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FOS NEWS - *Our clients come first*

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Editor: Diane Slomowitz

OVERTIME CHANGES MORE THAN DOUBLE SALARY THRESHOLDS

By Michael G. Koutnik

On May 18, the Labor Department made drastic changes to the Fair Labor Standards Act's (FLSA) overtime rules for certain administrative and professional executive employees.

The FLSA contains a so-called "white collar" exemption, which applies to certain executive, administrative, and professional employees.

Under this exemption, employees with certain job duties, paid on a salary basis, and earning at least $455 weekly ($23,660 per year) were not entitled to overtime pay if they worked over 40 hours in a work week.

The Labor Department's newly adopted rules updated the $455 weekly salary threshold to $913, or $47,476 per year. This is the first update since 2004.

While the final number is a few thousand dollars short of what was initially proposed, the impact will be sweeping.

The Labor Department estimated that, under the new rules, 4.2 million currently exempt employees will become eligible for overtime pay.

As an example, the new rules mean that an employee otherwise meeting the "white collar" exemption requirements, but who is paid a $45,000 annual salary, would be entitled to overtime wages if the employee works over 40 hours in a work week.

Furthermore, the new regulations provide that the threshold will be updated every three years. The amount of the change will be pegged to the salary growth in the lowest income region of the country.

Given these upcoming changes, employers should review their employees' duties and compensation.

If appropriate, employers should consider increasing certain employees' salaries, and/or updating employees' duties, to continue qualifying for the "white collar" exemption.

FOS's attorneys can help you understand these new rules and make informed choices regarding your employees.

FOS WELCOMES BAILEY LARSEN

Fox, O'Neill & Shannon, S.C. welcomes attorney and CPA Bailey Larsen as an associate with the firm.

Bailey provides legal services primarily within FOS's taxation, estate planning and business groups.

Bailey received her law degree from Marquette University Law School.

Bailey has worked with a "Big Four" accounting firm in the private wealth tax consulting areas.

In addition to her professional activities, Bailey is a National Guard Family Readiness Group volunteer.

Bailey is closely connected to the Group, as her husband has served in the military.

FOS ON THE MOVE

FOS shareholder **Francis Hughes** has been reelected to the Board of Governors of the St. Thomas More Lawyers Society of Wisconsin.

FOS shareholder **Matthew O'Neill** has been recognized as a Top Attorney by The American Registry/Worldwide Branding, LLC.

FOS shareholder **Diane Slomowitz**'s article, "In appellate briefs, don't forget the brief part," was published in the April 13, 2016 *Wisconsin Law Journal*. Go to http://www.foslaw.com/news-views/slomowitzs-april-2016-wisconsin-law-journal-article/ to read the article.

FOS shareholder **Laurna Kinnel** has been elected President-Elect of the Milwaukee Young Lawyers Association.

FOS News—*Our clients come first*

NEW SUPREME COURT CASE CLARIFIES GRANDPARENT VISITATION RIGHTS

By Laurna A. Kinnel

Divorces impact more than just the husband and wife.

Parents, grandparents, nieces, nephews, aunts, uncles, friends and neighbors all feel a divorce's impact.

This is especially true in divorces involving young children.

There, unfortunately, grandparents and stepparents may suddenly find themselves cut off from children with whom they shared a close relationship before the divorce.

Carol Meister found herself in just such a situation after her son Jay's divorce from his wife Nancy.

In the divorce, Nancy received primary physical placement of their four children.

Grandmother Carol found herself unable to see the children as much as she had previously, and petitioned the Jefferson County court for placement under Wis. Stat. § 767.43(1), which states:

> "(U)pon petition by a *grandparent, greatgrandparent, stepparent or person* who has *maintained a relationship similar to a parent-child relationship with the child*, the court may grant reasonable visitation rights to that person if the parents have notice of the hearing and if the court determines that visitation is in the best interest of the child."

In Carol's case, *S.A.M. v. Meister*, the Wisconsin Supreme Court recently critically clarified the nature of grandparents' and stepparents' burdens in seeking visitation.

The Supreme Court analyzed the language quoted above and concluded that grandparents, greatgrandparents and stepparents do not have to prove a "parent-child relationship" with the child.

Only someone other than these relations (an "other person") seeking placement must prove that "relationship." 2016 WI 22.

The Supreme Court focused in part on the nature of the relationship of a child with his or her grandparents, greatgrandparents and stepparents.

Grandparents and greatgrandparents, for example, are *related* to a child's parent; stepparents were once *married* to a child's parent.

However, a "person" under the statute:

> "is undefined, so that is hard to anticipate the nature of the relationship that the 'person' has to the child. The 'person' could be a sister or brother, but it could also be an aunt or uncle, cousin, former foster parent, neighbor or friend." *Id.*

Justice Prosser, writing the majority decision, concluded:

> "(W)hile our decision eliminates one unintended impediment for grandparents, greatgrandparents, and stepparents who seek visitation rights...it does not guarantee that they will prevail." *Id.*

Visitation cases have always been fact-intensive, hinging on the determination whether a non-parent's visitation is in the child's best interests.

