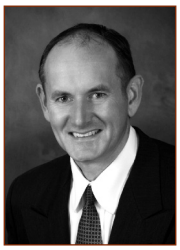
CECB Carnahan, Evans, Cantwell & Brown, P.C.

on the Subject

January 2015

Changing Tides in Employment Law



Christiaan D. Horton

It is no surprise that employment law is strongly influenced by the Federal and state agencies charged with enforcing administrative agendas, and we have experienced a heightened attention to this area of the law in recent years. 2015 will be no different and promises to bring continued strategic enforcement of the myriad of employment laws that we all must follow. This is illustrated by the Strategic Enforcement Plan (SEP) adopted by the Equal Employment Opportunity Commission (EEOC) in 2012. The SEP has several key components that employers must keep in mind as they navigate workforce issues.

According to the SEP, the EEOC has continued significant enforcement of equal pay laws and efforts targeted at eliminating barriers in the recruitment and hiring process. New guidance has been issued regarding background checks, arrest and conviction records and the role that information can play in hiring decisions. In March 2014, the EEOC and the Federal Trade Commission issued a "joint tips" guidance document on employment background checks. This guidance emphasizes that employers must obtain written permission from job applicants before getting background reports and explains that when people are turned down for a job or denied a promotion based on information in the background reports, they have a right to review the reports for accuracy.

This "joint tip" position follows the EEOC enforcement guidance on the consideration of arrest and conviction records in employment decisions under Title VII issued on April 25, 2012. Although it is not mandatory, it does provide significant insight on the intentions of the EEOC on enforcing issues of this nature. The state of Texas is challenging the EEOC's guidance positions which are articulated in a case filed May 9, 2014 in the 5th Circuit Court of Appeals (Docket No. 14–10949). As of print, we await decision on the validity of the EEOC's issued guidance on criminal background checks.

Several high-profile cases have also exhibited the EEOC's designed protection of immigrant, migrant and vulnerable workers in accord with its SEP. In addition, a targeted approach is underway to address emerging employment discrimination claims based on accommodations for pregnancy, LGBT, and the Americans with Disability Act Amendments (ADAA). In July 2014, the EEOC enforcement guidance on pregnancy discrimination and related laws was passed by the Commission by 3-2 vote which fell along party lines. Under this guidance, employers need to provide accommodations to pregnant workers in the same manner as disabled employees and state that pregnancy related complications may be ADAA disabilities.

Presently under review by our US Supreme Court is a 4th Circuit decision that held the Pregnancy Discrimination Act does NOT require employers to provide light duty to pregnant employees even if light duty is provided to disabled workers and those with worker's compensation injuries. *Young v. UPS*, No. 12 –1226. Although not impacted by the record on appeal, UPS informed the Supreme Court through memorandum that its policy has been changed to provide pregnant employees with these accommodations also enjoyed by its disabled workers and those returning to work after injury.

An additional area of concern often encountered in employment claim resolution revolves around the EEOC's desire to preserve employee access to the legal system by challenging overly broad waivers often contained in settlement and release agreements. Yes, this makes employment law attorneys very cautious in drafting enforceable waivers that will pass court scrutiny if challenged on this basis. Moreover, the EEOC also continues to target industries and business with systemic enforcement of anti-harassment laws and regulations which have been on a slight decline since 2009.

In contrast, Fair Labor Standards Act lawsuits remain at an all-time high. This could be the result of a more aggressive Division of Labor Wage and Hour Division enforcement, more state wage and hour laws now in place, or an increased awareness of employees and their attorneys of potential claims under this Act. Another contributing factor could also be the increase of technology and information sharing between agencies. There is a more cooperative approach by regulators to share information across their agencies in the enforcement process, allowing them to cast a wider net over employers in the investigative process that often leads to case prosecutions.

Our current presidential administration also is focused on the expansion of overtime rights, and our President has made it clear that he intends to increase scrutiny for existing salaried executive positions that have previously enjoyed exempt status in overtime compensation. With the duties test tightening, an increase in minimum weekly salary necessary for exempt status is likely if this initiative is launched. There's also a movement to hold employers jointly liable for employment claims in the franchisor-franchisee context which has caused considerable concern throughout the employer community. At the crux of this movement is the command and control that a franchisor exerts over its franchisee in employment matters.

