

Women in Business

A supplement to
The Daily Reporter

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so do financial needs**

Geek isn't a bad word

Women greatly out-numbered in
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strengthen the future**

Paper Trails:
What you need
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what you need
to know



Catherine
Ballard



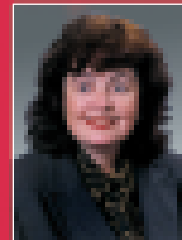
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Preserving *history* to strengthen the future

By KEITH ARNOLD
Daily Reporter Staff Writer

It makes sense that Nancy Recchie would work from home — it reflects her passion and her career.

The 55-year-old consultant who specializes in historic preservation appears comfortable and confident in the familiar surroundings of her “vaguely Queen Anne” brick home in German Village.

“It’s a pretty vernacular house,” she said when asked to describe the residence, a former double she and husband Jeffrey Darbee transformed into a single-family home — equally appropriate in the historic South Fifth Street neighborhood.

(Continued on page 7)

Recchie File

Age: 55

Occupation: Consultant, Historic Preservation

Name of firm: Benjamin D. Rickey and Co., established 1980

Professional highlights: Established Central Ohio Regional Preservation Office, 1976; Instrumental in forming Columbus Landmarks Foundation, 1978; Provided consulting services for Ohio Statehouse renovation, 1990s; Researched building design and other consulting work on Ohio Judicial Center renovation, 2001 through 2004

Educational background: Ohio Dominican College, bachelor's degree, 1973; University of Virginia, master's degree in Architectural History, 1976



(Photographer Richard K. Loesch, Columbus; image courtesy of Schooley Caldwell Associates.)

Among the Benjamin D. Rickey and Co.'s highest profile projects in the capital city were the restoration of the former Ohio Departments Building, the Ohio Stadium renovation and expansion and renovation of the Ohio Statehouse, shown here.

(Continued from Page 5)

From that home the couple operates a firm well respected in the preservation and architectural industries: Benjamin D. Rickey and Co. The business is named for her grandfather who got a kick out of having a namesake, though Recchie admits her grandfather really never understood what it was she and her husband did for a living. Even a day “at the office” with his granddaughter didn’t clear things up for him, Recchie recalled, laughing.

The firm operates as a consulting service for historic preservation projects in the private and public sectors. Projects vary from offering assistance to public agencies conducting historic reviews to conducting surveys and inventories in identifying historic structures.

After 31 years in the business, she says she wakes up some days and can’t believe she gets to do what she does. “This would be an avocation if it weren’t my job,” she said.

Recchie knows her work makes a difference. Its impact has great reach, spurring economic development, heritage preservation and a sense of culture. The Ohio Statehouse is a perfect example of that. The couple’s firm worked with Schooley Caldwell Associates in the major overhaul of the seat of state government in the 1990s.

“It was really in terrible condition,” she said. Now, nearly 10 years later, there’s not a trace of that, and building and development continues in the immediate area surrounding what Recchie calls a “very powerful and beautiful building.”

“To take the statehouse and turn it into a 20th century building takes creativity,” Recchie said. “I love the fact that it’s open seven days a week,” she said of the building that never ceases to leave her awestruck as she walks through its corridors.

“It represents optimism and the future.”

There is a fondness for public architecture that is directly linked to Recchie’s visit to Italy at 19. In addition to the art, culture and history, there was an abundance of public architecture that summed up the whole of Italy all around her. That’s when her personal interests and an interdisciplinary education converged, determining her path in life.

“I understood this powerful sense of why you preserve things,” she said.

Today, the firm is working with Ohio’s Hill Country Heritage Area in the southeastern part of the state. More than anything, Recchie said, the project is a means to preserve the history of Appalachian mining towns and other crossroad communities that have barely outlived their respective economic booms, which in a lot of cases, occurred more than a century ago.

“The project works with people in the community (marrying) history, heritage and tourism” to promote economic development

“Communities change and if they’re not evolving and changing, they’re usually dying.”

— Nancy Recchie

and a sustaining sense of community, she said. “Communities change and if they’re not evolving and changing, they’re usually dying.”

It’s the work with neighborhoods and non-profit groups that may be the most rewarding to Recchie. Her efforts have been awarded by special recognition from the Junior League of Columbus - 1987 President’s Award — and Columbus Landmarks Foundation — 1995 Person of the Year.

Additionally, her commitment to volunteer efforts includes having served on the board of the Ohio Preservation Alliance and as president and honorary trustee of the local landmarks foundation.

As for being a woman working in the profession, Recchie says historic preservation has had high female numbers since interest in the profession began growing in the 1970s. She said most people had little understanding of what the work was all about, which, in turn, didn’t hamper women from entering the field based on stereotypes.

Recchie said her female peers are some of the best in the business “because they’re out there doing good work. They have a real passion for what they do. And one of the best parts is it goes far beyond (just being a job) for them.”

Her small firm stays busy managing about a dozen projects at a time, Recchie said. “They vary in length and in complexity.”

And the company operates on the philosophy that a satisfied client is a firm’s best marketing investment. Operating solely on word-of-mouth, Recchie said a two-person business only really sells its ability to do just that.

“We’re very proud of the work we do,” she said. “We make sure to leave every project with a good reference.”



As businesses change, so do financial needs

By RICK ADAMCZAK
Daily Reporter Staff Writer

A generation ago, when women were becoming a stronger force as entrepreneurs in the workplace, banks and other financial institutions realized the value of capitalizing on the new, growing market. The business women took advantage of the opportunities offered them, but now many of those company owners find themselves stuck in a financial rut.

According to a recently-released survey, large businesses with female owners still are using the same basic financial products they did when they were small, whereas men-owned companies use a wider variety of products.

“What we’re seeing today is a reflection of what we saw 20 years ago when women had a limited familiarity of financial products and services. Now, as they’ve grown, they need to learn about new products and services,” said Sharon Hadary, executive director of the Center for Women’s Business Research.

The survey, “Untapped Resources: Financial Products and Services for Women Business Owners,” was conducted by the Center for Women’s Business Research and commissioned by National City Corp.

The report, which includes analysis of more than 55,000 companies, revealed that women- and men-owned companies with under \$5 million in annual revenue are fairly similar in terms of the percentages using products such as checking, savings, and debit and credit cards.

But as the businesses grew beyond the \$5 million mark, differences between the two genders emerged.

While men-owned firms started using treasury management and international services such as account reconciliation, cash concentration, lockbox, and foreign exchange as their businesses grew, women-owned firms were substantially less likely to do so.

“It’s a fairly well-known fact that women are underserved with it comes to access to capital. We’ve done a study that found that to be true,” said Beth Marcello, vice president and managing supervisor of women’s business development at National City.

National City hopes to improve the situation through various means, such as distributing fact cards to women business owners during industry seminars. On one side of the card the results of the study are listed and on the other side is a list of financial products and their definitions.

“We’re hoping that the fact cards can serve as conversation starters between the women and their bankers,” said Marcello.

“The research commissioned by National City, which is probably the first of its kind, shows that there is terrific market potential for financial institutions as increasingly women are leading businesses that achieve these high levels of revenue and growth,” said Hadary.

“We’re seeing a lot of regional banks focusing in and seeing opportunity with women-owned businesses. They see a lot of potential customers,” she added.

“What we’re seeing today is a reflection of what we saw 20 years ago when women had a limited familiarity of financial products and services. Now, as they’ve grown, they need to learn about new products and services.”

— Sharon Hadary

“Our research has found that women-owned businesses are just as likely to stay in business as men-owned companies. On every score you look at they’re every bit as viable as men-owned businesses ... and there’s a market there,” she said.

Other report findings include:

- Women-owned businesses were as likely as men-owned businesses, when they grew past \$5 million in revenues, to increase use of wire transfer, automated clearing houses, and sweep accounts.
- As their businesses grew, women-owned firms were more likely than men-owned firms to continue to rely on services such as checking, savings, direct deposit, credit cards, business debit cards and merchant services.

- Men-owned firms were more likely to diversify the financial products they used to include cash management products and services, information reporting, lock box, commercial credit cards, cash concentration, and account reconciliation.

“Our hope is that the results of this research will prompt women business owners and their financial advisors to begin a discussion about how the broad range of financial products and services on the market today can help them continue to grow profitably,” said Linda Stevenson, senior vice president of Women’s Business Development, National City.

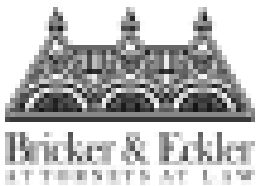


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Women continue to make strides in banking community

By RICK ADAMCZAK
Daily Reporter Staff Writer

Long a button-down, male-dominated industry, more women these days can be found in the world of banking. "I used to represent my bank at a commercial real estate loan association meeting and I'd be the only woman there. Now, I see a lot of women there. It's come a long ways," said Ann Leak, vice president of Gahanna-based Benchmark Bank. "The atmosphere for women has changed a lot."

She said that over the past 20 years more women are working at banks and that Benchmark has several women in leadership positions, though there still are many more men in the field than women.

Leak herself was ahead of her time when it came to women's issues in the business world in that she worked a family-friendly and flexible work schedule long before those became popular in the corporate community.

She worked part-time at State Savings

Bank so she could spend more time at home raising her two daughters.

"Back then, 20 years ago, that was uncommon. I was very fortunate," said Leak. "Working full-time for me personally wasn't the right route."

Eventually State Savings Bank was bought by Fifth Third Bank, which did not have work policies as liberal as State Savings Bank's, so Leak went into business for herself helping banks line up contacts for lending opportunities.

"I spent six years playing matchmaker," said Leak.

Eventually through her contacts she was approached to work for Benchmark Bank and with her children now older, she jumped at the opportunity.

"The timing was right," she said.

In banking, which for generations had been dominated by men, women can take advantage of certain skills to get ahead.

"Women always have been good with other people. We have good people skills and that can really help," Leak said. "I see a lot of very successful women in banking now. At Benchmark, half of our organizing group were women."

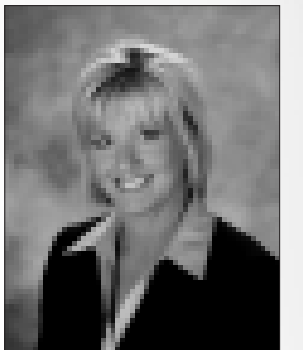
In fact, the bank's chief financial officer is a woman: Ingrid Phillips.

She said that while men sometimes have the advantage over women when it comes to networking, where the men hit the golf course while the women are taking care of the kids, there are many opportunities for women to network.

"The key for women is keeping your contacts," said Leak.

Still, the choice that women often have to make — how much time and energy they devote to their families compared to their careers — is likely one that will exist for a long time.

"It's always a balance. We have so many challenges in raising a family and working, but nowadays there are more opportunities for women to work from home," Leak said.



Ann Leak



Geek isn't a bad word

Women greatly out-numbered in computer science field

By RICK ADAMCZAK
Daily Reporter Staff Writer

There was a time when it wasn't unusual to see a woman pounding away at her job of writing software, but those days have long gone the way of the Wang word processor. Now, women make up just 15 percent of computer science graduates and on the horizon, there doesn't appear to be any large influxes of women back into the information technology field.

"It peaked in the late 1980s when women were 45 percent of computer science graduates, but it's taken a big dive since then," said Bettina Bair, a senior lecturer in the Ohio State University Department of Computer Science and Engineering.

