



HGSUW News & Views

Hasselberg Grebe Snodgrass
Urban & Wentworth
Attorneys and Counselors

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Meet Our New Associates!



Michael Toren

We are pleased to welcome Michael Toren as a new associate attorney with our firm. Mike grew up in the suburbs outside of Chicago and attended Schaumburg High School. Mike earned his Bachelor of Science from Illinois State University in 2012. Mike received his Juris Doctor from the Northern Illinois University College of Law in 2015. During law school, Mike served on the Board of Editors of the *Northern Illinois University Law Review* and published an article concerning civil rights and special education law. Mike also clerked for the Honorable J. Edward Prochaska of the Seventeenth Judicial Circuit Court of Illinois and worked for several litigation firms. Mike was sworn in as a licensed attorney in November 2015.

Mike recently purchased his first home in Chillicothe and is engaged to his fiancé, Coral, who grew up in Lacon. Mike is a member of the Young Professionals Organization of Greater Peoria, the Illinois State Bar Association and the Peoria County Bar Association.

Mike is also an Eagle Scout who serves as a Unit Commissioner through the local W. D. Boyce Council. Mike focuses his practice in the areas of workers' compensation, insurance defense, and general litigation.

We are pleased to welcome Alixander "Joe" Pishghadamian as a new associate attorney with our firm. Joe grew up in DeKalb, Illinois where he also attended and graduated from the Northern Illinois University College of Business with a bachelor's degree in Organizational Behavior/Corporate Management. He is also a graduate of Illinois State University's Masters of Business Administration program and the Southern Illinois University School of Law.

During law school, Joe served as an articles editor for the *Southern Illinois University Law Journal* and published an article evaluating the power shift between shareholders and public and private companies regarding the enforcement of fee-shifting provisions contained within the companies' bylaws.

He also made the Dean's list, clerked for four different civil practice law firms in Carbondale and Marion, Illinois, and served as a clerk for the honorable Chief Justice of the Illinois Supreme Court, Lloyd A. Karmeier.

Joe is a member of the Young Professionals of Greater Peoria, a graduate of their 2016 Leaders Emerging to Advance Peoria program, and a member of the Illinois State Bar Association and the Peoria County Bar Association. Joe practices in the area of workers' compensation, business law, family law, and trust and estates planning.



Joe Pishghadamian

Inside this issue

<i>New Employee Leave Time Laws</i>	Page 2
<i>Resumed Mailing of Illinois Vehicle Registration Reminders</i>	Page 2
<i>Northwestern University Football Team</i>	Page 3
<i>Illinois Six-Person Jury Law</i>	Page 3
<i>IRS Offer in Compromise Fee</i>	Page 3
<i>Molly's Law</i>	Page 4
<i>Retirement Plan Minimum Distributions</i>	Page 4
<i>Non-Compete Agreements for Low-Wage Employees</i>	Page 5
<i>Fly the W</i>	Page 5
<i>Estate Planning in an On-Line World</i>	Page 5

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NEW LAWS PASSED REGARDING EMPLOYEE LEAVE TIME

Two new laws will take effect on January 1, 2017 that create new rights concerning employees' leave time off of work.

The Illinois Child Bereavement Leave Act applies to employers with at least fifty employees, and states that eligible employees must be allowed up to two weeks of unpaid leave to attend the funeral or alternative service for the death of their child, to make arrangements necessitated by the death of their child, and/or to grieve the death of their child. If more than one child of an eligible employee dies within a twelve month period, the employee may be entitled to six weeks of bereavement leave. The bereavement leave must be completed within sixty days of when the employee receives notice of the death of the child, and employers are entitled to forty-eight hours of notice before the use of the leave, unless such notice is impracticable. This bereavement leave may not be taken in addition to the unpaid leave allowed for under the Family Medical Leave Act, and may not exceed the amount of leave called for under that Act.

To invoke the provisions of the Illinois Child Bereavement Leave Act, the deceased child must be "an employee's son or daughter who is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis." In order to be eligible for leave under the Act, an employee must have had at least 1250 hours of service for the employer in the previous twelve month period.

The Illinois Employee Sick Leave Act will also go into effect in the New Year. Although the name may suggest otherwise, the Act does not require employers to provide sick leave to their employees. Rather, the law states that if employers do provide sick leave benefits, an employee must be allowed to use those benefits "for an illness, injury, or medical appointment of [an] employee's child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent, for reasonable periods of time as the employee's attendance may be necessary, on the same terms upon which the employee is able to use sick leave benefits for the employee's own illness or injury."

