

WALMART LEGAL COUNSEL HONORED FOR OUTSTANDING LAW FIRM DIVERSITY EFFORTS



Joe West, Associate General Counsel for Walmart, is a leader not by what he says but by what he does. At Walmart, Joe West has the significant responsibility of managing outside counsel relationships. In that role, Joe has demonstrated an unwavering commitment to hiring the best legal talent to represent Walmart's interests. An integral part of his vision includes identifying and nurturing relationships with women and minority-owned law firms, including NAMWOLF firms.

Walmart is a long time supporter of NAMWOLF and has consistently maintained its commitment to diversity through its involvement in NAMWOLF and other organizations and initiatives that foster diversity in the legal profession. This year, Joe is the recipient of the 2009 Award for Outstanding Service by an Advisory Council Member. "At Walmart we know that Diversity is the foundation for an inclusive, sustainable business that embraces and respects differences," said West. "Helping minority and women owned law firms grow and prosper is a commitment shared by Walmart and NAMWOLF, and I am honored to be recognized for my efforts to support NAMWOLF's important work." The award will be presented to Joe at the NAMWOLF Annual Meeting and Law Firm Expo in Chicago.

Joe's commitment to helping others was demonstrated through his efforts to help those in need during Hurricane Katrina. When Katrina devastated the Louisiana coast, Joe stepped up, as people who know Joe might have expected, with the compassion, courage and conviction to help those around him that were suffering so severely. Joe and his wife, Nadine, a physician in New Orleans, risked their lives and all of their material possessions to help others through the aftermath of Katrina. The hurricane hit the hospital where Nadine practiced with 15 foot swells, causing a loss of power. The hospital had no food or water, and the sweltering heat of New Orleans' summer added to the trauma.

Joe and Nadine sent two of their three children (the youngest was just three months old) to stay with relatives and focused on saving lives and providing care to Nadine's OBGYN patients.

Despite the adversity, Joe witnessed the power of what a diverse group of people can accomplish when they work together for a common purpose. He experienced firsthand the fundamental goodness of human nature -- people from all ages, races and walks of life -- coming together to aid their neighbors.

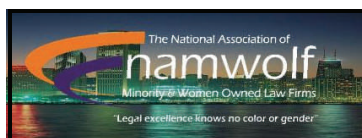
From Katrina, Joe gained an understanding that the commitment to help others is a call to greatness much more than a marketing slogan. Joe West inspires NAMWOLF members to follow his lead through our deeds and not just our words.

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Join us for the 2009 NAMWOLF Annual Meeting & Law Firm Expo
Sheraton Chicago Hotel & Towers | October 5-7, 2009
Visit our website for more details.
www.namwolf.org

Message from the Chairman



Emery K. Harlan
Chairman

The NAMWOLF Fifth Annual Meeting is fast approaching. This year's Annual Meeting is exciting for a number of reasons:

- Registrations for both law firm members and in-house counsel are already 20% greater than last year's event held in Dallas.
- We have sixteen new member firms since the November 2008 Annual Meeting.
- Eight CLEs are offered this year; five more than in 2008.

- 69 member law firms will be exhibiting at the Law Firm Expo, and appointments are being set daily for you to meet with in-house counsel.
- To date, we have 29 confirmed sponsors, 7 vendors, and several in-kind donations that all contribute to the success of this year's event.
- A new initiative that you do not want to miss will be announced and rolled out in Chicago.

I am looking forward to seeing all of you at the Chicago Sheraton Hotel & Towers October 5th – 7th.