She said there are several reasons why women are avoiding computer science careers, including a perceived shortage of jobs and the negative stigma of being a geek. A woman who overcomes these false perceptions and chooses information technology as a career, however, will find a lucrative field for her skills.

"There's a crying need for women in the marketplace. Walk into any company and there are going to be IT employees. Employers want diversity and if you're a woman in technology, you're going to really be in demand," said Bair.

When personal computers started becoming mainstream, the number of people working in the computer science field was relatively small, but the field was well balanced between men and women, Bair said.

"It's a big question why women aren't doing it any more. I think the novelty value of computer science has fallen off," she said. But she adds that the geek-factor isn't helping matters.

"For a lot of girls, it's not cool to be a smart girl," she said. "(Though) medicine and law overcame their gender disparity."

She added that although there still are many computer jobs available, the media portrayal of American companies

sending so many jobs overseas has scared some women away from a career they perceive as a shrinking market.

Still, there are plenty of success stories about women who have had long, successful careers in the world of computers. One of those is Rhonda DeMuth, chairman and chief executive officer of TDCI Inc., a Columbus software company.

DeMuth has been in the field for more than 25 years and still enjoys her work.

"I guess I always had a logical and analytical-type of thought process and that's what you need to work with computers," she said, adding that it's the constant new challenges her job brings that keep her enthused.

"It's not boring. There are changes all of the time and a lot of new things going on," she said. "Just when you think you've got the greatest version of software, you have to change and update it."

She said a twist of fate actually sent her in the computer field. Originally planning on a nursing career, she couldn't get into the school she wanted so she took some prerequisite math classes and then decided to pursue computer science. While there, she said, she knew of only one other woman who stayed with the math program all four years.

After graduating from Mankato State University, which is now known as Minnesota State University, she was hired by billionaire Ross Perot's company, EDS. Eventually she came to TDCI, a company founded by her late husband, John Slotta. TDCI builds software programs that help manufacturing companies sell their products through different channels and programs that help with job quotes.

DeMuth agrees that image plays a significant role when it comes to women deciding on computer-related careers.

"I think what you see is a lot of girls, when they start to become teenagers, think that it's not as much fun doing geeky things," she said.



"There's a crying need for women in the marketplace. Walk into any company and there are going to be IT employees. Employers want diversity and if you're a woman in technology, you're going to really be in demand."

— Bettina Bair

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Domestic violence is a workplace issue

By MELANIE MCINTYRE
Daily Reporter Staff Writer

With almost one-third of American women reporting physical or sexual abuse by a husband or significant other at some point in their lives, according to the Family Violence Prevention Fund, domestic violence is likely to impact thousands of employees and — ultimately — their companies' bottom lines. However, employers don't have to feel helpless, as there are measures they can take to limit the effect domestic violence has on day-to-day business.

During a business breakfast hosted by the Action Ohio Coalition for Battered Women in October, Laura Merritt, public relations manager for Verizon Wireless' Ohio/PA/WV region, cautioned attendees that "domestic violence comes to work every day with our employees."

Several statistics support her assertion.

A study of domestic violence survivors conducted by the FVPF revealed that 74 percent of employed battered women were harassed by their partners on the job.

In 2003, homicide was the second-leading cause of death on the job for women, and 15 percent of those workplace homicides were attributed to a former husband or boyfriend, according to the Bureau of Labor Statistics.

In addition, a national survey of 1,200 full-time employed adults (men and women) conducted by the Corporate Alliance to End Partner Violence revealed that 44 percent of those polled personally experienced domestic violence's effect in their workplaces.

Numerous statistics also imply that threats and abuse are not simply left at the company door. Instead, they follow workers and often result in decreased productivity, tardiness and absenteeism.

The CAEPV study also showed that 64 percent of domestic violence victims said their ability to work was affected by the violence, with key causes for their decline in productivity being distraction (57 percent), fear of discovery (45 percent), in-person or phone harassment by their partner at work (40 percent), and fear of their partner's unexpected visits (34 percent).

Fifty-six percent of battered women arrive an hour late for work five times a month, according to a report by New York City-based Victim Services.

Further, the Centers for Disease Control and Prevention released a report in 2003 stating that intimate partner violence victims lose a total of about 8 million days of paid work per year — the equivalent of more than 32,000 full-time jobs.

The CDC also has estimated that the total annual cost of lost productivity due to domestic violence is about \$727.8 million.

Workplace programs aimed at preventing and recognizing domestic violence even could impact companies' insurance costs, as victims often incur significant medical bills.

The CDC has said the average medical cost for women victimized by physical domestic violence is \$483 and \$83 for men, while average mental health services costs are \$207 for women and \$80 for men.

Moreover, a study — published in the American Journal of Preventative Medicine in 2003 — that focused on the medical records of several female patients of an HMO in Seattle from 1997 to 2002 found that women who are victims of physical or sexual domestic violence visit their doctors more often than other women and, on average, their health care costs exceeded \$5,000 per year.

"One of every five employed adults is the victim of domestic violence," Merritt said.

"That's a call to action for every CEO and HR department."

And if at all possible, the commitment should come from the top down, so employees at all levels grasp the weightiness of the issue, she said.

Though leadership at many companies throughout the country has yet to realize the importance of workplace policies that address domestic violence, Verizon Wireless Chief Executive Officer Denny Strigl has been an exception.

For several years now, the company has had a program in place that encourages abused employees, or those concerned about an abused co-worker, to come forward and ask for assistance at work.

Employees can request a leave of absence, increased security at the worksite, or even a change of shift or work location. Plus, the company's Employee Assistance Program is available to employees 24 hours a day.

Local employers interested in developing domestic violence policies always have an ally in the Columbus Coalition Against Family Violence, said Sheryl Clinger, the organization's task force director.

In fact, the coalition, founded by Abigail Wexner in 1998, has a Business Community Task Force on hand to work with private and public sector employers to increase awareness, craft an emergency response mechanism, provide management training and employee education, and establish victim-sensitive policies — free of charge.

"Small, medium, large (companies) — it doesn't matter," Clinger said. "We can still help you."

To date, the coalition has worked with more than 90 employers, including Kroger, Limited Brands Inc. and The Ohio State University.

For small businesses in particular, it offers ongoing, open training workshops throughout Central Ohio, she said.

At the very least, employers, medical professionals and attorneys can order the coalition's wallet-sized "resource cards," complete with tips for protecting oneself from an abuser, tips for helping victims and emergency numbers for children, teens and adults.

The coalition suggests putting the cards on the backs of bathroom stall doors because "that may be the only time in a day that victims have to themselves," she said.



Programs to help with children, elders valuable to working mothers

By MELANIE MCINTYRE
Daily Reporter Staff Writer

Corporate policies in many of the nation's largest companies have changed in recent years. Businesses that once encouraged workaholic tendencies now emphasize the need for time to recharge, and offices that once had time-clock rigidity now are thinking in terms of quality time so that working parents can take care of their families without sacrificing their careers.

Each year, *Working Mother* magazine compiles a list of the 100 Best Companies for Working Mothers. This year's study of workplaces found that work schedule flexibility and family-friendly policies are becoming more common in larger firms.

"The 100 Best Companies are shifting their corporate cultures dramatically. They used to focus on solving employees' work life balance problems but now they're creating workplaces that help employees to value downtime, take care of their own wellness and keep their workload manageable," said Carol Evans, chief executive officer and president of Working Mother Media.

"Work life leaders have learned a lot from Gen X and Y-ers about how to work to live instead of living to work," she added.

Among the companies encouraging their employees to take time for themselves is New York City-based PricewaterhouseCoopers, a financial services firm that placed in the list's Top 10. Pricewaterhouse employees who log in to their work e-mails on Saturday or Sunday, quickly see a pop-up message that reminds them, "It's the weekend."

Other companies among the 100 Best have put an end to Friday meetings, so employees don't spend weekends playing catch-up.

"The 100 Best Companies know that working smarter makes a lot more sense than working longer, so they make sure their employees take time to recharge," said Suzanne Riss, editor-in-chief of Working Mother. "For these companies, it's not about face time but about investing in loyal, healthy, happy employees who have a say in when, where and how they work."

One of the companies sharing that philosophy is

Columbus-based American Electric Power, which has made the list three of the last six years.

"This honor confirms that AEP is helping employees balance their personal and work lives, which is a priority for us," said Michael Morris, chairman, president and chief executive officer of AEP.

This year AEP initiated a number of family-friendly benefits designed to help all employees achieve a healthy balance between their work responsibilities and their personal lives, including the Back-Up Care Advantage Program, paid parental leave and "alternative family" benefits.

Full-time AEP employees can take advantage of the company's Back-Up Care Advantage Program to obtain company-subsidized assistance when their regular child-care or elder-care providers are not available, whether it be due to illness or an unexpected school snow day. The low-cost program costs employees only \$4 per hour for in-home care, and can be used by each employee up to 20 times per year, per dependent.

The plan isn't extremely restrictive, as it covers assistance for an employee's elderly parents even if they don't live in the employee's home or even in the same state. The service also can be used for a spouse who needs temporary assistance while recuperating from an illness or injury.

Another popular AEP benefit is the company's Paid Parental Leave Program which gives new fathers and adoptive mothers 40 hours of paid time off following the birth or adoption of a child. That leave can be taken up to eight weeks after the birth or adoption occurs.

Further, recognizing that today's families come in all shapes and sizes, AEP has implemented a new program that extends employee benefits to same-sex domestic partners and their eligible children. Those benefits include medical, dental and life insurance, as well as the full range of work/life benefits offered to other AEP employees and their eligible dependents.

Although AEP was the only Central Ohio-based employer making the 100 Best list, many companies with a strong local presence were included. In addition to previously-mentioned Pricewaterhouse

Coopers LLP, other high-ranking companies include Abbott; Accenture; Deloitte & Touche USA LLP; JPMorgan Chase; Ernst & Young LLP; The McGraw Hill Cos. and KPMG LLP.

"KPMG's working mothers are an important group within our firm and significant contributors to our current and future success," said Timothy Flynn, chairman and chief executive at KPMG.

The 100 Best honor would not have been possible without the commitment of KPMG's partners and employees, as well as the dedication of its Women's Advisory Board, whose mission is to create a more compelling work environment for women through initiatives designed to support, advance and reward them, he said.

KPMG offers new mothers up to 26 weeks of maternity leave with the guarantee that their jobs will be waiting when they return. This leave applies to births, adoptions or foster care placement.

During maternity leave, new mothers are paid 100 percent of their regular salary for up to six weeks, as well as additional weeks at two-thirds pay, making it financially easier for them to take time off. To ease the transition back to work, new mothers are allowed to phase-in their return, initially working part-time schedules.

KPMG also accommodates working parents by offering flextime, compressed work weeks, telecommuting, job sharing, reduced workloads and part time work. In addition, the firm offers free back-up child care and elder care when emergency situations arise.

Companies were selected for the 2007 Working Mother 100 Best Companies list based on answers to an application featuring 575 questions. The application included detailed questions about company culture, compensation, child-care and flexibility programs, time off and work leave policies, and family-friendly programs. It also checked programs' usage, availability and tracking, as well as the accountability of managers who oversee them.

Answers were measured and scored, and for this year's 100 Best, particular weight was given to flexibility and family-friendly policies, according to Working Mother.



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Forget being a super hero — make choices and find balance

By CHRIS SPITTAL
Daily Reporter Staff Writer

Often burdened with heavy workloads and long hours, many business women struggle to find a proper balance between their careers and their personal lives. Their situations become even more complicated when they decide to bring a family into the fray.

