



Corporate Client e-Newsletter

August 2014

Welcome to the August 2014 edition of the Primerus Xpress. The articles in this e-newsletter were authored by Primerus members and provide you with relevant information regarding legal developments, best practices, and trends from around the world. If you are seeking a specific article or legal development and don't find it in this e-newsletter, please feel free to contact me.

Primerus is an international society of nearly 200 top-rated, independent law firms with 3,000 attorneys. Every Primerus member firm and every lawyer within those firms share a commitment to a set of common values known as the Six Pillars:

- * Integrity
- * Excellent work product
- * Reasonable fees
- * Continuing legal education
- * Civility
- * Community service

When we formed Primerus in 1992, we set out to restore honor and dignity to the legal profession and to help rebuild the public's trust in lawyers and the judicial system by setting high standards for our members. Twenty years later, our commitment to these values remain strong and our clients notice the difference the Six Pillars make in who we are and how we work.

Our organization provides clients easy access to the right lawyer, with the right skills, in the right location, and at the right cost.

We have member firms located in these U.S. states (click to view):

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin.

Outside of the United States, we have firms located in the following countries (click to view):

Argentina, Australia, Austria, Belize, Brazil, British Virgin Islands, Canada, China, Colombia, Costa Rica, Dominican Republic, Egypt, Finland, France, Germany, Greece, Hong Kong, Hungary, India, Israel, Italy, Japan, Kenya, Malta, Mexico, Netherlands, Nigeria, Panama, Philippines, Portugal, Singapore, South Korea, Spain, Switzerland, Taiwan, Turkey, United Kingdom.

If I can assist you by answering any questions about Primerus, or to find a Primerus lawyer in a particular practice area or jurisdiction, please don't hesitate to contact me by email (csluss@primerus.com), or call me toll free 800.968.2211 or 616-454-9939 local.

Sincerely,

Chad Sluss
Senior Vice President of Services
International Society of Primerus Law Firms

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Business

USA

Trademark Law May Prevent Using Your Name in Your Business' Name

By: [Lisa Okasinski, Esq.](#)
Demorest Law Firm, PLLC
Royal Oak, Michigan

Most people understand that they cannot open a hotel called "Holiday Inn" nor could they make their own computer and market it with the logo of an apple. This is because of trademark law.

[Full Article](#)

CANADA

Q&A: Landlord Options for Defaulting Commercial Tenancies

By: [Houser Henry & Syron LLP](#)
Toronto, Canada

One of the more challenging aspects of being a landlord is dealing with a tenant in default. When a tenant misses a rent payment, they not only violate the lease agreement but place a substantial burden on the landlord. In these circumstances, what options does a landlord have?

[Full Article](#)

Employment

USA

Overtime Is Compensable When Employers Have Actual or Constructive Knowledge That Non-Exempt Employees Worked Unreported Overtime Hours

By: [Samson Elsbernd, Esq.](#)
Wilke, Fleury, Hoffelt, Gould & Birney, LLP
Sacramento, California

Employers are generally required to pay nonexempt California employees overtime for any hours worked in excess of eight in one day or forty in one week, and for the first eight hours worked on the seventh consecutive day in a workweek. Employees are entitled to payment for overtime - even if not reported - when their employers have actual or constructive knowledge that they are working overtime. A recent court of appeal decision is instructive, and affirmed judgment for the employer because the employee could not prove his employer was aware of his off-the-clock hours.

[Full Article](#)

USA

History of the Formation of the Employment Retirement Income Security Act of 1974 as Amended (ERISA), and Some Important ERISA and Internal Revenue Code Issues

By: [Bernard G. Peter, Esq.](#)

Kubasiak, Fylstra, Thorpe & Rotunno, P.C.

Chicago, Illinois

As the Employee Retirement Income Security Act of 1974 (ERISA) is about to turn 40 on September 2, 2014 we take a little look at how ERISA, which forever changed the landscape for employers who sponsor retirement plans (other than governmental plans), came into existence. Also, we review some important employee benefit plan issues.

[Full Article](#)

International Business

INDIA

TRAI rejects proposal to regulate and charge over-the-top apps

By: [Seth Dua & Associates](#)

New Delhi, India

The Telecom Regulatory Authority of India ("TRAI") has decided against a proposal of the telecom operators / carriers to regulate over-the-top ("OTT") applications, services and players. The primary OTT applications, over which telecom operators have raised concerns, include internet based voice and texting applications.

[Full Article](#)

TURKEY

An Alternative Way to Have a Presence in Turkey - Liaison Offices

By: [Serap Zuvin, Esq.](#)

Serap Zuvin Law Offices

Istanbul, Turkey

Why Establish a Liaison Office?

Under the equal treatment principle, as stated in Article 3 of the Law on Direct Foreign Investments^[1], foreign investors can freely establish the same types of companies as Turkish citizens. However, this presents a question: is establishing a company always the most cost efficient and preferable way to enter into a local market, especially when the investor intends to have a presence in that particular market but has not yet decided to commit to a full investment? When this is the case, a foreign legal entity investor may not prefer to establish a company in Turkey immediately, but instead choose to create a liaison office, a more simple mechanism that has been available to foreign investors in Turkey since the 1980's.

