



November 8, 2012

Marcel L. Debruge Joins Burr & Forman Partners J. Fredrick Ingram and John J. Coleman, III as Members of the College of Labor and Employment Lawyers



Burr & Forman LLP is pleased to announce that [Marcel L. Debruge](#), Birmingham partner and chair of the firm's [Labor & Employment](#) practice group, has been inducted as a Fellow of the College of

Labor and Employment Lawyers. Debruge was inducted into membership on November 3, 2012 at the College's Annual Meeting in Atlanta, Georgia.

Fellows of the College are selected on the basis of their dedication to the study and enhancement of civility and professionalism in the practice of Labor and Employment Law, as well as to the improvement of the delivery and quality of labor and employment legal services.

Click [here](#) to read more about the College of Labor and Employment Lawyers.

### Class Waivers in Employment Arbitration Agreements

*High Risk and High Reward in the Workplace*



In April 2011, the U.S. Supreme Court issued a landmark opinion addressing whether arbitration agreements drafted to prohibit class relief are enforceable.

*AT&T Mobility LLC v. Concepcion*, 131 S.Ct. 1740 (2011) reiterated the Court's strong and consistent message that arbitration agreements must be enforced according to their terms. It emphasized in its holding that the parties' expectations must be honored even if those terms include class or collective action waivers, because "arbitration is a matter of contract." In fact, the *Concepcion* Court went further and noted the incompatibility between arbitration's demonstrated efficiencies in resolving individual disputes compared with the statistical inefficiency of class relief. It

## Headlines

- [Hurricane Sandy Could Prompt Employers to Rethink Remote Working](#)
- [Michigan Voters Reject Adding Union Rights to State Constitution](#)
- [More Employers Using Lockouts to Gain Control](#)
- [EEOC Warns of Risks of Criminal Background Checks](#)
- [Retailers Urge High Court to Clarify "Supervisor" Definition](#)
- [Companies Increasingly Offering Lump Sum Pension Payouts](#)
- [IRS Increases Tax-Free 401\(k\) Contributions to \\$17,500 in 2013](#)
- [Big Firms Add On-Site Clinics to Reduce Costs, Boost Productivity](#)
- [Company Efforts to Cover Alternative Medicine Finds Skeptics](#)
- [New York Carwash Workers Vote to Unionize After Wage Violations](#)

## News Briefs

### Hurricane Sandy Could Prompt Employers to Rethink Remote Working

Businesses were forced to adapt as Sandy flooded office buildings and subway stations, closed bridges and tunnels, and kept employees holed up in their homes during a work week. In the midst of the storm, the ability to telecommute was no longer a work-life balance issue that a few young parents in the office were requesting.

(Source: The Washington Post (free reg. req'd), 2012-11-01)

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### Michigan Voters Reject Adding Union Rights to State Constitution

Proposal 2, which unions and Democrats hoped would restore some of the clout lost in the 2010 elections and potentially head off right-to-work legislation in Michigan, apparently was rejected by voters, according to Gongwer News Service and MIRS, both respected capitol news services. With more than \$45 million spent by both sides, the campaign was the most expensive for a ballot issue in the state's history, drew national attention and, was considered a potential template for unions in other states.

(Source: Ann Arbor News (free reg. req'd), 2012-11-07)

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### More Employers Using Lockouts to Gain Control

Locking out employees is still a risky strategy for a company's income and its image, experts say. But in a country struggling to recover from the worst economic downturn since the Great Depression, it often works.

(Source: Minneapolis Star Tribune (free reg. req'd), 2012-10-28)

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### EEOC Warns of Risks of Criminal Background Checks

The Equal Employment Opportunity Commission has sent a warning to businesses: Conduct criminal background checks at your own risk. Companies that ask job applicants if they've been convicted of a felony or check criminal histories expose themselves to potential discrimination lawsuits.

(Source: Chicago Tribune (free reg. req'd.), 2012-10-21)

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### Retailers Urge High Court to Clarify "Supervisor" Definition

A public policy organization whose members include some of the nation's largest retailers is urging the U.S. Supreme Court to clarify the definition of "supervisor" used in harassment cases. The Court is reviewing a Seventh Circuit finding that, for harassment purposes, a "supervisor" must have the authority to "hire, fire, promote, demote, or discipline" the employee claiming to have been harassed.

concluded that class relief is inappropriate in arbitration unless the parties' agreement specifically authorizes it.

Click [here](#) to read the article from the October 2012 edition of the LJN Franchising Business & Law Alert. For more information, contact [Bryance Metheny](#) at (205) 458-5178 or [bmetheny@burr.com](mailto:bmetheny@burr.com).

### Early Court Opinions Construing Georgia's New Non-Compete Statute Confirm Need for Employers to Execute New Agreements



Last year, Georgia enacted a new non-compete statute (O.C.G.A. §13-8-50 et seq.) that drastically altered the law applying to non-compete agreements in the state. Georgia was previously one of the most difficult states in which to enforce a non-compete agreement, but overnight, Georgia law and public policy changed to become more favorable to employers.