This all reveals the changing dynamics and the ebb and flow of focused initiatives within the federal and state agencies charged with enforcing employment laws. No doubt, with the swing of control in our US Congress resulting from the mid-term elections, these issues will remain hotly debated as regulators continue to implement their strategic plans for future employment law enforcement. For additional information on these trends and what they could mean for your particular business, please contact us so we can help you navigate these turbulent waters.

in this issue

Court Adopts "Contributing Factor" Test to Determine Discrimination Against Employee for Filing Workers Compensation Claim

Howard C. Wright, Jr.

The recent decision in *Templemire v. W & M Welding, Inc.* by the Missouri Supreme Court, has far-reaching implications for all employers. The new test to determine if there has been retaliatory action under section 287.780 RSMo., against an employee for making a claim under the Workers Compensation Law is whether or not the claim was a "contributing factor" to the employer's action.

Prior to the decision in *Templemire* the test was whether or not the action by the employer against an employee was the "exclusive cause" for the employers actions. The difference between the old and new test is like night and day. The *Templemire* case is the latest in a string of cases adopting the "contributing factor" test. First, the Court adopted the "contributing factor" test with respect to cases under the Missouri Commission for the Human Rights Act in *Daugherty v. City of Maryland Heights*, and then, with respect to employer actions for failure to pay, overtime in *Fleshner v. Pepose Vision Institute.*

If an employer discriminates against an employee who filed a workers compensation claim the employer should expect a lawsuit for damages based on the private cause of action created by 287.780 RSMo. for discriminating against someone who filed a workers compensation claim. The new "contributing factor" test established in *Templemire* radically changes the balance with respect to retaliatory action by employers against employees for making a claim under the Workers Compensation Law from a likely win to a likely loser for public employers. Prior to Templemire, the employee had to show that the retaliatory action - taken after the employee filed a workers compensation claim - was the direct cause of the discrimination.

So how do employers protect themselves from retaliatory discharge claims under the Workers Compensation Law? Before answering this question it is useful to review the facts in the *Templemire* case to learn from the good, the bad and the ugly.

Templemire (Employee) was injured on the job, and filed a worker's compensation claim. After returning to the job the Employee was put on light duty and was later fired by the Employer. The Employee filed a claim of retaliatory discharge under 287.780 of the Worker's Compensation Act, which allows the Employee to bring a claim for damages.

There are certainly some inferences in *Templemire* that the Employee took advantage of the situation. On the other hand, the facts showed that the Employer took substantial steps to accommodate the injury of the Employee by providing light duty work and had in place policies that provided for progressive discipline. This is good.

Of course, not everything went the way it was supposed to because the Employer did not follow its progressive disciplinary policy. The Employee had a stellar record with no discipline until after he was injured when he was fired. The Employee was generally regarded as a good worker and a nice guy by his co-workers and supervisors. Ouch, this hurts and is bad. So much for progressive discipline.

Worse yet, at the supervisory level there were a lot of statements adverse to the Employers interest because when the supervisor got fed up he blew up (the court called it a "tirade"). The supervisor believed the Employee was milking the injury and told the Employee he could "sue him for whatever reason, that's what he pays premiums for and the attorneys." This is ugly. In addition, the Employee was able to infer that the Employer seemed to have a policy of treating injured workers harshly.

As you can see this case was a mixed bag for the Employer allowing the trier of the facts (jury or judge, but usually a jury) the leeway to decide the case for or against the Employer making the instructions to the jury critical. This is because the Employee merely needed to establish that the worker's compensation claim was a "contributing factor" to the Employer's decision to terminate his employment. Once the Employee was able to establish that the claim might have been a contributing factor the jury could return a verdict in favor of the employee. Retaliation claims are going to be very difficult to defend because jurors will naturally sympathize with the injured employee and judges will not like anything that looks like it was retaliation.

So what should the employer do to minimize its exposure from claims of retaliatory action by employees who have filed Worker's Compensation claims?

