

The International Society of Primerus Law Firms

XPRESS e-Newsletter

July 2018

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Agriculture & Environment

UNITED STATES

WARNING: New Proposition 65 Requirements Effective August 30, 2018

By [Sedina L. Banks, Esq.](#) and [Sherry E. Jackman, Esq.](#)
[Greenberg Glusker](#)

Los Angeles, California

Significant changes to the Proposition 65 warning requirements will soon become effective. Businesses should act now to ensure compliance with these new requirements.

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Business

GERMANY

Getting a Voice on the Blockchain: "Delegated Proof of Stake" Interesting for Companies

By [Benjamin Kirschbaum, Esq.](#)
[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfurt, Germany

Blockchain technology, which was originally developed by the anonymous developer Satoshi Nakamoto, is based on the idea of creating a decentralized database that may be used to process value transactions.

Contrary to the monetary system provided by the central banks, the "bitcoin" system developed by Satoshi no longer needs a central or trusted authority to transfer and store money. Instead, bitcoin relies on the participation of anonymous miners. These have to solve mathematical puzzles and thereby find blocks to confirm the transactions. The first miner, who solves the respective puzzle, is rewarded in bitcoin.

[Full Article](#)

NETHERLANDS

Warranties and Indemnities in an Acquisition Agreement

By [Reinier W.L. Russell, LL.M.](#)

[Russell Advocaten B.V.](#)

Amsterdam, Netherlands

Before the acquisition of a company, the buyer often conducts due diligence. Based on these investigations, the buyer will usually request the seller to include warranties and indemnities in the acquisition agreement. What are warranties and indemnities? And what happens if any of these is breached?

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Data Protection & Privacy

UNITED STATES

Identify Weaknesses in Data Protection and Profit From Synergy Effects

By [Per Kristian Stöcker, Esq.](#)

[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfurt, Germany

For several weeks, companies have been obliged to apply the European General Data Protection Regulation (GDPR). The two-year transitional period is definitely over. The core of the new legislation is - as is generally known - the transparency in data processing. In view of this aim, companies have to furnish proof of compliance with the legal requirements. It is therefore indispensable to implement and document a so-called data protection concept.

[Full Article](#)

UNITED STATES

Is GDPR Coming to California?

By [Timothy Toohey, Esq.](#)

[Greenberg Glusker](#)

Los Angeles, California

On June 28, 2018, Governor Brown signed into law the California Consumer Privacy Act (CCPA). Although the CCPA will not come into effect until January 1, 2020 (and may be amended prior to that date), it promises to be a major game changer for protection of consumer privacy not only in California, but in the United States.

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Immigration

SWITZERLAND

Immigration Switzerland: Job Registration Requirement

In February 2014, the Swiss people adopted the popular initiative "Against mass immigration" aiming to amend Switzerland's immigration policy and introducing art. 121a of the Swiss Federal Constitution.

The initiative targeted the introduction of a new system of admission of foreign nationals to Switzerland, which would control immigration through maximum numbers and quotas and give priority to the local workforce.

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Insurance

UNITED STATES

The Importance of *State Farm v. Fisher*: What Insurers Need to Know

By **[Erica Payne, Esq.](#)**
[Zupkus & Angell, P.C.](#)

Denver, Colorado

The landmark decision of *Fisher v. State Farm*, decided by the Colorado Court of Appeals in May 2015, had a significant impact on bad faith litigation in our state. Now three years later, the Colorado Supreme Court has finally weighed in, ultimately ruling that if a portion of an insured's claim is not in dispute, the undisputed portion must be paid even if other portions of the claim are in dispute. This decision has widespread impact for the insurance industry from the adjusters to the carriers and of course for insureds.

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Intellectual Property

HONG KONG

Well-known Trademarks in the PRC

[ONC Lawyers](#)

Hong Kong, Hong Kong

Well-known trademark recognition is a tool that offers a much broader scope of protection to trademark owners than those offered by normal registered trademarks. Having the well-known trademark status means that the mark has acquired high reputation and influence among the public through extensive and continuous use and has been recognised by the relevant public as a well-known trademark.

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Labor and Employment

NETHERLANDS

On-call Employees: What are Their Rights and Obligations?

By **[Jan Dop, LL.M.](#)**
[Russell Advocaten, B.V.](#)

Amsterdam, Netherlands

Many enterprises work with on-call employees. It is advantageous for employers because they can adapt their business operations to the developments in the market. But there are also benefits for on-call employees: they are free to work more or fewer hours and it can also be a step towards a permanent contract. What kind of contracts are there for on-call employees? What are the rights of on-call employees and which obligations do employers have to meet?

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NETHERLANDS

Is Your Staff Management Ready for the GDPR?

By [Ynze Kliphuis, LL.M.](#)

[Russell Advocaten B.V.](#)

Amsterdam, Netherlands

At the end of the week, on 25 May 2018, the General Data Protection Regulation (GDPR) comes into force. This does not just have consequences for your website or online shop but also for your staff management. Is it ready for the GDPR?

[Full Article](#)

UNITED STATES

The Borrowed Servant Doctrine - At What Point Will the General Employer's Liability Be Severed?