Congratulations to



**Winner of the 2009
Diversity Initiative
Achievement Award**

Welcome New NAMWOLF Members

New Law Firm Members:

Alholm, Monahan, Klauke, Hay
& Oldenburg, LLC | *Chicago, IL*

Bush Seyferth & Paige PLLC | *Troy, MI*

Fitzhugh & Mariani LLP | *Boston, MA*

Kuchler Polk Schell Weiner
& Richeson, LLC | *New Orleans, LA*

Kumar Pathak, LLC | *Atlanta, GA/South
Plainfield, NJ*

Lim, Ruger & Kim, L.L.P. | *Los Angeles, CA*

McDonald Law Group, LLC | *Florham Park, NY*

Murabito, Hao & Barnes LLP | *San Jose, CA*

PCT Law Group | *Washington, D.C./Alexandria, VA*

Sitko, Rodella & Bruno, LLC | *Pittsburgh, PA*

Stern Lavinthal Frankenberg & Norgaard, LLC | *Livingston, NJ*

Villarreal Hutner PC | *San Francisco, CA*

Wells Anderson & Race, L.L.C. | *Denver, CO*

Yokoyama & Associates, P.C. | *Chicago, IL*

Preaus, Roddy & Associates | *New Orleans, LA*

New Corporate and Public Entity Partners:

Panasonic Corporation of North America



Yolanda Coly
Managing Director



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Spotlight—Member Firm:

After serving a collective 70 years as partners in a large law firm, the four founding partners, Jane Taber, Dawn Estes, Jessica Thorne, and Lori Carr, ventured to form Taber Estes Thorne & Carr, which opened its offices February 4, 2008. The idea behind the formation of the firm was to form a firm that would bring a collaborative environment where creative solutions and flexible fee structures for its business clientele represent the rule rather than the exception.



Located in Dallas, Texas, Taber Estes Thorne & Carr has grown in just over a year from the original founding four partners to most recently add a fifth partner, Melanie Okon. Ms. Okon adds Construction Law and Energy Litigation to their core practice areas. Additionally they have one of-counsel attorney, and three associate attorneys, for a total of nine attorneys. Rounding out their staffing needs is one dedicated and experienced paralegal and three experienced legal assistants.

Taber Estes Thorne & Carr was recently featured in D Magazine's Best Lawyer's in Dallas edition. Dawn Estes and Lori Carr were selected as Texas Super Lawyers, and Jane Taber received a Texas Bar Association best of series outstanding writing award. Jessica Thorne was featured in the Texas Tech law alumni magazine. Sheri Crosby was recognized as the Texas Young Lawyer of the Year and Dallas Young Lawyer of the Year for 2008 and was recently recognized as a Rising Star in Labor & Employment Law.

The firm's main goal is to maintain its culture of diversity, inclusiveness, and fairness while serving its clients with a level of service, second to none. Personal service should be at the forefront of every client relationship. Taber Estes Thorne & Carr wants to be the firm that is part of the team, bringing added value beyond mere legal expertise. They consider their client relationships as business partnerships and not only look to address the client's legal needs but also strive to integrate their attorneys and provide solutions that add value by learning the industry and business of their clients.

Taber Estes Thorne & Carr is a firm positioned to address and meet the legal needs of the business and corporate community. Their clients look to them for their expertise in Labor and Employment, Commercial Litigation, Construction Law, Energy Litigation, Family Law, General Business and Corporate Transactional Law, Healthcare and Insurance Law.

The firm has grown at an extremely fast pace—adding six new attorneys in just over a year. This growth is due to an increase in the number of new clients, additional business from existing clients, and the acquisition of another partner. Taber Estes Thorne & Carr will continue to examine opportunities for acquisitions of attorneys who fit within their firm culture and will act on those opportunities that fit within their vision. They will also continue to increase their staff to meet the demands of their clients to maintain the high level of service they demand of themselves.

Why is diversity important to Taber Estes Thorne & Carr?

Diversity is an integral part of the reason why Taber Estes Thorne & Carr was formed. The firm believes that diversity in the work force results in more creativity and ingenuity in resolving legal disputes. Their clients look for diverse representation, not simply based on race or gender, but also based on different life experiences, perspectives, and legal backgrounds. Along with diversity, the firm strives to create a work environment where individuals can use their talents to provide quality legal representation regardless of whether they are able to fit within the traditional career model by providing flexibility in work hours and the ability to work from home.