Kelley Griesmer, a partner with Jones Day in Columbus, agreed, saying that finding balance can be especially difficult for female attorneys.

"It stems from the practice of law being a service industry," she said. "They find they have less control over their own lives and time than they want."

This summer, Griesmer, along with her husband and fellow Jones Day attorney Greg Gorospe, participated in a seminar that offered strategies on balancing a career and a family. It was hosted by The Ohio State University Moritz College of Law.

Griesmer explained that she and her husband faced a major challenge in their lives and careers when their son was born five years ago. Raising a child means being ready for the unexpected, and that requires planning and flexibility, she said.

"He was the most receptive child to ear infections, colds ... whatever virus went around," Griesmer said of her son, saying she would have to take time off work to stay home with her son or take him to doctor appointments.

"It was a great challenge."

It would have been an even greater challenge had she not engaged in what she calls "proactive organizing," a plan that allowed for greater flexibility and versatility with her schedule.

Being up-front with employers about her family's situation and explaining her needs to co-workers allowed Griesmer to take time off to go to the doctor, to the day care center near her office to check on her son, or to deal with

whatever unexpected hurdle that popped up. "You always need a Plan B and to plan ahead," she said. "I think most employers are accommodating to someone who proves to be a valuable employee."

Attorneys Laura Zaremski and Rachel Mulchaey, who work for Bricker & Eckler LLP, also found their employer willing to accommodate their needs.

Zaremski and Mulchaey, both of whom have young children, share time in the firm's creditor rights and bankruptcy area. They each work only three days a week, and work together only on Thursdays.

They primarily work for the partner of their area and handle many of the same clients. Equipped with BlackBerrys and the ability to access their office computers from home, the two can handle client requests from anywhere.

"Regardless of whether we're off work or not, we have to make sure the work is done and the clients' needs are met," Mulchaey said. "Most of the clients are really understanding. We've been very fortunate they're willing to deal with either one of us."

"It's great because it allows both of us to be home with young kids," Mulchaey said, adding that at first it was hard to both work and raise her daughter. "I didn't get to spend as much time with her as I wanted, but I didn't want to give up my career either."

"Our careers have taken a little bit of an off-ramp," she said, explaining that while she and Zaremski may not be on a partnership track, they still are able to practice. "We get to stay current with our practice and be in the field, and we still get to do things a stay-at-home parent gets to do, which is nice."

"That's just part of the balancing," Griesmer said. "You can't really do it all anymore, but you can still do a heck of a lot."



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HR for Her

The little things you need to know about hiring

By KEITH ARNOLD
Daily Reporter Staff Writer

As a female business owner, when it comes to HR, you need to know more than just the best hiring and firing practices.

To help in that regard, local human resource experts offered their advice to women business owners and managers who participated in this fall's Women's Economic Development Outreach program in Columbus.

The WEDO conference began in Pennsylvania, and now reaches women in six states: Pennsylvania, Ohio, Illinois, Indiana, Missouri and Michigan. WEDO is composed of women business owners; local, state and federal representatives; bank officials and representatives of economic development institutions and other women-focused organizations.

One of this year's workshops — Harness Your Human Resources — was billed as a must-do for business women, and it featured the expertise of Laura Wojciechowski, partner of Whalen and Co. CPAs and Consultants, Susan Porter of Schottenstein Zox and Dunn LLP, and HR specialist Pat Shepherd of Sequent's Columbus office.



Shepherd, who served as moderator of the session, introduced the topic by noting it is vital to know when to hire and when to use temporary help.

Independent contractors, or those individuals whose pay is reported to the Internal Tax Revenue Service on Form 1099, can create some of the most confusion in terms of a company's responsibilities.

"Not paying someone correctly can get you into a lot of trouble," Porter said. "The test to determine if someone is a 1099 contractor is very rigorous."

Additionally, determining the difference between hourly and salaried employees is an important decision.

"According to the Fair Labor Standards Act, you have to pay people minimum wage and you've got to pay them overtime," Porter continued. "It's amazing to me the number of people who just decide to pay workers a salary (to avoid overtime and other hourly worker constraints)."

She added it can be very troubling, even traumatic, for a small business owner to find out a worker is legally entitled to payment for the extra hours spent on the job, despite the salary designation.

"An employee's tax status is incredibly important," Shepherd added. "Most small

business owners don't go into business to become tax experts."

Shepherd said, in general terms, women approach owning and operating their business differently than men, though she is quick to add, "Money isn't pink or blue. Money is green."

Typically, women finance "shoestring" their entrepreneurial endeavor, unlike men, who generally go to the venture capital market to build a foundation.

"If women approach starting their business more like a business, it will more likely be a successful business," Shepherd said. "Women tend to be much more cooperative in running their businesses. It's a different cultural approach."

In today's more legal-savvy world, Porter said, employees are more aware of employment law and are quick to bring a lawsuit when they think the law is being breached.

"If you ignore the legal implications of the law, you can find yourself in a lot of trouble (as an employer), she said, pointing to discrimination suits, the Family Medical Leave Act and minimum wage as a few situations that are ripe for problems.




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Paper Trails:

What you need to keep

& what you need to know

Roundtable Participants:

Cindy Ludlow, Editor of The Daily Reporter
Catherine Ballard, Esq., Bricker & Eckler, LLP
Carol Sheehan, Esq., Carlile, Patchen and Murphy, LLP
Traci McGuire, Esq., Kegler, Brown, Hill & Ritter, LPA
Jill Kirila, Esq., Squire, Sanders & Dempsey, LLP
Tracy Turner, Esq., Steptoe & Johnson, LLP
Sharen Neuhardt, Esq., Thompson Hine, LLP

Ludlow: The roundtable we're participating in today is focusing on legal issues of businesses, specifically, we're looking at paper trails. Let's first talk about employee handbooks. Can you tell me some of the specific things that should be included in an employee handbook? What would you all recommend?

Turner: Well, you need to verify in the employment handbook that the nature of the employment relationship is at will. Make sure that you're not forming a contract based on the employee handbook.

Ludlow: How do you do that?

Turner: With specific language stating that the employment relationship is at will and that either party can terminate the relationship at any time for any lawful reason, with or without notice.

Kirila: My philosophy is, has been, simple is better. You should have about five key things and go from there, tailored to your specific business, in addition to the at-will

policy and disclaimer and acknowledgement. Have the employee sign off on the entire receipt of the handbook. Some other policies that I think should obviously be in there are your harassment and discrimination policies. Information technology is a big one.

Ludlow: As in company computers not being used for outside-of-work purposes?

Kirila: It would include a lot of that. As far as e-mail, phone usage, proper usage of that. As well as if employers do some monitoring of their employees' e-mails — the handbook's the place to put that in so that you can give proper notice to employees. Those are a few of the other ones.

Ludlow: Now, if you don't have that in your handbook, is monitoring not allowed?

Kirila: Does anyone want to take that?

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Ludlow: I was under the understanding that if it's company property what goes through it is the company's business.

Kirila: I think that's definitely the position we take. However, there is authority and argument out there that without the consent and knowledge, it could be a violation of the federal wiretapping laws. So always, if you can get it upfront, it's best to get it in the form of a policy.

Ludlow: OK.

Kirila: But certainly you want to define that it's company property. One of the exceptions to the wiretapping rules is when it's business use, but if you can get the extra protection, it's better to do that.

Ludlow: Along the same lines, what about cell phones in the business place? Should those be allowed, not allowed? Obviously, chances are very high that if people are using them, it's not for business. What do you recommend?

Turner: It depends on the nature of the business. I would imagine that for most businesses, it's not proper. The easiest means of enforcement is to not allow cell phone use during working hours. However, in some businesses, employees may be getting calls for business-related reasons. For instance, salespeople, certainly if they work out of a home office, would get calls from their clients. So it depends on the business. The most important thing is if you have a need for a policy, to make one and to enforce it evenly and fairly to all your employees.

Sheehan: I think you would distinguish between company-owned phones, which presumably are issued for business purposes and are permissible, and personal cell phones. Same way with computers. You want to put inside your policy what the permissive bounds are in terms of personal use and, again, the fact that it is company property and it is expected that it will be used for appropriate business communications.

Ballard: It's almost the same as company cars in terms of when you're permitted to use the car for business or when you can use it for incidental personal reasons. So it just sort of is an extension of that basic philosophy.

Ludlow: I would assume with the company car thing, everybody has their own policies — all companies are going to vary a little bit.

Ballard: I think so. Again, it depends upon the nature of the business, whether it's appropriate for you to be able to drive it back and forth to work, or to use it incidentally, or whether you're limited to where you can drive it, or whether you have to keep track of your mileage and that type of thing.

Another issue that we've had come up is the notion of whether or not you have to execute any releases or what the employer's policy is on health information — whether you need to sign releases. If you go to the emergency room to get care, can the employer get copies of that? If you get testing done, can the employer get copies of that? And you must make sure that the employee understands what is or is not disclosed, and whether or not releases are going to need to be signed to share that kind of information.

Ludlow: Is that for controlling your insurance costs or is that for workers' comp?

Ballard: Well, it could be for workers' comp purposes. It could be if you are going to be showing up to the urgent care center and whether that information can be shared. For example, if you have an employee of a hospital show up to an emergency room for treatment, arguably, that is all protected information that cannot be shared with the employer. But if the hospital is the employer, the hospital may very well want to have a policy in place that says that



Neuhardt

if you have some type of contagious disease or something that could affect patient care, that information is going to be shared. The general rule is you're not going to be able to share any of that information, so it's in the context of who the employer is, what information can or cannot be released to the employer. You really need to think that through.

Ludlow: And once the information is released, can the employer act on it? If he has a contagious employee can he say, "Sorry, you have to take a few days off? Sorry..."?

Ballard: Assuming that you get the information appropriately, by release, you can act on it, but you then have to be careful in terms of, again, whether or not there needs to have some type of reasonable accommodation made, whether or not this is a situation that really is going to impact others or not. That's the kind of stuff that should be covered in your policy so that your employees know what's expected.

Ludlow: Is it common to have a medical release form?

Kirila: I would say no. I think it's an interesting concept. Maybe you're (Ballard) seeing more of those. I see it more treated on a case-by-case basis.

Ballard: A lot of my clients are health care entities and because of that they end up with a very odd situation of having their employees being treated as patients, and therefore, that's all protected information. So they can't share it, even though the employer — it's sort of like they have to have two hats on.

(Continued on page 27)



From left: Turner (back to camera), Ludlow, Sheehan, Ballard and McGuire (back to camera)



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From left: Sheehan, (back to camera), Ballard, McGuire and Turner



Ludlow and Sheehan

(Continued from Page 25)

The other situation that those entities get is that an employee will show up and tell the employer, “You can’t share that information. This is something I’m not going to let you share.” Well, a lot of times the hospitals already have releases that say that they can share. So they are then put in the very difficult situation of having to say no. If someone rescinds their consent, then the hospital cannot share the information.

I don’t know that employees truly understand what is or is not going to be shared with the employer, so I guess from my perspective, it’s something that hospitals would like to see more of in terms of an understanding between the employers and the employees.

McGuire: I wonder if we’ll see more of it in nonhospital settings as you see some corporate entities integrating health care information, wellness programs into their businesses: “We have expectations that you’re going to be healthy and here are the benchmarks we have.” They have weight programs and nonsmoking programs and things. I don’t know to what extent they will go to monitor that, but I wonder if you will end up years down the road seeing more expectations that there will be releases expected from employees so employers can implement programs like that and monitor things.

