



A LEGAL PROFESSIONAL
ASSOCIATION

REPORTER

KATZ, TELLER, BRANT & HILD ATTORNEYS NAMED "SUPER LAWYERS"

Recently, Law & Politics Media, Inc., in conjunction with *Cincinnati Magazine*, published various lists of "Ohio Super Lawyers" for 2004. The lists were based on surveys distributed to over 33,000 attorneys in Ohio. Katz, Teller, Brant & Hild did extraordinarily well in these listings.

In addition to being named "Ohio Super Lawyers," seven were named to the Top 50 Cincinnati Super Lawyers List (Reuven J. Katz, Jerome S. Teller, Guy M. Hild, Robert A. Pitcairn, Jr., Mark J. Jahnke, William F. Russo and Joel S. Brant) and five were named to the Top 100 Ohio Super Lawyers List (Guy M. Hild, Robert A. Pitcairn, Jr., Mark J. Jahnke, William F. Russo and Joseph A. Brant). There were only 4 firms with more lawyers listed on the top 100 list in Ohio. These were all multi-city firms with 175+ attorneys. No other firm came close to KTBH in terms of the percentage of lawyers listed on any of the lists.

While by no means perfect, listings such as these demonstrate that we are viewed as an unusual firm. We are proud of our firm's reputation and the reputation of our attorneys. While we congratulate those who were listed, we frankly believe a number of our attorneys were overlooked. We think this may have been due to the large number of our attorneys already included.

Our firm's biggest strength is a roster of unusually qualified attorneys committed to providing great service to our clients. We thank our clients for the opportunities to serve them in the past and continued opportunities to serve them in the future.

RECOGNIZED LAWYERS REPRESENT EVERY ASPECT OF THE FIRM'S EXPERTISE.

BUSINESS, GENERAL

Andrew R. Berger

BUSINESS LITIGATION

Robert A. Pitcairn, Jr.

James F. McCarthy, III

ESTATE PLANNING

Reuven J. Katz

Joseph A. Brant

William F. Russo

Joel S. Brant

FAMILY LAW

Jerome S. Teller

Guy M. Hild

MERGERS & ACQUISITIONS

Mark J. Jahnke

TAX

Robert E. Brant

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No other firm came close in terms of the percentage of lawyers listed on any of the lists.



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A neutral absenteeism policy or practice that is applied evenhandedly to all employees can no longer provide a basis for terminating an employee injured during the course and scope of employment.

OHIO SUPREME COURT BANS TERMINATION OF EMPLOYEE FOR ABSENTEEISM

James F. McCarthy, Jr.



The Ohio Supreme Court has decided that an employer may not terminate an injured worker receiving workers' compensation benefits on the basis of absenteeism or inability to work, when the absence or inability to work is directly related to the allowed condition. The Court recognized that its decision was in the minority among the states that have dealt with the issue. However, the Court reasoned that a rule prohibiting such discharge protects the right of employees to freely pursue workers compensation benefits without fear of reprisal. Therefore, not only is an employee who suffers an industrial accident entitled to receive compensation for an injury, that employee "...has a right...to time off necessary to complete recovery...". The Court observed that "employees who are temporarily and totally disabled as a result of their work-related injuries have a right not only to the compensation provided in [the Workers' Compensation Act], but also to whatever period

of absence from work is deemed medically necessary to complete their recovery or stabilize their injuries." (emphasis added).

This "right" to be absent is not expressly stated in the Ohio Workers' Compensation Act. Rather, the right was inferred from the anti-retaliation provision of the Act. If the employer is prohibited from retaliating against an employee for seeking benefits, the Court reasoned, then an employer cannot terminate an employee for enjoying the benefits of the Act, namely time away from work to heal. Consequently, an employee who is receiving compensation under the Workers' Compensation Act may not be discharged solely on the basis of absenteeism or inability to work, when the absence or inability to work is directly related to an allowed condition.

A neutral absenteeism policy or practice that is applied evenhandedly to all employees can no longer provide a basis for terminating an employee injured during the course and scope of employment. Therefore, if you are aware that an employee has been disabled in the course and scope of employment and that employee is receiving workers' compensation benefits, you may not discharge that employee for absenteeism.

MALPRACTICE ARBITRATION: FINALLY VIABLE FOR PHYSICIANS

Adam D. Colvin



A new Ohio law now makes arbitration of malpractice claims a viable alternative for Ohio physicians. Arbitration may be preferable to litigation because it avoids a trial by a jury, which may be more easily swayed by sympathy for the patient. In addition, arbitration is a private process, which avoids the potential for embarrassing public disclosure of the proceedings.

Ohio law previously upheld arbitration agreements with patients, but gave the patient until 60 days after termination of the physician-patient relationship to revoke the agreement to arbitrate. Under the new law the patient may still revoke the arbitration agreement,

but only for 30 days after signing the agreement to arbitrate.

The new law contains a number of requirements that must be met. The agreement must be on a separate sheet of paper, and contain specific language required by law. The agreement must be signed *prior* to the diagnosis, treatment, or care of the patient. Therefore, the arbitration agreement may be included with other patient intake forms. However, physicians must treat any patient who refuses to sign the arbitration agreement. Also, if the physician treats patients who are unable to communicate effectively in spoken and written English, the agreement must be in the language in which the patient can communicate effectively.

