

TIPS FOR SELLING YOUR BUSINESS FROM A BUYER'S PERSPECTIVE

The Illinois Manufacturer

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Winter 2010

**The changing
face of business
... Women in
manufacturing**

**Workers' Compensation
litigation reaches new levels**

**Top 10 employer mistakes on
the Form I-9 and easy solutions**



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Winter 2010

The changing face of business



... Women in manufacturing

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In 2006, it was estimated that 10.4 million firms were outright or at least 50 percent owned by women. And, between 1997 and 2004, the growth rate in women-owned firms was nearly twice that of all firms.

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ON THE COVER: Janice Christiansen, President and CEO of FlagSource. Janice is also the Chairperson of the IMA Board of Directors. With her is her son Jon Christiansen, Vice President of Operations for FlagSource. Cover photo and all photos at FlagSource in Batavia by Tim Klasinski.

The Illinois Manufacturer is underwritten by Constellation NewEnergy

Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

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Subscriptions: One year \$50. For subscription, address changes, renewals and adjustments, write to The Illinois Manufacturer. Presort standard postage paid at Bloomington, IL. Postmaster: Send address changes to *The Illinois Manufacturer*, 220 East Adams Street, Springfield, IL 62701. 217-522-1240.

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Share your company news with IMA ...

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Cap-and-Trade legislation will not help manufacturers



Enacting legislation that imposes standards on Illinois manufacturers for which there is no known technology to reach the standards is but an exercise in false hope.

Late last year representatives of 119 countries representing 89 percent of the world's GDP descended on Copenhagen in what was billed as the definitive conference on global warming. The world media expected nothing less than a full-blown comprehensive accord to address issues of CO₂ emissions and climate change. Even President Barack Obama went to the Denmark capitol to lend his voice and the full weight and prestige of the United States to the discussions.

The result of the COP15 deliberations was anything but a full-blown comprehensive accord. In the end, the delegates were able to agree on a five-page document that says nothing more than countries should work on reducing CO₂ emissions and that wealthier nations should help poorer nations with paying the costs. Within hours, two of the four so-called BASIC countries (Brazil, South Africa, India and China) and other African nations, who had initially signed onto the final document, were harshly criticizing the accord saying the financial assistance to poorer countries was insufficient.

Once again it seems as if the price for accomplishing much of anything in the world depends on mandating that someone else pay.

Such is the essential problem with trying to negotiate something as unwieldy and insubstantial as global warming and climate change. There is a general feeling that something's amiss, but nobody has yet been able to put forward a succinct hypothesis that can be widely agreed to. Indeed, put half a dozen scientists in a room and ask them to deliver an opinion on the subject and you'll get two dozen guesses, none of which is supported scientifically or by any other standard. So the question remains; what to do?

The COP15 outcome, for now, is both good and bad news for manufacturers. Good news from the perspective that world leaders are refusing to hold manufacturing as scapegoat . . . bad news from the perspective that those hell-bent on blaming industry will continue to pursue legislative redress at the state and local levels.

Cap-and-Trade proposals are pending in Congress and the Illinois General Assembly, and regardless of which arena sees the next round of action, the proposals are singularly focused on punishing manufacturers by forcing arbitrary standards on emissions that recognize neither reality nor proving that such standards will achieve a desired result.

It's this type of "feel-good" legislation that is particularly worrisome. Experts have warned that the Waxman-Markey Cap-and-Trade bill in Congress will cost Illinois as many as 120,000 jobs. HR 2454 has passed the U.S. House and Senate Majority Leader Harry Reid promises action this year to pass climate change legislation.

The IMA has steadfastly fought Cap-and-Trade proposals at the state level and will continue to do so for a number of reasons, not the least of which is that manufacturers take seriously the health of our environment and have made great strides on our own to help keep it that way. Enacting legislation that imposes standards on Illinois manufacturers for which there is no known technology to reach the standards is but an exercise in false hope.

If we truly are interested in continual improvement in the environment, let's focus on specific problems as they arise and develop the technologies necessary to resolve those issues.

Trying to go further and believe that man can harness Mother Nature is simply a fool's errand. It's why, in my opinion, COP15 failed to reach any meaningful accord. ■



Manufacturing

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A political call to arms



At the end of the day, we need to ask ourselves if we are getting any value from our current crop of legislators. Actually, we need to demand results from leaders at all levels of government.

My regular column had been written and I had already moved onto additional tasks when the political landmine exploded all across Massachusetts. Republican and independent voters, along with scattered Democrats, much like the patriots two hundred years ago, stood together united in opposition to a federal government run amok in Washington D.C. When the dust settled, a little known Republican state senator, Scott Brown, had stared down Democrat Martha Coakley and the enormous Kennedy legacy to win a special election for the U.S. Senate in a state where Democrats outnumber Republicans by a three-to-one margin. For once, David beat Goliath.

Brown's election set off a political shockwave in the midst of the nation's Capitol where President Obama and leading Democrats were meeting behind closed doors in a frantic effort to push through a partisan revamp of the nation's health care system. Tremors quickly rippled across the country as Democrat senators ranging from Majority Leader Harry Reid (NV) to freshman Jim Webb (VA) sensed the anger in the American electorate and suddenly had a change of heart promising to go "slower" on health care. President Obama himself observed that any final health care reform measure will need bi-partisan support or fail.

In Illinois, I hope that our elected leaders are listening.

We in the manufacturing community are tired of hearing empty promises from politicians who pledge to "create jobs" and then vote to raise taxes, create new costly regulations or pass expensive mandates without having a second thought.

And then these same politicians pick up the telephone and ask for our hard-earned money to fuel their costly election campaigns in districts that have been drawn to protect their incumbency. For those on the receiving end of these fundraising solicitations, the practice seems to get more unseemly every year.

At the end of the day, we need to ask ourselves if we are getting any value from our current crop of legislators. Actually, we need to demand results from leaders at all levels of government. Going along to get along just doesn't cut it.

During the next several months, we will hear from politicians cutting a broad swath across the spectrum; Democrats and Republicans, women and men, conservative and liberal. They will all be asking for precious resources to get elected, or re-elected, to public office and promising to do better.

Before reaching into your wallet, I hope you'll ask them a couple of pertinent questions:

1. What specifically will you do to help the 700,000 unemployed Illinoisans find employment?
2. How will you stop manufacturing job loss?
3. Why does Illinois rank 48th in the nation in economic development?
4. How do you plan to balance the state budget and eliminate our multi-billion dollar debt?

Don't give up your money, or your vote, until you get an answer.

The IMA and Manufacturers Political Action Committee will be doing the same thing. For the past year, we have not made a strong solicitation for campaign dollars because we know how hard it has been for manufacturing companies to survive in this tough economy. Instead, we focused our energies on our core mission of protecting the manufacturing sector and we were largely successful in Illinois. The IMA helped defeat various income and sales tax proposals that sought to make business shoulder the lion's share of the debt created by overspending officials. For example, our initiative to extend the Manufacturers Purchase Credit and Graphic Arts exemption were the only tax incentives to be signed into law in 2009.

We plan to be equally as tough in 2010 and right now, we are issuing a "call to arms." The IMA will make a strong and concerted effort to elect a new Governor who wants to see manufacturing and business in general expand in Illinois. We'll also work to defeat two or three anti-business lawmakers and replace them with people who understand that 48th in economic performance cannot be tolerated. We will run coordinated campaigns in these select districts and your funds will be used for radio, television, written and electronic communications that will stress our pro-jobs message.

The revolution that started in Massachusetts can continue in Illinois. I hope you will join us. ■

Mark Denzler is Vice President and Chief Operating Officer of the Illinois Manufacturers' Association. Mark can be reached at 217-522-1240, extension 3008, or mdenzler@ima-net.org.

“Legitimate business interest” in non-compete agreements, a sequel: Using the changing law to your advantage

The *Illinois Manufacturer's* Spring 2008 issue included an article on non-compete agreements and the changing role of the “legitimate business interest” in enforcing non-competes. In that article, we predicted that Illinois courts may stop analyzing whether employers have a “legitimate business interest” in seeking to enforce their non-compete agreements and instead focus their attention on whether the agreements are appropriately limited in their scope and duration. Two years later, an Illinois appellate court decision proved that our prediction may be right. The case of *Sunbelt Rentals v. Ehlers*, 394 Ill. App. 3d 421 (App. Ct. 4th Dist. 2009), rejected the application of the “legitimate business interest” analysis and held a non-compete agreement to be enforceable based only on its geographic scope and time period.

Sunbelt is an interesting and a controversial decision. Its holding screams for a review by the Illinois Supreme Court and, meanwhile, reminds employers of some important, practical considerations in drafting and seeking to enforce non-compete agreements.

As top-talent employees become a particularly invaluable commodity in today's economy, non-compete agreements have developed into a hot topic for employers. Our clients want to know if they should require non-compete agreements for their employees, and, if so, for which employees. If they do require employees to sign non-competes, how restrictive should the provisions be? Should a company prohibit an employee from competing for one year, or longer? Should

competitive activities be restricted to the local market or even, perhaps, nationwide? What if the agreement becomes a deal breaker for the employee? These and similar questions are on the employers' minds as they consider entering into or, in some cases, terminating the employment relationship with employees who have signed a non-compete. Many of the answers depend on the fact-specific circumstances faced by the employers and their individual business needs and concerns. But some considerations are universally applicable.

On the most basic level, a non-compete agreement, sometimes called a “restrictive covenant,” is a contract that prohibits an employee from competing with the employer after the employment relationship ends. Properly drafted non-competes can restrain employees from working for competitors, soliciting customers, luring away other employees, and from disclosing or misusing the company's sensitive or confidential information for a certain period of time and usually in a defined geographic area.

see **NON-COMPETE** page 21



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Workers' Compensation litigation reaches new levels: Civil RICO actions in federal courts

On December 7, 2009, the U.S. Supreme Court denied the petition for certiorari in *Cassens Transport Co., et al., v. Brown, et al.*, effectively sustaining the Sixth Circuit's decision that permits injured employees to file civil RICO lawsuits against an employer and others who fraudulently deny their workers' compensation claims. (2009 WL 1269080). The decision will result in the litigation of key elements of state workers' compensation cases in federal court within the context of a RICO fraud claim, with much higher monetary damages at issue.

In *Brown v. Cassens Transport Co.*, 546 F.3d 347 (6th Cir. 2008), six truck drivers alleged that their employer, Cassens Transport Co., along with the Employer's claims adjuster and outside physician, engaged in a pattern of racketeering activity by way of mail and wire fraud in a scheme to wrongfully deny benefits under the Michigan Workers' Disability Compensation Act (WDCA).

The plaintiffs alleged that the Company contracted with the claims adjuster to deliberately select and pay unqualified doctors to give fraudulent medical opinions supporting the denial of workers' compensation benefits. Plaintiffs further alleged that the defendants ignored competent medical evidence in denying the benefits, engaging instead in fraudulent communications by mail and wire among themselves and to the plaintiffs in violation of 18 U.S.C. §§ 1341 and 1343. Such activity is alleged to constitute the underlying predicate acts in the civil RICO action.