Ballard: The Cleveland Clinic will no longer hire anyone who smokes; it’s not just smoking at the hospital.

Ludlow: I think Scotts has that, too.

Neuhardt: They do.

Turner: Several employers in town that I have worked with have instituted similar policies.

Ballard: Does that mean they get to test your hair to see?

Kirila: If you sign a release in Ohio, as you probably all know, it’s one of the states where you can refuse to hire and employ smokers. The issue is there are multiple states out there where you would not be allowed to implement such a policy — which I think goes to the bigger point, too. When you’re adopting your handbook or policies, you have to be mindful of any state nuances if you have employees working in other states.

Ballard: Does that mean you can test them at any time? You can say, “Give me a piece of hair”? I’m not sure how you test.

Kirila: Breathalyzers, they use that. They’re getting consents for that, signed, to do that. I think we’re going to see what the outcome is going to be of those policies. It will be interesting.

Ballard: Because if you don’t consent, then they can suspend or terminate you.

Kirila: Say, “See you.”

Turner: Right, and most of the companies I have worked with that have instituted those policies have offered programs for the current employees who smoke to try to help them stop smoking. So it’s not an automatic termination if you do smoke. There are usually programs available to help.

Ballard: I would not want to be working in an office where they had ten people trying to get off cigarettes. (Laughter.)

Ludlow: I agree. Now earlier, you brought up an interesting point, Jill, about not putting too much in a handbook. Is it possible to have too much information in a handbook?

Kirila: I think so. That’s a personal view. There’s a lot out there. You’ve probably all seen on the Internet the handbooks — you can punch it in and get a hundred-page handbook. I think it’s very dangerous to pull that off and rely on that without having it updated or looked at by your legal counsel and make sure the right laws are in there for the states in which you have employees. Having too much overregulates the employer and sometimes can tie the employer’s hands because now you’ve got this document out here that tells you how to react in every situation and sometimes that isn’t always the right fit.

Ballard: I think you bring a good point up, which is

people oftentimes have handbooks and then they don’t do anything with them, and they don’t update them for years and years. So when they do need them, they’re a disaster, because they either don’t cover the situation or they covered it incorrectly. People don’t think about the fact that they’ve got to keep them updated on a regular basis.

Neuhardt: They make a lot of bad evidence for themselves, don’t they?

Ballard: Yes.

Ludlow: How often? Yearly? Every two or three years?

Turner: Every two years or so.

Ludlow: I’m sure you’re all going to agree that attorneys ought to be taking a look at them before employers start passing them out.

Ballard: I think you’ve got to have legal counsel look at them.

Turner: At least a review before they’re passed out.

Ludlow: Now, do all of your firms have handbook templates? If an employer comes to you and says, “Help me put together a handbook,” do you have this template you pull out and customize?

Turner: Yes.

Kirila: I do.

Ballard: Yes.

Kirila: I call it the core handbook.

Ballard: The nicest thing is when an employer will let you do that. The hard part is when they say, “Take ours and bring it up to date.”

Neuhardt: Show us what we’re supposed to have.

Turner: Usually, that’s a lot more work.

Kirila: And more expensive for them.

Ballard: That’s right. It’s much more costly to the client when you have to do that.

Turner: Right.

Ludlow: What do you find when you have those situations? Are the employers more restrictive than you would have been?

Neuhardt: I find that they generally say things and they don’t understand how they’re presenting them in the handbook. So you’ll say, “Well, did you really mean this, or did you mean that?” And they go, “Oh, no.” They don’t understand that they may be implying that the employee has certain rights or that they’re entitled to severance in certain instances when the employer doesn’t even mean that.

Ballard: It’s just the potential of the repercussions down the road in terms of either terminating or suspending an employee. There are just so many legal implications to that, whether it’s wrongful termination, whether it’s discrimination, severance, pension benefits. It’s that whole penny now, pound later kind of philosophy. If you do it right up front, you’re going to save yourself a lot of potential costs down the road just because of the potential for litigation. There’s so much litigation in the employment arena, it’s just not worth going by the seat of your pants.

Ludlow: What are the most important records an employer should make sure he maintains on an employee?

Sheehan: Well, if you have a signed employment agreement, you ought to make sure it is in a very safe place, especially if the personnel that you have hired has access to those records and responsibility for those records. I have had more than one situation where the employment agreement turned up missing, and that was very difficult.

Ludlow: How do you guard against that? Multiple copies?

Sheehan: Well, if you have a minute book in place, which is certainly what I’m sure we would recommend to all our business clients for their important business records, it would include employment agreements of key personnel. I typically will keep the original and the client will have a duplicate copy on site, and you would normally have a personnel file. You would have maybe three or four copies by the time you are done. If I have the minute book with the employment agreement signed in it, even if the personnel file winds up missing, at least we can document that that agreement is in existence and was signed.

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“If you have a signed employment agreement, you ought to make sure it is in a very safe place, especially if the personnel that you have hired has access to those records and responsibility for those records.” — Carol Sheehan



Ballard and McGuire



Kirila

"The electronic discovery is very expensive. So if you can put policies in place to make it easier to retrieve and have a system in place, developed by your IT people, it will help, rather than to go back and try to retrieve it at a later date."
— Tracy Turner

(Continued from Page 27)

Ludlow: Now, I'm not familiar with a minute book.

Sheehan: A minute book is essentially an actual notebook that the permanent records of the corporation are kept in. That typically includes the organizational documents; the annual minutes, shareholder, director, member minutes; copies of important documents like the federal employment ID number application; and any permanent documents, which would include perhaps financial reports, financial statements, but certainly key employment agreements, agreements between the owners of the business such as a buy/sell agreement or a stock redemption agreement. That is really just a means of keeping track of some of the most important documents in the life of a business without having them be in seven or eight different files.

Ludlow: So everybody, even the one-man business, should have that?

Sheehan: Yes.

Neuhardt: I think that we find that the biggest problem with the employee records is what the employers do not put in the files. They'll come in and they'll talk about an employee, "Oh, this person did this. We have got to do this." Then you look at the file and there's nothing to indicate that they're anything other than employee of the year. We all find it hard to evaluate people and give critical reviews, but oftentimes the lack of clarity and the true facts about an employee, the lack of that in their employment file makes it very difficult to terminate employees because they're saying, "Well, nobody told me I wasn't the perfect employee," and so you don't have a good basis for a termination action.

Ludlow: So if the employer puts it in writing, is his word good enough? Does it have to be cosigned, witnessed?

Turner: Typically, when you do an employee evaluation, the employee would sign off on it and have an opportunity to add his or her comments to the evaluation. In addition to that, as you suggested when you raised the issue, if you're disciplining an employee, you certainly want to make some record, even if it's a verbal discipline, of your meeting. Then when the written discipline's issued, you would want to have the employee sign that, also.

Ludlow: What happens when they refuse to sign?

Turner: You just note that the employee refused to sign it and put it in the file.

Neuhardt: I have also seen people write a disclaimer on the evaluation that says, "You're not agreeing with this evaluation, you're just acknowledging that you received a copy of it."

Then at least they feel like they can go ahead and sign to acknowledge that, yes they did, in fact, hear or review what the evaluation said.

Ludlow: OK.

Ballard: You also want to be clear, whether you are a public or a private employer, in terms of what information can be made public vs. what information is protected. I think you also want to be sure that, to the extent you have privileged information, if you have medical record information, you want to be keeping that separate. You want to keep it sealed. You want to be sure that whomever's going to get it are people that should have access to it. A lot of times information will sort of all end up in a file, and before you know it, you have disclosed information that perhaps you should not. So you need to be sure, like even with your minutes, if you've got privileged information that you've somehow made a note of it so it's recognizable and doesn't get inadvertently disclosed.

Kirila: Maybe just another point on this issue. You asked what should employers keep, but it is also what do they have to keep. There are multiple legal requirements under different statutes that govern the employment relationship or corporate relationship that require you to keep certain records for a minimum amount of years or time, the wage and hour law being one of them. ADA, age discrimination, FMLA. Each of those statutes has a different requirement for record retention.

Ballard: There's OSHA information that you need to maintain.

Kirila: OSHA, immigration — so it's very critical that companies be aware of those requirements to make sure they are meeting those requirements, as well.

Ballard: And, really, it would be smart to have a record-retention policy in place so that everybody knows, everybody's on the same page in terms of when can you destroy vs. how long do you have to keep different documents. It's helpful, because you always have turnover, and if you don't have this written down, you are going to be having to reinvent the wheel every single time you get somebody new into a position.

Ludlow: Now, is this something that would be in the minutes or is that just a handbook thing?

Sheehan: It could be just part of your policies and procedures, depending. You would have different policies and procedures perhaps in the accounting department than you might in the legal department, if you have those types of divisions. It is frequently something that may be adopted. It could be adopted by the board of directors, in which case you would have it in the minute book perhaps. Generally, you're going to want your administrator to know what those policies are and they really need to be sure they're being enforced, because having them and then not complying with them is also a problem.

Neuhardt: That reminded me of what happened with one employer, talking about controlling access to personnel files and important company papers. There was a reduction in force. They got rid of the assistant office manager or office administrator who had worked there for years who had all of the personnel files in her office. Everyone had known her for years, so they said, "Oh, you can just clean out your desk," and they ended the day. She went in and shredded every piece of paper she had in her files — all of the personnel files, everything, gone — and walked out. People can be so nervous about escorting people out of the building or staying with those people at all times. I always tell folks that story and say, "Just think about what would happen if those were your records and they had all been shredded."

McGuire: To that point, I think with technology the way it is today and how quickly we can exchange information, both within a company and outside of a company, a record-retention policy is becoming even more and more important so that from the lowest level of employee to the top there is a clear understanding of what they're required to keep at their own level as an employee and what the company is required to keep.

There are lots of ways you can define a clear policy that will identify one person as the gatekeeper or the go-to person if you have any questions so that there's no ambiguity about what exactly is going to be retained. I think the policies that were mentioned and the things that are in compliance with various statutes are some of the more obvious things. I think what is still ambiguous to a lot of laypeople is: Is the e-mail that I just sent to my coworker about whether we're going to lunch, is that something somebody can dig up and the company is required to keep, or will it come back and haunt them in some way? Clear record-retention policies will help address some of those issues both for the employee and at the corporate level.

Kirila: I think your point is a segue, too, into the other kind of related aspect of retention policies, and that's the litigation hold policy related to that. Court rules are continually evolving in this area and they are ever-changing. While it would be nice to be able to predict everything that you have to retain at the time, it's just until this area settles down across the country, you can't. There are now rules that require companies to retain, as you mentioned, not just e-mail, but now the whole issue of texting. Is that a document that you would be obligated to keep under either the federal or applicable state laws once you're in litigation? So that, I am seeing, is a critical policy and point that is being addressed and needs to be addressed by companies as to how you're going to deal with that aspect.

McGuire: I think the first step is having a policy that directs what the basic company protocol is for retaining things.

Ludlow: Even e-mails?

McGuire: Even e-mails, yes.

Sheehan: Clearly.

Kirila: It is crippling for a medium company, the obligations that it may have to produce records in electronic form.

Ludlow: And just saying, "I don't have them," doesn't cut it?

Kirila: No.

McGuire: They'll send somebody in to search the hard drives and all the other technology and they will find what exists. Your story, Sharen, is very applicable as to what's in paper form and what somebody can destroy in their own office, but the same thing could happen at a technological level. They could wipe out their hard drive or do something else if they're savvy in that endeavor, and the company would have an obligation even prior to litigation existing if they have a policy that instructs what should be kept and what should not be kept.

