

**FOLEY EXECUTIVE BRIEFING SERIES**




---

**New FMLA Protections for  
Military Members and FMLA  
Open Forum**

Ann I. Mennell

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---



**FOLEY EXECUTIVE BRIEFING SERIES**

---

**Objectives for Session**

- Describe new military leave provisions
- Explain how they fit into existing law
- Discuss necessary policy revisions
- Open forum for FMLA question
- Opportunity to share practices

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---



**FOLEY EXECUTIVE BRIEFING SERIES**

---

**Current Status of the FMLA**

- National Defense Authorization Act
  - Amends FMLA statute
  - Signed by President Bush and in effect January 28, 2008
  - No regulations defining terms

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 **FOLEY EXECUTIVE BRIEFING SERIES**

## Current Status of the FMLA

- Revised Proposed FMLA Regulations
  - Published February 11, 2008
  - First change to regulations since 1995

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 **FOLEY EXECUTIVE BRIEFING SERIES**

## Current Status of the FMLA

- Revised Proposed Regulations
  - No binding legal effect until final
  - 60 day comment period
  - Seeks comments on regulations for NDAA
  - Final regulations expected by January 2009

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 **FOLEY EXECUTIVE BRIEFING SERIES**

## Interaction with Existing Law New Terms

- NDAA adds new definitions:
  - “Contingency operation”
    - Refers to the definition in section 10 USC 101(a)(13)
  - “Active duty”
    - Means a call or order under section 10 USC 101(a)(13)(B)

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law New Terms

- Contingency operation
  - Section 10 USC 101(a)(13)
    - (A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
    - (B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301 (a), 12302, 12304, 12305, or 12406 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law New Terms

- “Covered servicemember”
  - A member of the Armed Forces, including a member of the National Guard or Reserves, who is **undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.**

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law New Terms

- “Outpatient status”
  - Member of the Armed Forces assigned to:
    - (A) a military medical treatment facility as an outpatient; or
    - (B) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law New Terms

- "Next of kin"
  - Means the nearest blood relative of that individual.
- "Serious injury or illness"
  - In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law Leave Requirements

- Added to the reasons an employee can take FMLA in a year:
  - Because of any qualifying exigency (as the Secretary shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
  - This is part of the 12 weeks per eligible employee per year

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law Leave Requirements

- Another new category, with a new time limit:
  - A spouse, son, daughter, parent, or **next of kin** of a covered servicemember shall be entitled to a total of **26 workweeks** of leave during a 12-month period to care for the servicemember.
  - Only be available during a single 12-month period.
  - The 26 weeks includes all types of FMLA leave (birth, own serious health condition, etc.)

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law Leave Requirements

- The new leave categories
  - May be taken intermittently or on a reduced schedule
  - Employee may be temporarily transferred to a position that better accommodates the schedule
  - Same substitution of pay provisions as other FMLA

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law Notice Requirements

- New provision
- For “qualifying exigency” leave:
  - In any case in which the necessity for leave under subsection (a)(1)(E) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of a contingency operation, the employee **shall provide such notice to the employer as is reasonable and practicable**

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Interaction with Existing Law Sharing

- New provision
- Servicemember Family Leave
  - The aggregate number of workweeks of leave to which both husband and wife may be entitled may be limited to 26 workweeks during the single 12-month period

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Updating Your Policy

- Options
  - Act now
  - Wait
  - Addendum

 FOLEY  
FOLEY & LARDNER LLP

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Updating Your Policy

- “Qualifying Exigency” leave not in effect until regulations in place
- This policy will be administered in compliance with the NDAA for FY 2008

 FOLEY  
FOLEY & LARDNER LLP

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Updating Your Policy

- Add definition of “Servicemember family leave” and note single 26 week entitlement.

 FOLEY  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

---

## FMLA Open Forum

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---

---


---

 FOLEY EXECUTIVE BRIEFING SERIES

---

## Eligibility

- Federal FMLA
  - Worked for the employer for at least 12 months and “worked” 1250 hours in prior 12 months
    - No change proposed
- Wisconsin FMLA
  - Worked for the employer 12 months and paid for 1000 hours in prior year

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---

---


---

 FOLEY EXECUTIVE BRIEFING SERIES

---

## Proper determination of eligibility

- Issue: Employee has worked at our location through temporary help agency or at a predecessor company for one year, but has only worked for us for six months. Is the employee eligible for FMLA?

