



HWGSB News & Views

Hasselberg, Williams, Grebe, Snodgrass & Birdsall
Attorneys and Counselors

Volume 8, Issue 3

NOVEMBER 2011

ATTORNEY DAVID WENTWORTH RECOGNIZED FOR HIS SERVICE TO THE COMMUNITY



David L. Wentworth II

We are proud to announce that David L. Wentworth II received the Ralph B. Fairchild Award from the Community Workshop and Training Center, Inc. (CWTC) at the organization's September 13, 2011 Pathway Awards Dinner. The Award was named for Ralph B. Fairchild, a former board member. The award is given to a person who has been a member of the Board of Directors who shows exemplary skills in the leadership of CWTC.

David has been a member of the Board of CWTC since 2001, and is the Chair of its Collaboration Committee. David also serves on CWTC's Human Rights Committee.

The mission of CWTC is to provide "programs and services to adults with disabilities enriching their quality of life, promoting social change and optimizing their potential for independence". CWTC operates 22 residential facilities in Peoria, Tazewell and Fulton Counties. CWTC and its programs recently received another three-year accreditation from CARF, an international organization. CWTC serves around 700 individuals on an annual basis and employs around 160 staff. CWTC is a United Way agency. This year CWTC is celebrating its 51st anniversary, and its 51 year partnership with Caterpillar Inc. David is proud to be part of such a well managed organization that provides essential services to our community. He believes that one of the strengths of CWTC is its tremendous staff, most of whom have been with CWTC for years. For example, Gail M. Leiby, Executive Director, retired at the end of August after 34 years with CWTC. Congratulations Gail!

David joined Hasselberg, Williams, Grebe, Snodgrass & Birdsall in 1998 and became a partner in 2001. In addition to serving on the Board of Directors of Community Workshop & Training Center, David also serves on the board of the Proctor Health Care Foundation. **(Continued on Page 4 — Community Service)**



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- Medical providers for injured workers
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WORKERS' COMPENSATION ACT CHANGES IN EFFECT

In an attempt to lower the costs associated with workers' compensation to businesses in the state, the Illinois legislature made changes to the Illinois Workers' Compensation Act that went into effect September 1, 2011. Of the changes made, two are most likely to have a noticeable effect on those bringing claims under the Act.

Under the prior law, claimants had the right to two "strings" of medical treaters of their own choosing. If a claim was covered by the Act, an injured worker had the right to go to a doctor of their choosing for care and have that care paid for by the employer. If that doctor referred the claimant to another doctor for care, the bills for that doctor would also be covered under the Act as would the bills for other treatment resulting from this "string" of referrals. If the claimant wanted to obtain a second opinion outside this string of referrals, they could go to another doctor of their choosing and have their treatment from a second "string" of medical care providers also paid for by the employer.

Under the new law, employers can set up a network of preferred medical providers from which claimants may choose. Claimants have a right to two "strings" of treaters within this network in the same manner they did under the old law for doctors of their choosing. Alternatively, claimants can still go to a doctor of their choosing outside this network, but they will be limited to only one "string" of treaters if they choose to do so.

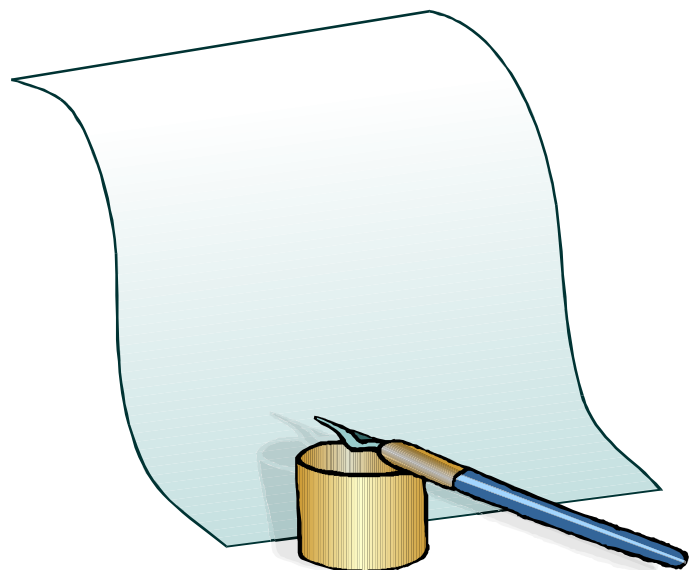
The determination of a claimant's permanent disability has also changed under the new law. The Act now directs such determination be made in part according to the guidelines set forth by the American Medical Association. The Act now also specifically limits the awards for certain conditions, such as carpal tunnel syndrome.

If you have any questions regarding the Illinois Workers' Compensation Act, please contact Kenneth M. Snodgrass, Jr. or Boyd O. Roberts III at (309) 637-1400.

ILLINOIS LAW LIMITS RESTRICTIONS PLACED ON A PERSON'S POST-EMPLOYMENT ACTIVITY

In certain situations employers and employees will make agreements limiting the type of work or other actions an employee can take following the termination of an employment relationship. Although at the time of their making the parties may agree to be bound by the terms of these agreements, such Non-Compete Agreements and Covenants Not to Compete are generally disfavored under Illinois law. The law limits the nature and scope of such agreements, and if an agreement goes beyond what the law has deemed acceptable an agreement may be ruled invalid in its entirety regardless of the intent of the parties at the time of its making.

