

Seminars

Employment Law Update

This seminar is being offered through Sterling Education. Sandra L. Maass and Tyler P. McLeod will be presenting.

Date: May 29, 2008

Time: 8:30 a.m. - 4:30 p.m.

Agenda:

- Employment Law Developments
- Immigration Compliance Issues for Employers
- Privacy in the Workplace & Conducting Internal Investigations
- Wage & Hour - FLSA
- Harassment in the Workplace
- Developing FMLA Compliance
- Protecting At Will Employment

Email dwatson@akclaw.com if you would like to receive a brochure on the seminar. You will receive \$50 off the seminar price charged by SES.

Attorney Spotlight



Aaron D. Weiner, Partner

Year Joined - 1990

Areas of Practice:

- Litigation & Appeals
- Landlord/Tenant
- Real Estate
- Contracts
- Administrative Law
- Franchise Litigation

Volunteers his time:

- B'nai B'rith Board
- Anti-Defamation League Board
- Downtown Rotary

Enjoys:

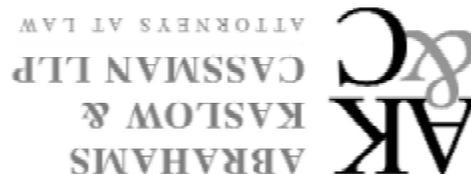
Golf, Tennis and Music

Spends his free time: with his wife, Therese, and six-year-old daughter Sadie.

This is an advertisement.

The Nebraska Rules of Professional Conduct for attorneys require the following statement on newsletters of law firms: This newsletter is published by the law firm of Abrahamas Kaslow & Cassman LLP to inform our clients and friends about various legal developments and to provide news about our firm. 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 email dwatson@akclaw.com.

8712 West Dodge Road, Suite 300
Omaha, Nebraska 68114





Legal Perspectives

from Abrahams Kaslow & Cassman LLP

New Law Modifies FMLA Leave For Family Members Of Military Personnel

by Tyler P. McLeod

DOL Signals Further Changes to FMLA Regulations in 2008.

In early January 2008, President Bush vetoed legislation that included amendments to the Family and Medical Leave Act of 1993 to provide leave for family members caring for military veterans injured while on active duty. President Bush's reason for vetoing the legislation was unrelated to the FMLA amendments as he clearly supported them. New legislation, therefore, was expected to be passed by the legislature and signed by the President.

Congress and President Bush in fact acted swiftly to enact the new legislation. On January 28, President Bush signed a new law that provides

two types of FMLA leave related to military service. Under the new law, an eligible employee can take up to 26 weeks of leave in a 12-month period to care for a spouse, child, parent or next of kin who is a service member with a "serious illness or injury" (as defined by the new law) incurred while on active duty. The law also permits eligible employees to take up to 12 weeks of FMLA leave in a 12-month period for "any qualifying exigency" that arises from a spouse's, child's or parent's active duty in the Armed Forces. Congress did not define the term "qualifying exigency" and directed the Secretary of Labor to issue regulations to determine what constitutes such exigency.

(Continued on page 3.)

A New Partner for the New Year

Nicholas T. Dafney has become a partner in the firm. Nick joined the firm in 2002, after graduating with distinction from the University of Nebraska College of Law. Since joining the firm, he has developed a broad corporate and business practice representing corporations and other business entities of all sizes in every aspect of their existence - from formation through all phases of their evolution and operation.

Nick has extensive experience handling the formation of business entities, including corporations, limited liability companies and various non-profit organizations, and specializes in mergers and acquisitions and other dispositions of business and asset interests.



Nicholas T. Dafney

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Contact Us!

Let us know what you would like to see in our newsletter. Email your questions or comments to dwatson@akclaw.com.

Estate Planning 101

There are many issues to consider in developing an effective estate plan, such as planning for a time when an individual may not be able to handle his or her own affairs, passing assets as intended, minimizing death taxes, or deciding whether to use a Trust to protect loved ones who cannot protect themselves. Unique circumstances often require a customized approach to estate planning, such as planning for the protection of an individual with special needs. The following is a brief review of some of the basic plan documents and relevant estate planning issues.

Will: A Will generally serves several purposes. These include (1) directing how an individual's assets are to be distributed, (2) nominating a Personal Representative to administer the individual's final affairs, (3) waiving the requirement that the Personal Representative provide bond to ensure the faithful performance of his or her duties, and (4) nominating a Guardian to care for a minor or incapacitated child.

Trust: Trusts are primarily used for one or more of the following: (1) holding and protecting a beneficiary's share of inheritance (such as when the beneficiary has an addiction or poor money management skills), (2) probate avoidance, (3) minimizing death taxes, and (4) allowing for

management of an individual's affairs in case of incapacity.

Power of Attorney: This is a document in which an individual appoints an "Agent" to handle his or her affairs. The authority granted to the Agent in a Power of Attorney can be very narrow (such as limiting it to a single purpose) or very broad (covering all of the client's financial and health care decisions), and the Agent's authority can be made to become effective immediately once the document is signed, or upon an event, such as the individual's incapacity.

Living Will: This is a short document in which the individual expresses his or her intent with regard to receiving medical treatment when the individual is unable to make such decisions.

Taxes: For the vast majority of people, there are currently two death taxes of concern. A third death tax was eliminated in 2007 when Nebraska repealed its "Estate Tax". The two existing death taxes are the "Federal Estate Tax" and the "Nebraska Inheritance Tax".

