

“He Sai d, She Sai d”

Law Offices of Burton A. Brown

Volume I, Issue 3

Special points of interest:

- Case updates
- New FDIC rules
- Changes coming in key laws
- Deducting care expenses
- Tips on bidding new projects
- Legislative changes
- How to keep personal liability away
- Client news!
- Send us your comments and questions; call or email info@babrownlaw.com

Expanded Americans with Disabilities Act Signed Into Law

On September 25, 2008, President Bush signed into law the ADA Amendments Act of 2008, significantly expanding the protections available to people with disabilities—and likely raising the number of lawsuits to be filed against employers.

The original law, signed in 1990, was a landmark for ensuring that disabled individuals have access to public buildings and accommodations, thus enabling them greater access to the workforce.

But over the years, the Supreme Court interpreted the law in a way that gave less protections to those with less severe physical restrictions or conditions that could be treated with medication, or devices such as hearing aids.

For instance, before the amendment, someone who took drugs to control cancer, AIDS or diabetes could find themselves outside the ADA if the court found that their medications limited the con-



dition’s effect on their daily lives.

Under the amendment, the ADA instructs the courts to take a more generous view of the ADA’s definition of “disability.” This move was intended to overrule the Supreme Court’s more re-

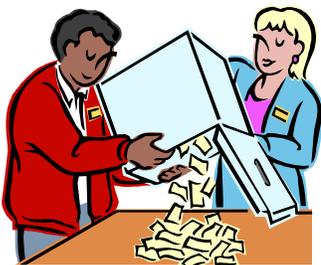
strictive interpretation, including what constituted a “substantial limitation” on a major life activity.

Other changes include eliminating as “disabilities” impairments that are in remission or episodic in nature, if it would substantially limit a major life activity while in its active stage.

Also, the new ADA enables individuals who are perceived by their employers (correctly or incorrectly) as having a disability to sue regardless of how significant the employer perceives the disability to be.

The Act becomes effective on Jan. 1, 2009, and was passed with bipartisan support. To view the changes, see http://www.eeoc.gov/ada/amendments_notice.html.

Obama’s Election Makes Changes In Key Laws Likely



The election of Barack Obama and an increase of Democrats in Congress will likely lead to changes in many areas affecting employment and business. Here are just a few areas in which changes could be coming:

Minimum Wage: Obama will look to raise the federal minimum wage and index it to inflation

every year.

Health Care: Obama’s health care plan is projected to save employers \$140 billion per year by lowering overall health care costs. The plan allows small employers to purchase a low-cost public health insurance option for employees and creates a National Health Insurance Exchange to

regulate private insurance providers. It also includes a re-insurance pool for employers so if an employer’s health care costs exceed a certain amount, the federal government will pay the balance, provided the employer passes on the savings to its employees.

Paid Leave: Obama would require (see Changes, p. 4)

“He Said, She Said”

Deducting Care Expenses Paid for Another Person



Many seniors have expenses for their care that are paid for by others, such as their children. Individuals who pay for the care of another may be entitled to deduct the cost of care on their tax return, but only if they meet four requirements.

First, the individual must pay more than one-half of the recipient's support for the calendar year.

“Support” is determined each year, and includes: fair rental value of lodging; the cost of clothing, education, medical and dental

care, transportation, church contributions, and entertainment/recreation expenses; and a proportionate share of expenses incurred in maintaining the family as a whole that can be directly attributable to each individual, such as food, but is not attributable to the overhead of the home, such as electricity and taxes.

Second, the recipient must have a special relationship to the individual paying the expenses (such as parent or child).

Third, the recipient must have

filed separately from her spouse.

Finally, the recipient must be a citizen, national, or resident of the U.S. or be a resident of Canada or Mexico at some time during the calendar year in which the tax year of the taxpayer begins, or is an alien child adopted by and living with a U.S. citizen or national as a member of her household for the entire tax year.

Before deducting expenses on tax returns, you should consult with a tax professional.

Tips for Contractors Before Submitting a Bid



In today's economy, it is more important than ever to enter a project with confidence that you will get paid for your work. Contractors have some handy tools available to them when it comes to ensuring that owners are solvent before submitting their bids.

First, you can perform a credit check on the owner—an easy and inexpensive way to learn about the contractor for whom you will

be working.

Next, you can check with other contractors who have worked for the owner, who will tell you about any bad experience they have had. Also, check with the architect, who has been with the contractor from day one.

Another sound idea is to contact the lender on the project. How will the project funds be dis-

bursed? Connecting with the lender first may help to avoid problems later.

For subcontractors, ask: does the general contractor set aside funds, or just trust the owner to pay? Will the general contractor provide you their file on the owner?

Finally, you can always contact the owner directly about the project or about the owner's viability.

Estate Planning and Real Estate Taxes in the New Year



The Law Offices of Burton A. Brown would like to remind you that, with the new year fast approaching, now is the time to take care of that Will and Estate Plan you have been putting off for too long.

An Estate Plan describes your plans for your care and treatment should you become disabled, and for the disposition of your assets

at the time of your death. An estate plan is made up of several documents, including your will, power of attorney (general and medical), a medical authorization and waiver, and a revocable living trust.

You've worked hard to earn your money or build up your business—don't wait until it's too late to see to it that they are properly

taken care of!

In other news, The Law Offices of Burton A. Brown is pleased to announce an association with one of top attorneys in the Chicago area specializing in reductions on your personal real estate taxes as well as business/commercial property taxes.