Turner: To add to Tracy's point, when she says they'll send somebody in, they'll send somebody in at your expense and the expense is significant.

McGuire: Yes.

Turner: The electronic discovery is very expensive. So if you can put policies in place to make it easier to retrieve and have a system in place, developed by your IT people, it will help, rather than to go back and try to retrieve it at a later date.

Ludlow: Do you just save everything, all of the e-mails that everybody sends? How do you decide?

Ballard: I don't know that anybody knows right now. The federal rules are so new and so comprehensive — right now people are very unsure about what they have to keep and not keep in the context of e-mails.

McGuire: I would agree. I think it goes back to what we talked about initially: You have to have well-defined policies in your handbook or elsewhere that talk about what people can do on company time and how they can use certain resources. If that is well understood, I think that's a good foundation for generating information, paper or electronic, so that when you started defining — however ambiguous it may be at this point now — what actually has to be retained, you have a clear basis: "We're doing work stuff now and this

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is what our employees are allowed to do, and so within that bubble we're going to keep and retain these bodies of documents." You have to be able to define how long you're going to keep them and also who is going to be responsible for all of that. I agree that it is evolving. Depending upon the size of the company, some things are more obvious than others that need to be kept.

Neuhardt: I think that one of the most interesting things now is not people figuring out what needs to be kept, but companies thinking that they don't have things; that when they hit that "delete" button or they throw away their backup tapes or what whatever they're doing, that they're getting rid of documents.

Ballard: They're not.

Neuhardt: They're not. Even if you could get rid of the e-mails, when you send an e-mail to somebody outside the company that company's server may have the e-mail. I heard a federal judge say, "The only way to (get rid of computer files) is to take the hard drive of a computer and beat it to death and throw it in the river and then maybe they won't be able to get the information off of that." When you consider how we're all networked together and how everybody's sending along copies of documents, it's just impossible to get something off of your system. Most people think, "Oh, well, I'll delete that e-mail, it's OK. Once it empties out of my trash, it's fine." Wrong.

Ludlow: Then as attorneys, do you discourage e-mails?

McGuire: I think it's just like anything you would say or not say if you're speaking with friends or colleagues. Conventional wisdom is think before you speak. I think the same thing should apply when you're typing, when you're sending an e-mail. Think before you send that. What are the ramifications of it? I think it's very easy to put something down and zip it off and it's out of sight, out of mind. We need to be mindful that it has the same impact as if you said something that was inappropriate in front of a lot of people.

Neuhardt: It reminds me of this whole generation now, the younger generation, because they're so used to texting and doing all this other stuff, these stories that now are coming out about how employers are starting to look on people's Facebook profiles or their MySpace things and they're finding all of this stuff online.

Kirila: I've done it, sure, for a case, for litigation.

Neuhardt: But these people, they don't expect it. They think, "That's not fair they looked there. They're not supposed to look at this."

Kirila: My example was, an employee had posted a very disparaging, defamatory, almost threatening e-mail about her direct supervisor on her MySpace page. Someone else within the company who knew about her MySpace page forwarded it to that supervisor, who in turn forwarded it to me to make sure he had enough to terminate her. There are issues that come into play there with how much freedom should an employee have, assuming you're in the private sector and not in a public company where Constitutional rights are at issue. This one was a pretty clear case because she essentially called him every name in the book and said she hoped he would die. So that was an easy enough case. The technology and everything that it adds to the whole litigation and employment relationship is just very interesting.

Neuhardt: Are you seeing employers check now on applicants and do these MySpace searches or Facebook to see what they can find about the employee, and then using that?

Ludlow: Is it legal to do that?

Ballard: Sure, it's legal. It's public information.

Ludlow: But could the employee who doesn't get the job say that he or she was discriminated against because of something that was found ...

Neuhardt: Because of the stupid thing they said about themselves?

Ludlow: Exactly.

Ballard: It would depend upon the basis for it. If they

said, "Well, you did this because of my religion, you did this because of my national origin, you did this because I'm associated with an organization" — you still can't use information in a discriminatory fashion, but you can most certainly otherwise use the information appropriately.

Also, when we were talking earlier about trying to decide what to say or being careful in e-mails, what I tell people and what I try to remember for myself, is basically to ask, "Is this something that I should be putting in a letter?" Because when I write a letter, I am more cautious, I'm more careful about what I say. If I'm actually getting ready to send an e-mail and I realize that this may be more appropriate as a letter, it's so easy to shoot off the e-mail, but I try to force myself to keep doing letters instead because it makes me think more about what I am saying. I tell the employers the same thing because you will think twice when you put it in a letter, and we don't necessarily think about it as much when we send it in an e-mail. I'm not sure why, but it's a different mindset.

McGuire: I think electronic messages lose meaning because there is no tone, there is no facial expression with it, and exclamation points only can convey so much. You don't understand how your audience is going to receive that unless you're face to face. I think sometimes we spend so much time at our computer and interfacing in that way that we forget that without a personal touch, it's only words on a page.

Turner: In addition, for e-mails you can respond so quickly. If you write a letter, sometimes you might change your opinion or cool down if something has inflamed you somewhat.

Ballard: Read it over before you send it out.

Kirila: At the same time I found e-mail, when used properly, to be very helpful in litigation, just as a follow-up written confirmation of a meeting, where in the past there was no documentation of that. It's a way to confirm something in writing: "As we discussed ..., blah, blah, blah." Instead of where it might be a little awkward if you would send a memo on that, it provides for a little bit more informal means of communication, while at the same time gives your lawyer, if you ever need it, at least something to hold up and say, "Yes, you were told X, Y or Z."

Ludlow: That's a good point.

McGuire: Sure. I think it's very efficient when dealing with clients if it's something where they don't need to have a 25-minute conversation with you on the phone but they want some information very quickly. It's cost-effective for them and you can convey some information. They're very appreciative that you can do it so quickly and at a lower cost that way.

Ludlow: Good. We've talked about what records you should keep, what records you have to keep. Are there any records you shouldn't keep?

Kirila: I guess just a comment on that. What I see and do not like are the multiple files being kept at a company — a supervisor's desk file and the official personnel file. I understand they want to have both so that the supervisor can have it handy, but I think it's very important to make sure that they at least match. Also, I don't like if there's sensitive information in an official file, to have that floating out in the supervisor's desk file. So I really, when I see that happening, try to streamline it.

Ballard: The same is true with minutes. We generally recommend if you are making just notes on minutes, once you do those official minutes and they have been approved, you don't necessarily need to keep the notes. If you keep the notes, someone could ask you to produce those notes, and you could have been doodling stuff and saying, "What an idiot. I can't believe what he's saying," or otherwise maybe be inconsistent with what the approved notes actually say. Different people have different positions on this, but mine has always been that once those minutes are approved, those notes should be destroyed. They should not be kept, because they could create conflict.

Ludlow: That isn't a problem?

Ballard: Huh-uh. A committee only speaks through its



minutes. It only speaks through minutes that have been approved. So those notes really have no relevance in terms of what that committee or board is doing once they have been signed off.

Kirila: That's a good point. The company can have a policy as to what it retains and for how long, and they don't have an obligation unless a law says you have to keep something — until you get notice of potential litigation and then the landscape changes as to what you can destroy at that point.

Ludlow: In regard to litigation and termination, if you have an employee who is terminated and there's some kind of separation agreement or settlement to get them just to go away, so they don't sue even though they wouldn't have a valid reason to, is that information available if another employee, six months down the road, is being terminated and wants the same deal the first guy got? Is that information public knowledge?

Turner: No. It shouldn't be. It should be confidential. When you draft those agreements, you want to make sure that there is an agreement to keep the information confidential, and the employer is under no obligation to share that.

Ballard: That's generally true in the public employer setting, as well. Those are generally exceptions to the public records law, but you need to be very careful if you are a public employer to be sure that you write it correctly. The problem, of course, is when you have the confidentiality agreement, whether it's the provisions or you can't disparage each other, and then people do it anyway, it can be difficult to enforce depending upon what the particular clause is that's been disclosed. So you want them in there and you hope that it works just since it's in there, because you really don't want to get into litigation on it afterward.

Ludlow: Along those same lines, we brought up earlier about having something in the handbook about Ohio being an at-will state. Personally, I find at-will just to be a joke. Attorneys I know have always told me people can sue anybody for anything. Isn't that really the case with at-will? You terminate with cause and who's to say that somebody is not going to turn around and say, "Well, I didn't get a fair shake. I want to make this company pay." How can you guard yourself against at-will firings?

Turner: Well, certainly if somebody is going to say you discriminated against them because of their race or religion, at-will employment doesn't allow you to do that, so you can still get those suits. To avoid getting at-will suits, there are several things employers can do — sometimes it works and sometimes it doesn't. For instance, if you have an employee who is having attendance or performance issues that can be dealt with over a course of time, you may want to give them several warnings and document those to give them an opportunity to improve. Then if you get into litigation, you can

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Turner

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at least say, “These are all the things that I did to try to help this employee be successful.” Sometimes terminations are required immediately and you can’t do those things; but for situations when you can, it certainly helps when you’re defending those lawsuits, to have the documentation.

Ludlow: So that’s the key, just document as you go?

Turner: Well, you’re never going to avoid that entirely. It is, unfortunately, an element of doing business these days — you are probably going to have these come up at some point. You can certainly keep records to help yourself defend against those suits, make sure that you’re treating employees the same, and not making exceptions to policies for certain employees, things like that. There are several things you can do when you’re administering your HR policies to provide consistency in the workplace and fairness to help if you’re in a situation, unfortunately, where you’re having to defend one of those lawsuits.

Kirila: I definitely think that companies cannot rely on at-will. I always counsel clients that any termination is a liability event and you’ve got to go through — I actually have a checklist for them to get thinking in the right frame when they’re thinking about terminating an employment relationship. It doesn’t take that long. I’m always surprised to see how much lack of that thought there is before terminating someone’s employment. Sometimes just those steps will trigger something to say, “Oh ...,” and you’re able to get something in place that will allow you to do it with less risk. So I agree that the at-will, it’s there, and we certainly like to argue that when you are in that context, but this day and age, it’s too risky to just say, “You’re at-will. Good-bye.”

Ballard: That knee-jerk reaction is going to get you in trouble pretty much every time.

Turner: Well, and Sharen made the point earlier, you have to be accurate in your performance reviews. That’s a problem I have all the time. I’ll have employers call me up all the time and say, “I have to get rid of this employee.

They’re the worst employee I’ve ever had.” Then you get their performance review and it’s average, above average. They say, “Well, everybody else gets excellents.”

Ballard: Or they’ll say, “Everybody knows she’s a problem.”

Turner: Right.

Ballard: You really can’t do a lot with the grapevine, especially when it’s personality issues as compared to actual clinical problems or technical problems or whatever. When it’s personality issues, those are just so difficult. If you don’t document them, if you don’t document disruptive behavior, it’s just so, so hard to prove. “But everybody knows.”

Ludlow: All right. Let’s go back to HIPAA for just a moment. And -

Ballard: No.

Neuhardt: No.

Ludlow: We don’t like HIPAA?

Ballard: I apologize. I apologize for HIPAA every time I have to speak on it. I bow to the audience and I say, “On behalf of all of the attorneys in the United States, I apologize.” This is so wrong.

Ludlow: Tell me who it’s wrong for. Is it wrong for the employers? Is it wrong for the employees? For doctors?