How did Taber Estes Thorne & Carr come to know NAMWOLF?

The firm was advised by an in-house counsel colleague at a Fortune 100 company that designation of the firm as a women-owned law firm would be beneficial in marketing legal services to public companies, as many public companies have diversity initiatives. Through the process of becoming certified as a Women's Business Enterprise they researched corporate diversity initiatives, trade associations and resources for women-owned law firms that provided interface with those corporations, as well as network opportunities with other similarly situated firms. In the process, they became familiar with NAMWOLF.

(Continued on page 5)

Spotlight—Member Firm

(Continued from page 5)

Of the various legal trade associations researched, it was evident to Taber Estes Thorne & Carr that the stringent membership criteria for NAMWOLF membership was most impressive, and provided the ability to meet quality firms and lawyers across the nation for networking and referral opportunities. With its corporate sponsorship and meeting opportunities, the organization best fit the firm's needs and expectations.



What has been Taber Estes Thorne & Carr's involvement with NAMWOLF?

Taber Estes Thorne & Carr joined NAMWOLF last fall, just prior to the date of the annual meeting and thoroughly enjoyed their participation in the meeting and exhibitions. One of the firm's partners serves on the membership committee and another will participate as a speaker on one of the continuing education programs for the annual meeting. They see an indefinite involvement with NAMWOLF through attendance at meetings, involvement in multiple firm initiatives outside structured meetings, assistance in continued education opportunities as presenters and participants, annual meeting sponsors, and exhibition participants. NAMWOLF has provided a unique opportunity for diverse law firms to meet and partner with in-house counsel who are trying to create diverse representation. It also has created an opportunity for lawyers from all parts of the country to meet each other and form relationships for opportunities for joint ventures and referrals. Taber Estes Thorne & Carr intends to continue their relationships and efforts working with other NAMWOLF members throughout the years to come.

What are Taber Estes Thorne & Carr's thoughts on the annual meeting?

What tangible benefits has your firm received from the conference?

The annual meeting is an exceptional event where they were able to meet many bright and experienced attorneys who are positioned to creatively work together with the firm to present new and unique ways of providing legal services to corporate America through joint relationships among firms. The in-house counsel they have had the opportunity to meet have shown a true interest in making a long term relationship with NAMWOLF members.

The Annual meeting provides the ability to meet one on one with potential client contacts whose agenda in attending the conference is to find diverse counsel for addressing their existing legal needs. The conference provides an atmosphere that is conducive for matching attorneys with potential clients that would be difficult, if not impossible, to emulate in another setting.

Taber Estes Thorne & Carr is currently working with two other NAMWOLF firms who they met at last year's annual meeting on joint representation of a client with a national presence. They are able to service clients from West Coast to East Coast, and in between, based on cross-referrals among the firms. They have also partnered with these NAMWOLF firms to present RFPs to large public companies for joint representation. Because of their NAMWOLF membership and listing in the directory, Taber Estes Thorne & Carr was recently contacted by a corporate sponsor and engaged for legal representation on a litigation matter in their geographical area.

Where does Taber Estes Thorne & Carr see the future of NAMWOLF?

With the legal community being in a state of flux due to economic challenges, and the demand for more diverse legal representation, NAMWOLF is poised to grow to meet the demands of corporations. The fact that the NAMWOLF members are all AV rated brings credibility to the organization as a whole and its membership, making it easier for its members to compete with similarly sized firms not members of NAMWOLF. More firms should look to NAMWOLF for the immediate credentialing and thus, NAMWOLF should grow in membership as well.

Law Firm News—Successes and Awards

Lafayette & Kumagai



Susan T. Kumagai

NAMWOLF FIRM LAFAYETTE & KUMAGAI ON A ROLL**Wins Three Summary Judgment Motions in One Day, Four in the Same Week**

Nationally known as a trial firm, and one of few minority owned firms to argue before the U.S. Supreme Court, Lafayette & Kumagai LLP is increasingly demonstrating its motion practice proficiency. Over the past year the

eleven attorney firm has prevailed in no less than eleven summary judgments, many on behalf of NAMWOLF supporters, including four during the week of July 9, 2009.

