



Attorneys at Law

Glenn E. Benckendorf
David A. Benckendorf
James W. Benckendorf
Lynne M. Binkele

101 N. E. Randolph Ave. ■ Peoria, IL 61606 ■ 309-673-0797 ■ Fax: 309-673-8759
204 N. Main St. ■ Morton, IL 61550 ■ 309-266-6121 ■ Fax: 309-266-8759

November 28, 2000

Points of Business Interest

- *Revisions to partnership rights:* Public Act 91-0840 revises current law in limited partnerships by removing a limited partner's right to withdraw regardless of the term of the partnership, as well as making changes affecting tax treatment for the partnership. Similarly, Public Act 91-762 deals with the effects of the death of a general partner in order to soften the impact of this technical dissolution of the partnership for tax purposes.
- *From information highway to information haven:* SeaLane, headquartered off the shore of England, is being touted as a data haven for the secure storage of data, web sites and e-mail. The lure is the promise of complete privacy, regulation and taxation. Similar havens have been proposed elsewhere.
- *The COBRA bites back:* An employee of a Wal-Mart store in Indiana was terminated, but then returned to work within one month of the termination. Wal-Mart failed to tell her that she had to continue to make COBRA payments on her health insurance to avoid the pre-existing condition limitation on the renewed medical insurance coverage by Wal-Mart. The court held that in failing to explain the situation to the employee, Wal-Mart breached its fiduciary duty to her. It is essential when an employee is terminated that the employee's rights to continue health insurance under COBRA be explained to the departing employee. If that employee comes back, it is essential that it also be explained to the employee that he or she must make the COBRA payments if coverage for pre-existing conditions is desired.
- *Franchisee's take note:* A panel of the American Arbitration Association ruled in favor of franchisees who argued that the value of the exclusive territories granted in their franchise agreements was diluted by the franchiser's competing web-site. The web-site offered lower prices than those charged by the franchisees. The arbitrators granted a preliminary injunction prohibiting on-line sales in the franchisee's territories.
- *Going, going, gone:* Whether you have a web-site or not, it is essential to register potential domain names that you wish to retain. Domain names are going quickly, and the modest cost of reserving the name you desire is a sound investment.
- *Electronic Signatures in Global and Economic Commerce Act:* President Clinton signed the Electronic Signatures in Global and Economic Commerce Act, allowing contracts to be signed on line. Consumers must agree to electronic transactions and consent to receive electronic records. In addition, a company using digital signatures on the contract must confirm that the consumer has the hardware and software required to receive its online documents, and some notices, such as termination of health-insurance coverage, must also be sent on paper.
- *Defamation on the Internet:* The U.S. Supreme Court has let stand a ruling by the New York Court of Appeals that held that Prodigy, an Internet service provider, was not liable for the defamatory content of e-mail transmitted through its services.