- **Carefully investigate the facts and suspend the employee if necessary while you determine the facts.** Do not take disciplinary action against an employee who filed a workers compensation claim without careful review of the facts. It is better to suspend the employee while action is being considered then make a hasty decision that you will later regret.
- **Have a progressive disciplinary policy that you follow.** I have been involved in many cases where the supervisor contends that the employee was the worst employee in the world but when you looked at the personnel file of the employee there is nothing in the file to back up these statements. In fact, it is not uncommon to see glowing reports of the employees performance with no indication that there is a problem. Many times this is a result of the so-called proverbial "straw that broke the camels back" syndrome. The supervisor does nothing to document his or her concerns until he or she has had their fill of putting up with the employee's actions and then it all breaks loose. Except for the most extreme violation of the work rules, an employer should never fire or take other disciplinary action against a "never previously disciplined or reprimanded" employee that has filed a worker's compensation claim as it would likely be a recipe for disaster.
- **Document, document, document.** An employer should maintain written documentation of employee's work rule violations. If the employee is claiming a back injury and you can obtain photos or video of the employee installing a new roof, as I once did, then the case will be much better. I know loafing on the job is hard to document, but you might be able to do this without being too intrusive, through electronic means. Otherwise good old-fashioned handwritten records that carefully document the actions of the employee are important to back up other evidence.

Continued on Page 3

Court Adopts "Contributing Factor" Test-Continued from Page 3

- **Train supervisors to not make adverse statements.** Tirades should not be tolerated. Remember the attorney for the employee will always be looking for some sort of statement made by your supervisors or yourself to show that you took discriminatory action or you are prejudiced. Once the other side finds these statements or actions they will milk it for everything it's worth. I have always scrutinized the record to see if I can find some little gem, which I can use throughout the case to show discrimination, prejudice or unreasonableness.

Employers may wonder what they can do to establish a reasonable balance between what is fair for the employer and employee. Certainly the remedy will have to come from the General Assembly. The rule prior to the *Templemire* case seemed unfair to the employee while, after the change the new contributing factor rule seems unfair to employers. A balance needs to be struck that protects employees and employers.

There is an intermediate standard known as the McDonnell Douglas burden shifting standard that is used in federal court for EEOC violations, which seems to strike a balance between the two extremes. Under that standard once the employee has made a prima facie case the employer can show it had a valid reason for taking the action that does not violate the law; provided, however the employee can rebut the employers reason by showing that it was a pretext for the employer's actions.

Employers should work individually and together through their respective trade organizations or the Chamber of Commerce as well as other groups to bring about a legislative solution by the General Assembly to strike a fair balance between the rights of workers and employers.

Designating Beneficiaries so the Gift Keeps Giving

Christiaan D. Horton

With the new calendar year, it is always a good idea to reflect on your beneficiary designations for your various accounts including your 401(k) plans and IRA's. Assets like bank accounts, CDs, stocks and real estate will generally pass to your named beneficiaries without income tax ramifications. Beneficiaries will pay ordinary income tax on distributions from pretax 401(k) accounts and traditional IRA's; however, with Roth IRAs and Roth 401(k) accounts, beneficiaries can receive benefits free from income tax if all tax requirements are met. This means you must consider the impact of income taxes when designating beneficiaries on your 401(k) and IRA assets. Otherwise, your beneficiaries may not be treated "equally" as you intended after taxes are paid.

It is also wise to have multiple beneficiaries in the event that a primary beneficiary is unable to receive the benefits or declines them (disclaimer in tax lingo). That way a secondary or contingent beneficiary can receive the benefits, and the benefits can transfer as intended outside of your probate estate.

There are two primary ways your retirement benefits could end up in your probate estate. Most know that probate is the court process in which assets are transferred from someone who has died to his or her heirs or beneficiaries entitled to receive them, but it is something to be avoided, right? Most would agree.

The first way your retirement benefits could end up in your probate estate is by a direct route, the naming of your estate as beneficiary, but should you do this? This raises complex tax considerations that must be seriously considered, and legal advice is always recommended with this approach. The opportunity to maximize tax deferral by spreading out distributions may be lost if your estate receives your retirement benefits.

