



EXECUTIVE REPORT

I would first like to take an opportunity to introduce you to Petrie & Stocking's newest lawyer, Bethany McCurdy, who has joined our firm's Labor + Employment practice group. Bethany received her law degree from Marquette University in 1999 and has been practicing law in the Greater Milwaukee area since then. Keep an eye out for the article authored by Bethany later in this edition of our newsletter. Bethany concentrates her practice on advising and representing employers in most aspects of the employer-employee relationship. Bethany advises clients in the day-to-day dealings of employees, such as accommodating a disabled employee, administering the Family and Medical Leave Act, or reviewing handbooks and policies. Bethany frequently defends employers against discrimination complaints alleging unfair treatment on the basis of age, disability, sex, race and any other number of protected classes.

She has also defended employers against wage and hour claims involving overtime and misclassification and is experienced in providing hands-on training to both managers and employees alike in areas including disability accommodation, FMLA and workplace harassment. She has successfully negotiated claims directly and through mediation helping her clients resolve them quickly and efficiently to avoid additional costly litigation.

Also, this summer Petrie & Stocking begins its 122nd year of providing quality legal services to our clients. For more than a century, generations of families and businesses have come to rely on our law firm. We understand the importance of working closely with you to address the full spectrum of our clients' legal needs.

Petrie & Stocking currently has attorneys practicing in many areas of law. One strength of a firm of our size is the ability of attorneys in different practice areas to collaborate with each other, our staff, and our clients in order to solve your legal problems. On behalf of the entire Petrie & Stocking team, all of whom are listed below, I thank you for your association with our firm.

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< Meet our new
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I wish to take this opportunity to announce that this summer John Stocking will have been practicing law with our firm for 50 years. John becomes the 6th attorney to achieve this; the others being Leo Nohl, Nelson Petrie, Lewis Stocking (John's father), Earl Meixner, and myself. Congratulations John!

James R. Petrie

CHAIRMAN OF THE BOARD



UPCOMING ANNOUNCEMENTS

TRISTAN PETTIT: Attorney *Tristan R. Pettit* will be presenting a seminar for the Wisconsin Housing Alliance, a trade association for manufactured and mobile home communities on June 22, 2016 in Madison. Tristan will be speaking on the residential eviction process, the Fair Debt Collections Practices Act, abandoned and unclaimed tenant property and Wisconsin's newest Landlord-Tenant law, Act 176.

Attorney Pettit will also be presenting three seminars to the city of Milwaukee and its employees on Wisconsin's newest Landlord-Tenant law, Act 176, on June 29-June 30, 2016.

Tristan will also be presenting the 14th Landlord Boot Camp, sponsored by the Apartment Association of Southeast Wisconsin, on Saturday, October 29, 2016. This is an all-day seminar that covers all aspects of residential landlord-tenant law in Wisconsin. For more information go to www.LandlordBootCamp2016.com

JOHN THOMURE: *John Thomure* has been invited to be part of the faculty of the Lawyering Skills Course for the spring 2017 term at the University of Wisconsin Law School. He will teach a course entitled Representing the Small Business Client to law students on March 6, 2017 through March 9, 2017.

DEPARTMENT OF LABOR INCREASES SALARY MINIMUM FOR

WHITE COLLAR EXEMPTIONS

For the first time in over 20 years, the Department of Labor (DOL) updated the rules exempting executive, administrative and professional employees from overtime payments. Employees in these categories have previously been exempt from overtime payments if they met certain criteria, primarily that their job functions satisfied the "duties test" and that they were paid a minimum weekly salary of \$455 per week/\$23,666 per year. These new rules, effective December 1, 2016, do not affect the duties test; however, they nearly double the minimum salary amount and mandate that an employee must make at least \$913 per week/\$47,476 per year to qualify as exempt. These new rules also automatically update that minimum salary amount every three years, starting January 1, 2020.

These changes to the overtime rules will affect nearly 4.2 million employees across the United States—69,000 in Wisconsin alone—and will require employers to reexamine their salaried positions to determine how they will respond to the changes. Generally, employers will have three options: 1) increase the salaries of their exempt employees in order to retain their status; 2) convert those exempt employees to non-exempt hourly employees and pay them overtime for any hours worked beyond 40; or 3) eliminate all overtime hours.

Besides increasing salaries across the board, employers have other options for meeting the increased salary threshold. Under the new rules employers may also use other forms of compensation, such as nondiscretionary bonuses, incentives, and commissions (so long as they are paid quarterly or more frequently) to satisfy up to 10% of the required salary amount. This means for example, an employer could pay its employee a bonus of \$4747.60 and a salary of \$42,729 and still meet the exemption threshold.

