



# FOX | O'NEILL | SHANNON S.C.

## FOS NEWS - *Our clients come first*

Editor: Diane Slomowitz

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### FOS WELCOMES SHANNON ALLEN



FOS is excited to welcome Shannon Allen to its litigation practice.

Shannon's practice focuses on business and employment litigation and employment law matters.

During her 18 years of trial and appellate experience, Shannon has successfully prosecuted and defended many high profile lawsuits.

"I am thrilled to join the

terrific team of lawyers at FOS and look forward to assisting our clients in obtaining their goals both in and outside the courtroom," said Shannon.

In keeping with FOS's standards of attorney excellence, Shannon has received many awards, including as a business litigation "Rising Star" by the publication *Law and Politics*.

A Wisconsin native, Shannon earned her undergraduate degree from the University of Southern California and her law degree from the University of Wisconsin Law School.

Shannon is admitted to practice before the State Bar of Wisconsin, Eastern District of Wisconsin, Western District of Wisconsin and the U.S. Court of Appeals for the Seventh Circuit.

A member of the Milwaukee and American Bar Associations, Shannon also currently serves on the Board of the Milwaukee Bar Association.

Consistent with FOS's public service emphasis, Shannon regularly volunteers with the Wisconsin Special Olympics and the Milwaukee Justice Center.

Shannon also acts as mentor to both young lawyers and middle school and high school students in the Milwaukee area.

Shannon strives to provide her clients, both individuals and businesses, with impeccable service and support in all aspects of their representation.

Shannon stands ready to provide FOS's clients with the high quality services for which the firm is known.

The next time you're in the office, stop by and say hello to Shannon.

### TONY SOPRANO COULD HAVE USED A GOOD LAWYER

In "The Sopranos," Tony Soprano regularly consulted with his lawyer about Tony's "waste management" business.

Attorney/client privilege would apply, but we assume Tony received good counsel (at least until that last scene's sudden blackout).

James Gandolfini, the actor behind Tony Soprano, may not have been so lucky.

Since Gandolfini's recent death, reports have issued that up to 80% of Gandolfini's estimated \$70 million dollar estate may be unprotected against estate taxes.

These reports suggest that

Gandolfini's estate may be subject to a whopping \$30 million tax, at rates up to approximately 55%.

These reports' accuracy remains to be seen. And only Gandolfini and his attorney knew whether or to what extent Gandolfini may have prioritized tax planning over his personal dispositional desires.

By Diane Slomowitz



Nonetheless, the reports highlight the importance of thoroughly considering all tax consequences when developing an estate plan.

A few hours now can save thousands of dollars later.

This is particularly true given Gandolfini's sudden death at a relatively young

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## THE AFFORDABLE CARE ACT—IT'S ALMOST HERE!



By Peter J. White

The Affordable Care Act has been one of the most contentious pieces of legislation in recent memory. Regardless of one's personal feelings towards the Act, it is being rolled out following its timeline. The following provisions take effect January 1, 2014:

- **Individual Mandate**—A non-exempt individual must maintain minimum essential coverage or make a "shared responsibility payment" on his 2014 federal tax return.

Exempt individuals include those for whom the cost of coverage exceeds 8% of 2014 household in-

come and those with income below the income tax filing threshold.

The penalty for failing to comply in 2014 is the greater of \$95 or 1% of taxable income.

- **Pre-Existing Condition**—Group plans and individual policies (including grandfathered plans) can no longer contain pre-existing condition exclusions -- not even those previously allowed under HIPAA.
- **90 Day Waiting Period**—Waiting periods cannot exceed 90 days before coverage becomes effective.
- **Healthcare Exchanges**—Healthcare ex-

changes will launch October 1 for the coverage period beginning January 1, 2014.

These exchanges, or marketplaces, are online sites where individuals and small business owners can shop for health insurance products.

Because Governor Walker elected not to have Wisconsin run its exchanges, the federal government, with the state insurance office, will vet the exchanges' plans.

Originally, the Employer Mandate was to go into effect in 2014. That requires an employer with 50 or more full-time equivalent employees to pay a penalty

if it provides no employee coverage or its coverage is unaffordable or lacks value.

The Obama Administration recently delayed the Mandate until January 1, 2015, giving more time for the IRS to simplify reporting requirements and businesses to update their reporting systems.

With all the Act's moving parts, it is difficult to stay on top of it. FOS's attorneys are available to answer your questions and help you comply with the Act.

### FOS'S SUCCESSFUL SERVICE DAY

FOS employees, families and friends participated in the firm's 4<sup>th</sup> annual service day on June 1, 2013.



Participants volunteered at the Despensa de la Paz food pantry.

Participants greeted and registered attendees, and filled and disbursed food parcels.

Tony Soprano

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51 years, leaving a widow, a pre-teen son and an infant daughter.

While no one lives forever, most of us assume we will live well past retirement. We assume that we will have time to establish a beneficial estate plan, or make the changes to it that we keep meaning to do.

Gandolfini's death reminds

us that there are no guarantees. It confirms the need for early estate/tax planning and its periodic review.

One relevant strategy, involving exempt retirement accounts, is discussed in Al Young's article on IRA Trusts at page 4 of this newsletter.

So, if you have been putting off creating your estate plan, or reviewing and updating your existing docu-

ments, give your FOS attorney a call.

As CPAs, our estate planning attorneys have the needed tax backgrounds and experience.

Together with your estate planning attorney, you can assure yourself that your desires and your family's needs will be met with the fewest adverse tax effects possible.