The second avenue is indirect and often unintended. If no named beneficiary survives you, or if you do not have a properly designated beneficiary on your accounts, your probate estate may end up as the beneficiary by default. Retirement Plan documents should first be considered as they may contain provisions that designate a beneficiary by default if one is not properly named.

Normally a spousal beneficiary has the greatest flexibility for delaying distributions that are subject to income tax. Your spouse may roll over 401(k) or IRA accounts you leave behind to his or her IRA or qualified plan or may treat such accounts as his or her own which can provide more tax and planning options. The potential downside to naming your spouse as a primary beneficiary is that it may increase the size of his or her estate for estate tax purposes.

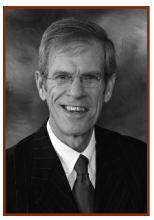
When it comes to naming your Trust as a beneficiary, beware! Special tax rules apply that can create a host of potential income tax complications as well.

With the advent of the new year, this is a great time to contact our Estate Planning Group to make sure that your beneficiary designations are set and that you are maximizing the tax advantages available to you with your estate plan.

Best Lawyers in America and "Best Law Firms"

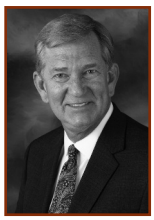
CECB is pleased to announce that three of the firm's Shareholders, Clifford S. Brown, Joseph "Chip" D. Sheppard, III, and Thomas D. Peebles, Jr. were selected by their peers to be among the elite professionals for inclusion in the 2014 edition of *The Best Lawyers* in America.

The firm also received a U.S. News – *Best Lawyers* "Best Law Firms" first-tier ranking. *Best Lawyers* is regarded by both the legal profession and the public as the definitive guide to legal excellence in the U.S. Best Lawyers is based on a rigorous national survey involving more than 3.1 million evaluations of lawyers by other lawyers. (Copyright 2013 by Woodward/White, Inc., of Aiken, S.C.).



Cliff Brown was selected in the practice area of Trust and Estates in Springfield, MO and was also selected in the area of Litigation – Trusts and Estates.

Chip Sheppard was selected for inclusion in The Best Lawyers in America in the practice area of Litigation – Securities.



Tom Peebles selected for inclusion in The Best Lawyers in America in the practice area of Trusts and Estates.

5 CECB Attorneys Selected for Inclusion on the 2014 Missouri-Kansas Super Lawyers List

Each year, *Law & Politics Magazine* invites lawyers in each state to nominate top Missouri and Kansas lawyers, they've personally observed in action. Research is then conducted on each candidate dividing them into practice areas. A panel of preeminent peers in each practice area then evaluates each candidate. From the original pool of candidates, only 5 percent of Missouri and Kansas attorneys are selected for inclusion in Super Lawyers. Meet the five CECB Attorneys that were included on the list.

John M. Carnahan III is a shareholder in the Transactional and Estate Planning Practice Groups of Carnahan, Evans, Cantwell & Brown, P.C. He concentrates his practice in the areas of tax planning, corporate transactions, estate planning, and business succession planning for family-owned businesses. Mr. Carnahan has been awarded an AV Rating by Martindale-Hubbell.

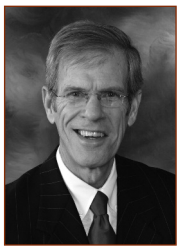
Mr. Carnahan's practice has included advice and assistance in real estate acquisitions and development, financial institution organization and compliance, business and estate planning, and acquisition and sale of businesses. Mr. Carnahan has served as author and editor for the Missouri Law Review, the Current Case Development ABA Section of S Corporations, and The Tax Lawyer.

Mr. Carnahan was recently appointed as the American College of Tax Counsel (ACTC) Regent for the 8th Circuit. The ACTC is a nonprofit professional association of tax lawyers in private practice, in law school teaching positions and in government, who are recognized for their excellence in tax practice and for their substantial contributions and commitment to the profession. The College is composed of Fellows (approximately 700 current members) chosen by their peers in recognition of their outstanding reputations and contributions in the field of tax law and is governed by a Board of Regents consisting of one Regent from each federal judicial circuit and two Regents at large. Regents are primarily responsible for assisting in the nomination process for new ACTC Fellows.