[Donato, Minx, Brown & Pool, P.C.](#)

Houston, Texas

The borrowed servant doctrine is applicable to situations where one employer loans its employee to another employer.^[1] Whether the employee is a borrowed servant of another "hinges on whether the other employer or its agents have the right to direct and control the employee with respect to the details of the particular work at issue."^[2] The doctrine is based upon *respondeat superior*, "the concept by which the master is vicariously liable for a servant's torts committed in the course and scope of employment."^[3]

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Premises Liability

UNITED STATES

Premises Liability: Do Open and Obvious Naturally Occurring Conditions Post an Unreasonable Risk of Harm?

[Donato, Minx, Brown & Pool, P.C.](#)

Houston, Texas

In Texas, a landlord can be held liable on a premise liability claim for an invitee's injuries.^[1] An invitee is one who enters on another's land with the owner's knowledge and for the mutual benefit of both.^[2] In order to establish premises liability, an invitee must show (1) the landlord's actual or constructive knowledge of a condition on the premises by the landlord; (2) the condition posed an unreasonable risk of harm; (3) the landlord did not exercise reasonable care to reduce or eliminate the risk; and (4) the landlord's failure to use such care proximately caused the plaintiff's injuries.^[3] A landlord does not have a duty to warn or protect an invitee against conditions that are naturally occurring and open and obvious.^[4]

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Real Estate & Leasing

AUSTRALIA

Your Call: Do Call and Put Options Trigger a Right of First Refusal?

By [Selwyn Black, Esq.](#) and [Nathan Gately, Esq.](#)

[Carroll & O'Dea Lawyers](#)

Sydney, Australia

In the recent case of *Parramatta Commercial Holdings Pty Ltd (PCH) v Vision Medical and Health Pty Ltd (VMH)* [2018] NSWSC 272, Justice Kunc in Equity was tasked with deciding whether or not an offer by PCH to sell land in the form of a call option engaged a right of first refusal to purchase the land held by one of the lessees, VMH, who submitted that this could only have been achieved by a traditional contract for sale and not by an option contract.

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UNITED STATES

Graffiti as Urban Blight or Protected Street Art? Developers Face Additional Hurdle in Exercising Property Rights

By [Jack Kubiszyn, Esq.](#)

[Christian & Small LLP](#)

Birmingham, Alabama

Developers are accustomed to jumping through certain governmental hoops as a necessary evil, so dealing with issues involving zoning, environmental requirements, covenants, and ordinances limiting use, parking and square footage are not uncommon. You can now add graffiti art concerns to the list causing headaches for developers as a federal court in New York imposed liability against a developer to the tune of \$6.75 million for painting over graffiti art on his building as part of a renovation project. Moving forward, an issue for developers to consider will include what precautions must be taken if the project involves removing graffiti art.

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Tax Law

GERMANY

Tobacco Dealers, Watch Out! Customs Authorities are Taking Drastic Measures!

By [Bartosz Dzionsko, Esq.](#)

[WINHELLER Attorneys at Law & Tax Advisors](#)

Frankfurt, Germany

We are currently observing increased controls of tobacco deliveries in Germany. In many cases, customs authorities seize the goods, initiate criminal investigations, and issue (sometimes) high tax bills against all parties involved (seller, forwarder, purchaser, and agent, if any).

[Full Article](#)

UNITED STATES

New Sales Tax Rules - *South Dakota v. Wayfair, Inc.*?

[Buchman Provine Brothers Smith LLP](#)

Walnut Creek, California

In a five (5) to four (4) decision, issued June 21, 2018, the Supreme Court ruled that states have the power to make businesses collect sales taxes, even in circumstances where the business does not have a physical presence. Prior to this ruling and commonly

observed in the online retailing space, businesses were not required to collect sales tax on transactions if the business did not have a physical presence in the state of the customer.

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Transportation Law

UNITED STATES

FMCSA Releases HOS Guidance for Agricultural Hauling Exceptions

[Roberts Perryman](#)

St. Louis, Missouri

On May 31, 2018, the FMCSA recently adopted a new "guidance" for the Agricultural commodity exception on Hours of Service. This change will affect not only traditional AG haulers but many truckload carriers who transport agricultural products as part of the normal reefer business. The new guidance offers more flexibility and additional hours off the clock for those who haul agricultural "commodities."

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Paradigm Magazine



The [2018 Spring Paradigm Magazine](#) delivers articles regarding developments and trends in legal issues relevant to corporate clients around the world, while showcasing Primerus members as leaders with the expertise to assist clients with any legal needs they may have. It is published twice a year and mailed to Primerus members as well as clients around the world.

If you would like to be added to our hard copy mailing list please include your mailing address in a brief email to Joan Bartosh at jbartosh@primerus.com.

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Resources

Legal Articles

Compendiums:

- [**A Survey of the Law of Dram Shop and Alcohol Liability**](#)
- [**A Survey of the Law of Legal Malpractice - A Professional Liability Practice Group Compendium - September 2015**](#)
- [**A Survey of The Law of Non-Contractual Indemnity and Contribution - Products Liability Practice Group Compendium - April 2015**](#)
- [**Compendium of Principles of Law Regarding Bad Faith in the Fifty States and D.C. - 2013 Edition**](#)
- [**A State by State Update of Tort Reform - 2013 Edition**](#)
- [**Principles of Law Regarding Establishment and Operation of a Business in Various Countries Compendium - International Transactional Services Practice Group - March 2012**](#)
- [**Doing Business in the Asia Pacific Region**](#)

Primerus Xpress Archives

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