Many people are familiar with the dreaded Federal Estate Tax because proposed changes to it are often discussed in the news. Generally, a person who dies this year may

collectively pass up to \$2,000,000 in assets to family and friends (other than a spouse) through previous lifetime gifts and bequests at death. There is no limit on the amount of assets that can be gifted or bequeathed to a spouse tax-free. Assets exceeding this \$2,000,000 limit are taxed at 45%. Due to recent federal legislation, the exclusion will significantly fluctuate over the next several years from the current \$2,000,000 limit.

The Nebraska Inheritance Tax underwent recent changes. Effective this year, assets in excess of \$40,000 received by a lineal descendant because of an individual's death are generally subject to a 1% tax. Although no assets that pass to a surviving spouse are subject to taxation, the tax assessed on assets received by more remote family members is higher, and the exemption amount is lower than that of a lineal descendant. The recent changes also result in tougher penalties for failure to timely address Inheritance Tax matters.

This is only an overview of the issues and documents that should be considered in preparing your estate plan. If you have any questions regarding effective estate planning, please contact an AK&C attorney.

AK&C Recognized for High Quality Standards

AK&C recently put itself to the test through a diligent review process that includes exacting self-assessment, peer review by other law firms, and client comments provided to a third party.

These tests are just part of our firm's membership in Meritas, a closely integrated group of full-service law firms that provide business clients with worldwide

access to comprehensive legal services.

Membership in Meritas is by invitation only, with only one firm admitted for each selected geographic marketplace. Members are ranked among the top firms in most cities and we are pleased to have been chosen as the only Nebraska member for over ten years.

As part of its drive to ensure

continued high caliber legal services among its nearly 200 member firms worldwide, Meritas institutes a periodic recertification process as a requirement for membership. We are pleased to announce that AK&C was recently awarded recertification.

The recertification process is based on the timeliness and quality of a firm's client service and its professional conduct.

Employment Update

Employers Required to Use New I-9 Form As of December 26, 2007

In November 2007, the United States Citizenship and Immigration Services, issued a revised form I-9 employment eligibility verification form. Use of this form is mandatory as of December 26, 2007. Although employers are not required to complete new forms for employees hired before December 26, 2007, previous versions are no longer valid. Employers who fail to use the new form will be subject to applicable penalties.

The revised form removes five documents from the category A list of acceptable documents and adds one

document to the category. The USCIS removed the documents because they lacked features to help deter counterfeiting, tampering and fraud. The new I-9 form also indicates that employees are not required to provide their social security numbers in section 1 unless the employer participates in E-Verify - the electronic employment verification system administered by the USCIS. The USCIS also issued a new handbook that provides detailed explanation on how to use the new form.

Proper use and compliance with the new I-9 form is especially important in light of the continuing increase in the number of I-9 audits performed by Immigration and Customs Enforcement. On January

17, 2008, ICE Director, Julie Myers, announced the Agency's 2008 enforcement strategy for ensuring that employers are complying with immigration laws. As part of this strategy, Myers stated that ICE will conduct more I-9 form audits. Fines for form I-9 violations range from \$110 to \$1,100 per violation.

The new form and handbook can be downloaded from the USCIS website at www.uscis.gov/files/form/i-9.pdf and www.uscis.gov/files/nativedocuments/m-274.pdf.

Please contact an AK&C attorney should you have any questions regarding the new I-9 form or compliance with immigration laws.

New Law Modifies FMLA (continued from page 1.)

These new bases for FMLA leave supplement the existing reasons for which an eligible employee may take up to 12 weeks of leave each year: (1) the birth of a child and to care for such child; (2) the placement of a child for adoption or foster care; (3) caring for a spouse or immediate family member with a "serious health condition"; and (4) where an employee has a serious health condition such that they are unable to work.

The amendments also complement many state family military leave laws that provide for shorter durations of leave or only cover spouses of service members. As reported in our Summer 2007 newsletter, the Nebraska Family Military Leave Act, effective since April 2007, requires that any employer that employs between 15 and 50 employees must provide up to 15 days of unpaid family military leave for spouses and parents of service members, and up to 30 days for employers employing more than 50 employees.

As for any further amendments to the FMLA, employers and employees alike have waited for years for the Department of Labor to issue new and amended FMLA regulations. Employers have criticized aspects of the FMLA for causing administrative headaches, while employee advocates want to see the law expanded. In 2007, the DOL was flooded with more than 15,000 public comments in response to its Request for Information on the effectiveness of the regulations. Nevertheless, the DOL merely issued a summary report of comments without any indication of when or if any new regulations would be issued. Recently, however, the DOL has indicated that proposed regulatory changes may be published in the Federal Register as early as February. The DOL, however, has not provided any details about its recommended changes.

If you have any questions about the FMLA and its new amendments, please contact an AK&C attorney.

Understanding the Family and Medical Leave Act (FMLA)

This seminar is being offered through the Greater Omaha Chamber of Commerce. Sandra L. Maass and Tyler P. McLeod will be presenting.

Date: April 16, 2008

Time: 8:00 a.m. - 10:00 a.m.

Place: Omaha Chamber
(west location)

13206 Grover Street

Register online at
www.omahachamber.org/academy

or call the chamber at
346-5000.