

Corporate Client e-Newsletter

Spring 2013

Greetings, and welcome to the Spring 2013 issue of the *Primerus Corporate Client eNewsletter*! We hope you will find the articles in this issue that were written by Primerus lawyers about current developments in the law, best practices, and legal trends around the world, to be informative and helpful.

We also invite you to explore the many resources that are available to you on the Primerus website, simply by clicking on the links provided throughout the eNewsletter, for your convenience.

Please feel free to forward the Primerus eNewsletter to your colleagues, and if you would like to see specific legal topics covered in future issues, please let us know! For your convenience, please submit suggested topics to us, by email, by clicking on the "Contact Us" link located at the right side of this eNewsletter under "Resources."

The International Society of Primerus Law Firms brings together the world's finest law firms that share a commitment to providing quality service for reasonable fees. With local counsel and independent law firms in 125 cities and over 40 countries around the world, Primerus is sure to have an attorney who can assist you with most any legal matter. For more information about Primerus, or to find a Primerus lawyer in a particular jurisdiction, please don't hesitate to contact me or go to www.primerus.com.

Sincerely,

Ruth Martin, Esq.

Sr. Vice President and General Counsel

International Society of Primerus Law Firms

In This Issue

Articles:

[Employment and Labor](#)

[Alternative Dispute Resolution](#)

[Healthcare](#)

[Business](#)

[Intellectual Property](#)

[International Business](#)

[Primerus Webinars and Events](#)

Resources

[Find a Primerus Law Firm](#)

[Primerus Law Institutes and Practice Groups](#)

[Paradigm Magazine](#)

[Previous e-Newsletters](#)

[Legal Articles](#)

[Compendiums](#)

[Webinar Library](#)

[About Primerus](#)

[Primerus Video Gallery](#)

[Contact Us](#)

Australia

Fair Work Act 2009 and the Content of Enterprise Bargaining Agreements

By: [David Potts, Esq.](#) (Co-written by Sam Troutman)
Kells The Lawyers

Sydney, Australia

Prior to the introduction of the Fair Work Act 2009 (the Act) the Rudd government in its 'Forward with Fairness' policy statement declared that under the new workplace legislation employers and employees would be 'free to reach agreement on whatever matters suit them' (1).

[Full Article](#)

Good Faith Bargaining Under The Fair Work ACT 2009

By: [David Potts, Esq.](#)

Kells The Lawyers

Sydney, Australia

The Fair Work Act 2009 (Cth) (the Act) states in its objectives that it seeks to improve fairness and productivity in the workplace 'through an emphasis on enterprise level collective bargaining underpinned by simple good faith bargaining obligations...' (1).

[Full Article](#)

Struck By Misfortune: Changes To The Workers Compensation Legislation Now In Force

By: [Karena Nicholls, Esq.](#)

Kells The Lawyers

Sydney, Australia

Most of us have been struck by misfortune some time in our lives. It's at those times that we need reassurance, guidance and understanding.

[Full Article](#)

USA

Employment Law Alert - November 2012

By: [Ericka L. Ackeret, Esq.](#) & [Tonya D. Hubinger, Esq.](#)
Buchman Provine Brothers Smith LLP

San Francisco, California

As California employers have come to expect this time of year, a new wave of employment laws are ready to take effect. The following bills have been signed by Governor Brown and will become law on January 1, 2013.

[Full Article](#)

Employment Law Considerations When Disaster Strikes

By: [Robert I. Gosseen, Esq.](#)

Ganfer & Shore, LLP

New York, New York

[Employment Law Considerations When Disaster Strikes: Some FAQ's](#)

Question: If a state of emergency is declared, is an employer legally mandated to pay its non-exempt employees who were unable to work due to a natural disaster?

[Full Article](#)

Employer "To Do" List to Protect Against Employee Lawsuits

By: [Dennis J. Alessi, Esq.](#)

Primerus Webinar

*Nothing Like a
Bankruptcy Case to
Torpedo your
Construction Contract
Claims - What
Construction Lawyers
and their Clients
Need to Know*

Date:

Wednesday

March 13th, 2013

Time:

9:00 am PT

10:00 am MT

11:00 am CT

12:00 pm ET

[Click here to register!](#)

All Primerus Webinars
are Complimentary!

To View a Previously
held Primerus Webinar,

[click here.](#)

Upcoming Events

**2013 Primerus
Defense Institute
Transportation
Seminar**

March 21-23, 2013

Gaylord Opryland

Resort and Spa

Nashville, Tennessee

The program includes a "Mock Trial" based on a personal injury lawsuit involving claims of truck driver negligence, contested liability, soft tissue neck and back injuries, pre-existing medical conditions, and inflated damages. Learn useful tips from Truck Operation Expert on "What Lawyers and Their Clients Need to Know from the Viewpoint of a Truck Operation Expert."

**For more information,
contact:**

Ruth Martin, Esq.
Sr. Vice President &
General Counsel

West Orange, New Jersey

Unemployment has been at a high level for over four years, and the level of underemployment is even higher. This has resulted in a dramatic rise in discrimination, harassment, wrongful termination and other lawsuits by employees.