RICO, originally enacted to target criminal organizations, makes it a crime for "any person employed by

or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity." (28 U.S.C. § 1962(c)). RICO's definition of "racketeering activity" includes any activity that is indictable under provisions of the United States Code pertaining to mail fraud and wire fraud.

RICO also states that a "pattern of racketeering activity requires at least two acts of racketeering activity." The Sixth Circuit held that RICO specifies only that defendants must have engaged in a pattern of racketeering. If the defendant engaged in a pattern of racketeering and a plaintiff can show that he or she was injured as a result, this suffices

to state a claim under 28 U.S.C. § 1962(c). The Sixth Circuit noted that RICO does not require that the injury to each plaintiff must be the product of an independent pattern of activity by the defendant.

The court found that the plaintiffs plead with sufficient particularity at least thirteen predicate acts, consisting of fraudulent communications by mail and wire among the defendants as well as from the defendants to the plaintiffs relating to each of the plaintiffs' injuries and claims for benefits under the WDCA.

In determining that the plaintiffs sufficiently plead a pattern, the court first noted that the acts were all related and had the same purpose: to reduce the Company's workers' compensation costs by fraudulently deny-

see **WORKERS' COMP** page 28



James A. Spizzo is a shareholder in the Chicago-based law firm of Vedder Price P.C. He concentrates his practice in employment and labor relations law, representing employers in a variety of industries. Mr. Spizzo also serves as Legal Counsel to the IMA.

The background of the top section of the page is a photograph of the Statue of Liberty. The statue is green and stands on a dark, tiered pedestal. It is surrounded by a low wall and some trees. In the background, there are other buildings and a clear blue sky.

Employer immigration compliance:

The top 10 employer mistakes on the Form I-9 and easy solutions

*By Maria Kallmeyer and Grant Sovern,
Business Immigration Team,
Quarles & Brady LLP*

In November of 2009, U.S. Immigration and Customs Enforcement (ICE), a division of the U.S. Department of Homeland Security (DHS) announced that it was issuing 1,000 Notices of Inspections (NOIs) to employers across the country, alerting business owners that ICE will audit their Form I-9 hiring records within three days to assess compliance with federal employment eligibility verification laws. This follows on the heels of ICE issuing 654 such notices in July of 2009 and stepped up pressure on employers across the board in relation to immigration and employment eligibility. This article explains the employer's obligations and then discusses ten mistakes that immigration lawyers commonly find when auditing clients' Form I-9 records.

The Immigration Reform and Control Act of 1986 (IRCA) imposes regulations on employers to verify the identity and employment eligibility for all employees (U.S. citizens and non-citizens) hired after November 6, 1986 on the Employment Eligibility Verification Form (Form I-9). For purposes of IRCA compliance, hiring refers to actually commencing employment for

"wages or other remuneration." An employee is defined as "an individual who provides services or labor for an employer for wages or other remuneration," excluding independent contractors or casual hires. The completed and verified Form I-9 must be stored on-site or electronically for review by ICE if requested.

On the other hand, IRCA stipulates the following obligations for employers in the United States to protect employees during this process:

- (1) Employers may not discriminate in recruitment, hiring or discharge on the basis of national origin or citizenship status. For example, employers may not treat employees or new hires differently based on their status as either a U.S. citizen, Lawful Permanent Resident or refugee/asylee.
- (2) Employers may not request more or different employment authorization documents than those required under IRCA, or refuse to honor tendered documents that on their face "reasonably appear to be genuine and to relate to the individual."
- (3) Employers may not retaliate against workers who bring discrimination complaints.

IRCA provides both criminal and civil penalties for violations of hiring, employment verification and non-discrimination provisions. Of the 654 NOIs ICE issued in July of 2009 to businesses nationwide, 61 employers have received fines totaling \$2.3 million; 326 employers were found to be in compliance with employment laws or were served with a warning notice in expectation of future compliance; and the remaining 267 audited employers are still waiting ICE's final assessment.

The 1,000 businesses served with audit notices in November of 2009 were purportedly selected for inspection as a result of investigative leads and intelligence and because of the business' connection to public safety and national security. For example, privately owned critical infrastructure businesses were one of the targeted groups of businesses, but IT, manufacturing, and hospitality industry employers also received these NOIs. ICE has declined to release the names and locations of the businesses at this time due to the sensitive nature of these audits. The audits may result in civil penalties and lay the groundwork for criminal prosecution.

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Austin Polytechnical Academy dedicates new Manufacturing Technology Center

On Thursday, January 14th, Mayor Richard M. Daley participated in the dedication of Austin Polytech's new Manufacturing Technology Center (MTC), a high-tech facility for hands-on manufacturing skills training.

Austin Polytechnical Academy (APA) is a pre-engineering and manufacturing high school within the Chicago Public School System. APA's mission is to prepare students for high-paying jobs in manufacturing, which can progress into exciting careers in skilled production, engineering, management and company ownership. The school is part of a strategy to revitalize Chicago's manufacturing community, beginning with the Westside neighborhood of Austin, a once-vibrant industrial center.

"Austin Polytech is bringing hope back to the community," said then presidential candidate Barrack Obama in a September, 2008, campaign speech in Dayton, Ohio. "That's the kind of model we'll replicate across the country when I'm president of the United States."

Glen Johnson, who was instrumental in the establishment of APA, and IMA Board Chairperson Janice Christiansen participated in the dedication ceremony as well. Also attending were U.S. Representative Danny Davis and Ron Huberman, CEO of Chicago Public Schools.

The dedication ceremony recognized the organizations and individuals who made Austin Polytech and the new MTC possible. This tremendous milestone could not have been achieved without the support of many public and private sector partners.

APA was established in 2007 by the Chicago Manufacturing Renaissance Council (CMRC), a dynamic coalition of business, labor, government, education and community leaders.

The MTC represents a significant milestone in the progress of Austin Polytech's mission to educate the next generation of leaders in advanced manufacturing. The goal now is to also open the facility to adults in the community seeking training and certifications. This event showcases an innovative model for career education based on public-private partnerships.

Thanks to support from over sixty of APA's industry partners, students can now practice with the same cutting-edge equipment used by modern manufacturers. Partner companies also help expose students to the industry through mentoring, facility tours and work-based activities.



Chicago Mayor Richard M. Daley greets APA students as he arrives.



Glen Johnson, Don Ruesch, U.S. Rep. Danny Davis and Janice Christiansen visit before the dedication ceremony.



Machining instructor Tom O'Brien teaches Mayor Daley to engrave his name on a lightswitch plate with a CNC mill. Below: Mayor Daley concludes the event with a press conference inside the MTC.



IMMIGRATION

Cont. from page 10

tion of employers who knowingly violate the law. They are particularly alarming because notices contain requests for employers to provide a broad range of documents, including but not limited to:

- Copies of any information related to the Form I-9 compliance procedures;
- A roster of independent contractors, including dates of hire and termination;
- Lists of all individuals who are employed on a sporadic, irregular or intermittent basis;
- Copies of requests for corrections from the Social Security Administration (No Match Letters);
- Copies of nonimmigrant and immigrant petitions filed with the U.S. Citizenship and Immigration Services (CIS); and
- Copies of corporate documentation including annual reports and federal tax reporting numbers.

Because employers are forced to be in two roles that are seemingly at odds with each other — verifying the employment of every employee while at the same time avoiding discriminatory practices — it is important to understand the duties very precisely. The following list of ten common mistakes that employers make in relation to IRCA compliance and their solutions was compiled to help employers review their procedures.

Mistake 1: Not requiring employees to complete Form I-9: IRCA regulations require employers to have each new employee complete all sections of the Form I-9 within his/her first three days of employment. Employers who do not complete the Form I-9 open themselves up to adverse claims ranging from paperwork violations to a knowingly hiring illegal aliens violation. The recommended solution to this mistake is to develop and maintain a workable I-9 compliance system.

Mistake 2: Not completing Section 1 of the Form I-9 on the first day: Although employees have three days to provide the required eligibility documents, they must complete the entire Section 1 of the Form I-9 on or before the first day of employment. Employers who do not require new employees to complete Section 1 of the Form I-9 by the first

day of work are subject to paperwork violations. The recommended solution for this common mistake is to make completion of Section 1 of the Form I-9 every new employee's first action, and to create a system of accountability to ensure that this is a consistent practice.

Mistake 3: Accepting receipts or copies instead of real, original documents: IRCA regulations require employers to review original documents as part of the I-9 process. Receipts are only acceptable as the replacement of a document granting work authorization if the original was lost, stolen, or damaged. For example, an employer may not accept a receipt for an employment authorization card application that is still pending. If a receipt is presented as a replacement document, the employee has 90 days to provide the original document. The notation must be made on the Form I-9 within those 90 days to indicate that the original was verified. Accepting a receipt in this limited circumstance can create a substantial amount of follow up. Therefore, the authors recommend requiring original documents unless there has been a replacement request.

Mistake 4: Employer tells the employee specifically which documents to show: Although it is sometimes tempting, an employer may not suggest which document(s) to bring or limit the list that is available on the Form I-9. Doing so, may result in a claim of Unfair Immigration Employment Practices, and fines for each employee hired during the period of time in question. This mistake has an easy solution — do not ask for a specific document, just provide the list on the back of the Form I-9.

Mistake 5: Keeping copies of verification documents for some, but not all employees: Only keeping copies of verification documents (i.e., passports, driver's licenses, social security cards) for foreign-born employees or another select group of employees can result in an employee claiming Title VII nationality discrimination or a complaint with the Office of Special Counsel. The easy solution for this common mistake is to either keep copies of verification documents for all employees or for no employees. Employers have the option of keeping copies for all employees or none. There are practi-

cal and legal costs and benefits to both options. Employers should discuss these with competent employment/immigration counsel.

Mistake 6: Throwing away "old" Forms I-9 or making new ones at the wrong time: IRCA regulations require employers to keep Forms I-9 on file for all current employees. For terminated employees, employers may destroy their Forms I-9 one year after termination or three years after hire, whichever is longer. This mistake can result in significant per employee fines. However, the solution is simple — never destroy Forms I-9 for current employees and keep terminated employees' Forms I-9 for one year after their last day of employment or three years after hire, whichever is longer.

Mistake 7: Employer does not reverify expiring immigration documents: IRCA requires employers to reverify each employee's Form I-9 if he or she checks the fourth box in Section 1 (or third box in older versions of the form), indicating that he or she is an alien that is authorized to work until a given date. The employee's Form I-9 must be reverified by the expiration date listed. Failure to reverify an employee's Form I-9 can result in a fine of up to \$1,100 per employee if the employee is unauthorized to work in the United States. The solution to this common mistake is to set up a reminder or tickler system to remind the employer to reverify when necessary.

Mistake 8: Employer reverifies the Form I-9 when it is not necessary: Employers should not reverify when an employee's List B document expires (driver's license or lawful permanent resident card (green card)). This can result in small fines or accusations of document abuse. The solution to this mistake is to not reverify any employees who check the first three boxes in Section 1 of Form I-9.