Contact Burton A. Brown for more information.

Bailout Bill Contains Mental Health Parity Requirement

Although much has been said about the government's bailout of the financial industry (and others)—officially known as the Emergency Economic Stabilization Act of 2008—few people realize all of the changes that came piggy-backed with it.

Among those changes are the mental health parity requirements found in ERISA and other federal laws and regulations. These requirements become effective after October 2009.

In general, the mental health parity

requirements mandate that if a group health plan offers both medical/surgical benefits and mental health benefits, it cannot have lower lifetime or annual limits for mental health benefits. Some of the new law's provisions include:

- Substance abuse coverage: the law now contains parity for substance use disorder benefits.
- Small employer exemption: the parity requirements generally do not apply to any

group health plan offered by a small business that has an average of 50 or fewer employees.

- Out-of-network providers: if a plan allows med/surg benefits to be provided by out-of-network providers, then it must also allow mental health and substance abuse benefits to be provided by out-of-network providers.

The new rules are complex; department regulations are sure to follow to provide guidance.



Significant Changes to FDIC Coverage

On Sept. 26, 2008, the FDIC expanded coverage for living trust and pay-on-death type accounts. As of Oct. 3, 2008, the FDIC insurance coverage limits were increased. Some of these changes are permanent while others are only temporary unless further legislation is passed.

From Oct. 3, 2008 through Dec. 31, 2009, the FDIC increased deposit insurance coverage limits

as follows: Single accounts: \$250,000 per owner; Joint accounts: \$250,000 per co-owner; IRAs and other retirement accounts: \$250,000 per owner.

Except for IRAs and retirement accounts, the maximum FDIC coverage will revert to \$100,000 after Dec. 31, 2009 unless new legislation is passed to extend the increased limits.

The FDIC also has adopted an interim rule to simplify the rules for determining the coverage available on revocable trust accounts (living trust or payable-on-death accounts). The interim rule eliminates the need for "qualifying beneficiaries" so that coverage is based on nearly any beneficiary.

The FDIC's coverage rules can be reviewed in full at FDIC.gov/news.

"The maximum FDIC coverage will revert to \$100,000 after Dec. 31, 2009 unless new legislation is passed to extend the increased limits."

Recent Cases from the Firm and Judicial News

Congratulations to firm clients **Paula** and **Jeff Cantleberry!** On September 17, 2008, a federal jury in Chicago returned a verdict in Paula's favor against her former employer, Physician Care, Ltd. in her suit for employment discrimination. The Law Offices of Burton A. Brown represented Paula and Jeff at trial and throughout the three-year case. In addition to the verdict, the Firm obtained

awards for Paula's lost wages and attorneys' fees.

In other news, congratulations to firm client **Miguel A. Saltijeral**, president of **Industrial Fence, Inc.** On October 9, 2008, Miguel had lunch at the White House at the invitation of the President.

The Law Offices of Burton A. Brown is also pleased to announce that it recently obtained a rare

blanket lien on behalf of its client, **Reyes Group, Inc.** The lien secured four lots surrounding a bridge in Matteson, Illinois, as security for the unpaid sum owed on a large construction contract.

Finally, in judicial news: longtime Mechanics Lien Chief Judge **Clifford L. Meacham** has retired, effective on Nov. 14. He was replaced as Chief Judge by Judge

Lewis Nixon, another experienced jurist from the Mechanics Lien section. In addition, Judge Meacham's docket was taken over by Judge **Carolyn Quinn**, an excellent judge as well. Judge Meacham's expertise, dedication, and outstanding temperament on the bench was appreciated and will be missed!



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The Law Offices of **Burton A. Brown** is a full service law firm with attorneys practicing in both Illinois State and Federal courts. We provide a broad range of services to meet the needs of large corporations, small businesses, and individuals across a multitude of industry groups. We provide integrated services along the following broad practice areas:

- **Business and Real Estate Transactions;**
- **Litigation and Dispute Resolution;**
- **Condominium Law;**
- **Construction Law;**
- **Estate Planning and Wealth Management;**
- **Guardianships and Probate;**
- **Tax Deed Litigation; and**
- **Elder Law**

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Changes, cont'd from Page 1



all private employers to provide 7 paid sick days per year for each employee, and encourage states to adopt paid leave systems for employees seeking leave under the FMLA providing funds to enable states to offset costs for employers.

Accommodation of Disabled Employees: Obama will provide support to employers seeking to accommodate employees with disabilities.

Retirement Security: Employees with company pensions will receive detailed disclosures about their pension fund investments, and will be automatically enrolled in their workplace pen-

sion plans unless they specifically opt out. Middle and low-income employees will be eligible for a savings match program, awarding them a 50% match for their first \$1,000 of savings.

Immigration: Obama supports the creation of a new employment eligibility verification system so employers can verify that their employees are eligible to work in the U.S. He also maintains that guest worker programs must be limited to instances where the jobs offered to foreign nationals have first been offered to U.S. citizens at a decent wage.

Expansion of FMLA: Obama

will support an expansion of the Family Medical and Leave Act. He will work to extend coverage to private employers of 25 or more employees, rather than the current 50-employee threshold. Second, he will advocate for an expansion of the FMLA to cover leave for purposes such as care for the elderly, and participation in the employee's children's academic activities at school. He will also work to guarantee FMLA leave for victims of domestic violence.

Only time will tell if these—just to name a few—of Obama's proposals will become law. Stay tuned for future updates.