Cassman LLP Best of B2B Winner for best law firm three years in a row!



Creating a Business Entity

by: *John W. Herdzina*

There are several ways to “set up” a corporation, a limited liability company, or a partnership. Several formation forms and related documents are available on state websites. Several on-line service companies exist where legal documents can be created and shared at a much lower cost than standard attorney rates. The popularity of these service companies is growing at a very fast pace.

Let's assume you have been operating as a sole proprietor or a partnership for some time. You have decided to add protection to your assets by forming and operating under a legal entity that provides limited liability. Let's also assume you set up a corporation, limited liability company, or limited liability partnership using on-line forms. Copies of your legal formation documents are sitting in front of you, you have signed them, and you have sent them to the Secretary of State's office for filing together with a check for the required filing fees. Are you now protected if your business gets sued? Will the plaintiff find out that you have been using your personal assets in the business yet you are receiving the advantage of tax and other benefits through your entity? Have you made the necessary contributions of capital to your new entity? Will the plaintiff find out that you did not correctly document the transfers of personal property to your business?

We are all for being prudent with our dollars and saving money for our bottom line. That is just solid business practice. Sometimes, however, preparing the documents is only part of the process needed to protect your assets.

To avoid any potential pitfalls of setting up your own business entity, contact one of our business attorneys at 402-392-1250.

DOL's Misclassification Initiative Continues

by: *Ryan M. Kunhart*

Earlier this year Iowa became the fourteenth state to sign a Memorandum of Understanding with the United States Department of Labor (DOL) to fight employee misclassification. The Memoranda of Understanding are a part of the DOL's Misclassification Initiative, which aims to prevent, detect, and remedy the misclassification of employees as independent contractors. The Memoranda of Understanding allow the DOL to share information and coordinate efforts with participating states as a part of the Misclassification Initiative.

Since beginning the Misclassification Initiative nearly two years ago, the DOL Wage and Hour division has collected more than \$10 million in back wages for Fair Labor Standards Act minimum wage and overtime violations.

Although Nebraska has not yet signed a Memorandum of Understanding with the DOL, it is important to analyze how you classify your workers as employees or independent contractors. The liability for misclassifying an employee as an independent contractor is similar to the liability for misclassifying an employee as exempt, which may include payment of back wages and possible doubling of the wages to be paid as liquidated damages.

If you have any questions about the classification of your workers, please contact Harvey B. Cooper or Ryan M. Kunhart.

Don't Forget to Review Your Estate Plans

by: *John W. Herdzina*

Sometimes it is hard to motivate a client to complete their will, power of attorney and related estate planning documents. Once a client signs the documents, he or she may file them away thinking the job is done. The truth is the client's job is done only for the time being.

Eventually you need to review the documents if you have had any changes in your life. Have you recently had a birth in your family, maybe a grandchild? Have any of

your family members been diagnosed with special needs? Have you lost a loved one who may have been designated in your will as your personal representative or a beneficiary? Have you experienced a divorce in your family such that you no longer wish that a certain person be involved in your estate plan? Has a person you named as a personal representative, trustee, conservator, or guardian moved out of state and affected your plans?

If the answer to any of these or similar questions is yes, you should review your estate planning documents to ensure they reflect your current situation.

Call one of our estate planning attorneys today at 402-392-1250 to schedule an appointment to review your estate plan.

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This newsletter is published by the law firm of Abrahams Kaslow & Cassman LLP to inform our clients and friends about various legal developments and to provide news about our firm. **Any tax advice contained in this newsletter (i) is not intended and was not written to be used, and cannot be used, by any person for the purpose of avoiding penalties that may be imposed on such person under the Internal Revenue Code and (ii) may not be used by any person in promoting, marketing, or recommending to another person any transaction or matter addressed in this newsletter.** This newsletter is not intended to provide legal advice on specific matters but rather to provide insight into legal topics and issues of current interest. Please consult with legal counsel before taking action on matters covered in this newsletter. If you would like further information or would like to be added to our mailing list, please contact Debbie Watson at 402-392-1250 or via email at dwatson@akclaw.com.

The Nebraska Rules of Professional Conduct for attorneys require the following statement on newsletters of law firms:
This is an advertisement.

SAVE THE DATE - ADA/FMLA



Please join us for a FREE seminar to discuss the following updates to:

Americans with Disabilities Act

Hot topics and enforcement positions.
Leave as a reasonable accommodation.
Requirement for employer to engage in interactive process.
Is regular and predictable attendance really an essential function?
Employee restoration rights.

Family Medical Leave Act

Current Department of Labor enforcement positions.
Curbing intermittent leave abuse.
Handling incomplete and insufficient medical certifications.
Undue hardship under the ADA and the FMLA.

This seminar is offered on the following dates:

June 18, 2013
7:30 a.m. - 8:30 a.m.

OR

June 27, 2013
3:30 p.m. - 4:30 p.m.

Presented by:
Harvey B. Cooper
Ryan M. Kunhart

To register call 402-392-1250
or email dwatson@akclaw.com

Both sessions will be held at our office
located at 8712 West Dodge Road,
Suite 300.