Mistake 9: Employer demands Social Security Card: Section 1 of the Form I-9 only asks for the Social Security Number, not the actual card, and that box is only required for employers who are registered for the Federal Electronic Verification system (E-Verify). Employees can voluntarily use the card as a Section 2 document, but only if it does not have any restricting language on it, such as "Not valid for work without

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COBRA subsidy period and election opportunities extended

On December 19, 2009, President Obama signed the Department of Defense Appropriations Act, 2010 (the "DDAA") into law. As it relates to the extension of COBRA continuation coverage, the DDAA is immediately effective.

Congress first created the COBRA continuation coverage subsidy (the "COBRA subsidy") on February 17, 2009 as part of the American Recovery and Reinvestment Act of 2009 ("ARRA"). Under ARRA's COBRA subsidy program, individuals who lost health coverage due to an involuntary termination ("assistance eligible individuals") could continue COBRA coverage in the employer's group health plan by paying 35 percent of the COBRA premium the employee would normally have to pay for COBRA coverage. The remaining 65 percent of the COBRA premium would be reimbursed to the employer (generally, but not in all cases) through a payroll tax credit.

Changes

The DDAA expands the COBRA subsidy program in three significant ways. First, under ARRA the COBRA subsidy program was available only to assistance eligible individuals whose COBRA rights arose due to an involuntary termination occurring between September 1, 2008 and December 31, 2009. The DDAA extends this period to February 28, 2010.

Second, under ARRA assistance eligible individuals were only eligible for a COBRA subsidy for a period of up to nine months (assuming the individual did not become eligible for other coverage). The DDAA extends this period to up to fifteen months.

Third, ARRA conditioned an assistance eligible individual's status on the actual loss of coverage between

September 1, 2008 and December 31, 2009, not merely the termination event that caused the loss of coverage. The DDAA appears to eliminate this requirement and instead merely requires that the qualifying event (i.e., the involuntary termination) occur during the period from September 1, 2008 to February 28, 2010.

Notice requirements

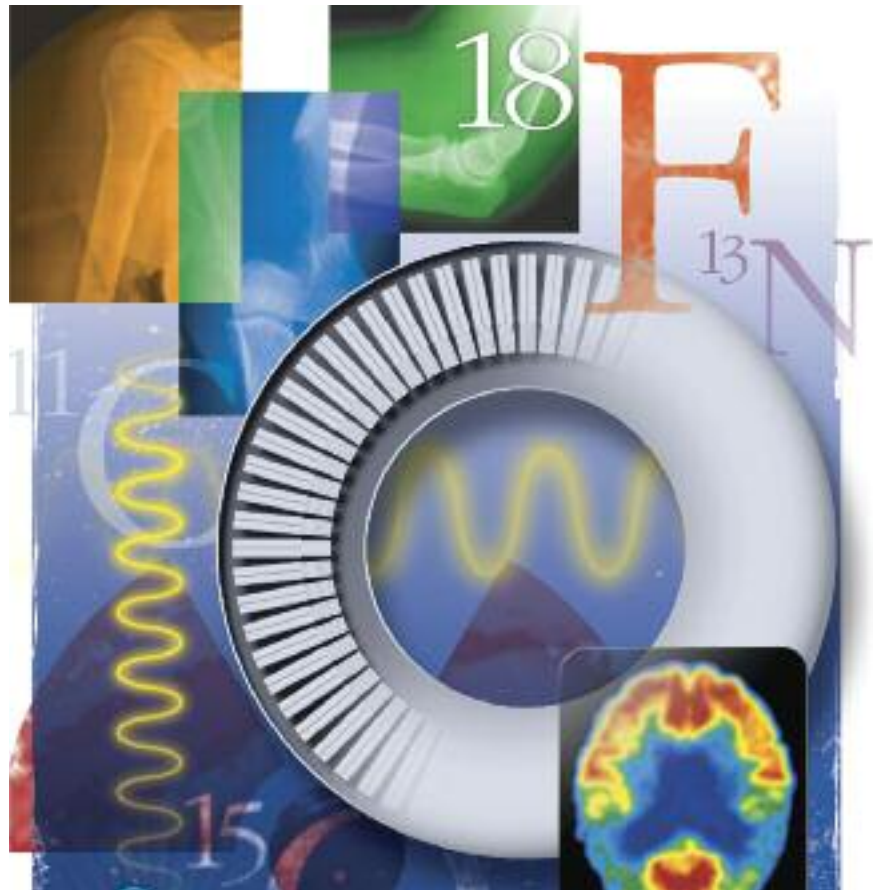
Employers must give certain assistance eligible individuals notice of their right to additional subsidized COBRA coverage. Individuals who discontinued COBRA coverage when

the original nine-month subsidy lapsed and individuals who continued to pay for COBRA coverage at the "non-subsidized" rate will be given an opportunity to elect to continue coverage at the subsidized rate retroactive to the date their subsidized coverage previously ended.

To that end, the DDAA requires notice must be provided to any individual who:

- at any time on or after October 31, 2009, was an assistance eligible individual (including individuals who have become assistance

see **COBRA** page 14



IMMIGRATION

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DHS authorization.” Requiring a social security card when it is not actually required can result in a fine or document abuse claim, or even an employment discrimination claim.

Mistake 10: Not managing the details: There are a few other mistakes that are typically found during employer audits that can result in paperwork violations: (1) Section 1 of the Form I-9 was not signed by the employee; (2) Section 2 of the I-9 form was not signed by the employer; (3) the employee does not mark a box in Section 1; (4) the Section 2 documents provided do not support the status indicated in Section 1; and/or (5) the documents provided are listed in the wrong columns in Section 2 of the I-9 form. These mistakes can be easily avoided by properly training the

employer’s representative who is responsible for the I-9 records and by closely following the instructions on the form itself.

The Form I-9 is available on the CIS website at www.uscis.gov under the “Immigration Forms” tab. Additional resources for employers can be found in CIS’ *I-9 Employer Handbook M-274* and ICE’s *Guide to Travel and Identity Documents*.

If you have specific questions about your business, the Business Immigration Team at Quarles & Brady helps employers develop I-9 compliance programs, including I-9 audits, E-Verify compliance, and business immigration visas and green cards (on a flat-fee or hourly basis). Contact Maria Kallmeyer at 312-715-5009, maria.kallmeyer@quarles.com or Grant Sovern at 608-283-2668, grant.sovern@quarles.com if you have questions. ■

Grant Sovern is Chair of Quarles &

Brady’s national Business Immigration practice group. He also teaches immigration law at the University of Wisconsin Law School and serves on national liaison committees for the 11,000-member American Immigration Lawyers Committee. He is listed in The Best Lawyers in America for Immigration Law.

Maria Kallmeyer specializes in representing employers in business immigration issues, including corporate compliance and developing immigration benefits programs for employers (such as international transfer programs and permanent residence). She graduated magna cum laude from Suffolk Law School and serves the Chicago Chapter of the American Immigration Lawyers Association.

Visit www.quarles.com for more information.

COBRA

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eligible individuals since October 31, 2009); or

- for periods of coverage beginning prior to December 19, 2009, was not eligible for subsidized COBRA coverage because the nine-month subsidy period lapsed, but who would have been eligible for subsidized COBRA coverage had the fifteen-month subsidy period applied at that time. A period of coverage is

the month-long or shorter period with respect to which premiums are charged for health coverage. (See box below.)

Employers have until February 17, 2010 to provide this notice to individuals. Although it is not entirely clear, it appears that the Department of Labor has 30 days within which to release draft notices complying with the law change.

Assistance eligible individuals who discontinued COBRA coverage after the nine-month subsidy ended must remit retroactive premium payments (based upon the applicable 35 per-

cent subsidy) by the later of February 17, 2010 or 30 days following the date the individual receives notice of the extended benefit. Individuals who continued to pay for COBRA coverage after the nine-month subsidy ended will be credited for such payments by setting off the amount of the COBRA premium that exceeds the 35 percent subsidy against future COBRA premium liability or refunding the excess to the individual.

If you have any questions about the COBRA subsidy extension or its application to the administration of your group health plan, please contact author Daniel A. Kaufman. (See information at the bottom of page 13). ■

For example, Acme Co. administers its COBRA continuation coverage on a monthly basis. Ed is terminated as part of a general reduction in force on February 20, 2009. Ed becomes eligible for COBRA coverage in the Acme Co. group health plan effective March 1, 2009. Assuming Ed was eligible for the subsidy (i.e., Ed did not have other coverage available), Ed would have received the subsidy for a period of nine months — or through November 30, 2009. Under ARRA, Ed would have been eligible to continue COBRA coverage, but would no longer have received the subsidy. Assume Ed discontinued coverage beginning December 1, 2009 because he could no longer afford the coverage.

Under the DDAA, Ed is now entitled to retroactively elect to begin COBRA coverage again. The period of subsidized coverage would begin on December 1, 2009 and may extend up to May 31, 2010. Acme Co. must give Ed notice of his new rights under DDAA. Beginning June 1, 2010 and ending August 31, 2010, Ed would be eligible for unsubsidized coverage (assuming that no intervening event occurs that would lengthen Ed’s COBRA entitlement).

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Tips for selling your business from a buyer's perspective

By Stella Y. Su, Director of Corporate Finance Consulting, Blackman Kallick LLP

The current economy presents a challenge to getting the sales price you want for your business. So don't let lack of preparation lower that price any further. It's essential that you know the value of your business before beginning negotiations, which includes understanding how certain types of potential buyers will evaluate your company.

The following case presents what can happen when you are not prepared to present your business at its maximum value.

Carl, the owner of a European manufacturer in the power transmission components industry, offered to buy Company X, a competitor that is owned by Steve, for \$15 million. Carl had several reasons to acquire Company X, including Company X's highly recognizable brand; low investment risk due to his understanding of the industry and product line; access to Company X's customers; the economic downturn, which would help him buy Company X at a discounted price; saving on operating expenses by bringing Company X's operations to his U.S. facility; and his company's strong balance sheet, which would help him get the deal done quickly and shut out most other potential buyers.