Richard Moss, an attorney employed for 35 years in the legal department of a *Fortune* 500 corporation, sued for age and physical disability discrimination, harassment, breach of contract and retaliation after being terminated for poor performance. Lafayette & Kumagai filed a motion for summary judgment in San Francisco County Superior Court on behalf of the defendant, a NAMWOLF partner corporation. The firm's attorneys vigorously contested Plaintiff's opposition, which included in excess of eighteen inches of evidence. While the Honorable Peter Busch acknowledged in his order that Moss had proven his prima facie case of age discrimination, he explained that Defendant had proven that Moss was terminated for legitimate business reasons, and that Moss had failed to prove that Defendant's justification was a pretext. Defendant's motion for summary judgment was granted in full on July 9, 2009.

Lafayette and Kumagai filed a motion for summary judgment on behalf of a NAMWOLF sponsor corporation in an employment case in which the plaintiff, Stephanie Martin, alleged denial of reasonable accommodation and failure to engage in the interactive process. The court's tentative ruling granted summary adjudication as to punitive damages only, however, during the oral argument Susan Kumagai convinced Contra Costa County Superior Court Judge Judith Craddick to change her ruling and grant summary judgment in full on July 9, 2009. Earlier that week, the firm received notice that its motion for summary judgment had been granted in another employment case on behalf of the same client. Filing suit against his

employer, Stacy Jackson alleged race discrimination and harassment. Sacramento County Superior Court Judge Loren McMaster agreed with Defendant's argument that Jackson had not suffered any adverse employment actions and granted Defendant's motion for summary judgment.

Jacquelyne Everidge, a former employee of a healthcare network represented by Lafayette & Kumagai, sued her employer alleging race discrimination. Despite Everidge's submission of declarations from co-workers who believed Everidge had been discriminated against, Alameda County Superior Court Judge David Hunter granted Defendant's motion for summary judgment on July 9, 2009.

Additional matters in which Lafayette & Kumagai has prevailed by summary judgment include race discrimination, age discrimination, disability discrimination, harassment, retaliation, ERISA, and breach of contract cases. The firm has also been very effective in strategically reducing causes of action through summary adjudication, often leading to settlements favorable to the firm's clients.

Lafayette & Kumagai's excellent motion practice complements its success at trial. Recently the Court of Appeals affirmed the judgment in a retaliation case filed by Rose Jones against the University of California. Gary Lafayette represented the university and obtained a defense verdict in the two month jury trial in which university employees testified that they had retaliated against Jones at the request of their supervisors.

Susan Kumagai is a partner at Lafayette & Kumagai, a fifteen year old minority-owned firm located in the heart of San Francisco's Financial District. Her practice includes employment and ERISA litigation. She can be reached at skumagai@lkclaw.com.



**LAW GROUP
brown**



Interested in submitting an article for future editions of the NAMWOLF newsletter?

Contact: Stacy Fode, Editor
Brown Law Group
fode@brownlawgroup.com

Law Firm News—Successes and Awards

Lafayette & Kumagai



Gary T. Lafayette

NAMWOLF Member Firm, Lafayette & Kumagai LLP, Recognized as a Go-To Firm for the Fortune 100

Corporate Counsel recognized Lafayette & Kumagai LLP, a NAMWOLF member firm, for "Premium Work" in the Employment and Labor Litigation area in "Who Represents America's Biggest Companies: Labor Pains 2008." *Corporate Counsel* magazine surveyed the Fortune 100 companies to determine which law firms they relied

upon most. While large firms dominated the list, the eleven attorney minority-owned Lafayette & Kumagai stood out as a go-to firm for the country's largest companies.