Ballard: The regulation was about six lines in the omnibus act. The regulation is like 1,200 pages. So it’s like the ultimate mouse built to government specifications. It attempts to be all things to everybody. Especially in Ohio — and I’m sure other states are the same way — Ohio’s confidentiality laws are, in most instances, more restrictive than HIPAA, which means Ohio law controls, not HIPAA. A lot of people don’t realize that. A lot of law enforcement agencies don’t realize that. So a lot of times you will get people saying, “Well, this complies with HIPAA; therefore, turn over this personal health information.” And the response is, “I don’t really care what HIPAA says. Ohio says I can’t do it without a release. I need a written release.” You get into all kinds of fights with people because there is so much confusion over the preemption issue. So I am not a real strong believer.

Ludlow: Is it a real problem for employers, though, other than just confusion?

Ballard: It is for hospitals. It only applies to personal health information, PHI, so for an employer retaining PHI once a person gives you a release, you don’t have an issue anymore. So really it’s just those, whether it’s physicians’ offices, health care entities, mental health entities, any of these, nursing homes, anyplace that retains personal health information, those are the ones that have the biggest problems with it.

Ludlow: So to most employers, it’s just not an issue? Just like any other personnel records, you keep them private?

Ballard: The issue — let’s say you get a subpoena. If an employer were to get a subpoena, and if, in fact, the employee has only agreed to a release of certain medical record information to the employer, then that authorization only goes to the employer. So when that subpoena comes, the employer could not release the PHI he has unless, in fact, that employee executes another authorization form.

So the authorization form that the individual completes is supposed to designate who can get the information. I guess from an employer’s perspective, having an authorization signed that recognizes who else it might go to would be helpful. The problem with HIPAA is it says — unless you want to completely waive privilege — you are actually supposed to designate who the information can go to.

McGuire: Those releases are not good indefinitely.

Ballard: That’s right. You have to set a date on them. I think it’s one year.

McGuire: We see that just in dealing with cases where opposing counsel will send a release that is not properly worded, doesn’t have the right confidentiality information in it and is overly broad. They say, if we’re representing a hospital, “I want all the information on this particular patient and I want you to give it to the following ...” overly broad litany of people.

We have to go back and say, “It has to be more specific. You don’t have to release it to me or to my office, but you have to specify who it’s going to go to and the duration that this release is good for.”

Ballard: I’d say whenever an employer gets a request for medical information, that just ought to put up a little flag. If they don’t have a policy covering it, they ought to contact their legal counsel and just say, “I’ve gotten this request. Can I release it?” It’s like with workers’ comp, it’s automatic by going through that process, workers’ comp can get the information. The employee is consenting to it by filing a claim. A lot of times people don’t necessarily realize that.

McGuire: I would agree with that, particularly if it comes in the form of a subpoena. I think sometimes people see subpoenas and think, “Oh, my gosh, I’m obligated.”

Ballard: “I have to.”

McGuire: Yes. It supersedes everything else and so here’s everything.

Ballard: That’s right. If it’s covered by privilege, privilege still applies, whether it’s attorney-client or physician-patient, whatever. A subpoena does not waive privilege.

Ludlow: That’s good information.

Ballard: HIPAA is a real monster. I think an employer is probably best served by checking with their legal counsel to determine what implications HIPAA may or may not have for them in particular so that they know whether or not they have to really worry about it.

Ludlow: OK. More paperwork issues: What about noncompetes? Are they worthwhile?

Turner: Yes.

Ludlow: What should be in them, who should they go to, how should they be handled?

Turner: It’s hard to answer that generally because you usually create them to fit the specific needs of your business. They need to be reasonable in time and either a geographic or customer-based restriction that applies to the employee. They are a very valuable tool for many employers and they are enforceable. There are many people who believe that they are not, but they are enforceable.

Kirila: I think to your point, in order to enforce them, you have to show that you have a legitimate business reason. You can’t have a one-size-fits-all noncompete for your business.

I do a lot of this work and they are incredibly valuable to have to protect your corporate jewels and particularly you see them more in the sales personnel. For most companies, that’s their valuable asset that they’re trying to protect: the client relationships and the investment in that employee in establishing that relationship, and then customer lists, those types of things.

They certainly are enforceable in Ohio, but they have to be tailored to fit exactly what you’re trying to protect. Key personnel, as well, I think that it’s a must these days. There are still companies that are very large and it’s part of their culture not to have them in the industry.

Ludlow: Because?

Kirila: “Well, I want to pick that guy’s CEO and he’s in the industry.” That’s a reason for not including it, industry basis. So it really just depends on the culture. In that situation, I would rather have some protection than go along with the culture in the industry. That’s a factor that comes into play sometimes, as well.

Ludlow: So in sales positions, key management positions, you do recommend them for your clients?

Turner: Yes.

Kirila: I do.

Ballard: Attorneys are not allowed to have noncompetes.

Kirila: No.

Ballard: We’re not able — I think we’re the only profession that actually can’t.

Kirila: The physicians have it in some states — and, again, this is a very state specific issue. We’re just talking about Ohio for now, but there are other states where you cannot have a noncompete, such as California and North Dakota. So you’ve got to know where the employee is that you’re trying to restrain and what that state’s law says. There are some others that, for public policy reasons, say you can’t have a noncompete for physicians, and Ohio says attorneys.

Ballard: Yes, but physicians can in Ohio.

Kirila: Yes.

Ballard: There have been a number upheld. The only way you overcome it is by showing there is a need in the community for that particular service. If you’re in a rural area, for example, and there’s only one OB and there’s really a need for two or three OBs, then the courts are not going to enforce a noncompete. Other than that, they will with physicians, as well.

Sheehan: The noncompete might be part of an employment agreement, but it doesn’t necessarily have to be. If it’s not part of an employment agreement, you’re going to have to be able to document that the employee agreed to it and that it was done in a manner such that there was consideration. Sometimes you have employees that have been with a company for awhile and then you try to impose a noncompete. There have been issues with that as to whether that will be enforceable, as to whether consideration was given.

Kirila: The Ohio Supreme Court spoke on this issue and said that continuing at-will employment is sufficient consideration for both beginning, hiring employees, and continuing. So it’s a pretty pro-business environment right now.

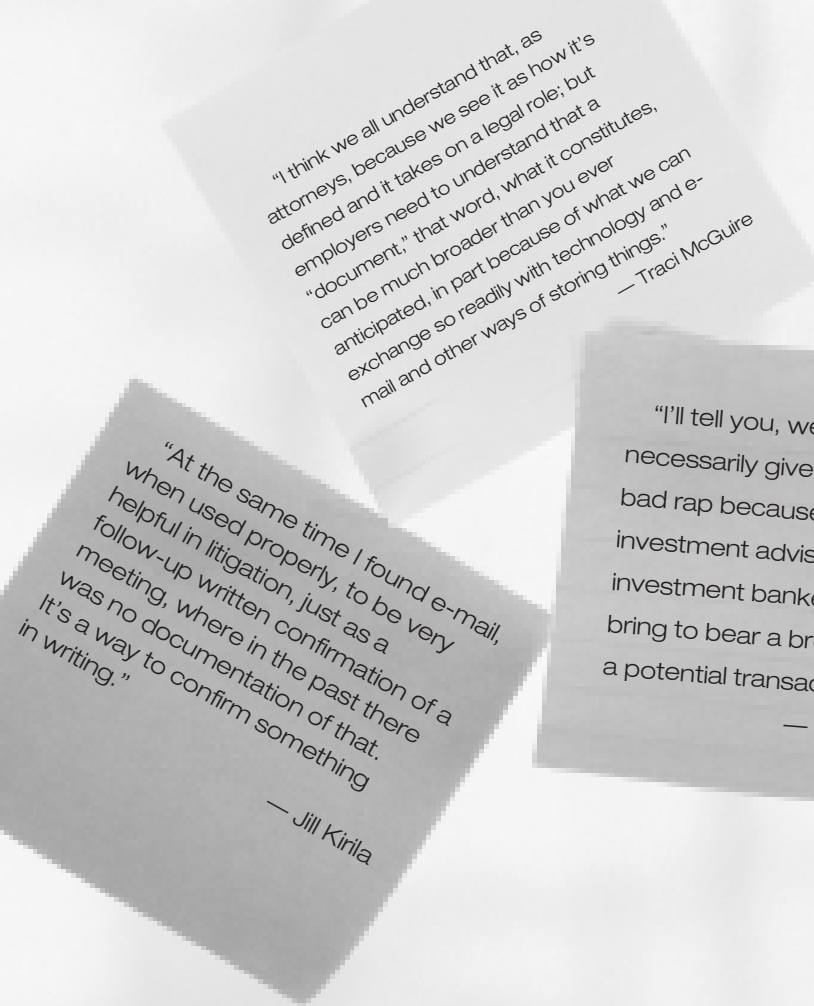
Neuhardt: For years it wasn’t that, right?

Kirila: Right.

Turner: Employers do need to remember that that is not true in every state. We’re fortunate in Ohio that continuing employment for employers, they can institute those. In some states you need to have a bonus or a pay raise or a position change or something like that.

Ballard: They have to understand a noncompete’s not going to be for a lifetime. I’m not sure that anybody is going to get much more than about a year unless you can really

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You would start out with a confidentiality agreement that would limit the scope of the information you’re going to provide. As time goes on, you want to look at the information you’re providing and test whether you’ve got a serious buyer or someone who’s just really trying to find out about your information. You may have differing levels of information you initially will provide.

As you begin to get further along, either have a letter of intent or some indication that they are serious about the business, then you’re perhaps moving on to the next level of disclosure of information.

Ludlow: I am assuming, again, it’s essential to have legal counsel every step along the way on this? I wouldn’t think you would just randomly hand out this information to whomever comes in the door.

Sheehan: Yes. I would agree. Certainly the information that is very confidential, you want it marked confidential. You don’t want there to be any question as to whether this information was, in fact, within the scope of what the confidentiality agreement is trying to safeguard.

Neuhardt: Often we’re brought into a transaction by a sole practitioner, a smaller law firm — particularly when you’re talking about closely held businesses and in smaller cities. The business owner has always used the local attorney to do routine corporate work, but that person may not be well versed in how to buy or sell a business. You need to get to somebody who specializes in that and knows what needs to be done because it will protect you, and also there may be ways to structure from a tax perspective to maximize the amount of money you get to keep.

So the same person who’s advising you on a day-to-day basis about your routine business matters is not necessarily the best person you should be engaging to represent you when you’re trying to sell your business.

Ludlow: What about the business brokers? What are their roles? Most of the time aren’t they similar to a real estate agent in that they are the middlemen? Don’t you still need your financial professionals and your legal professionals?

Kirila: I would say absolutely that the fact that it’s a broker should tee you off that they are not representing your interests. You need someone who is going to be there to look underneath the surface to make sure that everything is lined up the way that it needs to be, both legally, from a business perspective, financially, funding, and all of that. I just don’t think that’s the broker’s role.

Ludlow: So the attorneys ought to be in on the process from the very beginning.

Kirila: I wish that were always the case. I do this from a labor and employment perspective on a lot of M&A. Particularly for that aspect, your employee liability, particularly on larger acquisitions, can be one of the largest in terms of benefits, other — just the Warren liability, things like that. Often it is the case those issues kind of get pushed down and to the side to focus on how are you going to fund this acquisition.

