

ALEXANDER & CLEAVER

Professional Association

E-Business Advisory

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November 2005

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Alexander & Cleaver has
licensed attorneys in Maryland,
Washington D.C., Virginia,
and Pennsylvania.

**Alexander & Cleaver now offers Saturday hours.
Stop by our Fort Washington office or call us at 1-800-292-LAWS.**

Stop by our Holiday Open House...details on [page 5](#).



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Beware of using e-mail to distribute company personnel policies

In this age of electronic communications, businesses depend more and more on electronic mail (e-mail) to communicate with their employees. What are the pitfalls of distributing personnel policies in this fashion . . . [page 3](#)

Do you know what to do if you are in a car accident?

Should you stay? Should you leave the scene? Should you call the police? What information are you required to give the other driver? What if you are hurt? Follow these easy steps if you find yourself in this unfortunate situation . . . [page 4](#)

Book a round table seminar or presentation

"Sex, Lies, and Campaign Contributions" was recently presented at the Health Facilities Association of Maryland's annual conference by Robin Shaivitz and Denise Bowman.

Cas Taylor convened with the Children's Guild Board in Baltimore, Maryland.

Read more . . . see [page 5](#)

The E-Business Advisory is intended to provide business ideas and comments to our clients and friends. Topics in this business newsletter discuss the laws, opinions, and other developments on a wide variety of issues. The laws of each jurisdiction may be different. The articles are presented for general reading and should not be relied upon as legal opinion or legal advice. We would be happy to answer further questions or discuss particular factual situations or problems with you in more detail. The Law Offices of Alexander & Cleaver is a full-service law firm that represents clients in a wide range of legal matters, lobbying, procurement and government relations services and association management.

To sign up or remove your name from this list, please go to: lists.alexander-cleaver.net/mailman/listinfo/acnews. To ensure that the A&C E-Business Advisory is delivered properly to your inbox (not bulk, spam, or junk folders), please add us to your address book or safe list.



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Do You Use Temporary Workers?

In recent years, the use of temporary workers has increased dramatically. Companies large and small benefit from the use of these workers, also referred to as “contingent staffing,” in numerous ways. Using temps enables companies to protect their core workforce; prevent layoffs; and avoid the hiring of unnecessary permanent staff. They save on labor and employment benefit costs, avoid worker’s compensation liability and avoid some taxes and administrative expenses. Aside from traditional administrative and clerical staffing agencies, there are placement agencies that specialize in providing workers for specific professions, including medicine, information technology and the financial industry.



While there are numerous benefits, there are also risks for companies who employ temporary workers. This most often occurs because companies treat their temporary workers just like their regular employees. A company may avoid or limit certain types of liability by being cautious of the relationship that is maintained with the worker and by setting clearly defined company policy which distinguishes the rights and obligations of contingent staff. Some tips:

- Know the staffing agency you are working with. Have they encountered problems with joint employer liability in the past?
- Avoid establishing terms of employment. Instead, work with the staffing agency to address these issues, i.e. hours, pay rates, method of compensation, etc.
- Vary the conditions of employment. Have different processes for the temporary workers regarding submitting applications, drug testing, and background checks.
- Limit assignment duration. Reassign when job concludes.
- Be careful of what you say and how you refer to the temps. Remember they are “workers” who are “assigned” to your company on a “temporary” basis.
- A company may also execute an agreement with the staffing agency, which provides for indemnification in the event that the company is found to be a joint employer.

COMMENT OF COUNSEL: Companies should consult an attorney before reaching an agreement with a staffing agency. Have the attorney review your agreement and your indemnification clause. Make sure there is a general review as to how your company utilizes temps to ensure that you are in compliance with the law and to avoid joint-employer status. For more information contact us at 301-292-3300 or e-mail us at acnews@alexander-cleaver.com.



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Beware of Using E-Mail to Distribute Company Personnel Policies



In this age of electronic communications, businesses depend more and more on electronic mail (e-mail) to communicate with clients and employees. However, as a recent Federal 1st Circuit Court of Appeals case shows, employers must be aware of potential pitfalls involved in using e-mail to distribute personnel policies.

In *Campbell v. General Dynamics Government Systems Corporation*, the Court held that an e-mailed employee arbitration policy was unenforceable because the e-mail did not provide sufficient notice of the policy to the employee. In this case, the employer sent a company-wide e-mail notifying employees that the company had developed a new policy in which all employer/employee disputes were to be arbitrated, and that arbitration was the exclusive remedy for such disputes. In effect, this policy was intended by the employer to be a contract between the employer and the employees.