Lafayette & Kumagai is an eleven lawyer litigation firm located in the heart of San Francisco's Financial District. The fifteen year old minority-owned firm has earned a reputation for excellence and for providing strong advocacy. Called a "Big Gun" and "High Profile" by the *San Francisco Chronicle* and *The Recorder*, and a "Top Law Firm" by the *National Law Journal*, Lafayette & Kumagai LLP specializes in business torts, employment, complex litigation and trials.

Headed by a core of seasoned litigators, the Firm has handled a number high exposure cases on behalf of institutional and public entity clients and is frequently contacted to take over cases from other firms, particularly cases that appear headed for trial. Oakland City Attorney, John Russo, noted to *The Recorder*, "...political players involved in a case may dictate which firm is chosen. Mayor [and former California Governor] Jerry Brown, for example, likes to use San Francisco's Lafayette & Kumagai."

Gary Lafayette is a partner at Lafayette & Kumagai. His practice includes employment litigation, general business litigation and civil trial practice. He can be reached at glafayette@lkclaw.com.

Save on Travel with American Airlines

American Airlines' Business ExtrAA program is a travel incentive program that rewards companies like yours for their loyalty to American Airlines. As a Business ExtrAA member, your company can earn valuable points towards exciting awards that you can use to reward top employees, attract recruits, thank key customers or even reduce your business travel expenses.

Benefits

You and your employees will continue to earn your own personal AAdvantage® miles when you fly, while your Business ExtrAA membership rewards your company with points for qualifying flights on American Airlines, American Eagle® and AmericanConnection®.

Earning points is simple

To earn company points, just make sure your Business ExtrAA account number is used when your employees purchase qualifying tickets.

You can redeem Business ExtrAA points for exciting Awards such as:

- Round-trip tickets worldwide in First, Business or Economy Class.
- AAnytime® or PlanAAhead® awards that let you pick the travel option best for you.
- Admirals Club® passes and memberships.
- Travel upgrades to the next class of service.

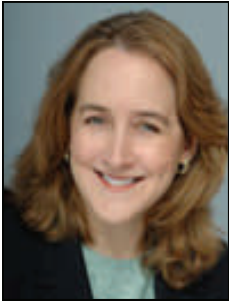
Enroll by November 30, 2009 and put FLYAA in the referral code box. If you or someone in your company travels within 90 days of enrollment, you will receive 500 bonus points. Forward your new Business ExtrAA number to Belinda Pridgen at belinda.pridgen@aa.com and receive an Admirals Club Day Pass (\$50 Value). If you have any questions, please contact Belinda Pridgen, Account Manager at 817-963-4518.



American Airlines is proud to support the National Association of Minority and Women Owned Law Firms through its Corporate and Public Entity Partnering Program.

Law Firm News—Successes and Awards

HOGUET NEWMAN REGAL & KENNEY, LLP



Sheryl B. Galler

Sheryl B. Galler of Hoguet Newman Regal & Kenney, LLP, delivered a presentation at the New York State Bar Association's program, *Counseling the Corporate Client in Turbulent Times: Employment Law for the General Practitioner and Corporate Counselor*. Ms. Galler spoke about the fundamentals of executive em-

ployment agreements, how to avoid potential conflicts over restrictive covenants, how to differentiate between independent contractors and employees, and recent developments in the law affecting commissioned salespersons. She also provided drafting tips for agreements with executives, independent contractors and commissioned salespersons. More than 60 attorneys attended the CLE program, which was offered in June 2009 by the Labor and Employment Law Section of the NYSBA.

Dine-Around-Chicago

We have an exciting event planned on October 5, 2009 with Dine-Around Chicago! This is an excellent networking opportunity for all involved. We will be departing the Sheraton at 7:30 p.m. and visiting the following restaurants and receiving a tour of beautiful downtown Chicago throughout the evening:

Hors D'oeuvres - Quartino
Main Course - Saporì Trattoria
Dessert - Riva

The special rate for this event is \$79.
The rate covers transportation, meals, unlimited wine at Quartino, and all taxes and gratuity.
Please follow the link below or call 312.437.3463 to reserve your spot on the tour!
<http://www.chicagodinearound.com/NAMWOLF>

Please contact NAMWOLF with any questions 414.277.1139.

