

WISCONSIN CHIEFS OF POLICE ASSOCIATION

LEGAL UPDATE

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Attorney James R. Korom

VON BRIESEN & ROPER, S.C.
411 East Wisconsin Avenue: Suite 700
Milwaukee, Wisconsin 53202

www.jkorom@vonbriesen.com

**Toll Free Number (800) 622-0607
(414) 287-1231 (Mr. Korom's direct line)**

I. UNION/MANAGEMENT ISSUES

- A. Choice of the Specific Union Representative Belongs to the Employee Absent Extenuating Circumstances. *Anheuser Busch Inc. v. NLRB*, 338 F.3d 267 (4th Cir. 2003).
- B. Non-Represented Employees are not Entitled to Representation; the NLRB Flip Flops Again. *IBM*, 341 NLRB No. 148 (June 9, 2004), Case No. 11-CA-19324.
- C. Arbitrator Rules Upgrading Educational Requirements is Lawful. *Oconto Falls School District*, MA-12255 (April 12, 2004) (Jones, Arb.)
- D. Canine Agreements, Reasonableness, and the FLSA. *Leever v. Carson City*, 360 F.3d 1014 (9th Cir. 2004).

II. DISCIPLINE/DUE PROCESS ISSUES

- A. Doctrine of “Forced Self Publication” Rejected by Courts. *White v. Blue Cross & Blue Shield of MA.*, 442 Mass. 64 (2004).
- B. Properly Handling Due Process Issues in the Context of an Employee Who is Absent Without Permission. *Hudson v. City of Chicago*, 03-2690 (7th Cir., 2004).
- C. Interplay Between Statutory and Certiari Appeals From PFC Decisions. *Gentilli v. Board of Police and Fire Commissioners of the City of Madison*, 02-3208, (Wis. Supreme Ct., 2004).
- D. Can an Abusive Employee Effectively Taint the Neutral Decision Maker? *Beischel v. Stone Bank School District*, 03-2182 and 03-2327, (7th Cir., 2004).

- E. How to Handle the Employee Using the Discrimination Complaint Frivolously as a “Tactical Coercive Weapon”. *Mattson v. Caterpillar, Incorporated*, 359 F.3d 885 (7th Circ., 2004).

III. POTPOURRI

- A. Residency Requirements Continue to be Enforceable. *Gusewelle v. City of Wood River*, 03-2100 (7th Circ., 2004).
- B. Wisconsin Supreme Court Follows Up On ADA and Reasonable Accommodation Issues After Crystal Cheese. *HTI v. LIRC*, 02-3328, 2004 WI 90 (Wis. Supreme Ct.).
- C. Application of the “Firefighter’s Rule” to Police Officers. *Cole v. Hubanks*, 02-1416 (Wis. Supreme Ct., 2004).
- D. Interplay Between Speech Issues and Psychological Exams. *McGreal v. Ostrov*, 368 F.3d 657 (7th Cir., 2004).
- E. Lawfulness of “No Re-Hire” Rules Upheld Against ADA Challenge, *Raytheon Co. Hernandez*, 540 U.S. 44 (2003).

IV. FLSA EXEMPTIONS – RECENT DEVELOPMENTS