In 2005, the Missouri Senate confirmed Mr. Carnahan's appointment by Governor Matt Blunt to serve on the University of Missouri Board of Curators, representing the Seventh Congressional District. The Board of Curators is a nine-person governing body of a four-campus system including the University of Missouri-Columbia, the University of Missouri-Kansas City, the University of Missouri-Rolla, and the University of Missouri-St. Louis.

Mr. Carnahan is also a member of the Springfield Metropolitan and American (Member, Sections on: Taxation, Business Law, and Real Property, Probate and Trust Law) Bar Associations, as well as The Missouri Bar (Chairman, Taxation Committee, 1984-1985). He is a Fellow of the American College of Tax Counsel, the American Bar Foundation, the Missouri Bar Foundation, and has been active in Bar Association activities involving continuing legal education. Mr. Carnahan has been included on the Missouri Kansas "Super Lawyers" list published by *Law and Politics* magazine since 2006.

John has been included on the *Missouri Kansas Super Lawyers®* list since 2006.



Clifford S. Brown practices in the Estate Planning Practice Group at Carnahan, Evans, Cantwell & Brown, P.C. He concentrates his practice in the areas of estate planning, probate, and trust litigation, and related tax matters.

Mr. Brown served as the 84th President of the Springfield Metropolitan Bar Association in 2006. In September 2003, he was appointed to the Board of Law Examiners by the Supreme Court. As a Board member, his role involves the investigation and determination of the character and fitness of individuals seeking admission to the bar, determining the qualifications of practicing attorneys from other states seeking to be admitted to the Missouri Bar without examination, and in developing, administering, and grading the examinations of new applicants seeking admission to the bar.

Mr. Brown has served as an educator and speaker on behalf of the Supreme Court of the State of Missouri, the Missouri Bar Association, the University of Missouri - Columbia School of Law, and other organizations in providing continuing legal education to members of the legal profession. Mr. Brown is listed in Who's Who in American Law, as well as The Best Lawyers in America. Mr. Brown is the author of several publications, including the chapters on "Taxation" (Missouri Family Law Deskbook, The Missouri Bar, 4th and 5th Editions, published July 1988 and 1996, respectively), and as co-author of the chapter on "Trust Contests" (Missouri Trusts, Powers of Attorney, Custodianships, and Nonprobate Matters, 2nd Edition, published 2006).

In 1991, Mr. Brown was elected as a Fellow of the American College of Trust and Estate Counsel. Additionally, Mr. Brown is a member of the American Bar Association where he is a Member of the Trust and Estates Group and the Missouri Bar, where he has served as Chairman of the Probate Law Subcommittee of the Probate and Trust Committee. Mr. Brown is also a member of the Greene County Estate Planning Council.

Mr. Brown's community involvement includes serving on the Board of Directors of the Burrell Center and the Community Foundation of the Ozarks.

Cliff has been selected to the *Missouri Kansas Super Lawyers®* list since 2005.

Joseph D. "Chip" Sheppard, III is a shareholder in the Litigation/Dispute Resolution Practice Group of Carnahan, Evans, Cantwell & Brown, P.C. He concentrates his practice in the areas of real estate, business, securities and intellectual property litigation, dispute resolution and transactions.

A substantial portion of Mr. Sheppard's practice includes securities and other fraud and fiduciary duty related claims, both as an arbitrator and as counsel for the parties. Mr. Sheppard has tried a combined total of more than 50 arbitrations, state and federal trials, both jury and non-jury, in his areas of concentration. Other areas of concentration are various business transactions, acquisitions, real estate development and related litigation and probate litigation.