Unfortunately, Steve was not prepared to present his company's true value and Carl wasn't comfortable with the incomplete information presented in Company X's internal financial statements — they hadn't been reviewed by an independent accounting firm. In addition, Carl felt that once Steve retired, some Company X customers might leave. Due to these factors, Carl lowered his offer to \$12 million. Next, Carl's team uncovered a product warranty issue during due diligence and became concerned that there might be other undiscovered liabilities. Due to this uncertainty, Carl further reduced his offer price. Carl also worried that the economic recovery

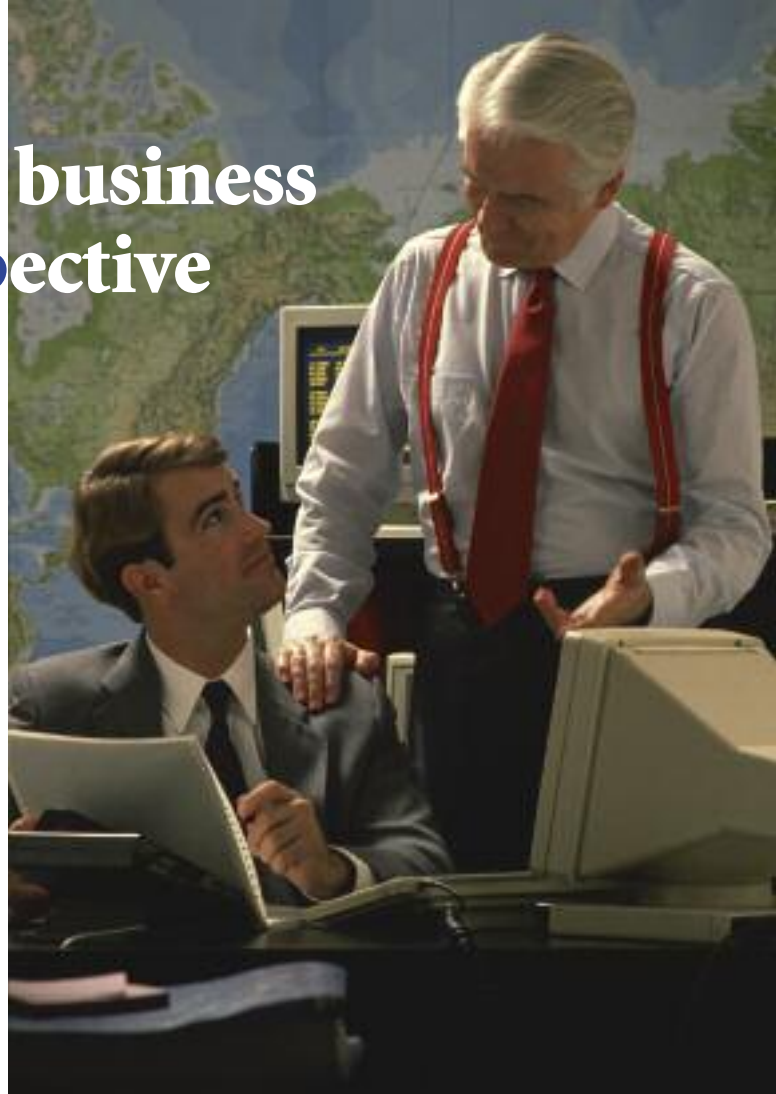
would take longer than Steve thought, so he proposed to pay Steve the full, original price only when sales returned to the prior year level. Steve, after having disclosed confidential business information to Carl, had a tough decision to make — either accept the lower price or continue running the business knowing that his business might suffer if Carl were to violate the nondisclosure agreement by taking advantage of the confidential information.

Value drivers — know what your business is worth

Steve could have benefited from identifying his company's value drivers to help him determine his company's worth. I have heard the following many times: "I don't know why our phone rings," "This is what has worked, and we have been making money," "We don't keep track of profit margin by product" or "We sell through distributors and aren't sure where our products end up." If you don't know why your customers keep buying your products, it might be time to carefully consider what factors have contributed to your company's longevity.

The following are value drivers a valuation expert can help you assess. These key factors can help your business stand out from other businesses on the market.

- An experienced management team (i.e., a seamless transition of ownership)
- Unique or branded products
- Capabilities and operational know-how



- Future growth areas
- An effective sales team
- Superb customer service
- Loyal and skilled employees
- A sales team that has signed non-compete/employment agreements
- A diverse customer base
- A strong supplier relationship
- Intellectual property and operational know-how
- A high barrier for entry into your industry

The more specific and detailed you can pinpoint these value drivers, the higher both you and the potential buyer will value your business.

Value expectations are changing

In this economic recession, the gap between what a buyer is willing to pay and a seller's price expectation is increasing. The tight financing market requires the buyer to put up more of his own equity, lowering the rate of return on the investment. Consequently, fewer buyers are bidding, which lowers selling prices. Buyers who have very recently experienced large invest-

see **SELLING** page 26

The changing face of business . . .



Janice Christiansen
President and CEO,
J.C. Schultz/FlagSource, Chicago
2010 Chairperson of the
IMA Board of Directors

Janice Christiansen is the only woman president of a full line flag and banner manufacturing company in the United States. The Springfield, Illinois, native grew up in Chicago, graduated from Michigan State

University in 1965 and attended DePaul Law School through 1967. She began her flag manufacturing career at J.C. Schultz in 1975, and worked in various positions including outside sales, marketing and purchasing. Schultz is a family owned company started in 1920. After the unexpected death of her husband at age 40 in 1985, and the departure from the business of her brother-in-law in 1989, she was elected president of the company in 1990. When she took over the reins, the company was in a loss position and deeply in debt. She is credited with turning the company around, retiring all old debt and leading the company to a stable and growing operation.

Under her leadership, the company trademarked the brand name FlagSource which is recognized in the industry as having the highest quality products and excellent customer service. She is also responsible for the company becoming a Woman certified WBE and ISO9001/2008 registered. Under her presidency, the company supplied the nation with USA flags during Desert Storm 1991, and fulfilled a large contract from the Veterans Administration for 127,000 USA flags for veterans' families in 2000. Earlier this year, she became the first woman Chairperson of the IMA Board of Directors.

Janice Christiansen, President and CEO of J.C. Schultz/FlagSource, made history this year when she became the 2010 Chairperson of the Illinois Manufacturers' Association Board of Directors. For the first time in its 116 year history, a woman now leads the association.

Although Christiansen is proud of her groundbreaking position, she prefers to focus on promoting manufacturing in Illinois. Just like she has done as president of her flag manufacturing company, she wants to be known more for doing a good job than her gender.

"In the flag industry, women have the same challenges as a man. You don't think in terms of being a man or woman, you think in terms of getting the job done," says Christiansen, who is also the only female president of a full line flag and banner manufacturing company in the United States.

"I think women are beginning to recognize, that they, like men, can do what they wish to do. Our world has changed," says Christiansen. "There are more women in manufacturing now for a lot of different reasons. Many times it's because of events that happen, but I think there's going to be more young women in the future who say 'I want to go into manufacturing.'"

The Springfield native worked in the insurance industry for her father after college, and went to work for her husband's flag business after getting married. After his death, she became president in 1990.

While her new title as IMA Chairperson may be a first for the manufacturing industry in Illinois, it's another sign that things are changing in the industry nationwide. According to the National Association of Manufacturers (NAM), manufacturers are focusing more on recruiting, retaining and training highly skilled women to help meet the challenges of



Left: FlagSource makes flags for military and veterans interment services throughout the United States. "It is our privilege to provide these flags for the families of our fallen heroes," stated Janice Christiansen.



Right: FlagSource recently acquired new equipment, including this fully-automated vinyl printer and the automated star field embroidery machine shown on the cover.

Women in manufacturing

By Penny Zimmerman-Wills

workforce shortages. In fact, the *2005 Skills Gap Report* by the NAM's Manufacturing Institute (NMI) showed that more than 80 percent of manufacturers surveyed were experiencing an overall shortage of qualified workers across industry sectors. In recent years, one way companies have actively worked to remedy this problem is by increasing efforts to attract and train qualified women. The NAM's Board of Directors launched its Women in Manufacturing initiative to engage more women in manufacturing.

Christiansen and fellow female manufacturers are shining examples of success in a traditionally male-dominated industry. Their stories demonstrate how challenges can be overcome, and why companies are encouraging more women to enter fields that lead to top level manufacturing jobs.

New technologies are transforming the manufacturing industry and Christiansen is one example of a growing trend of female managers, owners and employees. At some large manufacturing facilities, it is not unusual for half of the production employees to be women. The number of women-owned firms in manufacturing nearly doubled during the last decade, and nearly 20 percent of all manufacturing firms with employees are owned by women, according to NMI.

"I love manufacturing," Christiansen says. "Just focus on what you want to accomplish. Don't focus on being a woman. Be aware of the competition. You have to look at what you need to do to do a good job. Business is business."

In 2006, it was estimated that 10.4 million firms were outright or at least 50 percent owned by women. And, between 1997 and 2004, the growth rate in women-owned firms was nearly twice that of all firms.

Long-time IMA member Barbara Wicks became president of Wicks Organ Company in 2002, following the death of her husband. She is now Chairman of the Board of Directors and three of her five chil-



Linda McGill Boasmond
Owner and President,
Cedar Concepts Corporation,
Chicago

Linda McGill Boasmond is owner and president of Cedar Concepts Corporation, based in her native Chicago. The company processes raw materials for use in a wide variety of personal care, household, industrial and agricultural products marketed under many brand names familiar to both consumers and businesses. Under Boasmond's guidance, Cedar Concepts has nearly doubled its sales to over \$12 million, currently employs 40 people and ships over 50 million pounds of product annually via truck and rail to many Fortune 500 corporations.

She began her professional career as a chemist in quality control for the construction division of a prestigious global chemical corporation. Four years later, she joined an international manufacturer of chemical and petroleum products. In 1998, she left the corporate environment for the relatively small Cedar Concepts, and bought the company from one of the surviving founders in 2004, thus becoming sole owner of an International Standards Organization enterprise that processes surfactants, lubricants and chemical intermediates for other companies.



Investment in employee development has helped Boasmond stimulate company wide efficiency improvements and innovations regardless of the economic environment.

Though she looks forward to growth, Boasmond doesn't take her eye off niche products and services basic to her company's competitiveness in a highly integrated, consolidated industry.



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WOMEN

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dren are also involved in the family business, based in Highland, Illinois.

Even though she has been involved in many aspects of the company through the years, becoming president was a challenge. “I prayed a lot,” she says, laughing. “I do think women bring a different perspective,” to the job, she says,

and she advises other women entering the field to seek the advice of competent consultants and seasoned veterans in the business.

For Linda McGill Boasmond, owner and president of Cedar Concepts Corporation, the rise to the top took a few extra steps because of her gender.

Boasmond, whose company processes raw materials for use in a wide variety of personal care, household, industrial and agricultural products, says she feels women have to sometimes put forth additional effort to be accepted. “Validation is an issue, both internally and externally. However some of the challenges, such as economic uncertainty and capital access, are the same for women and men,” she says.

She often refers to a favorite quote by George Washington Carver — “How far you go in life depends on your being tender with the young, compassionate with the aged, sympathetic with the striving and tolerant of the weak and strong. Because some day, in your life, you will have been all of these.”

Education is key

Boasmond, like her colleagues, agrees that educating young women is vital for a thriving future.

“Being involved will give manufacturing a voice so people will see manufacturing is alive. It’s important to not only be heard by our political leaders, but also the information needs to trickle down to the schools. We need to have students interested in manufacturing as a career path,” she says.

Boasmond’s company recently joined with “Girls 4 Science,” which offers students, especially those in underserved communities, a chance to learn about opportunities and careers in industries such as science, technology and engineering.

“This can be seen as a man’s arena,” says Boasmond. “We need to make young ladies comfortable at an early age (with careers in manufacturing).”