Click [here](#) to read the full article from the September 2012 issue of *Attorney at Law* magazine. For more information, please contact [William "Chip" Collins, Jr.](#) at (404) 685-4266 or [wcollins@burr.com](mailto:wcollins@burr.com).

### Don't Take the Wrong Way Out



Brokers who are considering leaving their firms have a series of choices before them — and the decisions keep stacking up. As we counsel our clients, there is a right way to change employment, and there is a wrong and very expensive way.

When brokers leave without regard for several key issues, they open themselves, and the firms hiring them, to the possibility of costly litigation, embarrassment, regulatory inquiry and economic turmoil.

This [Article](#) provides a few examples of what can go wrong when brokers leave one firm and go to another, and some lessons for brokers and firms.

For more information, please contact [Vic Hayslip](#) at (205) 458-5255 or [vhayslip@burr.com](mailto:vhayslip@burr.com) and [Ben Coulter](#) at (205) 458-5420 or [bcoulter@burr.com](mailto:bcoulter@burr.com).

UPCOMING SPEAKING

(Source: law.com, 2012-11-01)

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### Companies Increasingly Offering Lump Sum Pension Payouts

Lump sum offers are a way for companies that have or had pension plans to reduce their often huge long-term liabilities -- the total amounts they would owe to every eligible retiree over time. But while the offers dangle substantial sums before ex-employees, they also shove the risk of retirement planning onto them, pension advocates say.

(Source: Atlanta Journal-Constitution (free reg. req'd), 2012-10-13)

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### IRS Increases Tax-Free 401(k) Contributions to \$17,500 in 2013

Starting next year, employees will be able to stash an extra \$500 per year in their 401(k)s, tax-free. The tax-free contribution limit for retirement plans will increase to \$17,500 for 2013, up from \$17,000 this year, the IRS announced.

(Source: CNNMoney.com, 2012-10-18)

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### Big Firms Add On-Site Clinics to Reduce Costs, Boost Productivity

On-site health care clinics are increasingly being set up at large companies that are looking for new ways to reduce health care costs and boost employees' productivity. These facilities are being established by firms across all sectors to offer everything from urgent and primary care to biometric screenings to chronic disease management.

(Source: The Washington Post (free reg. req'd), 2012-10-21)

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### Company Efforts to Cover Alternative Medicine Finds Skeptics

Big manufacturing company Parker Hannifin is adamant that its health-benefits plan, which covers an eye-popping assortment of complementary and alternative CAM techniques and therapies, is proving effective at keeping employees healthy and reducing health-care costs. The company may well be unique in its breadth of CAM coverage, but cardiologist Ken Pelletier, a CAM advocate who helps companies design customized health and wellness initiatives, is nonetheless skeptical that Parker Hannifin, a Fortune 500 manufacturer, is on the right path.

(Source: CFO.com, 2012-10-31)

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### New York Carwash Workers Vote to Unionize After Wage Violations

Maintaining that they face widespread minimum-wage violations, workers at a Bronx carwash belonging to one of the city's largest carwash owners voted to unionize, making it the second of New York City's 200 or so carwashes where workers joined a union. The workers at Webster Carwash, nearly all of them immigrants, voted 23 to 5 to unionize after a six-month campaign, according to officials with the Retail, Wholesale and Department Store Union, which joined with several worker advocacy groups to organize the employees.

(Source: The New York Times, 2012-10-21)

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## BURR & FORMAN BLOGS SUCCEEDING IN SUCCESSION



If you are the owner of a closely-held or family-owned business, it is never too soon to start planning for your company's future. From the infancy of your company, it is important to have the appropriate business and tax strategies in place in order to avoid difficulties, such as disputes over transfer of ownership and leadership, upon your retirement. To address these items, our [Business & Succession Planning](#) attorneys launched this blog to provide business owners with information regarding developments in business and succession planning law, weekly updates on industry trends impacting businesses

and individuals, and tools and tips to successfully prepare for the future of their businesses. We hope you find our blog informative and entertaining and that you make it a regular part of your business reading. [Click HERE to read the blog.](#)

## ENVIRONMENTAL LAW MATTERS

The complex system of environmental laws and regulations impact our clients' businesses in a variety of contexts,

## ENGAGEMENTS

Marcel L. Debrugé, Birmingham partner and chair of the firm's Labor & Employment practice group, will be speaking at the American Conference Institute's 17th National Forum on Wage & Hour Claims and Class Actions, January 24-25, 2013 at the Conrad Hotel in Miami, Florida.

Debrugé will be the moderator on the panel entitled, "View from the Bench: What Works and What Doesn't in their Courtrooms, Why Employers Succeed and Don't Succeed in Wage & Hour Litigation, Novel Trial and Case Management Strategies, Examples of Bad Lawyering and More". Please click [here](#) for more information about the Forum.

