

OVB LAW & CONSULTING, S.C.

NEWSLETTER

Monthly Newsletter - Your Legal Nook!



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Firm Update:



Congratulations to our fellow graduates!

Kate (left) and Connor (middle) have successfully finished their legal studies and obtained a Juris Doctorate degree in law from Marquette University Law School.

Tyarra (right) has received her Bachelor of Science in Criminal Justice with a minor in Sociology from UW Milwaukee.



MONTHLY PODCAST WITH EMIL & KRISTEN **BOTTOM UP**

**EPISODE 8:
ADVOCATING FOR THE
CRIMINAL JUSTICE SYSTEM**

GUEST HOST: JOE FORWARD
Joined by The State Bar's advocacy team.
**CALE BATTLES, LYNNE DAVIS,
AND DEVIN MARTIN**

Tune in to the latest episode of the Bottom Up Podcast!

In the latest episode, guest host, Joe Forward, chats with The State Bar's advocacy team to explore the challenges of attracting and retaining prosecutors and public defenders. Tune in to learn what advocacy outreach opportunities attorneys have at their disposal, and for insights you won't want to miss!



QUALIFYING DISABILITIES UNDER THE ADA AND WFEA: ADHD AND PTSD

The Americans with Disabilities Act (ADA) protects people with disabilities from discrimination in various areas of public life, including employment on the federal level. The Wisconsin Fair Employment Law (WFEA) similarly protects people with disabilities, among other characteristics such as age and race, from discrimination in employment contexts in the State of Wisconsin. Under both the ADA and the WFEA, employers are required to provide reasonable accommodation to those with disabilities as long as the accommodation does not create undue hardship for the business. Both physical and mental disabilities are covered by these laws. However, it's not always clear what is considered a qualifying mental disability.

Under the ADA, attention-deficit/hyperactivity disorder (ADHD) is considered a disability if the disorder “substantially limits some major life activity.” Major life activities include actions completed in daily life such as talking, seeing, and performing manual tasks. It also includes bodily functions such as neurological and brain functions. Under the WFEA, a mental impairment is an “impairment which makes achievement unusually difficult or limits the capacity to work” and is analyzed similar to the ADA’s “substantially impairs one or more major life activities.” Thus, treatment of ADHD as a disability under the ADA and the WFEA is generally consistent.

According to the Equal Employment Opportunity Commission guidelines, post-traumatic stress disorder (PTSD) is also considered a mental impairment. Under the WFEA, a mental impairment is an “impairment which makes achievement unusually difficult or limits the capacity to work” and is analyzed similar to the ADA’s “substantially impairs one or more major life activities.” Thus, treatment of PTSD as a disability under the ADA and the WFEA is generally consistent and similar to the treatment of ADHD.

Navigating your eligibility for discrimination protection can be complicated in employment situations. At OVB Law & Consulting S.C., we have years of experience informing people of their rights under the ADA and the WFEA. Our skilled team of attorneys are well versed in state and federal employment laws and are ready to advise you of your rights. Call us today to schedule an appointment.





THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980

Environmental contamination can take different forms, such as the discharge of toxic chemicals into the soil or water or the emission of harmful gases into the air. Property owners, including landlords and tenants, may be held liable for environmental contamination on their property, regardless of whether they caused or contributed to the contamination. The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), commonly known as Superfund, imposes strict liability for environmental contamination and permits the Environmental Protection Agency (EPA) or private parties to file lawsuits against current or former owners or operators of contaminated properties for cleanup costs.

Under CERCLA, liability for environmental contamination is joint and several, meaning that any party found liable can be held responsible for cleaning up all contamination at a site, even if they only contributed a small amount to the overall contamination. However, there are certain limited defenses available under CERCLA that may be used to avoid or reduce liability, including acts of God, acts of war, and the third-party defense. The third-party defense may be used when a responsible party can prove that the release of hazardous materials resulted exclusively from the actions or inactions of an unrelated third party. To use this defense, the responsible party must demonstrate that they took reasonable precautions against potential incidents involving third parties and acted responsibly in handling the hazardous substances in question, despite having no contractual relationship with the third party.

To protect against contamination damages, property owners, including landlords and tenants, may consider including a strong indemnification clause in their lease agreements. An indemnification clause should be clear and unequivocal and should survive the expiration or termination of the lease. In addition to an indemnity for landlord-incurred costs, the landlord may want to impose on the tenant responsibility for the actual cleanup or shift responsibility for the cleanup at the landlord's discretion.

Environmental contamination can have serious consequences, including harm to human health, damage to property, and financial liability for cleanup costs. Property owners, including landlords and tenants, should take reasonable steps to prevent environmental contamination and be aware of their potential liability under CERCLA. If you are a property owner, it is crucial to consult with an experienced attorney, such as the attorneys at OVB Law & Consulting, to determine your legal obligations and options for mitigating liability. Our experienced attorneys can help you navigate complex environmental regulations and laws to protect yourself and your property.