Her advice for women who want to pursue a career in manufacturing is to pursue personal networking and follow through on commitments. “You have to get out of the office. You need to be able to network, and get out and talk with customers. It’s important now more



**Renee Togher
President,
Azteca Foods, Inc.,
Chicago**

In December of 2009, **Renee Togher** was named President of Azteca Foods, Inc., in Chicago, her family’s business and one of the Midwest’s largest Mexican food manufacturers. Azteca Foods, Inc. operates in a 100,000-square-foot, state-of-the-art manufacturing facility and employs over 135 people.

She is a board member of Azteca Foods, Inc. and ADL, Inc. She also currently serves on the Board of the Greater Chicago Food Depository and Mercy Hospital. Renee received her Bachelor of Science in Business Administration from the University of Illinois, Urbana-Champaign. She completed Loyola University’s Family Business Next Generation Leadership Institute Program. Renee resides in Palos Hills, Illinois, with her husband and three children, and continues to be an active volunteer in school, church and youth activities.



Part of the sophisticated production process at Azteca Foods, Inc. in Chicago.

than ever," she says. And while online communication and Web-based interaction is necessary and common in today's technological workplace, she stresses face to face communication with customers.

"Customer service is still relationship-based. Some other industries may be more removed from that, but our company is still relationship-based. You need to cultivate and maintain those relationships" she says. "And following through on a commitment is extremely important."

Boasmond also advises utilizing organizational assistance from groups that offer a variety of resources for women business owners.

Azteca Foods, Inc. President Renee Togher worked in various departments of her family's company before assuming her post at the helm of the business. In December of 2009 she was named president of Azteca, one of the Midwest's largest Mexican food manufacturers with more than 135 employees and annual revenue of more than \$50 million.

"I am loving it. I am very excited about it and looking forward to growing the company," she says. And she's grown accustomed to being a minority.

"The grocery industry is so male-dominated anyway, it's something I

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By 1908, the three Wicks brothers incorporated the Wicks Organ Company, and began producing pipe organs for homes and churches in Illinois, Indiana, Missouri, and eventually almost every state in the country.



Barbara Wicks President, Board of Directors, The Wicks Organ Company, Highland

Today the third generation of the Wicks family, lead by **Barbara Wicks** as Chairman of the Board of Directors, continues to oversee the Wicks Organ Company. Founded in the early 1900s on the second floor of a jewelry and watch-making store in

Highland, Illinois, John Wick and his brothers, Louis and Adolph, used their talents as a watchmaker, a cabinet maker, and a jeweler to build the business. By 1908, the three Wicks incorporated the Wicks Organ Company, and began producing pipe organs for homes and churches in Illinois, Indiana, Missouri, and eventually almost every state in the country.

Barbara Wicks worked in many capacities in the family business and became president of the company following her husband's death. She now serves as Chairman and is involved in every aspect of the business. Many large instruments have come out of the Wicks shop, including the 82 rank organ at First Baptist Church in Memphis, and the 92 rank instrument at Morehouse College in Atlanta. Wicks has been proud to be part of many large restoration projects. The first Wicks pipe organ is still playing today, proving that durability, reliability and longevity are foundations of the Wicks Organ Company.



WOMEN

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have gotten used to and I don't notice it," says Togher. What she is focusing on now is laying the groundwork for the growth goals she has set for the next five years. "Innovation is really important, especially in the food business, because the products turn over quite frequently," she says.

"I think you should always stay true to yourself, your company's mission and values. And believe that you can achieve what you want to do. Think positive and always be in the learning mode — think of better ways to do things. You need to stay on top of that," she added.

The future of manufacturing

Despite struggling national and state economies, Togher and her female colleagues are optimistic about the future of manufacturing. Some businesses are investing in new products and practices, while others are finding new niches to keep their businesses thriving.

"I always try to be optimistic. We have to keep becoming better and better and more efficient. We need to drive out all the costs that don't add value to the product," she says.

And she predicts we will see more women involved in manufac-

turing. "You just have to follow what you love to do. The more we can showcase women leaders who are successful, the more people will think it's possible," she says.

Wicks says that her business has had to adapt to changing market demands and decreased sales in new organs by creating a niche market of pipe organ restoration projects, while also using digital technology in combination with pipe organ sounds to attract a new market.

New technologies are transforming the manufacturing industry and Christiansen is one example of a growing trend of female managers, owners and employees.

"I still see manufacturing as a very basic need for the economy and our country, for jobs," adds Wicks. She recounts an event several decades ago when her husband, then president of the company, joined other local businesses and made their payroll in silver dollars to visually illustrate to the local community the impact manufacturing had on local revenue. "To me, that's such a plain example of what manu-

facturing does for our country."

Christiansen says her company is also investing in the future with new equipment to provide additional products to capture new markets. "It will give us a good start as the economy picks up. The new equipment will help us be more efficient and produce more."

As IMA Chairperson, she says she wants to continue building on the solid foundation set in place by the chairmen who preceded her — "I want to continue the goals we have set forth: to make Illinois a manufacturing destination state; to advocate for manufacturing and the benefits of it; to reverse the trend of job losses. I would also like to introduce a Women's Council to give women a forum and encourage women to enter the manufacturing field."

The future of manufacturing depends on many things, says Christiansen, including the backing of political leaders. "It depends on our government. Businesses employ people, people spend money, and businesses grow and profit — that can only happen if we have the support of government, both state and federal," she says. "With technology, it can be competitive. It's an essential part of our economy."

Boasmond agrees. And while she sees the future of manufacturing as very challenging, she feels positive about the industry's future.

"I am optimistic about the future. For the United States, the future is innovation. We are going to have to be a little smarter, and try to think ahead, and try to address some of those cost issues and environmental issues," says Boasmond. "We need to really look inside as well as at what others are doing and make manufacturing competitive. I think we are going to have to be optimistic. I have a lot of faith in our country, the people and our employees. We need to come up with ways manufacturers in Illinois and throughout the country can compete. I believe we are up to the challenge and capable of doing it." ■

Penny Zimmerman-Wills is a freelance writer living in Springfield, Illinois.

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NON-COMPETE

Cont. from page 7

Although courts often point out that they don't like non-competes because they restrain trade and can impede an individual's ability to earn a living, they do enforce and will continue to enforce well-drafted non-competes. The reason is simple: like any other enforceable agreement, a properly drafted, freely agreed-to non-compete is a contract between two capable parties, where one party, the employee, agrees to give up something, i.e., her ability to engage in certain, specified competitive activities in exchange for something, i.e., the receipt of a certain benefit, usually a job or a monetary compensation of some sort, from the employer, the other party to the contract. Courts enforce non-competes because they recognize and protect individuals' freedom to knowingly enter into contracts.

Generally, Illinois courts have looked at two considerations in determining whether a given non-compete is legally enforceable: (1) whether the non-compete protects the employer's legitimate business interest; and (2) whether the non-compete is reasonable in terms of its duration, the geographic area it covers, and the specific activity restrictions it imposes.

In determining whether a non-compete protects the employer's legitimate business interest, Illinois courts have looked at whether "(1) because of the nature of the business, the customers' relationships with the employer are near permanent and the employee would not have had contact with the customers absent the employee's employment; and (2) the employee gained confidential information that he attempted to use for his own benefit."

Hanchett Paper Co. v. Melchiorre, 341 Ill. App. 3d 345 (App. Ct. 2d Dist. 2003). Simply put, courts have required the employers to show a reasonable business reason for enforcing their non-competes.

In determining whether a non-compete is reasonable, the second consideration for its enforcement, courts have taken a flexible balancing approach, weighing the hardship the enforcement of the non-compete would cause to the employee against the employer's interest in

protecting its prized assets, i.e., its customers, employees, and confidential information. Non-competes should generally be limited to a geographic area that is consistent with the employer's business operations, usually the area coextensive with the employee's work territory. If the employer's operations are broad in geographic scope (e.g., covering multiple states or extending internationally), they should restrict the employee from doing the same or substantially the same work tasks for a competitor as the tasks performed for the employer. Non-competes should also be limited in their duration, typically, to about a year or two after the employee's separation from the employer.

Judge Steigmann made the controversial argument that courts were wrong in applying the "legitimate business interest" test and that the test should be rejected.

These considerations have been the hallmarks of the Illinois courts' analyses of non-compete agreements for decades. However, in our last article we discussed a 2007 concurring opinion by Judge Steigmann in the then recent case of *Lifetec v. Edwards*, 377 Ill. App. 3d 260 (Ill. App. 4th Cir. 2007). Judge Steigmann made the controversial argument that courts were wrong in applying the "legitimate business interest" test and that the test should be rejected. Judge Steigmann's opinion made an interesting observation: although Illinois lower and appellate courts had long required employers to show a "legitimate business interest," the Illinois Supreme Court never imposed this requirement. Judge Steigmann reasoned that since the Illinois Supreme Court never embraced the "legitimate business interest" test, lower courts should not use it either.

Although Judge Steigmann's argument received significant attention given its bold suggestion for overruling over thirty years of requiring employers to show a "legitimate business interest," it did not change the legal landscape because it was part of a concurring opinion. But

recently, Judge Steigmann had another chance to make his point and a better venue in which to do it. In the 2009 case of *Sunbelt Rentals v. Ehlers*, Judge Steigmann authored the court's opinion, which expressly rejected the "legitimate business interest" test, reasoning: "Courts at any level, when presented with the issue of whether a restrictive covenant should be enforced, should evaluate only the time-and-territory restrictions contained therein. If the court determines that they are not unreasonable, then the restrictive covenant should be enforced. . . . We reject the 'legitimate-business-interest' test."

Sunbelt Rentals means that until and unless the Illinois Supreme Court says otherwise, those employers that fall under the jurisdiction of the Fourth Judicial District, covering Northern Illinois with the exception of Cook County (specifically, the Lake, Dupage, Kane, De Kalb, Kendall, Lee, Ogle Carroll, JoDaviess, Stephenson, Winnebago, Boone and McHenry counties) no longer need to articulate a legitimate business interest to enforce a non-compete agreement. However, as of the date this article goes to press, other state courts, including the Cook County courts, still require a legitimate business interest for a non-compete's enforcement.

What this means for employers

On the most basic level, *Lifetec* and *Sunbelt* indicate that the law is currently in flux. Some courts may follow Judge Steigmann's lead and discontinue the use of the "legitimate business interest." Other courts, however, may continue to require a "legitimate business interest," like they did for decades past. This uncertainty calls for the Illinois Supreme Court to address this issue and rule whether the "legitimate business interest" test applies or does not apply throughout the state of Illinois. However, currently such a case is not before the Illinois Supreme Court and we do not know when this ruling will be made or what the outcome will be.

Despite the present uncertainty, employers aware of the changing law in this area can use it to their advantage. Employers that fall under the jurisdiction of the Fourth District can likely take a harder-line

see **NON-COMPETE** page 27

Team Caterpillar donates to Haiti relief efforts



Immediately following the devastating earthquake Haiti suffered, IMA member Caterpillar Inc. supplied both money and equipment to aide in the relief efforts. Caterpillar, through its dealer network, had already assisted in search and rescue efforts by mobilizing equipment, personnel and other resources to help Haiti respond to the disaster.

