

Business Update: Be Careful About What You Say

In our practice we consistently remind business owners and leaders that running a successful business revolves around relationships—and managing them effectively. Some cases have been recently handed down which may directly impact your business relationships. We have provided short summaries of each case for your convenient review. We have provided a brief summary of each and a link to the full opinions for your consideration.

Watch what you say about your former employees.

Slovinski v. Elliot, docket No. 107146, Ill. S. Ct. April 15, 2010. A former chief financial officer filed a defamation *per se* action against his former employer and its chief executive officer after the defendants allegedly made false statements to third parties regarding the former chief financial officer's work performance. While the Illinois Supreme Court affirmed the Appellate Court's reduction of the trial court's award of punitive damages to the plaintiff, this case reinforces the principle that even after the termination of an employee, an employer can be held liable for false statements made to third parties about a former employee.

Easier to enforce restrictive covenants in the Illinois Appellate Court for the Fourth District.

Sunbelt Rentals, Inc. v. Ehlers, et al., docket No. 4-09-0290, Ill. App. Ct. (4th Dist.) September 23, 2009. Sunbelt sued its former employee for violation of certain restrictive covenants contained in his employment agreement relating to non-competition and non-solicitation. The trial court granted Sunbelt's request for a preliminary injunction. The employee appealed arguing that Sunbelt did not have a "legitimate business interest" to support the imposition of a preliminary injunction. In affirming the trial court's decision, the Appellate Court for the Fourth District held for the first time that it was unnecessary for an employer to satisfy the long standing "legitimate business interest" test in order to obtain injunctive relief. After reviewing thirty five years of Illinois jurisprudence, the Appellate Court concluded that the Illinois Supreme Court has never embraced this test and that all that needs to be shown is that the time and territory of the restrictive covenants are reasonable in order to be enforceable. While, employers should have better luck enforcing restrictive covenants in the Fourth Appellate District, it remains to be seen if the other appellate districts will follow or when the Illinois Supreme Court will issue a final say on the topic.

About The Entrepreneur's Legal ResourceSM

Our firm is designed to provide legal services to business owners in small to mid-sized business in the Chicago area. We specialize in helping our clients solve business problems in order to effectively run their operations. Our services range from business start-up to complex litigation matters. Contact:

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