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Shumaker, Loop & Kendrick, LLP

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BUSINESS INFORMATION FOR CLIENTS AND FRIENDS OF
SHUMAKER LOOP & KENDRICK, LLP

WINTER 2010

DO YOU HAVE GOOD BUSINESS JUDGMENT?

By: Jack Santaniello

Until recently, the application of the “business judgment rule” to the managers of a North Carolina limited liability companies was essentially based on the application of decades of developed case-law applying the business judgment rule to directors of corporations. This is due to the fact that no prior case-law in North Carolina explicitly applied the business judgment rule to managers of limited liability companies. On November 13, 2009, the North Carolina Business Court solidified this presumption by essentially applying the business judgment rule to managers in a court order in *Mooring Capital Fund, LLC v. Comstock North Carolina, LLC*, 2009 NCBC 26 (Nov. 13, 2009)[1]. In that order, the Court stated “the managers of an LLC may also be entitled to the protections of the ‘business judgment rule’”. In a long footnote to the text of the order, the Court discussed those sections of the North Carolina Limited Liability Company Act which state:

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PROCEED WITH CAUTION WHEN MAKING HEALTH-RELATED INQUIRIES

By: Frederick M. Thurman

**This article was originally published in the June 2009 issue of the HR Specialist on North Carolina Employment Law*

Employers enter a legal minefield when they inquire about the health of applicants or employees. State and federal laws – such as the North Carolina Workers’ Compensation Act

Upcoming Events

- **Charlotte Seminar Series:**
January 26, 2010 ~ 12:00-1:00 pm
Yes! Attitude, Selling and Loyalty- Oh My! Finding Your Way Along the Yellow Brick Road of Sales
An in depth look at sales relationships and making yourself stand out in a crowd.
To register click on the seminar registration tab.
[>>Read More](#)
- **Art with Heart ~ 7:00-11:00 pm**
Saturday, February 6, 2010
Art With Heart is an art auction benefiting United Family Services' programs. [>>Read More](#)
- **13th Annual Men 4 Change Fundraising Breakfast**
June 2010
Men 4 Change is a fundraising and educational effort that encourages men from all walks of life to speak out against domestic violence. [>>Read More](#)

(WCA), the ADA and the FMLA – overlap, and any misstep can cause a litigation explosion.

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RED FLAGS GET A TEMPORARY GREEN LIGHT

By: Jack Santaniello

The Federal Trade Commission (FTC), at the request of Congress, is delaying enforcement of the “Red Flags” rule until June 1, 2010. The “Red Flag” rule was promulgated under the Fair and Accurate Credit Transactions Act, in which Congress directed the FTC and other agencies to develop regulations requiring “creditors” and “financial institutions” to address the risk of identity theft. The resulting rule requires all such entities that have “covered accounts” to develop and implement written identity theft prevention programs to help identify, detect and respond to patters, practices, or specific activities – known as “red flags” – that could indicate identity theft. The FTC had previously delayed the enforcement of this rule for entities under its jurisdiction until November 1, 2009.

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ARE YOU A TARGET?

A Short Summary of Several New North Carolina Laws

By: Jack Santaniello

•
[TWD \(Texting While Driving\)](#)

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[Vanity Check](#)

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[No Smoking, Please \(Really!\)](#)

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Archive Articles

- [Is That "Independent Contractor" Really An "Employee"? \(Fall 2009\)](#)
- [Protecting Your Assets Against Fraud And Id Theft \(Fall 2009\)](#)
- [Are You Paying the New Minimum? \(NC Minimum Wage Act\) \(Fall 2009\)](#)
- [Are You Ignoring Red Flags? \(Winter 2009\)](#)
- [Need to Know Bankruptcy Concepts \(Winter 2009\)](#)
- [Want To Keep Your Car? \(Spring 2008\)](#)
- [Keeping ICE Away: The New I-9 Form \(Spring 2008\)](#)
- [Are You a Federal Fugitive? \(Fall 2007\)](#)
- [Sale or No Sale? \(Fall 2007\)](#)
- [Have Your IP Dollars Been Well Spent? \(Spring 2007\)](#)
- [Letters of Intent \(Spring 2007\)](#)

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