## TRUST ME— A SUBPOENA DOESN'T HAVE TO BITE!



By Shannon  
A. Allen

As lawyers, we routinely receive calls from clients whose days have been abruptly interrupted by the service of a subpoena.

A subpoena normally requires a witness to appear for a deposition at a lawyer's office or to testify at a court hearing or trial.

When calling, the client often sounds confused, panicked, or even angry. This is completely understandable, since this may be the client's first interaction with the court system other than jury duty.

Rollercoasters of emotions can also be caused by a scheduling conflict with the

scheduled appearance date, the client's not knowing why he/she is being subpoenaed, and the fear of testifying under oath.

If you are served with a subpoena, the first rule is to not panic. Your FOS attorney is poised to explain the situation to you and help you through the process.

First, carefully read the subpoena to determine when and where you are being ordered to appear.

Second, determine whether you can make the appearance based on your schedule. It is far easier to attempt to reschedule a deposition scheduled at a lawyer's office than to reschedule testifying in a criminal trial in federal court.

Either way, instead of cancelling a six month old doctor's appointment, missing your child's first violin solo, or skipping a two-year planned family vacation, your FOS attorney will call the lawyer issuing the subpoena to discuss your scheduling concerns.

Third, if you are able to attend the scheduled court appearance or deposition, you may still need to request time off from your employer to attend it.

Fourth, unless your attorney advises you not to, go. If you have been properly served and do not appear, the court may hold you in contempt.

Subpoenas issued in Wis-

consin court proceedings include intimidating but accurate warnings.

The warning states: "Failure to appear may result in punishment for contempt which may include monetary penalties, imprisonment and other sanctions." See § 885.02(1), Wis. Stats.

Therefore, despite your personal feelings about the case or potential scheduling issues, *under no circumstances should you ignore the subpoena.* Doing nothing will get you in trouble.

If you, a family member, or an employee are served with a subpoena, please call the FOS litigation team to help you assess your legal obligations.

### KOMEN WALK/RUN SEPT. 22

There's still time to register for and/or contribute to FOS'S team, the Karen Fox Trotters, in the September 22nd Komen Race for the Cure.

To sign up or contribute, go to [www.komenmilwaukee.org](http://www.komenmilwaukee.org), or call Team Captain Judy Janetski at 414-273-3939.

### THOMAS SHANNON TOP RATED



FOS shareholder Thomas Shannon has been named 2013 Top Rated Lawyer in banking and finance by American Lawyer Media and Martindale-Hubbell™.

Tom's achievements include obtaining the highest AV peer review rating.

Tom's rating is recognized in *The American Lawyer & Corporate Counsel Magazine's* September, 2013 issue.

### FOS ON THE MOVE

FOS associate Laurina Jozwiak has been reelected to the Board of the Milwaukee Young Lawyers Association.

FOS shareholder Diane Slomowitz, 2012 Women in the Law winner, was honored on June 20, 2013 at the 10<sup>th</sup> Anniversary Women in the Law Reception.

The reception recognized those attorneys named Women in the Law since the award's 2002 inception.

FOS shareholder Matt O'Neill has been appointed to Legal Action of Wisconsin's Grievance Committee, which resolves attorney/client disputes.

O'Neill and FOS shareholder Shannon Allen are acting as mentors to local middle school and high school students. Their mentoring is under federal Judge Charles N. Clevert, Jr.'s Mentor Program.





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Fox, O'Neill & Shannon, S.C. provides a wide array of business and personal legal services in areas including corporate services, litigation, estate planning, family law, real estate law, tax planning and employment law. Services are provided to clients throughout Wisconsin and the United States. If you have any questions about these articles or any other legal topics, please call us at (414) 273-3939.

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Retirement Funds Are Exempt

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**RETIREMENT FUNDS ARE EXEMPT... EXCEPT WHEN INHERITED**



By Allan T. Young

For many years, it has been the law of the land that retirement plan accounts, including IRA's, are exempt from the claims of creditors, including creditors in bankruptcy.

The exemption has been available not only to the original owner of the account, but also to children or grandchildren who inherit the account.

This offered a useful tool to benefit offspring who might be struggling financially,

especially in these times. Recently, the 7<sup>th</sup> Circuit Court of Appeals pulled back the exemption.

In the case of *In re Clark*, a mother named her daughter as the beneficiary of an IRA. The mother died when the IRA was worth about \$300,000. The daughter kept the IRA as an inherited IRA. She took required minimum distributions for a few years. Then the daughter and her husband filed for bankruptcy.

The creditors of the couple argued that the IRA should not be protected from the couple's creditors. The court agreed. It concluded that when an IRA is transferred to

a beneficiary it is no longer a true retirement plan account. Rather it is a source for current spending. As a result, the creditors, not the daughter, received the balance of the IRA.

Could the mother have done something to prevent this result? The answer is yes.

Rather than naming the daughter as the beneficiary of the IRA, the mother could have named an IRA trust as the beneficiary of the IRA and then named the daughter as the beneficiary of the IRA trust.

An IRA trust would have protected the IRA from the

daughter's creditors. She then could have received the entire account.

If you wish to protect your retirement plan accounts from creditors of children and grandchildren, please contact FOS to discuss the advantages of an IRA trust.

Putting an IRA trust in place is much less expensive than losing a retirement plan account to creditors.

**QUESTIONS?**

**CALL US**  
414-273-3939,

**OR EMAIL US**  
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