Mr. Sheppard is a board member of the Springfield Metropolitan Bar Association, Chairman of the Non-Partisan Court Plan Committee, member of the American Bar Association, the Missouri Bar, and the Public Investors Arbitration Bar Association. In 2005 he was elected as a Fellow of the American Bar Association, an honor bestowed upon less than .5 percent of the. In 2008, he Co-Chaired the Greene Countians for Fair and Impartial Judges Committee which was responsible for bringing the Missouri Court Plan to Greene County, was a finalist for

Continued on Page 5

Missouri-Kansas Super Lawyers - Continued from Page 4

Missouri Lawyer of the Year and received the Missouri Bar Association and Springfield Metropolitan Bar Association President's Awards in recognition of extraordinary service to those Associations and the legal profession. Finally, he has been named to the "Best Lawyers in America" list by the publication of the same name. Mr. Sheppard is a former arbitrator for the American Arbitration Association, New York Stock Exchange, and is presently an arbitrator for the National Association of Securities Dealers (FINRA).

Mr. Sheppard's community involvement includes serving as a director of Hickory Hills Country Club (2003-present), as well as serving as a member of the Chamber of Commerce Governmental Relations Committee (1995-present). He also served as an Elder at the First and Calvary Presbyterian church and on various committees. Mr. Sheppard has also served on the Board of Directors for Leadership Springfield and the Housing Authority of Springfield.

Chip was selected to the *Missouri Kansas Super Lawyers®* list in 2005 and 2006 and again for 2010-2014.

Thomas D. Peebles, Jr is a shareholder and member of the Estate Planning Practice Group of Carnahan, Evans, Cantwell & Brown, P.C. Mr. Peebles has concentrated his practice in estate planning and estate and trust administration matters since 1980.

Mr. Peebles has significant experience in the preparation of basic and sophisticated estate planning documents, and in wealth transfer planning for high net worth clients, closely held business owners and their families. He has been awarded an AV Rating from Martindale-Hubbell in recognition of his preeminent work in assisting his clients in achieving their estate planning goals and objectives. In 2004, Mr. Peebles was elected a Fellow of The American College of Trust and Estate Counsel in recognition of distinguished service in the practice of estate planning, probate and trust law.

Mr. Peebles has been honored since 2010 by being named to the "Best Lawyers in America" list. In 2007, Mr. Peebles was elected by his peers as a Fellow in the American Bar Foundation. Membership as a Fellow in the American Bar Foundation is limited to one-third of one percent of the lawyers in America and is in recognition of a lawyer whose professional, public and private career has demonstrated outstanding dedication to the welfare of the community and to the traditions of the profession.

Mr. Peebles is the author of several publications, including "Estate Planning Practice - The Fundamentals" (MoBAR, Annual Estate and Trust Institute, 2003), "Miscellaneous Estate Planning Techniques" (Missouri Bar Estate Planning Deskbook, 3rd Edition, 2010) "Basic Tax Considerations" (National Business Institute, How to Draft Wills and Trusts in Missouri, 1996), "Funding and Operating Living Trusts" (National Business Institute, Planning Opportunities with Living Trusts in Missouri, 1993), and "Funding the Living Trust" (MOBAR CLE, Effective Use of Living Trust, 1991). Additionally, Mr. Peebles is a frequent speaker on estate planning topics, including programs for The Missouri Bar.

Mr. Peebles has, over the years, devoted a substantial amount of his time towards civic and charitable activities including the Community Foundation of the Ozarks, the Foundation for the Springfield Public Schools, the Springfield-Greene County Library Foundation, the History Museum of the Ozarks, the Hospice Foundation of Southwest Missouri, and the Child Advocacy Council. Mr. Peebles was recognized as one of ten "Volunteers of the Year" as part of the 2004 Gift of Time Awards sponsored by the Council of Churches of the Ozarks.

In addition to his membership in the American College of Trust and Estate Counsel, Mr. Peebles is a member of the Springfield Metropolitan Bar Association (Chair, Probate and Trust Committee, 1991 to 1992), the Missouri Bar (Member, Probate and Trust Committee), the Greene County Estate Planning Council (President, 1990-1991), and the American Bar Association (Member, Real Property, Probate and Trust Law Section).

Tom was selected to the *Missouri Kansas Super Lawyers®* list in 2005 and 2006 and again for 2010-2014.