Additionally, if an employee does not earn enough in nondiscretionary bonuses and incentive payments (including commissions) in a given quarter to retain their exempt status, the rules permit a "catch-up" payment at the end of the quarter. To implement a "catch-up" payment, the employer has one pay period to make up for the shortfall (up to 10% of the standard salary level for the preceding 13 week period). The catch-up payment will count only toward the prior quarter's salary amount and not toward the salary amount in the quarter in which it was paid. If the employer chooses not to make the catch-up payment, the employee would then be entitled to overtime pay for any overtime hours worked during the quarter.

While employers still have several months until the rules are in effect, it is important they are not complacent—they should immediately consult with their employment counsel to examine their pay practices and determine their options for complying for with the new rules. Inevitably this will result in many companies making some changes to their employee classifications and compensation, thus these circumstances also provide employers with an ideal opportunity to conduct a comprehensive wage and hour audit and address any other potential compliance issues (independent contractors, "comp time" and deductions from exempt employee wages).

For more information please contact our employment law group.



Bethany C. McCurdy



OPIOIDS



ARE A GROWING WORKPLACE CONCERN

Many of our readers may be familiar with drug-testing in the workplace. Since the Drug-Free Workplace Act of 1988, many employers are required to, or choose to, implement a policy to test employees pre hire and at certain intervals during their employment for the use/abuse of alcohol and illegal drugs.

Although an employee's use of prescription drugs will also be detected during the testing process, current workplace law requires that unless the particular prescription creates a safety hazard for the employee, it is none of the employer's business what prescription medication a particular employee is taking. However, the use of certain medications in the workplace can no longer be ignored.

Setting aside the increasingly legal use of marijuana in some jurisdictions (not in Wisconsin), the tremendous increase in use and abuse of opioid painkillers is an emerging threat to the safety and welfare of co employees in the workplace. Opioid painkillers such as hydrocodone and oxycodone, among others, have become the most widely prescribed and highly abused of all prescription drugs, and the United States has one of the highest per capita rates of opioid use in the world.

According to the National Safety Council, these medications are no more effective than acetaminophen or ibuprofen; however, they are now commonly prescribed for work-related injuries. According to the Centers for Disease Control and Prevention, more people 25 to 64 years old in the United States died

from drug overdoses than from car crashes. Seventy one percent of those deaths were tied to prescription opioids, which now exceed deaths from heroin and cocaine combined. Additionally, we must consider the injuries, near misses, and lost employee productivity resulting from opioid abuse.

Armed with this information, one would think that employers could merely change their drug-free workplace policies to include the use of legally prescribed opioids. Not so. Use of these drugs may also be associated with conditions that are protected under the Americans with Disabilities Act and requiring such a test may be considered workplace discrimination against employees with disabilities.

We do not believe concerns about violating the ADA are insurmountable, and employers and employees should both be made aware of this increasing problem. Many companies that have previously implemented drug-testing have seen dramatic decreases in employee accidents and injuries, sometimes exceeding 70%. Addressing this new workplace problem by implementing changes to a drug-testing program will benefit everyone.

The labor and employment attorneys at Petrie + Stocking will be pleased to assist you with any questions or amendments to your policies to address this growing concern.



Roger Pettit

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WE'RE ON THE MOVE



EXCITING THINGS ARE HAPPENING AT PETRIE + STOCKING - WE ARE MOVING!

After much discussion and consideration, we have decided to move our business to **250 East Wisconsin Avenue** -- just 1 block east of our current location. The 250 East building, recently purchased by Chicago developers Fulcrum Asset Advisors and Millbrook Properties, is undergoing numerous updates and upgrades which we believe will provide a positive client experience and easy access for all. While we have a long history at our present location, we are looking forward to the opportunities that change can bring. The firm's new space at 250 East will help us express our ongoing commitment to providing excellent service to all our clients. Our move is anticipated to occur in October of this year - we will be excited to unveil our new space to you once we have settled in. Stay tuned for further details

PETRIE + STOCKING'S 2016 FIVE STAR AWARD WINNERS

Congratulations to Petrie + Stocking shareholders **Laura Petrie** and **James Petrie** on being named "2016 Milwaukee Five Star Investment Professionals." Five Star award winners are selected annually through an independent survey of both clients and financial service professionals in the Milwaukee area. Jim and Laura will be featured in a special section of the July, 2016 edition of Milwaukee Magazine, along with firm associate **Sumeeta Krishnaney** and senior paralegal **Sarah Adjemian**.