[Full Article](#)

The Rising Tide of Obesity: Managing Your Risk as an Employer

[Wilke, Fleury, Hoffelt, Gould & Birney, LLP](#)

Sacramento, California

[Recent Federal Court Decision Deems Obesity a Disability Under the ADA](#)

Studies estimate the rate of obesity in this country to be at an all-time high - over one-third of adult Americans are now considered clinically obese.

[Full Article](#)

Alternative Dispute Resolution

USA

Five Things Every Executive Should Consider When Faced With a Business Dispute

**By: [Bernard M. Resser, Esq.](#)
[Greenberg Glusker](#)**

Los Angeles, California

Like many lawyers of my generation, I was inspired by the passion, professionalism, and speed television lawyers like Perry Mason brought to delivering justice for their clients. Later, as a young lawyer practicing in Los Angeles, I was bemused, rather than impressed, when cases on L.A. Law somehow got to trial - or at least had an important hearing - the same day it came into the office.

[Full Article](#)

Alert - U.S. Supreme Court Reaffirms Its Preference for Enforcing Contractual Arbitration Clauses

**By: [Roger Brothers, Esq.](#)
[Buchman Provine Brothers Smith LLP](#)
San Francisco, California**

On November 26, 2012, the United States Supreme Court reaffirmed the breadth and enforceability of mandatory arbitration clauses under federal law. In *Nitro-Lift Technologies, LLC v. Howard*, 133 S. Ct. 500 (2012) ("*Nitro-Lift*"), the Supreme Court held that under the Federal Arbitration Act ("FAA"), any "attack on the validity of the contract, as distinct from attacks on the validity of the arbitration clause itself, are to be resolved by the arbitrator in the first instance, not by a federal or state court.

[Full Article](#)

Healthcare

USA

What does the Patient Protection and Affordable Care Act (PPACA) Mean for

Client Division

rmartin@primerus.com

800-968-2211, ext. 3628

2013 Primerus Defense Institute Convocation April 25-28, 2013 Boca Raton Resort Boca Raton, Florida

Topics include:

- Lessons learned from Catastrophic Cases
- Cyber Liability
- Advanced Settlement Negotiating: Techniques & Strategies for Closing Products Liability Cases
- Hydraulic Fracturing: Liability and Environment Concerns
- Managing Small Cases
- Trial Works and the Effective Use of iPads in Discovery, Mediation & Trial
- Coverage Tensions
- Anti-Corruption & the U.K. Bribery Act
- The Actuarial Process
- Medicare Set Asides from the Plaintiff's Perspective

**For more information,
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By: [M. Todd Ratay, Esq.](#)

*Neil, Dymott, Frank, McFall & Trexler APLC
San Diego, California, USA*

The Supreme Court's decision last June confirmed the constitutionality of the Patient Protection and Affordable Care Act (PPACA), often called ObamaCare, and the President's re-election in November ensured the law will be implemented in stages through 2014. Nevertheless, despite all of the news coverage, rhetoric and impassioned debate on the subject, most small business owners and entrepreneurs do not understand what impact this eventuality will have on their companies.

[Full Article](#)

Business

[USA](#)

Alert - California Revised Uniform Limited Liability Company Act

By: [Roger Brothers, Esq.](#)

*Buchman Provine Brothers Smith LLP
San Francisco, California*

Governor Jerry Brown signed S.B. 323 on September 21, 2012, in order to enact the California Revised Uniform Limited Liability Company Act (the "RULLCA") into law. The new law will not take effect until January 1, 2014, but will apply to all limited liability companies-both California-based and foreign-that are registered with the California Secretary of State as of that date.

[Full Article](#)

Intellectual Property

[Switzerland](#)

By Hook or By Crook

By: [Dr. Martin Eckert](#)

MME Partners

Zurich, Switzerland

If you think pirates are fellows with eye patches plying the oceans, then think again. Medical product companies, such as producers of pharmaceutical or surgical products entering in new markets, are facing some solid buccaneering, which is costing their companies time and money.

[Full Article](#)

Database protection and right enforcement: A spotlight on the differences between the EU and Switzerland

By: [Dr. Andreas Glarner, LL.M.](#)

MME Partners

Zurich, Switzerland

In October 2012 the Court of Justice of the European Union ("ECJ") clarified in its decision *Football Dataco v Sportradar1* that

2013 Association of Corporate Counsel Europe

20th Annual Meeting

Primerus is a corporate sponsor at this event.

May 12-14, 2013

**Hotel Rey Juan Carlos
Barcelona, Spain**

2013 Primerus Business Law Institute Symposium

Primerus is co-sponsoring this event with the Association of Corporate Counsel-Georgia Chapter.

June 19-20

**Georgia Aquarium
Atlanta, Georgia**

For more information, contact:

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2013 Association of Corporate Counsel Annual Meeting

Primerus is a corporate sponsor at this event.

October 27-30, 2013

**Los Angeles
Convention Center
Los Angeles, California**

2013 PLUS

26

th Annual International Conference

Primerus is a corporate sponsor at this event.