[Full Article](#)

MEXICO

Mexico Passes New Energy Laws

By: [Cacheaux Cavazos & Newton](#)

Mexico City, Mexico

Mexican President Enrique Pena Nieto used the National Palace (Palacio Nacional) in the heart of Mexico City as the setting for a historical event yesterday, as he signed six decrees creating nine new laws and significantly amending twelve existing laws, all of which form the new legal framework for Mexico's energy sector.

[Full Article](#)

TURKEY

Regulation on the Price Tag

By: [Melis Oget Koc, Esq.](#) & [Onur Can Korkmaz, Esq.](#)

Serap Zuvin Law Offices

Istanbul, Turkey

Why a New Regulation?

On May 28, 2014, the long-awaited Law on the Protection of the Consumers ("Law") was enacted. This Law introduced major changes to the former legislation regarding consumer protection. However, a number of supplementary laws were created after the Law's enactment to improve its implementation. One such piece of legislation created was the Regulation on Price Tags ("Regulation") which entered into force on June 28, 2014 and currently operates under Article 54 of the Law.

[Full Article](#)

INDIA

Trade Marks Filing Fees Increased

By: Seth Dua & Associates

New Delhi, India

The Department of Industrial Policy and Promotion, Ministry of Commerce and Industry has issued the Trade Marks (Amendment) Rules, 2014 vide notification no. G.S.R. 523 (E) dated August 1, 2014 and made certain amendments to the Trade Marks Rules, 2002. As per the said amendments the official filing fees and expedite examination fees have been increased.

[Full Article](#)

KENYA

Investing In Africa: A Snapshot of the U.S. - Africa Leaders Summit 2014

By: Njoroqe Regeru & Co. Advocates

Nairobi, Kenya

The recently concluded U.S.-Africa summit in Washington DC has raised lots of hope and expectation about the growth of investment opportunities in Africa. The summit was organized as a follow-up to U.S. President Barack Obama's visit to Africa back in 2013. The main issues that were tabled for discussion at the summit were development, investing in Africa's future as well as peace and security. Over 50 heads of State and government from Africa attended the summit.

[Full Article](#)

Insurance Coverage

USA

Recent Trends Concerning Reservation of Rights in New Jersey

By: Thomas Paschos & Associates, P.C.

Haddonfield, New Jersey

A reservation of rights letter creates difficult choices for both the insurance company and the policyholder. As such, this election by the insurance company can result in issues other than coverage or policy limits. Recent trends in New Jersey law deal with some of the issues that may arise.

[Full Article](#)

USA

Recent Trends Concerning Reservation of Rights in Pennsylvania

By: Thomas Paschos & Associates, P.C.

Haddonfield, New Jersey

Insurance carriers and coverage professionals are often confronted with a myriad of issues related to the duty to defend and the duty to indemnify. The duty to defend is generally broader than the duty to indemnify. The duty to defend is based upon allegations and potential coverage. A suit that triggers the duty to defend does not necessarily mean there is coverage. A situation arises when the claims alleged include both covered and uncovered claims or where there appears to be a question as to whether the claims alleged fall within the scope of coverage. Under these circumstances, the insurer will often agree to defend its insured through a reservation of rights letter.

[Full Article](#)

Liability

USA

School Bus Safety: What Can Our Schools Do To Protect Our Children?

By: Thomas J. Dargan, Esq. & Adam H. Silverstone, Esq.

Lewis Johns Avallone Aviles LLP

Islandia, New York

School districts and school bus contractors are entrusted with the most important of all road users - our nation's children. In the wake of recent newsworthy accidents and attention grabbing headlines regarding unfit bus drivers, claims premised upon school bus accidents have become increasingly tangential and, in turn, personal injury attorneys have become increasingly creative in the application of theories to support these claims.

[Full Article](#)

Upcoming Webinars & Primerus Events

2014 Insurance Coverage & Bad Faith Seminar

Sept 18-19 2014,
Sofitel Chicago Water Tower
Chicago, IL

Topics Covered

Professional Liability, Ethics, Multi-Claim/Multi-Insurance Layer Issues, Reservation of Rights, Estoppel, Allocation of Defense Costs, Employment Liability, and more.

Who Should Attend

In House Counsel, Risk Management Professionals, Business Owners, Insurance Professionals, and Legal Professionals

To Register: e-mail Chad Sluss at csluss@primerus.com

Social Media and Employment Law Webinar

Date:

Thursday, September 18, 2014

Time:

7:00 am PDT/8:00 am MDT/9:00 am CDT/10:00 am EDT United States
8:00 am Central Standard Time (CST)
4:00 pm Central European Standard Time (CEST)
10:00 pm China Standard Time (CST)

Click Here To Register

Regular Price: \$195.00*

***Free with Primerus Code: SOMEDIA14**

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Webinar Overview

The role of social media has significantly increased during the last few years. Participants will learn what rules apply to the use of social media in connection with an employment relationship in the various regions outside the US and get to know what precautionary measures should be taken in order to avoid the risks connected with the use of social media.

Topics Covered

- What an employer has to know about Social Media and employment law before, during and after the termination of an employment relationship
- Experts discuss the applicable rules in Europe (Netherlands and Switzerland), Asia (China, Hong Kong and Singapore) and South America (Costa Rica)

Who Should Attend

- Representatives from companies (large or small) involved in international business, or looking to expand operations in Latin American and the Caribbean, including:
 - Officers, Managers, and other Corporate Executives
 - Human Resources Professionals
 - In-house Counsel

Paradigm Magazine

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



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