The new law contains a number of other requirements as well. Please feel free to contact Adam Colvin at our office if you are interested in exploring this new alternative.

OHIO ADOPTS CONCEALED CARRY LAW

By Wijdan Jreisat



Effective April 2004, Ohio adopted a concealed carry law that allows persons to carry concealed weapons if they obtain a license to do so. Private employers may ban weapons from their premises or property (including company vehicles) and may prevent others (i.e., customers and clients) from bringing such weapons on the employer's property by posting a sign in a conspicuous location, prohibiting all persons from carrying weapons onto the employer's premises. Similar laws were already in effect in Kentucky and Indiana.

The Ohio law grants immunity from civil liability for any injury, death or loss to a person or property that was caused by or related to a license-holder bringing a handgun onto the employer's premises unless the employer acted with malicious purpose. Likewise, the law provides immunity to you as an employer from civil liability for any injury, death or loss to person or property that was caused by or related to your decision to prohibit handguns on your premises. We recommend that employers adopt a policy prohibiting employee license-holders from bringing handguns to work.

You may impose a total ban on weapons by posting a sign, in a conspicuous location. We recommend a sign that states: "IT IS ILLEGAL TO CARRY A FIREARM, DEADLY WEAPON, OR DANGEROUS ORDNANCE ANYWHERE ON THESE PREMISES. Unless otherwise authorized by law, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises. Any person bringing such a weapon or ordnance onto this premises forfeits any express or implied permission to enter or remain on the premises and is subject to immediate removal."

ATTORNEY PROFILES



Laura Hinegardner Named Shareholder
Laura's practice is concentrated in

civil litigation with an emphasis on commercial litigation. Admitted to practice in state and federal courts in Ohio and Kentucky, Laura represents clients in all forms of litigation, arbitration and mediation, including shareholder/partner disputes, breach of contract claims, construction litigation and ERISA litigation and alternative dispute resolution. She also represents and advises clients in a variety of employment and bankruptcy matters.



Christie

Laura resides in Fort Thomas, Kentucky, with her husband and daughter.



Hunter

ATTORNEYS RECEIVE CERTIFIED SPECIALIST

TWO ATTORNEYS JOIN KTBH



Jerome Bishop

Jerome graduated from Georgetown University in Washington, D.C. with a B.A. in History in 1994. He received his J.D. from Georgetown University Law Center in 2001. Prior to entering law school, Jerome spent five years on Capitol Hill working on the personal staff of Rep. Chris Smith of New Jersey (R). In 1996, Jerome took a sabbatical from the Congressman's personal staff and moved to New Jersey to run his reelection campaign. After leaving Rep. Chris Smith's personal staff for law school, Jerome continued to perform various fundraising duties for the Congressman's reelection campaign. Later, while in law school, Jerome served as a law clerk at the firm of Cleary, Gottlieb, Steen and Hamilton. Jerome is working in the litigation and insurance practice areas.



Adam Colvin

After spending two summers at KTBH during law school, Adam joined the firm's corporate department last September. In 2003 Adam earned his law degree with a concentration in corporate law from the University of California at Los Angeles. Adam graduated with honors from Harvard University in 2000 receiving an A.B. in Economics. Adam is a native of Northern Kentucky and a graduate of St. Xavier High School.

INSIDE KTBH

Mark Jahnke and **Tara Grause** represented a regional records storage company in the sale of its business to a large, locally based public company.

We represented a group of local investors in raising in excess of \$10 million in private equity capital and \$6 million in debt financing to complete the acquisition of a Minneapolis based industrial company. **Mark Jahnke** and **John Gierl** handled these transactions.

Laura Hinegardner is a member of the 2004 Class of the Cincinnati Academy of Leadership for Lawyers.

We represented a local hotel and gaming company in its purchase of a casino and hotel development from a publicly traded Fortune 500 gaming company. **Tedd Friedman** handled this transaction.

In June of 2003, a group of staff members organized a community volunteer committee — the Kare To Be Helpful (Kare) Team. The team's mission is to encourage the support of volunteer projects for all employees, attorneys and staff alike. The team has worked on a number of fund-raising efforts — mostly involving food! From ice cream socials to soup and salad luncheons to providing

a great selection of snacks for sale, the Kare Team has raised funds to support several projects. Some of our favorites —

- Collecting personal and household items for homeless families served by the Interfaith Hospitality Network
- Hosting a "Dress Down" event with proceeds going to the Susan G. Komen Breast Cancer Foundation — it's just amazing what folks will donate so they can wear jeans to work!
- Celebrating with the first graders at Washington Park Elementary School who won their school's attendance award. Team members threw a pizza party, and every child received a bookbag filled with books and treats. This spring, the Kare Team will make a return visit to the first graders for a special reading event.
- Sending two children to Camp Ernst outfitted for a great experience.

The Reporter is prepared and distributed by our firm for informational use by our clients and friends. This is not intended to give legal advice. Because the application of any provision of the law or regulation depends entirely on the particular circumstances of the case, please contact us or your attorney before relying on or acting on any general information provided in this newsletter. For further information about the contents of this newsletter, please contact any member of the firm.

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