The Caterpillar Foundation made an initial contribution of \$200,000 to the international Red Cross and Red Crescent relief efforts. Bridget Young, the company spokesperson, said the foundation will continue to monitor the long-term recovery needs of the region and may provide additional support. She also said the foundation will match, dollar for dollar, Caterpillar employee, retiree and Cat-dealer employee financial contributions to the Red Cross of up to \$100,000. Altogether, the combined disaster relief will equal \$400,000.

In addition to this financial contribution, the Caterpillar Foundation has several disaster relief recovery and rebuilding efforts already in place to help immediately when a disaster occurs (funds with Red Cross, World Food Programme, CHF International and Pan American Development Foundation).

Young said Caterpillar has long been a company that tries to help when disaster strikes anywhere in the world. "Team Caterpillar has always pulled together in times of crisis to help those in need, whether it be our employees, the foundation, or our dealer network," according to Young. "The crisis in Haiti is no exception."

"We have compassion for those

affected by this disaster and we have the opportunity, through our foundation and our dealer network, to reach out and help. When we can, we do," she added.



IMA young leaders tour Austin Polytechnical Academy

On December 3, 2009, several members of the IMA's Young Leaders Council (YLC) toured the Austin Polytechnical Academy, the manufacturing high school program in Chicago.

Opened in the fall of 2007, Austin Polytechnical Academy (APA) is the creation of the Chicago Manufacturing Renaissance Council (CMRC), a cooperative endeavor between the Illinois Manufacturers' Association, the Illinois AFL-CIO, the Chicago Public Schools and Chicago Mayor Richard M. Daley. Former IMA Board Chairman Glenn Johnson was instrumental in creating CMRC and developing the Academy.

The YLC visited a second-year engineering class and talked with students about career opportunities in manufacturing. APA encourages students to focus their studies on science, technology, engineering and math in preparation for careers in today's industrial environment.

A meeting with APA administrators outlined industry skills needs and opportunities for the YLC members and their companies to become involved in mentoring and internship programs. Several young leaders expressed interest in becoming mentors and talked about how important mentors had been in their own career development.

The students attend classes from 8:00 a.m. until 5:00 p.m. to simulate the typical workday. Uniforms consisting of polo shirts and khaki slacks are mandatory. Following classes, students are allowed to stay during evening hours and use the academy's unique Homework Café. APA instructors are on hand to help students with homework assignments.

The mission of the IMA Young

Leaders Council is to provide educational and social environments to help develop industrial leaders for the manufacturing sector in Illinois. We do this by creating opportunities for young professionals to expand their professional growth in preparation for leading their companies and to encourage participation as members and leaders of the Illinois Manufacturers' Association.



Falex Corporation announces grant to benefit hungry neighbors

Longtime IMA member Falex Corporation has committed to supporting the Northern Illinois Food Bank's (NIFB) Capital Campaign: "We are running out of space, but not out of hungry people."

On December 17th, Andrew M. Faville, CEO and President, and Leslie R. Heerdt, Chairman of Falex Corporation, announced their commitment of \$25,000 as a matching challenge grant. In January 2010, Falex Corporation used the matching grant to team up with the Kane County Committee (KCC) to host a fundraising phone campaign. Falex contributed one dollar for every two dollars donated during the campaign. A target goal of \$300,000 was set by the KCC.

With the help of Falex and the KCC, in Geneva the NIFB will build a new Food Distribution and Community Nutrition Center capable of handling and distributing up to 60 million pounds of food per year through food pantries, soup kitchens, shelters and youth nutrition sites.

"The positive impact of NIFB touches them [employees and their families] all indirectly. This is a very important part of our community's infrastructure and we are happy to provide assistance to build a better and larger facility and get food to the people in need," said Falex President Andrew Faville, who also serves as a chairperson for the Kane County Committee.



Philippi-Hagenbuch celebrates 40th anniversary

An IMA member for 34 years, Philippi Hagenbuch, Inc. of Peoria, celebrated forty years of continued family success in 2009. In 1969, L.B. "Phil" Philippi and LeRoy Hagenbuch along with their wives, Gladys and Pat, entered into a promise to dedicate themselves to only engineering and selling products that are significant advances in safety, technology and capacity for industries utilizing off-highway haul trucks.

With an economic climate that has caused many companies to out-source, Philippi-Hagenbuch continues to engineer and produce their Autogate® Tailgates, HiVol Bodies, Trailers and Water Tanks in-house. Philippi-Hagenbuch maintains the belief that their dedicated associates best understand their customers' specialized needs and play a vital role in PHIL's ongoing success.

"As we celebrate our 40th anniversary of Helping You Move Mountains®, Philippi-Hagenbuch, Inc. would like to say "Thank You" to all of our customers, dealers, licensees and vendors who have helped make our first forty years a success. We look forward to working with you for many decades to come," said Josh Swank on behalf of Philippi-Hagenbuch.



Television series explores Manufacturing Skill Standards Certification Program at Bison Gear

On November 6, 2009, Illinois State Senator Dan Cronin visited Bison Gear & Engineering Corp. to explore Bison's successful implementation of the nationally recognized Manufacturing Skill Standards Certification (MSSC) Program for his cable television series, "Illinois Education." MSSC resulted from a voluntary partnership between industry, labor and education to raise the skill level of America's production workforce and increase global competitiveness.

The MSSC System awards Certified Production Technician

(CPT) certificates to individuals who pass any or all of its four Production modules: Safety, Quality Practices & Measurement, Manufacturing Processes & Production, and Maintenance Awareness. The CPT certificates are nationally portable and have been officially recognized by the Illinois Manufacturers' Association as a credential for hiring production workers.

"The foundation of a good education system is what you have to build on," said Bison Gear president and CEO, Martin Swarbrick. "The MSSC program is a core element in our program to keep globally competitive." Bison employees are rewarded financially for successfully completing each of the four MSSC modules.

Ron Bullock, Bison Gear chairman, adds, "Bison has invested in building two balance sheets: a financial balance sheet and what we call a 'human capital' balance sheet." Through its Manufacturing Careers Council activities, Bison is working actively with other manufacturers, education institutions and workforce development organizations to create an effective delivery network for the MSSC training and certification to enable job seekers to prepare for careers in manufacturing.

The 25 minute "Illinois Education" video can be viewed at the Bison Gear website, along with two related short videos entitled, "Implementing the MSSC creates a better skilled workforce at Bison" and "Employees benefit at Bison with the MSSC program." For more information about MSSC training and how it will benefit your company, please visit www.msscusa.org.



Ron Bullock appointed to statewide council as he completes his term as IMA Chairman

Ron Bullock completed his two-year term as Chairman of the Illinois Manufacturers' Association in December. Janice Christiansen succeeds him to become the first woman Chairperson in the IMA's 116 year history.

The IMA applauds Mr. Bullock

for his dedication, leadership and achievements in education and workforce preparation, highlighted by the implementation of Manufacturing Skills Standards Certification in Illinois.

"At a time when the U.S. has undergone significant changes in national leadership, and closer to home, where our state's chief executive officer has been removed from office, Ron Bullock has remained focused on meeting the needs of manufacturers in Illinois," said Greg Baise, President & CEO of the Illinois Manufacturers' Association.

During Bullock's tenure, the IMA worked in collaboration with the Illinois AFL-CIO and others through the Chicago Manufacturing Renaissance Council to create and open Austin Polytechnical Academy (APA) on Chicago's Westside. APA is the first high school in Illinois focused solely on preparing students from impoverished inner-city neighborhoods for careers in manufacturing. The first class of freshmen began their studies in fall of 2008. The school currently boasts a 97 percent retention rate in a school system that generally experiences dropout rates in excess of 50 percent.

"Ron Bullock's time as Chairman has also seen revitalization of our Small Manufacturers Council and creation of the IMA Young Leaders Council," noted Baise. "And in the area of advocacy, whether it was being among industry leaders meeting with President George W. Bush at the White House, going toe-to-toe with Governor Pat Quinn or meeting with Illinois legislative leaders on pending statehouse issues, Ron Bullock has been a forceful advocate for IMA members. On behalf of the 4,000 members of the Illinois Manufacturers' Association, we offer our thanks and deep appreciation for Ron's service and leadership in 2008 and 2009."

As Ron Bullock ends his term as IMA Chairman, he continues to dedicate himself to education and workforce preparation. On November 17th, Governor Pat Quinn invited Bullock to serve as a member of the P-20 Council in Illinois. Bullock, along with 24 other individuals of

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varied backgrounds in education, business and civic leadership will contribute their expertise in an attempt to revive economic prosperity and position Illinois as global leader.

The P-20 Council will be responsible for reviewing educational programs at all levels with the challenge of finding ways to improve both teaching and learning, to assure readiness and smooth transitions for children at each level of their education, and to cultivate and demonstrate accountability and efficiency in all school programs, from the pre-school level to the collegiate level.



Crowe Horwath recognized for its commitment and support of women in accounting

In addition to being considered one of the country's best places to work, Crowe Horwath LLP was recently named the Celebrating Dimensions of Success™ National Balance Award winner by the Ameri-

can Society of Women Accountants (ASWA) Educational Foundation (The Foundation). The award was presented recently at the ASWA/American Woman's Society of CPAs (AWSCPA) Joint National Conference.

The Balance Awards recognize companies that implement policies, initiatives and programs that promote work/life balance, while providing leadership and mentoring opportunities for women and being involved in the financial issues facing their communities. Crowe was recognized for its Women into Leadership (WIL) program and Women's People Resource Network (WPRN). The WIL program promotes career advancement and development among its women leaders.

"Crowe is honored to be recognized for its commitment to the growth and development of women," said Kevin McGrath, Crowe Horwath's CEO. "Crowe is committed to creating a workplace where all of our people can achieve their personal and professional goals."



Inland Real Estate Group honored with ethics award



This past December, The Inland Real Estate Group of Companies, Inc. was named the recipient of the 2009 Torch Award for Marketplace Ethics by the Better Business Bureau (BBB).

Torch Award honorees are companies that exemplify ethical business practices. With over 7,000 accredited member businesses in the Chicago and Northern Illinois chapter and 1,800 nominees in the running, competition for the award was at the highest level in its thirteen-year history.

"It is a great honor to be recognized in this manner by the BBB,

The Crystal Clean Revolutionary Combination Aqueous Parts Cleaner....

... Increases Safety & Productivity While Decreasing Your Parts Cleaning Costs



The Crystal Clean Model 2725 Aqueous Combination Parts Cleaner is truly innovative:

- Multi-function aqueous unit: Manual Sink on top of a Spray Jet cleaning cabinet
- Stainless Steel Unit on Heavy Duty Casters for Maximum Portability
- HCC Patented, ETL Listed, 110v (GFI) Shop Ready Unit
- Small Footprint with Large Capabilities, cleans parts up to 9"x24"
- Greener, Lower VOC, More Aggressive Minichem M2750 Cleaner
- Eliminates Solvent and Multiple Units but Increases Space and Safety

Check out our website: www.crystal-clean.com or call 877-938-7948 and ask for Jim Skelton for further information on our services and member only discounts and pricing.