## FIRM NEWS

**Burr & Forman Expands Nashville Office by 25 Percent with New Attorney Arrivals**



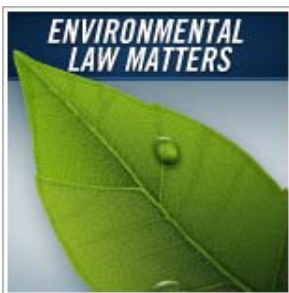
Burr & Forman LLP is pleased to announce the addition of Nashville-based attorneys: partner Brendi E. Kaplan, and associates Thallen J. Brassel and Nina M. Kumar. These attorneys join on the heels of Burr & Forman's recent combination with Tampa, Florida law firm Williams Schifino Mangione & Steady P.A., and give the firm a total of 29 Tennessee-licensed attorneys. Additional information on Burr & Forman's growing presence in Nashville is available on the firm's newly launched website [here](#).

**41 Burr & Forman Practices Earn Top Ranking from *U.S. News and Best Lawyers***

Burr & Forman LLP is pleased to announce that the firm has been recognized in the 2013 edition of *U.S. News – Best Lawyers* "Best Law Firms" list. The firm received the highest "Tier 1" ranking in 41 practice areas in markets throughout its Southeastern footprint. In addition, Burr & Forman is recognized nationally in nine practice areas. The ratings are derived from a combination of the firm's impressive client feedback and the high regard that lawyers in other firms in the same practice area have for Burr & Forman. The complete list of honorees is available [here](#).

Click [here](#) to view the list of practice areas, by respective metropolitan area, for which Burr was recognized as the top law firm.

**Greg S. Burge Inducted into the**



including legal issues arising in business strategy, regulatory compliance, permitting, transactions and dispute resolution. Our Environmental Law attorneys launched this blog to provide an avenue for our clients and other interested companies and individuals to keep up with news, statutory changes, and legal opinions, and to provide practical tips involving all areas of environmental law — particularly avoiding litigation and the environmental pitfalls that affect corporate and real estate transactions.

We hope you enjoy our blog and find it to be a useful resource. Click [HERE](#) to read the blog.

## NON-COMPETE & TRADE SECRETS



Continual changes in non-compete and trade secrets law, as well as technological advances providing increasing avenues for unfair competition, make it imperative that businesses in all fields stay abreast of the latest developments in this area. For those reasons, our Non-Compete and Trade Secrets attorneys launched this blog to help employers, executives and attorneys keep up with news, statutory changes, legal opinions and practical tips involving all areas of unfair competition law, including non-competes, trade secrets, customer non-solicitation, non-recruitment, non-disclosure, confidentiality agreements,

tortious interference with business relations, employee piracy, computer theft, breach of fiduciary duties, employee loyalty, and intellectual property rights. We hope you find value in our blog. Click [HERE](#) to read the blog.

## TCPA ADDENDUM



The Telephone Consumer Protection Act has received a lot of attention and has undergone significant judicial interpretation and change in the last few years. This Act has been applied to render multi-million dollar verdicts and settlements against both big and small companies across the country. For these reasons, our Financial Services Litigation attorneys launched this blog to keep clients, companies and individuals apprised of the continuous evolution of the Act. We hope you find our blog to be an educational resource for information, cases, and insights regarding the TCPA. Click [HERE](#) to read the blog.

## RESULTS MATTER RADIO Check Out Our Latest Shows



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PLANNING FOR THE INEVITABLE - DEATH, TAXES & CHANGE  
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## American College of Trial Lawyers



Burr & Forman LLP is pleased to announce that Birmingham partner [Greg S. Burge](#) has been inducted into the American College of Trial Lawyers.

Burge was inducted into membership on October 20, 2012 at the organization's Annual Meeting in New York City. Membership is by invitation only to attorneys who have distinguished themselves in trial practice and who are recognized leaders in their local communities. Burge joins Burr & Forman's [W. Michael Atchison](#) as a Fellow of the College. Click [here](#) for more information.

### Burr & Forman's Birmingham Office Recognized by the American Heart Association as a Fit-Friendly Worksite

Burr & Forman LLP has been recognized as a 2012 Platinum Level Recipient of the American Heart Association's Fit-Friendly Worksites Recognition program. Platinum is the highest level of recognition. Click [here](#) for information about the program.

### Burr & Forman Profiled in *The Am Law Daily* and *Tampa Bay Business Journal* on Florida Expansion

Burr & Forman LLP was profiled in *The Am Law Daily* ([see article here](#)) and *Tampa Bay Business Journal* ([see article here](#)) on September 28, 2012 for its entry into Tampa, Florida and combination with Williams Schifino. The stories highlight the firm's impressive growth in Florida, and strong Southeastern presence.

ATLANTA CORPORATE IN HOUSE COUNSEL WINNER

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