We look forward to seeing you!



This event is for NAMWOLF members and in-house counsel ONLY

Miller Law Group

is pleased to announce the addition of two new associates

James Y. Wu & Greg F. Fortescue

Before joining Miller Law Group, James Wu practiced at Littler Mendelson for nearly six years and Greg Fortescue practiced at Nixon Peabody and Thelen, LLP. With the arrival of James and Greg, Miller Law Group now has fifteen attorneys practicing at their office in San Francisco. Miller Law Group is the leading women-owned law firm in California specializing in representing management in employment law and related litigation.

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415-464-4300 | www.millerlawgroup.com

CHAN LAW GROUP LLP



Thomas T. Chan

In an action before the United States Trademark Trial & Appeal Board, Chan Law Group represented Otto International, Inc., a successful apparel company which markets its goods under marks including the trademark OTTO, against a trademark applicant attempting to register the mark OTTO STUDIO in connection with apparel. Although Otto Studio agreed to limit its trademark application to cover only shoes, rather than other apparel items, Otto International pursued

the matter all the way to the trial phase before the TTAB. There, Otto International convinced the panel of judges that its senior registered mark, OTTO, would be damaged because the OTTO STUDIO mark would cause confusion in the marketplace due to the similarity of the marks themselves, the similarity of the parties' goods and channels of trade, and the strength of Otto International's mark. Accordingly, the TTAB sustained Otto International's opposition and refused to allow the OTTO STUDIO mark to become a registered trademark.

REGULATING EMPLOYEE OFF-DUTY INTERNET ACTIVITY: 5 TIPS FOR STAYING OUT OF TROUBLE

By: Michele Ballard Miller, Miller Law Group



Blogs, YouTube, Twitter, MySpace, Facebook, Second Life. The online possibilities for social networking and other online activities are almost endless, and most of your employees are probably participating to some extent: blogging about their personal and professional lives and uploading photos and videos of themselves. Most

online activities and postings are harmless. But suppose an employee's posting is damaging to your organization, employees or clients, such as by disclosing sensitive information or containing comments that are defamatory, harassing or portray your organization in a negative light. Or maybe the content simply is offensive and not in line with your corporate values, even though your organization is not identified in any way. Consider these recent examples:

A federal jury in New Jersey recently returned a verdict in favor of two former employees of Houston's restaurant in Hackensack, who were fired for bad-mouthing the restaurant on MySpace. They set up a private MySpace forum specifically to vent about work, and emailed invitations to co-workers. A supervisor called a co-worker into his office and asked for the login information, she handed it over, and that information was passed on to higher level supervisors, who logged in and viewed the comments. Houston's alleged that the online postings violated company policies on professionalism and having a positive attitude. The plaintiffs, however, convinced the jury that the employer's unauthorized access to the forum violated the federal Stored Communications Act and amounted to an invasion of privacy under New Jersey law.

A former Delta Air Lines flight attendant filed a lawsuit for sex discrimination after she was fired for posting (mildly suggestive) photos of herself in Delta uniform on her blog. She claimed that Delta had not taken similar action against male employees who engaged in similar conduct.

What are the legal parameters for snooping on an employee's off-duty Internet activities, or taking action against employees for such activities? Generally, it is not illegal to look at an employee's public blog or YouTube video, for example. But, as the Houston's restaurant dispute shows, accessing a private site without permission could raise serious legal issues.

And, even if an employer legally learns about an employee's online activities or conduct, there may be restrictions on what the employer can do with the information and limitations on actions the employer can take against the employee. Laws that may apply include:

National Labor Relations Act (NLRA). Blogging or other online comments about one's employment may be protected under the NLRA if the commentary or other online activity concerns terms and conditions of employment affecting the employee and co-workers.