Crystal Clean is the fastest growing parts cleaning provider in the United States.



whose name has long been synonymous with the highest standards of ethical conduct in business," said Dan Goodwin, chairman and CEO of the Inland Real Estate Group, Inc. "The BBB states that trust is born where integrity and performance meet, and that principle is the foundation that has supported Inland over more than 40 years in business."

To learn more about the second fastest-growing acquirer of retail property in the United States, please visit The Inland Real Estate Group of Companies, Inc.'s company website at www.inlandgroup.com.



RSM McGladrey's Krowczyk-Mendoza Named One of Illinois CPA Society's "Women to Watch"

RSM McGladrey has announced that Sherrie Krowczyk-Mendoza was designated as one of the Illinois CPA Society's six "Women to Watch." The Illinois CPA Society's "Women to Watch" award seeks distinguished female business executives in accounting for contributions to their profession, their organizations and the development of women as leaders.

Krowczyk-Mendoza is currently responsible for the organization's Great Lakes Financial Services Risk Management Practice; in addition to client service responsibilities, she leads the practice's methodology task force and group training and has conducted outside training and presentations for a number of financial services-related organizations.



Baxter's commitment to sustainability far reaching

Baxter International, Inc. is a healthcare company that through its subsidiaries, develops, manufactures and markets products that save and sustain the lives of people with various illnesses. The organization's commitment to help address key global sustainability issues, such as climate change, natural resource use and inadequate education, enhances



Phoenix Closures, Inc. visited by Newt Gingrich

Former Speaker of the House Newt Gingrich (above center) visited IMA-member company Phoenix Closures, Inc., in Naperville on December 16, 2009. Head of Phoenix Closures and IMA Board member Bert Miller (above left) said, "I've never seen a political figure so focused on a plant visit. He spent a full hour on the shop floor talking to every worker on the day shift."

After the tour, there was a meeting in the tool room where Gingrich discussed rebuilding education and jobs. He also answered questions on health-care, Cap and Trade and American competitiveness.

"I've always felt that Newt Gingrich had an exceptional intellect," Miller stated. "His interest in all the people with whom he spoke with was very clear."

the company's business while supporting its corporate responsibility to the communities in which it operates. Pursuing programs that drive innovation and promote responsible business practices among Baxter's suppliers, employees, customers and other stakeholders has resulted in new collaborations and recognition by several organizations.

Baxter recently launched its new Global Supplier Sustainability program to drive progress toward Baxter's corporate sustainability goal to incorporate green principles into its purchasing program with suppliers. The program is focused in the areas of green supply chain; customs-trade partnership against terrorism (C-TPAT); material regulatory compliance; and supplier environment, health and safety audits. Suppliers who engage in activities that result in positive environmental results for themselves and Baxter will receive recognition. As part of the global business community,

Baxter is committed to working with its suppliers to improve their environmental performance, purchase products with reduced environmental impact and minimize transportation-related emissions.

Baxter's Code of Conduct was recently featured as the Ethisphere Institute's "Code of the Week" and received an overall score of A-. The Code of Conduct defines the core principles that govern employee behavior at Baxter and how the company conducts its business. The Code of Conduct builds on Baxter's longstanding commitment to leadership in ethical business practices, covering topics such as protection and use of company assets, accurate recordkeeping, competitive and confidential information, sales and marketing practices, anti-corruption, insider trading, bioethics, conflicts of interest, gifts and trade compliance.

The Waste to Profit Network, a

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SELLING

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ment losses are seeking “safer” investments or are trying to get a “good deal” by offering a price lower than their estimate of the business’s fair market value.

A buyer’s individual perspective

Aside from the impact of the economy, the thoroughness of information provided by the seller and a buyer’s ultimate goal of getting a good rate of return on an investment, there are other factors affecting acquisition decisions. Knowing what makes certain buyers tick, such as the following, will work to your advantage at the negotiation table.

- **Financial situation:** Some buyers value your business, but can’t come up with enough cash to buy it. Be cautious. Hold off on signing an exclusivity agreement and ask for proof that they can afford the deal before locking up the business for them.
- **Tax situation:** In general, a stock deal is more beneficial to a seller while a buyer usually prefers an asset transaction. Analyze both parties’ tax situations. You might find that the tax impact is lower than you think for both of you.
- **Business strategy:** Strategic buyers in your industry might be able to turn a profit by absorbing your revenues without additional operating expenses. This could translate into a better offer than that from an industry outsider. Another strategy is for large companies to acquire your business just to shut out their competitors. This could help you justify a good price even if your profit is below the industry norm.
- **Deal experience:** Many private equity firms trade businesses for a living and have a good sense of what your business is worth as well as expert negotiating skills. Make sure you have the same level of deal experience to interact with them.
- **Buyer holding period:** A buyer with a buy-and-hold strategy might be more likely to keep your employees or see the value

of a patent under development than a buyer whose goal is to sell the business again in a few years. The buyer’s longer investment period may mean a higher price for your business.

- **Foreign investors:** Foreign buyers are sometimes willing to pay more for your business than domestic buyers. China, with over \$2 trillion in its foreign exchange reserve, has passed financial policies to encourage Chinese businesses to invest overseas. Many Chinese companies are cash rich or have access to cheap financing and have found acquiring U.S. businesses to be a good way to break into the global market.

Perform your own due diligence before the buyer does

During due diligence, a buyer’s team reviews and analyzes all aspects of your business including financial records, legal documents, lawsuits, environmental issues, employee benefits, information systems, the customer/supplier relationship, operational issues and others. By performing due diligence on your own company prior to divulging information about your company to potential buyers, you will not only ensure that the buyer’s due diligence process runs smoothly, but also minimize disruption to your business and uncover any potential unfavorable surprises.

- **Putting financial records in order:** Prepare your financial statements according to GAAP. Isolate any expenses that would not occur post-transaction. For instance, if the company paid severance as a result of staff reduction, the expense would not recur and should be removed from the normalized income statement.
- **Take a physical inventory:** Review the value drivers and implement changes to your operations that could increase your company’s value.
- **Examine potential business liabilities:** Review any potential legal, tax, product and environmental liabilities for your business. Discovery of potential liabilities by a buyer could be a deal

breaker or mean a reduction in the sales price.

Manage the sales process

- **Confidentiality:** Protecting business secrets, such as a customer list, is one of a seller’s top concerns. While it’s important to be cautious about providing information to the buyer, a buyer cannot perform adequate analysis of your business with limited information. Lack of information might mean a less desirable offer price. Ask the buyer to sign a confidentiality agreement, and determine what information is appropriate to disclose to the buyer.
- **Control information flow to the buyer.** Information you provide during the preliminary stage is as important as the information requested by the buyer during due diligence. Missing or inaccurate information might bring doubt to a buyer’s mind and could potentially reduce the purchase price.
- **Buyers almost always ask for business projections.** No information might be the best answer for businesses that don’t regularly do forecasts. If you do provide forecasts, they should be realistic but not conservative as most buyers assume that your projections are rosier than reality. On the other hand, if you provide an overly optimistic projection, your “promise” could come back to hurt you.

The more diversified buyers you expose to your manufacturing business, the closer to the fair market value you will be able to get. Knowing what attracts buyers to your negotiation table can help bring a good offer for your life’s work. The bottom line: In a down economy, when you are at a disadvantage in getting a fair price for your business, you can’t afford not to take the extra steps to find out what your business is truly worth. ■

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NON-COMPETE

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approach now, if needed, in negotiating and seeking to enforce their non-competes. Employers in other counties, however, are best advised to play it safe and ask themselves if they really do have a legitimate business interest to keep their employees from competing.

And all employers, regardless of their location, should also include an express, well-written clause in

the non-compete confirming the employee's acknowledgment and agreement that the time and territory restrictions included in the non-compete are both reasonable and necessary to protect the company's legitimate business interests. In the recent, high-profile case of *Citadel Investment Group v. Teza Technologies* (No. 09-CH-22478, opinion and order Oct. 13, 2009) that involved the enforcement of a non-compete agreement, a Cook County circuit court repeatedly cited this language in the company's non-

compete agreement as proof that the non-compete was admittedly necessary and reasonable in protecting the company.

Non-compete agreements are important, worthwhile investments, and employers should plan carefully to ensure they have the agreement that's right for their business, acceptable to their top talent, and enforceable in court. These are tricky considerations that require sound legal advice. ■

MEMBER NEWS

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partnership of the Chicago Manufacturing Center, City of Chicago, State of Illinois, and Region V of the U.S. Environmental Protection Agency, recently named Baxter an "Outstanding Sustainability Champion." The Waste to Profit Network helps area businesses collaborate to identify opportunities to reuse materials and by-products, bringing together more than 200 Chicago-area companies, City of Chicago departments and various institutions to identify and implement synergies that not only reduce waste and emissions, but also deliver economic impact.

Chicago Public Schools (CPS) recently named Baxter an "Outstanding Partner" for its Science@Work program. The five-year, three-part program, in partnership with CPS, Renaissance Schools Fund and Illinois Institute of Technology, is aimed at providing enhanced science education opportunities for CPS students and teachers focused on biotechnology. Since 2008 the program provided education opportunities to more than 24,000 CPS students via 352 teachers in 109 schools. As part of the program, Baxter adopted Lindblom Math and Science Academy, a public high school in Chicago, and established the Biotechnology Center of Excellence. The company is also helping provide lab supplies and hands-on, real-world experiences for teachers and students.



Popcorn machine maker C. Cretors & Co. celebrates 125 years in business

Chicago based C. Cretors & Company hosted a special reception for media, government and community leaders to celebrate their 125th anniversary on February 4th at their manufacturing facilities.

In 1893, Cretors made its mark by introducing the world's first patented commercial popcorn machine at the Columbian World Exposition held in Chicago. Now run by the fifth generation of the family, Cretors continues to reinvest in research and development to remain leaders in the design and manufacturing of food processing and concession equipment.

"We take pride in the part our company and employees have played in the creation of the modern concession industry, and are excited to share this with Chicago," said Andrew Cretors, President of the company.



BOPI's Tom Mercier appointed to state committee charged with developing standard health insurance application form for small employers

IMA Board member Tom Mercier was appointed by the Director of the Illinois Department of Insurance to sit on a newly created committee that will develop a standard health insurance application form for small employers. The committee was created by law when Governor Quinn signed Public Act 96-0857 on January 5. The committee will develop new rules and regulations to

make it easier for small and medium-sized companies to access affordable health insurance. Mercier is President & CEO of Bloomington Offset Press, Inc. (BOPI).