It’s kind of, “Oh, we want to close in 10 days.” But guess what? You’re going to have a huge Warren issue which requires 60 days’ notice before you can let go of employees, and sometimes it’s too late. From that perspective, I would definitely say you need to get whatever lawyer is going to have the knowledge you need to complete that acquisition involved from the ground.

Sheehan: That is my experience with the business brokers in particular. They’re going to have a very short due diligence or contingency satisfaction period, which may not

be adequate at all to do the real investigation that your legal and accounting professionals should be helping you evaluate for this business. And then dealing with the issues such as Jill raised, you sometimes are just going to have hard deadlines that need to be complied with. The contract, as drafted, may not give you the time you need to complete the transaction.

Neuhardt: I’ll tell you, we shouldn’t necessarily give brokers a totally bad rap because the true investment advisors and the true investment bankers can often bring to bear a broader market for a potential transaction.

We frequently see companies that are passing from one generation and there’s no next generation to take over so they need to sell the business. They don’t have a really good idea about how much the business is worth or who might be interested in buying it. If you get a true professional in there, they can be a big help in marketing the company and getting a better price for the company.

I also find them to be really good at helping me talk to the client about what the market is and what they should be worried about and those kinds of issues, because they can say, “Well, we’ve seen X-number of this kind of distributorship business sold, and we’ve seen it done on this basis.” So they can be really good advisors if you get somebody who’s truly an investment banker as opposed to a broker.

Ludlow: We’ve covered almost everything I wanted to discuss. Are there any final thoughts on anything we didn’t

cover in terms of the paper trail, even if the paper trail is electronic, that our readers might need or would like to know?

McGuire: The biggest thing I think of that kind of touches on a lot of the topics we talked about is the old definition of what a document is, is not what it is today. I think we all understand that, as attorneys, because we see it as how it’s defined and it takes on a legal role; but employers need to understand that a “document,” that word, what it constitutes, can be much broader than you ever anticipated, in part because of what we can exchange so readily with technology and e-mail and other ways of storing things. So even if you don’t print it out, it could still be considered a document just because the information exists in some form.

Ludlow: Does anybody else have any final thoughts they’d like to add?

Kirila: From an employment liability standpoint, I always think of the worst thing that can happen — that’s our job. And to help counsel clients, if this turns into litigation, make sure — that’s what you’re thinking of — what is going to appear as fair to the jury because that’s what they look for. They don’t understand the laws that mean this and that. It’s “Was this termination or this adverse action fair?” So you want to make sure your paper trail, before you terminate or take the action, supports and can support that it was fair.



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show that it’s going to take you longer to protect your client base. It’s one of the few situations where the court will actually rewrite the agreement, which it doesn’t normally do. Normally it will just either enforce it or say that it’s not enforceable. With noncompetes it will actually rework it to what the court thinks is reasonable.

McGuire: I think it’s something like employee handbooks where you need to revisit your agreements, particularly if you have them with a large body of your employees, make sure it is still up-to-date and accurate, addressing what you want it to address, because the geographic landscape of the city changes, wherever you’re trying to impose it, as well as the nature of the type of restrictions that you want to have in place. So if you have longstanding employees and their agreements are 10 years old, you may want to make sure that it is still going to apply in the ways that you expect it to.

Ludlow: Good point. Let’s talk about buying and selling businesses. We have a lot of small business owners who read The Daily Reporter and our magazines. What information can we give them about what they should be retaining and what they need to provide, what they don’t need to provide potential buyers and what they should expect if they’re the buyers?

Sheehan: I think the first thing you want to do as a potential seller is to make sure you’re safeguarding, to the extent you can, information about the operations of your business that would be helpful for your competitors. You frequently find out that the people you potentially would be selling your business to are your competitors, so you want to start out with a confidentiality agreement and do the best you can with it.

As we’ve indicated, you can put things in writing and people don’t always abide by it and you have problems with proof, but you do want to make some attempt at least to keep that information private.



THE DAILY REPORTER

Marketing 2008 Calendar

Product	Distribution Date	Art Deadline	Space Reservation
<i>Winter Columbus Bar Lawyers Quarterly</i>	Jan. 7-11	Nov. 16	Nov. 23
Banking, Loans & Investments I	Jan. 28-Feb. 1	Jan. 4	Jan. 11
<i>Ohio Construction Conference</i>	Feb. 19	Dec. 28	Jan. 4
Legal Trends I	Feb. 25-29	Feb. 1	Feb. 8
<i>Central Ohio Business Resource Guide</i>	March 17-21	Jan. 25	Feb. 1
Baby Boomers I	March 24-28	Feb. 29	March 7
<i>Spring Columbus Bar Lawyers Quarterly</i>	April 7-11	Feb. 15	Feb. 22
Law Day Recognition	April 28-May 2	April 4	April 11
<i>Developing Our Community</i>	May 5-9	March 14	March 21
Personnel Issues I	May 19-23	April 25	May 2
Green Business, Green Lives	June 2-6	May 9	May 16
Home Buying & Improvement Trends	June 23-27	May 30	June 6
<i>Summer Columbus Bar Lawyers Quarterly</i>	July 7-11	May 16	May 23
<i>BX Safety</i>	July 29	June 6	June 13
Baby Boomers II	Aug. 11-15	July 18	July 25
Banking, Loans & Investments II	Aug. 25-29	Aug. 1	Aug. 8
<i>BX Craftsmanship</i>	Sept. 2	July 11	July 18
Legal Trends II	Sept. 15-19	Aug. 22	Aug. 29
Buckeye Business Blitz	Sept. 22-26	Aug. 29	Sept. 5
<i>Fall Columbus Bar Lawyers Quarterly</i>	Oct. 6-10	Aug. 15	Aug. 22
Charitable Giving	Oct. 27-31	Oct. 3	Oct. 10
Real Estate Investing	Nov. 17-21	Oct. 24	Oct. 31
<i>BX Annual Meeting</i>	Nov. 18	Sept. 26	Oct. 3
<i>Women in Business</i>	Dec. 8-12	Oct. 17	Oct. 24
Personnel Issues II	Dec. 15-19	Nov. 21	Nov. 28

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Dancer turned lawyer enjoys being a ‘one-woman show’

By CHRIS SPITTAL
Daily Reporter Staff Writer

After following an unconventional path to law school, Columbus attorney Susan Kenney-Pfalzer again went against the grain when she opened her own law office almost before the ink on her diploma was dry. Now, after having run a successful practice for years, she says she wouldn't have it any other way.

Kenney-Pfalzer spent her early years in Lorain County, just west of Cleveland, and later moved just east of the city to Willoughby. When she graduated from Willoughby South High School in 1989, becoming a lawyer wasn't her dream.

"My whole life I thought I wanted to be a professional dancer," said Kenney-Pfalzer. "I didn't always know I wanted to be a lawyer. It didn't come to me until later."

After one year at the University of Akron, she decided to follow her dancing dreams and pursued a career in modern dance in New York City, and then later in Pittsburgh.

Finally, in 1992, she decided it would be best to return to Ohio to study. She earned her bachelor's degree in fine arts from The Ohio State University in 1995.

"In order to be a modern dancer, you have to be able to teach," she said. "I was teaching dance and I realized I hated it."

After teaching for two years, Kenney-Pfalzer took various jobs, including serving as an office manager and chiropractor's assistant, then she followed a friend's suggestion of taking "a look at law school." A short time later, Kenney-Pfalzer was enrolled in OSU's Moritz College of Law.

"I was what you called an 'older student,'" she said, noting that she attend Moritz throughout her late 20s. "But I loved law school."

While in school, Kenney-Pfalzer, now 36, became attracted to the area of family law and began working for a female attorney in Columbus while taking classes. Upon graduation, Kenney-Pfalzer became an associate for the attorney.

"I'm a people person and I know I wouldn't be any good at a job where I'm sitting behind a desk and pushing paper all day. I needed to have a lot of interaction with people," she said. "Plus, I feel very passionately about children's issues, so I thought family law would be good fit."

Though it was a good fit, the work did come with some challenges — specifically, the emotional involvement that goes along with the job. Kenney-Pfalzer handles cases involving adoption law, divorce, dissolution, child custody, child support,

visitation rights, restraining orders and collaborative family law, among other family law issues.

"When I started out as a law clerk, I thought I was going to quit a couple of times because it's very emotional and it's very stressful," Kenney-Pfalzer said. "It was hard to get used to — sometimes it's still hard to get used to."

But Kenney-Pfalzer stayed the course and after one year as an associate she opened her own practice in May 2004. She said she never wanted to be part of a large firm, but had enjoyed working with another attorney.

"I knew since the first year of law school that I didn't have that corporate ladder mindset," she said, noting that she worked for a mid-sized firm while in school and realized it wasn't the atmosphere she wanted.

"My family is first and foremost to me, and I wasn't about to take a job where I was expected to be there 12 or 14 hours a day," she said.

Setting her own schedule allows her to spend more time with her children, Helen, 6, and Alex, 4, and her husband of 12 years, Joe Pfalzer, who is a teacher in Dublin, Ohio.

She said she enjoys having the freedom to stay home with her kids when she needs to, to go on field trips when she wants or to work at 7 in the morning or 10 at night.

"I just decided, why not go out and do it on my own and be the captain of my own ship ... and I've loved it ever since," she said.

Kenney-Pfalzer started her solo practice from her Gahanna home with no staff and no client base, but her new career path wasn't filled with too many bumps, she said.

"Really, from day one it was pretty steady," she noted.

Kenney-Pfalzer attributes her early business success to maintaining low start-up costs. When she needed to meet clients, she would either have clients meet her at local restaurants and coffee shops or invite them to her home.

"My only overhead was a computer and a multi-function copier, fax and scanner," she said.

After a year and a half, Kenney-Pfalzer opened her current office in Gahanna, and she now employs a part-time secretary and law clerk.

"I think a big mistake people make (when starting a solo practice) is getting the fancy office, the fancy furniture and the full-time staff," she said. "I guess some people think its important for their clients to see them in a professional way, but I found my clients didn't mind meeting me at Panera, and they liked that I wasn't wearing a suit."

She said she believes the majority of people

looking for help are unfamiliar with the practice of law, and can be intimidated by lawyers.

"So the fact that I'm not in some big fancy high-rise wearing a three piece suit actually puts them at ease," she added.

While Kenney-Pfalzer wears the hat of solo practitioner, wife and mother, she also has found time to be involved with the Women Lawyers of Franklin County, currently serving as the group's president.

She became actively involved in the organization just after being admitted to the bar, she said, and has served as newsletter editor, secretary and president-elect. The group hosts monthly luncheons, networking events, family events and assists the people of Central Ohio through its community service projects.

What's next for this dancer turned lawyer? Kenney-Pfalzer

is considering her options, whether it be adding work in criminal law to her practice, or changing paths altogether to have an even bigger impact on the people who need her help.

"I feel very strongly about children's issues and women's issues, and if something were to present itself, some sort of executive position at a non-profit, I would like to try that," she said. "Right now, I'm affecting lives one at a time, and if I could do something more over-reaching and on a larger scale to help children, I think that would be really rewarding. I want to enjoy what I do and feel that I have time for my family."

But for now, she's content.

"I like being a one-woman show."



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Are male and female entrepreneurs really that different?

By ERIN KEPLER AND SCOTT SHANE
For the U.S. Small Business Administration

Previous research has shown the performance of women-owned firms lagging male-owned firms on factors such as annual sales, employment growth, income, and venture survival. Reasons for the differences often are hypothesized, but empirical tests historically have suffered from data with a limited number of control variables on the motivations and characteristics of the owners.