Rodney H. Nichols is a shareholder of the firm and is part of the Banking, Litigation and Transactional Practice Groups of Carnahan, Evans, Cantwell & Brown, P.C. He concentrates his practice in the areas of banking and creditor's rights, commercial and real estate litigation and general corporate matters. He has served as Chairman and Vice Chairman of the Bank Counsel Section of the Missouri Banker's Association and remains a member of its advisory board. He has been a frequent speaker on current legal issues and trends impacting financial institutions, and along with another member of the firm's litigation team, successfully defended a large regional financial institution in a case brought against it in federal court by a customer involving a fraudulent wire transfer and the financial institution's online banking security. This was the first reported case in the United States where the financial institution prevailed in establishing the soundness of its online banking security under Article 4A of the Uniform Commercial Code. The case has received national attention and has been widely publicized in various banking publications.

Mr. Nichols has also served as an appointed member of the Federal Practice Committee for the United States District Court, Western District of Missouri and is a former Chairman of the Springfield Metropolitan Bar Association's Federal Bench and Bar, Commercial Law and Insolvency and Programs committees.

Mr. Nichols devotes a significant amount of time to the community and has served as Chairman of the Board of Directors for the Developmental Center of the Ozarks. In October 2004, Mr. Nichols was appointed by the Greene County Commissioners to serve as a Member of the Springfield/Greene County Library Board of Trustees and served two terms through July, 2011. In 2003, he was recognized by the Springfield Business Journal with their "40 Under 40" award, for his outstanding contribution to the community and his profession.

In January 2007, Mr. Nichols was appointed as a Member of the City of Springfield's Jordan Valley Park Tax Abatement and Tax Increment Financing Commission. In 2011 he was selected to serve as a member of a task force organized by the City of Springfield to evaluate the future use and development of a parcel of real estate owned by the City adjacent to the City's Exposition facility.

Rodney was previously named to the *Missouri & Kansas Super Lawyers* list as a Rising Star and was selected in 2013 & 2014 for inclusion on the *Missouri Kansas Super Lawyers®* list.

CECB Carnahan, Evans, Cantwell & Brown, P.C.

2805 S. Ingram Mill Road
P.O. Box 10009
Springfield, Missouri 65808-0009
PH: (417) 447-4400 • FAX: (417) 447-4401
www.cecb.com • cecb@cecb.com

ADDRESS SERVICE REQUESTED

Founded in 1979, Carnahan, Evans, Cantwell & Brown, P.C. is a locally owned and operated law firm noted for its commitment to providing superior client service to a diverse client base, including national and regional businesses, financial institutions, not for profit organizations and individual clients. The Firm currently has 20 attorneys, including seven who have their Master of Laws in Taxation. An "A-V rated" preeminent law firm by Martindale-Hubbell, our attorneys are engaged in the general business practice of law with an emphasis in the following areas:

- Business Organization and Planning
- Corporate
- Estate Planning
- Probate
- Trust Administration
- Transactions
- Local Government Law
- Real Estate and Construction
- Taxation
- Employee Benefits
- Banking
- Commercial Litigation and Dispute Resolution
- Environmental and Utility
- Economic Development
- Intellectual Property and Franchise
- Arbitration and Mediation
- Mechanics' Liens and Foreclosures
- Pension and Profit Sharing
- Employment
- Zoning and Land Development
- Wealth Strategies

Carnahan, Evans, Cantwell & Brown, P.C. **Attorneys at Law**

John M. Carnahan III
William E. Evans
C. Bradford Cantwell
Clifford S. Brown
Frank C. Carnahan
Joseph Dow "Chip" Sheppard III
Julie T. Brown
Thomas D. Peebles, Jr.
John E. Price
Jennifer K. Huckfeldt
Douglas D. Lee
Rodney H. Nichols
Andrew K. Bennett
Richard T. Ashe
Christiaan D. Horton
Richard B. Maltby
Howard C. Wright, Jr
Courtney L. Fletcher
A. Jay Preston

Treasury Department Circular 230 Disclosure: To ensure compliance with the requirements imposed by the Treasury Department, we inform you that any U.S. federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.