In other words, an employer who provides sick leave benefits can no longer restrict the benefits to an employee's own illnesses, but must also allow the benefits to be used for the family members named in the Act.

It should be noted that although the Act does not include "domestic partner" in the list of those for whose illnesses or injuries and employee may use sick leave, the inclusion of "domestic partner" in other sections of the Act indicates that this could be a drafting error. An employer may limit the amount of leave used under the Act to the amount the employee would accrue during a six month period under their then current rate of entitlement. The Act specifically states that employers whose leave policies would already otherwise provide the benefits called for under the Act do not need to modify their policies.

If you have any questions regarding employment law issues, please contact Charles J. Urban at (309) 637-1400.

THE ILLINOIS SECRETARY OF STATE RESUMES MAILING OF VEHICLE REGISTRATION RENEWAL REMINDER NOTICES

In a previous newsletter we reported that, due to funding issues relating to the state's budget impasse, the Illinois Secretary of State suspended the mailing of Vehicle Registration Renewal Reminder Notices as a cost savings measure. Although budget issues certainly remain in the state, Secretary of State Jesse White recently announced that this Office will once again be mailing renewal notices to drivers. Secretary White stated that funds from a stopgap budget would allow the mailing to resume, and that the discontinuation of the mailings resulted in increased late fees and fines for expired license plates, which was an undue burden on drivers.

If you have any questions regarding traffic or criminal law issues, please contact Boyd O. Roberts III at (309) 637-1400.





NORTHWESTERN UNIVERSITY FOOTBALL TEAM RULES FOUND UNLAWFUL

Thanks, in part, to a National Labor Relations Board Advice Memorandum, Northwestern University football players have more freedom when it comes to social media, discussion of medical issues, dispute resolution, and communication with media outlets. The Memorandum, which was issued this past September, found that Northwestern's football program violated provisions in the National Labor Relations Act by restricting the rights of scholarship football players through various team policies. Although the formal unfair labor practice charge was ultimately dismissed, the university has changed its handbook to comply with national labor standards. Specifically, Northwestern changed: its social media policy to remove language stating player's accounts would be "regularly monitored;" its medical policy to allow players to talk generally about medical issues and concerns with individuals outside the program without mentioning specific players or injuries; its entire dispute resolution procedure; and its media relations policy to allow players to speak to media members directly rather than referring media inquiries to the athletic communications office. The Memorandum, which referred to players as "employees" and Northwestern as an "employer," raises important questions regarding the relationship between collegiate athletes and their universities.

If you have any questions regarding employment issues, please contact Charles J. Urban at (309) 637-1400.

ILLINOIS SUPREME COURT INVALIDATES SIX-PERSON JURY LAW

In late September, the Illinois Supreme Court unanimously held that legislation mandating a six-person jury in civil cases was unconstitutional. The 2015 amendment, which was signed into law by former Governor Pat Quinn, provided that claims involving \$50,000 or less would be heard by a six-person jury. The amendment sought to eliminate the portion of the prior statute allowing parties to specifically request a full twelve-person jury. The amendment further substantially increased the pay for jurors, and therefore the cost of jury trials, in an attempt to encourage juror participation and arguably discourage the use of jury trials.

In an opinion by Chief Justice Rita Garman, the Supreme Court ruled that a twelve-person jury was an essential element of the right to a jury trial guaranteed by the Illinois Constitution. In reaching this conclusion, the Court

cited a number of prior cases and substantial evidence from the Constitutional Convention, which suggested a jury trial, by definition, required twelve jurors.

The Court further held the six-person jury requirement could not be severed from the remainder of the amendment increasing juror pay, because the legislature would not have increased juror pay if it had known that the limitation in jury size was unconstitutional.

If you have any questions regarding legal issues that require civil litigation, please contact Kenneth M. Snodgrass, Jr. or John G. Dundas at (309) 637-1400.

IRS PROPOSES INCREASE TO OFFER IN COMPROMISE FEE

In an attempt to lose less money from the program, the Internal Revenue Service has proposed an increase in the fee to seek an Offer in Compromise on outstanding tax debts from \$186 to \$300. With certain exceptions, this fee, along with a required initial payment, must be paid when submitting an Offer in Compromise to the IRS. An Offer in Compromise that is made without such required payments is subject to being rejected without an opportunity to appeal. The fee and initial payment are not refundable, and will not be returned the tax payer in the event the Offer in Compromise is not accepted.