November 4-6, 2013

Orlando, Florida

where the data is sent from, but also in the place where an internet user accesses the data.

[Full Article](#)

Another brick in the wall - no trademark protection for Lego

By: [Dr. Andreas Glarner, LL.M.](#)

MME Partners

Zurich, Switzerland

In its decision of 3 July 2012, the Federal Supreme Court held that the shape of Lego bricks does not enjoy trade mark protection in Switzerland. The Court argued that the brick shape was technically necessary and therefore excluded from trademark protection under article 2(b) of the Swiss Trade Mark Act (TMA)¹. It further held that the question of whether or not the Lego brick shape has acquired distinctiveness was irrelevant.

[Full article](#)

USA

Counsel Beware: Standard Clauses Can Cause Problems in Technology License Agreements

By: [Michelle Briggs Esq.](#) and [Charles "Chic" Krukiel, Esq.](#)

Dunlap Coddling

Oklahoma City, Oklahoma

The Licensing Opportunity

The universe of "technology," embraced within patents, copyrights, trademarks, unpatented technical information, know-how, and trade secrets (collectively, "intellectual property" or "IP") represents a highly valued and important tradable asset.

[Full Article](#)

International Business

Australia

Renewal of a Retail Lease - Section 32 of the Retail Leases Act 1994

By: [Jean-Paul Fraticelli, Esq.](#)

Kells The Lawyers

Sydney, Australia

Not sure whether you want to exercise an option for renewal of a retail lease? Don't forget section 32 of the Retail Leases Act 1994.

[Full Article](#)

Canada

Renting the Space that's Right for Your Business: Things for Tenants to Consider in a Commercial Lease

By: [Katherine Grossi, Esq.](#)

Houser Henry & Syron LLP

Toronto, Ontario

Your client's business has flourished and it is poised for new challenges and expansion. It has decided to expand and capture demand in a target market outside of your country. Product is ready, recruitment is in progress, and your client has identified the perfect location to set up shop - Ontario, Canada.

Doing business in Ontario? FAQs on Extra-Provincial Registration

**By: [Michael R. Henry, Esq.](#)
Houser Henry & Syron LLP
*Toronto, Ontario***

Extra-provincial registration means obtaining a license from the Government of Ontario and/or filing any other required information, to carry on business in Ontario.

[Full Article](#)

What's Your Game Plan? Planning for a Successful Succession

**By: [Michael R. Henry, Esq.](#)
Houser Henry & Syron LLP
*Toronto, Ontario***

Sooner or later, every business leader hands over the reins. But for founders and owners of family businesses, managing a successful transition is both difficult and risky. Whether you're planning to keep your business in the family or to usher it in a favoured direction, here are some important succession considerations.

[Full Article](#)

[Germany](#)

RALLY Successfully Launched in Europe

[WINHELLER](#)

Frankfurt, Germany

The social fundraising platform, Rally, has entered into Beta. Users in Germany and Continental Europe may now employ the platform for fundraising, and are able to accept donations in Euro. The successful entry to the continent will soon be followed by the next step: expansion to Great Britain.

[Full Article](#)

Israel

Government Procurement and Tender Laws - an Israeli Perspective

**By: [Muriel Shachar](#)
Salinger & Co. Advocates
*Tel Aviv, Israel***

Since its establishment as an independent state in 1948, Israel has made great progress from the land of "oranges and kibbutz" to a technologically advanced state with an economy driven mainly by research and development (R&D) and high-tech industries.

[Full Article](#)

[Japan](#)

Incentive to Establish Asian Business Center in Japan

[Hayabusa Asuka Law Offices](#)

Tokyo, Japan

The Act for Promotion of Japan as an Asian Business Center (the "Act") came into force on November 1, 2012. The Act was passed in July 2012 with the aim of encouraging global enterprises to establish their R&D centers and Asian headquarters in Japan.

[Full Article](#)

Mexico

CCN Mexico Report

[Cacheaux Cavazos & Newton](#)

Mexico City, Mexico

February 2013 Newsletter

[Full Article](#)

[USA](#)

Companies and Workers Urged To Act Now To Maximize Benefit of Just Announced US-EU Trade And Investment Negotiations

***Stewart and Stewart
Washington, D.C.***

Domestic companies and workers that have not formally addressed what they want and could live with from liberalized United States-European Union trade and investment rules should do so now because new rules could be in place by the end of 2014 and negotiations leading to them will begin this summer.

[Full Article](#)

Paradigm Magazine

To View the Latest Issue of the Paradigm Magazine, **[click here](#)**.

About Primerus

The International Society of Primerus Law Firms (Primerus) is a society of top-rated, independent, boutique law firms that have earned the right to display the Primerus seal of quality. Primerus has over **190 member firms** in **125 cities** located in nearly **40 countries**. **High quality legal**

With over 2,800 lawyers in the society, Primerus members, collectively, offer the breadth of expertise and jurisdictional coverage that only the world's largest law firms can offer to their clients, but at more reasonable rates. For more information, please call 800-968-2211 or visit primerus.com.

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