When other factors are accounted for, gender does not affect new venture performance. However, several factors — differing expectations, reasons for starting a business, motivations, opportunities sought and types of businesses — vary between the genders, and these result in differing outcomes.

While gender was shown not to affect new venture performance when preferences, motivation, and expectations were accounted for, the differences observed among men's and women's new business ventures include the following:

- Men had more business experience prior to opening the business and higher expectations.
- Women entrepreneurs had a larger average household size.
- The educational backgrounds of male and female entrepreneurs were similar.
- Women were less likely than men to purchase their business.
- Women were more likely to have positive revenues, but men were more likely to own an employer firm.
- Female owners were more likely to prefer low risk/return businesses.
- Men spent slightly more time on their new ventures than women.
- Male owners were more likely to start a business to

make money, had higher expectations for their business, and did more research to identify business opportunities.

- Male entrepreneurs were more likely to found technologically intensive businesses, businesses that lose their competitive advantage more quickly, and businesses that have a less geographically localized customer base.
- Male owners spent more effort searching for business opportunities and this held up when other factors were controlled for.
- Differences between women and men concerning venture size and hours are explained by control variables such as prior start-up and industry experience.

Researchers and policymakers need to understand that studies which do not take into account the differing nature of men- and women-owned firms could result in misleading results.

This report conducted for the SBA describes a statistical evaluation of the similarities and differences between male and female entrepreneurs and their ventures. The purpose of the study was to gain a better understanding of the extent to which entrepreneurship by men and women is different. Using data from the Panel Study of Entrepreneurial Dynamics, the sample included 685 new business people who indicated that they were in the process of starting a business in 1998 or 1999.

The full text of this report and summaries of other studies performed under contract with the U.S. Small Business Administration's Office of Advocacy are available on the Internet at www.sba.gov/advo/research.

The statements, findings, conclusions, and recommendations found in this study are those of the authors and do not necessarily reflect the views of the Office of Advocacy, the United States Small Business Administration, or the United States government.



When applying for a loan

Women have to work harder than male counterparts



By RICK ADAMCZAK
Daily Reporter Staff Writer

Getting financing to start a business is never easy, but it can be even more difficult for a woman walking into a loan officer's office to ask for money to start a company.

A woman can have a dream, ambition and foresight to build a business from the ground up to a thriving, successful company, but without the money to get started, the odds are stacked against that dream ever being fully realized.

Fledgling women entrepreneurs have long faced tougher scrutiny by lenders than men have, but now, slowly, that barrier is being broken down, according to one local banker.

"Yes, it's easier, but it's all relative. It's improved a bit, but not exponentially," said Anne Arvia, president of Nationwide Bank, the retail banking arm of Columbus-based Nationwide Financial Services Inc.

She said that in general, women still have to work harder than men do to convince lenders that their business idea can succeed.

"It's still challenging for them," said Arvia. "There's



Anne Arvia

a perception that's different when a woman walks in than when a man walks in. I hate to say it, but there's still a bias, at least in the banking world."

Arvia, who has been in the banking business for 16 years and was chief executive officer of Chicago-based Shore Bank before taking the helm at Nationwide, said that while women often have a barrier to overcome

that men do not, they can still obtain financing as long as they are well-prepared.

"My advice is to do your homework. Come in with everything you need and be organized," she said. "Make sure you have all of your documents in order, that you have a good solid business plan."

Networking is also an important factor that can help women get their businesses started, Arvia said, and women need to remember to keep in contact with people of both sexes who can be useful for advice and information.

Arvia, who was named by *US Banker* magazine as one of the 25 most powerful women in banking and one of the "outstanding women in banking" by North Western Financial Reviews, said there is also more help out there for women looking to start their own business than there used to be.

"They can go to a lot more different organizations these days that can help and there are (governmental agencies) that can help, too," she said.

For instance, there is the Greater Columbus Women's Business Development Center and the Ohio Federation of Business and Professional Women.

Agencies such as the state Department of Development's Small Business Development Center and the Columbus office of the Small Business Administration also can be useful resources.

The U.S. Bureau of Labor Statistics and Census Bureau reports that in Ohio, there are 30,455 women-owned firms with employees.

A graduate of Michigan State University, Arvia previously was an accounting manager for Crowe, Chizek and Company LLP where she helped integrate an acquired firm into the company's culture and operating systems before she started working for Shore Bank. Nationwide Financial Services launched Nationwide Bank in April of 2006.



A demographic review of women's business ownership

Late last year, the Small Business Administration released a study focusing on the special characteristics of women-owned businesses and women's economic well-being. This report provided information on women in the workforce and women-owned businesses, including women's population statistics, their labor force participation, age, education, occupation, work schedules, average personal and household income, business ownership, and business dynamics.

Among the findings:

- Women constituted more than 51 percent of the American population and nearly 47 percent of the labor force in 2004.
- Of women in the United States, 14.5 percent were in poverty in 2004. The poverty rate among unemployed women was more than double the rate among women overall, at 31.8 percent.
- Nearly one in four families, or more than 8.3 million, was headed by a single mother caring for her own children younger than 18. Families headed by single fathers numbered 2.3 million.
- In 2002, women owned 6.5 million or 28.2 percent of nonfarm U.S. firms. More than 14 percent of these women-owned firms were employers, with 7.1 million workers and \$173.7 billion in annual payroll.

- Women-owned firms accounted for 6.5 percent of total employment in U.S. firms in 2002 and 4.2 percent of total receipts.

- Compared with non-Hispanic white business owners, of whom 28 percent were women, minority groups in the United States had larger shares of women business owners, ranging from 31 percent of Asian American to 46 percent of African American business owners.

- Of all women business owners, 8.33 percent claimed Hispanic heritage, 85.95 White, 8.43 percent African American, 1.23 percent American Indian and Alaska Native, 5.25 percent Asian, and 0.18 percent Native Hawaiian and other Pacific Islander.

- Almost 80 percent of women-owned firms had receipts totaling less than \$50,000 in both 1997 and 2002. Total receipts for firms in this under-\$50,000 group constituted about 6 percent of total women-owned business receipts in both years.

- The 7,240 women-owned firms with 100 employees or more accounted for \$275.0 billion in gross receipts or 34.2 percent of the total receipts of women-owned employer firms in 2002.

- The largest shares of women-owned business receipts were in wholesale and retail trade and manufacturing in both 1997 and 2002.

- According to 2002 data, significant proportions of women-owned businesses were in professional, scientific, and technical services, and in health care and social assistance, but the share of receipts in these businesses was smaller than in the trades and manufacturing.

- Between 1997 and 2002, the numbers of women-owned firms overall increased by 19.8 percent and of women-owned employer firms, by 8.3 percent.

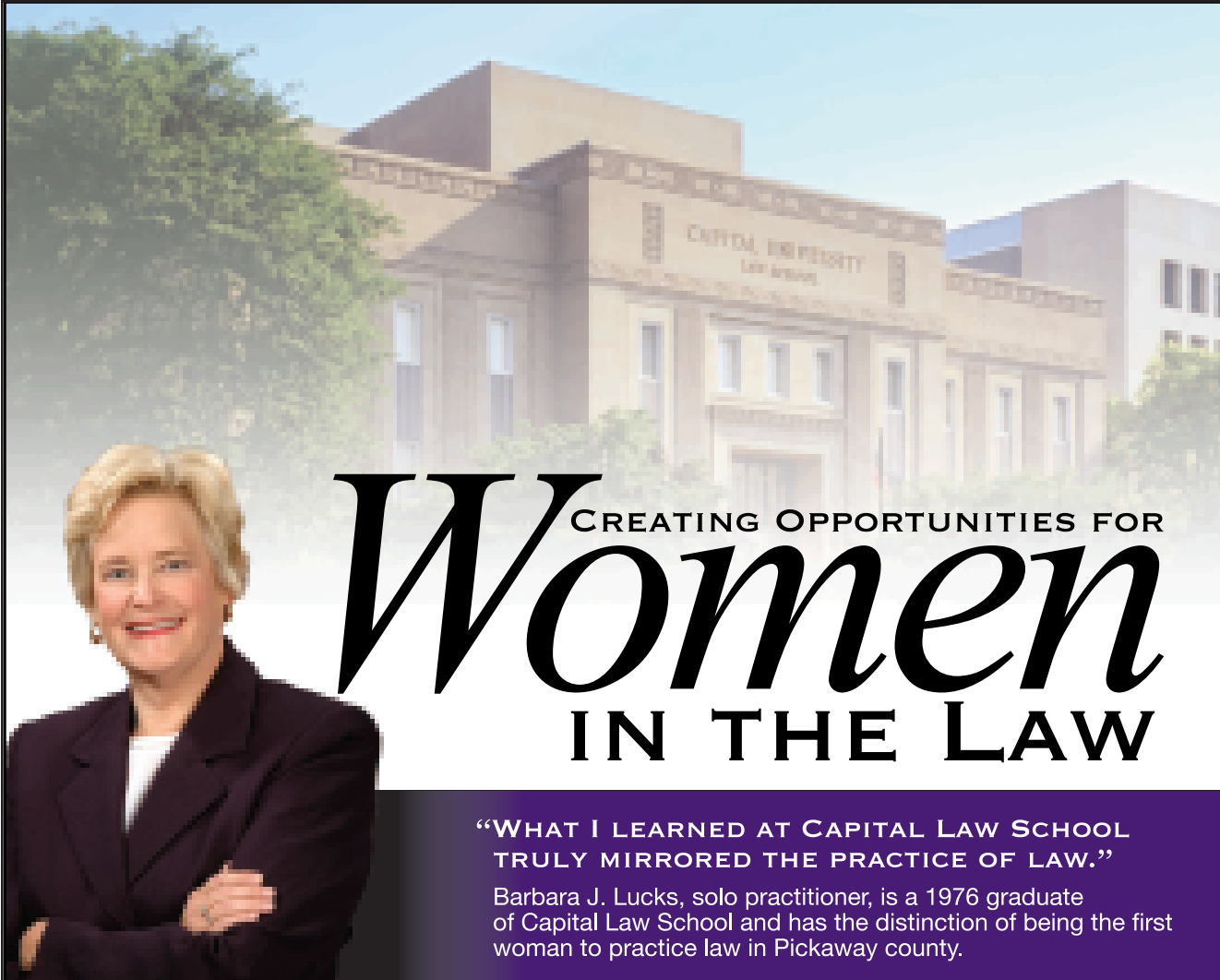
- Firms owned by women increased employment by 70,000; those owned by men lost 1 million employees; those owned jointly by men and women lost 2.6 million; and publicly held and other firms not identified by gender of ownership increased employment by 10.9 million between 1997 and 2002.

- Overall, neither women nor men saw the receipts and payroll of their firms increase as fast as those of large publicly held firms and other firms not classifiable by gender.

- The number of businesses owned equally by men and women declined over the 1997–2002 period, except those owned by African Americans.

Data sources for this report include, but were not limited to the Current Population Survey, the American Community Survey, the Economic Census, and the Survey of Business Owners.

The full text of this study and summaries of other studies performed under contract with the U.S. Small Business Administration's Office of Advocacy are available at www.sba.gov/advo/research.

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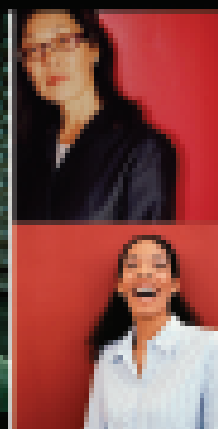
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