An Offer in Compromise is a procedure that allows a tax payer and the IRS enter an agreement to settle an outstanding tax debt for less than the full amount owed. Although it can be highly beneficial in certain circumstances, its use is limited and is not likely to be helpful to many who owe an outstanding debt to the IRS. Fortunately, even for those for whom an Offer in Compromise does not appear to be a viable means of resolving a debt to the IRS, other arrangements can be made to settle delinquent tax issues.

If you have any questions regarding delinquent taxes or other tax issues, please contact James R. Grebe or John G. Dundas at (309) 637-1400.





MOLLY'S LAW

This past July, Governor Rauner signed into law two pieces of legislation, collectively known as “Molly’s Law,” in an effort to provide protection and justice for victims of violent acts and their families. Effective January 1, 2017, “Molly’s Law” extends the statute of limitations for wrongful death actions and provides stiffer penalties for a public body’s willful and intentional failure to comply with a Freedom of Information Act request. Specifically, House Bill 6083 amends the Wrongful Death Act and allows a lawsuit to be brought within five years after the date of death, or within one year after the conclusion of a criminal case where a defendant is charged with one of nine enumerated violent actions. The second-half of “Molly’s Law,” House Bill 4715, amends the Freedom of Information Act and allows a court to impose a civil penalty of not less than \$2,500 nor more than \$10,000 for each time a public body willfully and intentionally fails to comply with a FOIA request, or otherwise acts in bad faith, with an additional \$1,000 per day penalty for a public body that fails to comply with the court’s order within 30 days

This recent legislation is due, in large part, to the efforts of Larry Young and his family, who zealously advocated for the changes. Mr. Young’s daughter, Molly Young, a twenty-one year old Carbondale native, died in March of 2012 from a gunshot wound in the apartment of former boyfriend, Richie Minton. A State’s Attorney Appellate Prosecutor report found insufficient evidence to issue an indictment, but stopped short of ruling the death a suicide. After months of investigation, Mr. Young grew increasingly skeptical of the circumstances surrounding his daughter’s death and filed numerous Freedom of Information Act requests in an attempt to obtain information about the case. However, Mr. Young’s requests were denied by local public bodies, citing multiple exemptions to the Freedom of Information Act.

In June of 2014, Mr. Young filed a wrongful death lawsuit against Minton, approximately two years and three months after his daughter’s death. However, Jackson County Circuit Judge W. Charles Grace dismissed the case because the lawsuit was not filed within two years of death, as required by statute.

The dismissal is currently on appeal before the Fifth District Appellate Court, where Mr. Young argues the statute of limitations should be extended due to: (1) the recent amendments; and/or (2) the fact that he was not able to obtain the necessary records to file the wrongful death lawsuit, because certain public bodies fraudulently

concealed the records he requested through the Freedom of Information Act. In this regard, it should be noted that the Illinois Attorney General’s Office recently ordered officials to provide the documents Young requested. Despite his ongoing legal battles, Mr. Young celebrated the recent legislative changes and hoped they would help families secure justice.

If you have any questions regarding any personal injury or wrongful death issues, please contact Kenneth M. Snodgrass Jr. at (309) 637-1400.

If you have any questions regarding Freedom of Information Act issues, please contact William P. Streeter at (309) 637-1400.

MINIMUM DISTRIBUTIONS FROM RETIREMENT PLANS ARE DRAWING INCREASED ATTENTION

An expansion in the audits of large retirement plans regarding minimum distributions has shown an increased interest in the issue by the Department of Labor. Most retirement plans, with the exception of Roth IRAs while the owner is alive, require certain minimum distributions to be made beginning at the age of 70 ½, regardless of whether the owner is retired or still working. The Internal Revenue Service has long been interested in this issue, and if it found that a plan did not make the required minimum distributions the plan’s qualified status could be in jeopardy. The Department of Revenue’s audits could add civil and criminal penalties for a plan’s failure to meet the minimum distribution requirements.

While the Department of Labor’s attention is being directed at the plans, this does provide a good reminder of the importance to the individual of taking minimum distributions. If an individual fails to take their required minimum distribution in a year, the government will take a hefty portion of the amount that should have been distributed. If less than the full minimum distribution is taken, an excise tax of 50% of the deficiency in the amount withdrawn will be assessed. However, if an individual can show that their failure to withdraw the required amount was due to a reasonable error and that reasonable steps are being taken to correct the shortfall, they may be able to have the penalty waived.