Due to the disfavored nature of Non-Compete Agreements and Covenants Not to Compete, an employer who specifically contracts for one may lose the benefit they bargained for if they are not sure to follow the applicable law when the agreement is drafted. When making employment related decisions, it is also important that an employee understands what restrictions will be placed on him or her under such an agreement. If you have any questions regarding the drafting or interpretation of a Non-Compete Agreement or a Covenant Not to Compete, or any other employment related question, please contact Charles J. Urban or Kenneth M. Snodgrass, Jr. at (309) 637-1400.





CASE RESULTING FROM TRAGIC ACCIDENT SHEDS LIGHT ON SOCIAL HOST LIABILITY

The recent Illinois Supreme Court case of **Bell v. Hutsell** involves sad facts, but illustrates Illinois law concerning “social host” liability. In that case, Jeffery and Sara Hutsell allowed their son, Jonathan, to have a party at their house while the Hutsells were present. The Hutsells did not supply alcohol for the party, and told Jonathan alcohol was not allowed. Alcohol was brought to the party, however. An eighteen year old friend of their son, Daniel Bell, became intoxicated at the party and died when he crashed his car driving home. Daniel’s parents sued Jeffery and Sara Hutsell for damages resulting from Daniel’s death.

Under Illinois law a “social host” is generally not liable for injuries caused by their guests’ intoxication, even if the host supplies the alcohol. This is because courts have found that it is the *consumption* of the alcohol that leads to intoxication, not the mere *provision* of alcohol. Therefore, the rule is that the person who consumes the alcohol is the one who may be liable for damages resulting from intoxication, and the person who merely created the condition that allowed them to consume the alcohol by providing the alcohol cannot be held liable. Although not directly relevant to the case of **Bell v. Hutsell**, it should be noted that legislation such as the Dram Shop Act has altered this rule in certain situations, such as when bars serve alcohol to customers. Recognizing the general rule against “social host” liability, the plaintiffs in **Bell v. Hutsell** claimed that the Hutsells voluntarily undertook a duty to prevent alcohol from being consumed at the party by telling Jonathan it would not be allowed. The plaintiffs claimed that in violation of this undertaking the Hutsells did in fact allow alcohol to be consumed with their knowledge. The plaintiffs pointed to other cases where a voluntary undertaking was found, including one in which a father and his sons were found liable for the death of a sixteen year old girl caused by a high level of intoxication.

The court in **Bell v. Hutsell** noted that in the prior case relied upon by the plaintiffs, the defendants were not held liable as social hosts for allowing the girl to consume a dangerous amount of alcohol. In fact, such claims had been denied by the court. Rather, the defendants in that case were held liable because they

undertook the duty to assist the girl after she became unconscious and exhibited signs of being dangerously intoxicated, and they refused to allow others to assist the girl or take her elsewhere for help. This was different than the duty the Hutsells had allegedly undertaken to not allow alcohol to be consumed. Therefore, the court found that the claims brought against the Hutsells were contrary to Illinois law on “social host” liability, and could not be sustained.

The court’s finding in **Bell v. Hutsell** does not mean that there are no potential legal consequences for parents who allow underage drinking in their homes. In a separate criminal proceeding the Hutsells were convicted of misdemeanors for allowing the consumption of alcohol at their home by underage people. Additionally, largely in response to the events in that case, the legislature amended the Liquor Control Act to make it a Class 4 felony if a parent or guardian allows the consumption of alcohol by underage people at their home if it results in death or great bodily harm to any person.

HAVE YOU FULLY CONSIDERED ALL THE WAYS TO PROVIDE THE MOST TO YOUR LOVED ONES IN YOUR ESTATE PLAN?

Although many only think of estate planning as involving matters that will occur after their death, proper estate planning can often involve actions taken while a person is around to directly see the benefit provided to their beneficiaries. For instance, the IRS Code allows for certain gifts to be made tax free during a person’s lifetime. If done properly, such gifts can greatly increase the effectiveness of your estate plan by reducing the tax burden that would otherwise be placed upon your estate, and thus allowing more to be given to your beneficiaries rather than the IRS.

If you have any questions regarding the making of lifetime gifts or any other estate planning questions, please contact James R. Grebe or John G. Dundas at (309) 637-1400.



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A special thanks to John Dundas, our editor and associate attorney, for his selection and preparation of the articles appearing in this edition of HWGSB News & Views.

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**Community Service
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David's practice areas include: Commercial Litigation, Real Estate Law, Land Use/Zoning, Environmental Matters, Appellate Practice and Administrative Law. As a trial attorney, he is experienced in representing businesses and municipalities in state and federal courts in a wide range of practice areas including class actions, antitrust, contracts, ERISA, commercial litigation, property damage, and collections. David is experienced in representing business organizations, including professional service corporations, not-for-profit groups and other business entities in a general counsel capacity. He counsels clients regarding board meetings, contracts, procedure, officers and directors liability, and daily operations. David represents employers in a wide range of employment issues, including employment contracts.

Hasselberg, Williams, Grebe, Snodgrass & Birdsall is proud to support CWTC, a registered non-profit organization. To learn more about CWTC, and to make a tax deductible donation, please visit its website at www.cwtc.org or phone 309-686-3300.

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