Wisdom Adhesives wins "Family Business of the Year" honor

Wisdom Adhesives, a mid-sized manufacturer of high performance, environmentally safe industrial adhesives in Elgin was the recipient of a 2009 Illinois Family Business of the Year Award from Loyola University Chicago's Family Business Center.

The award recognizes exceptional Illinois-based family businesses that demonstrate a strong commitment to business development, family and the greater Illinois community.

Chief Executive Officer Jeff Wisdom said, "At Wisdom Adhesives, our family encompasses our customers, employees and communities. Our company and the entire Wisdom Family are very honored to receive the award."

Owned and operated by the fifth consecutive generation of Wisdoms, Wisdom Adhesives is now celebrating its 135th anniversary year as the oldest continuously running adhesives manufacturing company in North America. Visit www.wisdomadhesives.com for more information.



Special thanks to IMA Marketing Representative Katie Carroll for authoring the member news in this issue of The Illinois Manufacturer.

WORKERS' COMP

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ing benefits to which the employees are lawfully entitled. Second, the alleged acts involved the same participants, including the claims adjuster and doctor who repeatedly recommended the denial of claims. Third, the acts involved the same victims: Company employees who were otherwise eligible for workers' compensation benefits. Fourth, the acts had similar methods of commission: fraudulent misapplication of the legal standards set forth in the WDCA in denying workers' compensation benefits to the Company's employees. Additionally, the Sixth Circuit held that the predicate acts satisfied RICO's continuity test under either a close theory (the series of related acts spanned the course of three years) or the open-ended theory (the predicate acts were a regular way of conducting business).

The Sixth Circuit also reversed the District Court's conclusion that the WDCA preempts RICO under the McCarran-Ferguson Act, 15 U.S.C. §§ 1011-1015, a federal law that exempts insurance companies from federal antitrust legislation. The Sixth Circuit rejected the preemption argument by holding that workers' compensation benefits are not insurance and, therefore, would not be preempted by the McCarran-Ferguson Act. Further, the Sixth Circuit held that the WDCA was not

enacted for the purpose of regulating the business of insurance. Each conclusion independently foreclosed the defendant's argument that the WDCA reverse preempts RICO under the McCarran-Ferguson Act.

In layman's terms, the plaintiffs may now litigate civil RICO allegations and seek to prove that the defendants acted in collusion to produce "fraudulent medical opinions that would support the denial of workers' compensation benefits."

The *Cassens* decision is a potential watershed event in workers' compensation litigation. It opens the door for plaintiffs to concurrently litigate a comp claim in the state agency while attacking procedures and tactics used by an employer and supporting parties in high-stakes federal litigation. Because insurance carrier activity is often national in scope, the impact may be felt across the entire industry, in similar lawsuits brought in other federal circuits.

The good news for the employer in *Cassens* is that the court has not ruled against the defendants on the merits of the plaintiffs' claims. It has opined that the allegations in the complaint set forth the elements of a civil RICO lawsuit. The defendants will still have their day in court to argue that the charges are devoid of merit based on the evidence. The bad news for the defendants, and all employers, is that they will have to make this argument in federal court with a substantially greater exposure to liability. Moreover, the discovery process in the federal system is

broader, more time-consuming, and far more expensive compared to state workers' compensation proceedings.

Defendants in a civil RICO case face the prospect of an award of triple damages in addition to plaintiffs' attorney's fees and costs.

In the wake of *Cassens*, what should employers be doing in response? We recommend the following:

- Exercise an abundance of caution in determining which claims adjusters and IMEs to contract with and the duration of each contractual relationship.
- Conduct thorough, timely and regular reviews of your company's pattern of usage of individual claims adjusters and independent medical examiners (IMEs). Seek to avoid dependence on a limited number of resources. Ensure that the use of outside experts does not create circumstantial suspicion of a pattern of collusion or selective utilization.
- Monitor communications to and from the company, claims adjusters and IMEs to ensure the fact of objectivity in case management. Avoid even the inference of premature conclusions on such key issues as causation and remedies.
- Establish internal requirements for (1) documentary support of all decision making with respect to causation issues and anticipated monetary relief, and (2) a decision-making chain of command to prevent even the appearance of bias or collusion from clouding your company's safety and injury management programs.
- Given the early stages of the *Cassens* litigation, the employer community must await judicial guidance on many important issues. For example, it is unclear how much assistance and how much cooperation among an IME, claims adjuster, the insurance carrier and employer will suffice to establish a threshold for civil RICO litigation. Perhaps the most complex issue will be ascertaining the difference between potential fraud and the parties' belief that a comp claim should be denied. ■

Illinois Manufacturers' Association 2010 Business Day at the Capitol

WEDNESDAY • MAY 5, 2010 • SPRINGFIELD

Manufacturing is in crisis in Illinois!
Don't miss this opportunity to let your lawmakers
know that we cannot afford more taxes and spending
balanced on the backs of the business community

Luncheon begins at 12:00 noon at the Abraham Lincoln Hotel and Conference Center. Lobby your Legislator at the State Capitol after lunch
The Annual Business Day Reception starts at 5:00 p.m. at the IMA Headquarters, 220 East Adams Street

Constellation NewEnergy — The leading electricity supplier for businesses in Illinois and throughout North America

Highlights from the IMA's Annual Luncheon

Hotel InterContinental, Chicago, December 4, 2009



IMA member company Crowe Horwath (above) participated in the networking reception prior to the luncheon.



Keynote speaker Terry Savage signed copies of her books following her presentation. Terry is a *Chicago Sun-Times* columnist, a nationally known expert on personal finance and a regular television commentator on issues related to investing and financial markets.



Outgoing IMA Board Chairman Ron Bullock of Bison Gear & Engineering (left) was honored for his service to the IMA.



David Arch from IMA member company Blistex, Inc. hosted Illinois Senate minority leader Christine Radogno (right) at the 2009 IMA Annual Luncheon.



IMA Board member Karen Kurek (left) of RSM McGladrey was the winner of the Mini Gator utility vehicle donated by Deere & Co. Additional raffle prizes were donated by C. Cretors & Co., American Airlines, United Airlines and Diageo Co.



Illinois Senator Randy Hultgren (left) and State Representative Mike Fortner (right) presented 2010 IMA Board Chairperson Janice Christiansen with a copy of HR 735, a resolution honoring and congratulating her on becoming the first female chairperson of the IMA Board of Directors.

New IMA members

Allstate Insurance Company
Buffalo Grove

Baker & Daniels
Chicago

DS&P Insurance Services, Inc.
Palatine

Jeffrey S. Hebrank, Attorney
Edwardsville

**International Management
Assistance Corporation (IMAC)**
Strongsville, OH

Quarles & Brady LLP
Chicago

**Segal McCambridge Singer
& Mahoney, Ltd.**
Chicago

Verizon
Normal

IMA & MIT 2010 Calendar of events

February 18, 2010

IMA Breakfast Briefing — Managing & Closing Workers' Compensation Claims in a Cost Effective Manner

Mon Ami Gabi—Oak Brook Center Mall

Workers' compensation costs are skyrocketing nationwide. Part of that increase is because the number of workers' compensation claims involving more than 30 days away from work increased by 15 percent in the past four years. The more complex the claim, the more money employers are spending. These costs can spiral out of control unless they are managed effectively. This session will give you the practical tools necessary to effectively handle your workers' compensation claims and close them, in the most cost-effective manner possible. Register online at: <https://www.ima-net.org/wcclaims.cfm>. Cost per session: \$60 IMA member — \$85 non-members. Questions? Contact Kimberly McNamara at kmcnamara@ima-net.org or 630-368-5300, Ext. 2109.

February 24, 2010

IMA-MIT Event: Strategic Planning and Goal Setting — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

Effective strategic planning and thinking skills combined with the ability to set compelling and achievable goals are at the core of all successful leaders and help to establish the foundation for sustainable business success. The ability to develop winning business strategies and then take those strategies from plan to action (or to rethink them on short notice) sets true leaders apart from their peers. Forward-looking strategy formulation can become a key competitive differentiator and provide a clear "road-map" and path for success.

March 4, 2010

IMA-MIT Event: Consultative Selling Skills for Sales Professional, DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

Be ready to turn your "lean and mean" sales team into 'customer friendly' advisors your clients will trust to help them make complex buying decisions. Get a better grasp of the needs and vision of your customers, and leave with the tools you need to develop great working relationships with key decision makers.

March 16, 2010

IMA-MIT Event: Essential Leadership Skills for Front Line Managers and Supervisors — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

This one-day program will prepare your supervisors for a complete change of responsibilities and offer a plan for the challenges ahead. They will come away with a better understanding of what the boss, peers, staff and company expects of them.

March 23, 2010 — Oak Brook Terrace

March 30, 2010 — Peoria

IMA Breakfast Briefing — How to Find Cash in Your Company, 8:30-11:00 a.m.

Experts from Clifton Gunderson & Co. will provide information specific for manufacturers and will cover: cash forecasting, budgeting and profitability. Visit www.ima-net.org/calendar for more information. Cost per session: \$60 IMA member — \$85 non-members. Questions? Contact Kimberly McNamara at kmcnamara@ima-net.org or 630-368-5300, Ext. 2109

March 24, 2010

IMA-MIT Event: Assertive Communication Skills: Communicating With Authority and Impact — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

In today's fast-paced work environment, any pro-

fessional or manager dealing with people needs effective, assertive communication skills. Professionals having effective, assertive communication skills are most often seen as trustworthy, credible, direct and results-oriented. They are better able to generate desired outcomes. Assertive communication provides the speaking and listening skills necessary to productively relate in today's complex work environment.

April 9, 2010

IMA-MIT Event: Project Management Skills for Non Project Managers — DePaul University O'Hare Campus, 3166 S. River Rd., Des Plaines

Objectives: To provide non-project managers with the project management knowledge, skills, tools and techniques to make the transition to a project leadership role and ensure optimum project execution; to increase the competence to manage a project through all project stages: initiating, planning, delivering, monitoring and completing.

April 20, 2010

IMA Breakfast Briefing — Leaves of Absence under the ADAAA and the Amended FMLA: Good News and Bad News for Employers — 8:00-11:00 a.m., Oak Brook

The FMLA was amended in 2008 and yet again this past October. The ADAAA amended the ADA last year, and the final regulations are imminent. This 2.5 hour advanced level seminar will provide attendees with an understanding of the fundamental shifts in how these laws impact leave of absence management. Presented by: Gregory H. Andrews, Esq., Dykema Gossett, PLLC. Visit www.ima-net.org/calendar for more information. Cost per session: \$60 IMA member — \$85 non-members. Questions? Contact Kimberly McNamara at kmcnamara@ima-net.org or 630-368-5300, Ext. 2109

Visit <http://www.ima-net.org/calendar.cfm> or <http://www.ima-net.org/MIT/open.cfm> for more information, pricing, etc., and a more complete listing of IMA and IMA-MIT offerings. Questions? Contact Janie Stanley at 800-875-4462 ext. 3020, email: jstanley@ima-net.org.

The Illinois Manufacturer is underwritten by Constellation NewEnergy



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now enjoy savings of
up to 29% off select
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