If you have any questions regarding any tax law issues, please contact James R. Grebe or John G. Dundas at (309) 637-1400.





NON-COMPETE AGREEMENTS FOR LOW-WAGE EMPLOYEES BANNED

Few areas of Illinois law are as uncertain and unsettled as the viability and enforceability of non-compete agreements in employment relationships. Although many of the legal issues involved with such agreements may continue to lack clarity for the foreseeable future, in one narrow area the law will be definite beginning in 2017. The Illinois Freedom to Work Act prohibits an employer from entering into a non-compete agreement with a “low wage worker” after January 1, 2017. Initially the Act will prohibit such agreements with any employee making \$13.00 an hour or less. However, in addition to the \$13.00 an hour threshold, the definition of “low wage worker” in the Act has a provision tied to federal, state, and local minimum wages. Thus changes in minimum wage laws could increase the minimum threshold for non-compete agreements.

If you have any questions regarding employment law issues, please contact Charles J. Urban at (309) 637-1400.

Fly the W

In addition to winning the World Series, the Chicago Cubs recently won two significant legal battles. The Cubs’ first legal victory came this past September, when U.S. District Judge Virginia Kendall denied a request by the owners of the Skybox on Sheffield and Lakeview Baseball Club to refile a previously dismissed lawsuit accusing the recent World Series Champions of violating antitrust and contract laws. The lawsuit, which was initially dismissed in September of 2015, alleged the Cubs violated antitrust laws and a long-standing agreement to allow local Sheffield Avenue bar owners an obstructed view of home games, in exchange for seventeen percent of the bars’ profits, by constructing a 2,250-square-foot video board in right field. Despite the 2015 dismissal, the bar owners obtained new legal counsel and attempted to refile an amended lawsuit. Judge Kendall’s denial of this second attempt further solidifies the court’s prior ruling. However, counsel for the Sheffield Avenue bars has indicated his clients will appeal Judge Kendall’s rulings on a number of grounds.

The Cubs’ second legal victory came in the form of a confidential settlement, which amicably resolved their lawsuit against approximately eighty-four vendors who sold counterfeit merchandise during the Cubs’ historic season. The vendors, who sold clothing and memorabilia that was “substantially indistinguishable” or “confusingly

similar” to the Cubs’ protected logos or marks, ultimately admitted they had no legitimate right to sell the merchandise. In addition to any sums recovered under the settlement, the Cubs have requested an injunction to permanently prohibit the vendors from selling such merchandise in the future.

If you have any questions regarding any contractual issues, please contact David L. Wentworth II at (309) 637-1400.



ESTATE PLANNING IN AN ON-LINE WORLD

Despite on-line activities becoming such an increasing part of their everyday lives, few ever give thought to what happens to the digital portion of their estate upon their passing. Many may consider this to be a minor issue as they do not have much of a concern as to what happens to their social media accounts or similar recreational on-line activities after their death. However, dealing with such digital assets is becoming increasingly burdensome for executors and administrators as they try to wrap up their deceased loved ones’ affairs. Additionally, many people’s financial activities are now conducted almost entirely in the digital world, which also creates different challenges for those attempting to administer a decedent’s estate.

One of the primary benefits of a good estate plan is making the administration of your estate easier for those you nominate to take on that task after your death. More and more often this includes the administration of your digital assets. Your estate planning documents can include provisions directly addressing your on-line activities, and planning outside of the documents themselves can be helpful to ease the collection and distribution of your assets which are held in on-line accounts. This includes making sure your estate plan complies with, and takes advantage of, the changing laws in this area, such as the federal Stored Communications Act, and the Revised Uniform Fiduciary Access to Digital Assets Act that was recently passed in Illinois.

If you have any questions regarding any estate planning issues, please contact James R. Grebe or David B. Wiest at (309) 637-1400.



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Hasselberg Grebe Snodgrass Urban & Wentworth is a 14-attorney full service law firm with individual lawyers concentrating in particular areas of the law. The firm serves clients throughout the State with a focus on Central and Southern Illinois. Practice areas include: Adoption Law, Administrative Law, Agricultural Law, Bankruptcy, Commercial Law, Corporate Law, Criminal Law, DUI/DWI, Elder Law, Estate Planning, Family Law, Federal Taxation, Governmental Law, Insurance Law, Labor and Employment, Land Use, Litigation, Personal Injury, Planning, Probate, Real Estate, Real Estate Title Insurance, Traffic Violations, Trusts and Estates, Wills, Worker's Compensation, and



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