If you have questions about grandparent or stepparent visitation, contact Fox, O'Neill & Shannon, S.C.

SLOMOWITZ ONE OF "TEN BEST"

FOS shareholder **Diane Slomowitz** has been named a "'10 Best' Attorney in Wisconsin for Client Satisfaction" in family law by the American Institute of Family Law Attorneys.

Diane was determined to have attained the highest degree of professional achievement and an impeccable client satisfaction rating.

The Institute is an independent third-party attorney review organization.

JUDGE HANRAHAN

FOS congratulates former shareholder Michael Hanrahan on being appointed by Governor Scott Walker as a Milwaukee County Circuit Court Judge.

Mike began his judicial duties March 14, 2016.

Mike is the second FOS shareholder to join the bench, following current Milwaukee County Circuit Court Judge Jeffrey Kremers.

NEW LAW GRANTS LANDLORDS ADDITIONAL MEANS TO REMOVE TENANTS

By Bailey M. Larsen

Do you suspect your tenant, a family member, or "guest" is conducting criminal activity on your property?

Under a new Wisconsin landlord-tenant law, landlords may now evict that tenant through a five day notice.

New Wis. Stat. §704.17(3m) provides landlords additional remedies to protect their property, other tenants, and themselves from a tenant or someone connected to the tenant who commits certain crimes, or is involved in drug-related criminal activity (manufacturing/ distributing) on or near the premises.

New Wis. Stat. §704.17(5) prohibits leases for terms of one year or less from waiving the statute.

Under the new law, a landlord can terminate a tenancy if:

(1) the tenant is involved in criminal activity, as defined in the statute;

(2) any member of the tenant's household (and/or the tenant's guest) is involved in criminal activity on the leased premises; or

(3) the tenant, a household member or guest is involved in drug-related criminal activity on or even near the premises.

Notably, the individual committing the crime or drug-related activity leading to the five day notice need not be convicted of or even arrested for the crime.

The statute defines criminal activity to include:

- Crime(s) that threaten the health or safety of, or right to peaceful enjoyment of the premises by, other tenants or persons residing in the premises' immediate vicinity;
- Crime(s) that threaten the landlord, agent, or employee's health or safety; and
- Drug-related criminal activity on or near the leased premises.

The new notice requires a tenant to vacate the premises on or before five days after the notice is given, with no right to cure.

The notice must be in writing and delivered under precise specifications.

Along with stating that the offending tenant may seek help from legal counsel and may contest the notice's allegations in an eviction action, the notice must state:

- The basis for its issuance;
- A description of the criminal or drug-related criminal activity;
- The date the activity took place; and
- The identity or description of those engaging in the activity.

Given the statute's complexity, landlords should confer with counsel before issuing a notice.

Accurate facts and documentation are a must.

Your FOS attorney can help you comply with all eviction requirements.

TOM SHANNON—ONE CLIENT'S LEGAL HERO

FOS congratulates shareholder **Thomas Shannon** for receiving every attorney's highest honor - public accolades from a client.

The accolades occurred in a March 9, 2016 *Wisconsin Law Journal* interview with longtime FOS client and digital forensics investigator Rob Namowicz (owner of Spindletop Investigations).

During the interview, Mr. Namowicz was asked whether he had a hero in the legal field.

He answered:

> "Tom Shannon of Fox, O'Neill & Shannon is always looking after his clients' best interest and does not let anything get by him; aggressive and never intimidated."

The full article can be read at http://www.foslaw.com/news-views/tom-shannon-one-clients-legal-hero/.

QUESTIONS?
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IN THIS ISSUE

EARLY INTERVENTION KEY TO FAVORABLE CRIMINAL CHARGE OUTCOME

By Jacob A. Manian

Most people with clean records want to keep them that way.

A drug or domestic offense arrest can adversely impact a person's employment and freedom. A charge relating to a domestic offense can remove one from the home and restrict family contact.

People also worry that an arrest will be a public record, accessible to employers, schools and neighbors.

Contacting an experienced criminal defense attorney to intervene **right away** can make all the difference in the outcome.

Early intervention programs, aimed at first-time offenders and focusing on counseling and treatment (not incarceration) may be available.

Milwaukee County's Diversion Program and Deferred Prosecution Agreement (DPA) provide an opportunity to avoid or reduce criminal charges.

A Diversion participant is not charged, does not go to court, and avoids the case appearing on the public "CCAP" website.

Instead, the person can participate in treatment/ counseling to avoid a criminal charge altogether. One not qualifying for Diversion may still have a charge reduced through a DPA.

In a DPA, a person is criminally charged and acknowledges guilt in court; however, the court may withhold judgment to allow completion of an agreement, usually requiring counseling, treatment and other conditions.

A DPA typically lasts six to nine months, with periodic court appearances to assess the participant's compliance.

Upon DPA completion, a criminal charge may be reduced or even dismissed.

Sometimes, even a DPA participant charged with a felony offense can earn a reduction to a misdemeanor.

If you or someone you know needs help, contact Attorney Jacob Manian. Early intervention could make all the difference.