Off-duty statutory protections. Some states, such as California, Colorado, Connecticut, New York and North Dakota, have enacted statutory protections for employees who engage in lawful off-duty conduct.

Constitutional right to privacy. The right to privacy in the federal constitution does not apply to private employers. However, some state constitutions, like California's, have broader protections that do extend to private employers and employees. Privacy concerns are most likely to arise when the employee believes the Internet site is private (for example, because it is password-protected), the site promotes itself as private, and the employer gained unauthorized access to the site or used other questionable means of gaining access (such as by pretending to be someone else).

Free speech protections. Again, the First Amendment right to free speech does not apply in the private workplace, but some state constitutions do apply to private employers.

Discrimination and retaliation. In most states and under federal law it is illegal to discriminate on the basis of a protected classification, such as race, gender, disability or religion. Employers also need to be aware of the anti-retaliation provisions of these laws, particularly in the context of taking action against an employee who uses online media to oppose an unlawful practice.

Whistleblower laws. Many federal and state statutes contain protections for employees who blow the whistle on corporate wrongdoing. Examples include the Sarbanes-Oxley Act, the Occupational Safety and Health Act, and the new American Recovery and Reinvestment Act.

Political activity laws. Some states, including California, Missouri, Nevada, and New York have laws that prohibit employers from interfering with an employee's political activities.

REGULATING EMPLOYEE OFF-DUTY INTERNET ACTIVITY: 5 TIPS FOR STAYING OUT OF TROUBLE

Wage disclosure laws. Some states have enacted laws prohibiting an employer from disciplining an employee for disclosing or discussing his or her wages.

Stored Communications Act. This federal law prohibits unauthorized access to electronic communications stored at an electronic communications provider, such as MySpace or another website.

The bottom line is that unless an employee's online activities are illegal, or may be legal but are directly harmful to your business or a clear violation of company policy, taking adverse action against the employee poses a high degree of legal risk with minimal benefit to the employer. There is also the consideration that adverse action will subject the employer to unwanted media scrutiny. Unfortunately, there is rarely a clear answer on the best course of action in this developing area of the law. Thus, in many cases, employer self-restraint should be considered.

Here are five suggestions for avoiding problems and finding a legal balance in connection with employee off-duty blogging and other online activities:

1. Adopt an Internet and blogging policy that puts employees on notice that it is a violation of company policy to reveal confidential or proprietary information or to disparage other employees, customers or clients.
2. Do not gain unauthorized access to password-protected sites or other areas that are intended to be private.

3. If you do learn about online activity that may be inappropriate or unprofessional, consider ignoring it. By responding, you might be drawing public attention to comments or behavior that may otherwise go largely unnoticed. There is also the employee relations angle to consider. Too much interference by an employer could make employees fearful that they are being spied on when they are off-duty, and that could spur valued workers to leave.
4. Try the simple approach of asking an employee to modify the content of an online posting, including removing any information that identifies your organization.
5. When disciplining, focus on the effects on an employee's job performance or violations of company policy, but check state laws before taking action.

Michele Ballard Miller is a shareholder in Miller Law Group, a women-owned employment law firm specializing in the representation of management in all facets of employment litigation and counseling. Michele can be reached at (415) 464-4300 or mbm@millerlawgroup.com.

A Message from the NAMWOLF Newsletter Editor

In the June 2009 edition of the NAMWOLF Newsletter, Ellisa Opstbaum Habbart wrote the article entitled "**Delaware LLC Agreements— Application of the Statute of Frauds**" printed on page 12. We apologize for inadvertently omitting her contact information and firm name from the article. It should have appeared as shown below:

Ms. Habbart is a founding partner of The Delaware Counsel Group LLP. For additional information please contact Ellisa O. Habbart or James C. Strum at The Delaware Counsel Group LLP by calling (302) 576-9600. This article should not be relied upon as legal advice. Copyright © 2008 The Delaware Counsel Group, LLP.

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Ellisa Opstbaum Habbart