The Court of Appeals made clear that an e-mail can serve as an appropriate method of notification of personnel agreements, but that the company in this particular case made some crucial mistakes in crafting its e-mail notification of the new policy. First, the company had never before used e-mail as a means of communicating contract changes to employees. Second, the company did not attach the policy to the e-mail and made no mention that arbitration would be the sole remedy available to employees. Finally, the company did not ask the employees to respond to the e-mail as a method of notification and acceptance. For these reasons, the Court of Appeals held that the employee did not have to submit to arbitration before pursuing a claim in the court system.

COMMENT OF COUNSEL: If a judge is the first person to tell you that your personnel policies are unenforceable, you have needlessly wasted precious time and money. Our legal team can make sure this doesn't happen to you. To learn more about creating and implementing personnel policies for your business, contact us at 301-292-3300 or email us at acnews@alexander-cleaver.com.



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Do You Know What To Do After an Accident?

STEP 1: Keep Calm

Stop to protect your passengers and your car. Move out of traffic. Call ambulance for injured party, if required. Set flares, and **do not leave the scene of the accident.**



STEP 2: Exchange Documents

Do not discuss the accident with anyone or blame anyone, including yourself. Exchange only license, registration, and motor vehicle identification card.

STEP 3: Facts to Give

Provide only your name, address, license number, license plate number, name of registered owner of the car, and your insurance company. You may show your driver's license to the other party.

STEP 4: Facts to Get

Take down the name address, operator's license number, date of birth, gender, state of license and phone number of the other driver(s).

STEP 5: Ownership Facts

Record the name, address and the insurance company of the owner of the other car involved. The driver may not be the owner of the vehicle.

STEP 6: Injured Parties

Seek information from police for all injured parties involved, including passengers. Record names, addresses, dates of birth, gender, and extent of injury.

STEP 7: Witnesses

Be sure to write down the names, addresses, and phone numbers of any people who saw the accident but were not involved in it.
Note: Passengers in accidents are not witnesses.

STEP 8: Damage

Note the make, body type, year and license number of the other vehicle. Also make note of the damage to the other vehicle.

STEP 9: Draw Diagram

Note the date and time of the accident. Write down the location (street intersection or landmark). Draw a diagram while the accident is still fresh in your memory. Number the vehicles (yours will be #1).

STEP 10: Report

Report the accident to your insurance broker or agent immediately. If the accident involves death or injury, report it without delay to the police department. Obtain a copy of their report within 24 hours.

COMMENT OF COUNSEL: Seek legal advice on your rights and how to process your claim. Call 1-800-292-LAWS to reach our legal team **at any time.**



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Book a Round Table Discussion or Presentation



The Alexander & Cleaver Legal and Government Relations Teams provide legal, lobbying, campaign finance and ethics seminars and presentations for clients, community organizations and businesses. To book one, please contact Lyle Fowlkes at 410-974-9000 or lfowlkes@alexander-cleaver.com for details.

Robin Shaivitz, Senior Government Relations Consultant and Denise Bowman, Attorney and Ethics Counsel, made a presentation in October to the membership of Health Facilities Association of Maryland (HFAM) at their annual conference in Ocean City, Maryland. The title of the presentation was “**Sex, Lies, and Campaign Contributions.**” The focus of the presentation was to explain to the HFAM membership the importance of campaign giving and the complexity if you choose to give to political figures. HFAM is the largest and the oldest association representing nursing homes, assisted living facilities, adult day care, and other senior housing arrangements, in Maryland.

To the right, **Government Relations Consultant Casper R. Taylor** converses with the Board of Directors of the Children’s Guild in Baltimore, MD.



Congratulations to **Robin Shaivitz, Senior Government Relations Consultant**, who successfully chaired the Network 2000 Women of Excellence luncheon on November 9th to benefit the Women, Leadership and Equality Program. An impressive cross-section of female business leaders convened at the Marriott Waterfront Hotel in Baltimore. The program featured noted international leader Mary Robinson, former United Nations High Commission of Human Rights and past president of Ireland, as its keynote speaker.



You’re invited!
Come celebrate the holidays with us.

*A special A&C holiday message to our friends and clients:
 “Peace, health and prosperity for the New Year.
 Thank you for your support of our law firm as we enter our 38th year!”*

We hope you will mark your calendar to stop by our **Fort Washington office** or our **Annapolis office** to join us for refreshments 10:00 a.m. to 5:00 p.m. between Monday, December 12 and Thursday, December 15 for our **Annual Holiday Open House**.

Alexander & Cleaver dedicates this holiday season to the men and woman serving in our armed forces, and to the many victims of Hurricanes Katrina and Rita.