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Proper determination of eligibility

- Yes, federal FMLA eligible.
- Analysis: Time worked through a temporary help agency or predecessor company counts toward the 1250 hour and 12 month eligibility requirements.
  - Related proposed regulations: Identify the worksite for temporary employees.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Proper determination of eligibility

- Related issue: The employee is not eligible, but we give the employee “FMLA” leave.
- Analysis: If we grant FMLA (or call leave “FMLA” that really isn’t FMLA) and count that that time against the employee’s 12 weeks, we may violate the FMLA if we later terminate the employee for exhausting all FMLA.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

### Practical Advice: Proper Determination of Eligibility

- Practical tips:
- First step in an FMLA leave request should always be determining employee eligibility.
- Do not call leave “FMLA” if it is not really FMLA-covered leave.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

---

---



 FOLEY EXECUTIVE BRIEFING SERIES

## Defining Serious Health Condition

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Defining Serious Health Condition – Federal FMLA

- What’s a “serious health condition”
  - Any period of inpatient care
  - Any incapacity lasting more than three consecutive calendar days (not work days) that involves either:
    - Two or more treatments by a health care provider [proposed regulations say in a 30-day period]; or
    - One treatment by a health care provider followed by continuing therapy with specialized equipment

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Defining Serious Health Condition – Federal FMLA

- Example of qualifying condition:
  - Employee misses four days of work, sees doctor for bronchitis and is prescribed an antibiotic
- Continuing treatment does not include:
  - Taking over-the-counter medicines
  - Bed rest, drinking fluids, exercise
  - Similar activities that can be undertaken without a visit to a health care provider
- Some common illnesses won’t usually meet the definition of serious health condition.
  - Cold, flu, ear ache, upset stomach, headaches other than migraine, routine dental problems

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---


---

---

---

---


---

 FOLEY EXECUTIVE BRIEFING SERIES

## Defining Serious Health Condition – Federal FMLA

- What is a serious health condition?
  - Any incapacity due to pregnancy or prenatal care
    - Includes morning sickness, routine prenatal visits
  - Any incapacity (even one less than three calendar days) relating to a chronic serious health condition
    - Examples: asthma, migraines, diabetes, epilepsy, depression

©2008 Foley & Lardner LLP



---

---

---

---

---

---

---


---

---

---

---


---

 FOLEY EXECUTIVE BRIEFING SERIES

## Practical Advice: Defining Serious Health Condition

- Practice Pointer Federal FMLA: Do not be distracted by the name of a condition, or how serious, or not serious, it sounds.
  - Look at the particular facts and determine whether the employee’s absence meets one of the FMLA criteria for a “serious health condition.”

©2008 Foley & Lardner LLP



---

---

---

---

---

---

---


---

---

---

---


---

 FOLEY EXECUTIVE BRIEFING SERIES

## Practical Advice: Defining Serious Health Condition

- Practice Pointer Wisconsin FMLA: Do not simply grant FMLA for any length of absence less than four days.
  - Look at the particular facts and determine whether the doctor would likely find a short term condition to be a “serious health condition.”

©2008 Foley & Lardner LLP



---

---

---

---

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Practical Advice: Defining Serious Health Condition

- Practice Pointers
  - Certification of Health Care Provider Form should be carefully reviewed to ensure it meets the regulatory definition
  - Check for signs of alteration of document
  - Ensure that employee's incapacity matches that described in the certification

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Identifying Requests for FMLA Leave

- What do employees have to tell us in order to have leave counted as FMLA?
  - They don't have to use the words "FMLA"
  - They need to give enough information so we know the absence is probably FMLA protected
  - Ideally FMLA is reported directly to HR, but if supervisors learn an employee is gone for what may be an FMLA reason, they must make sure HR is aware of the absence and tell the employee to go to HR

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Accessing Medical Information

- It is the employer's responsibility to make FMLA designations.
- The employer (HR) needs to review and understand the medical facts related to FMLA leave.
- In most cases, FMLA information is not HIPAA-protected.

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Accessing Medical Information

- HIPAA applies only to "protected health information."
- HIPAA's privacy rules apply only to "covered entities."
- Employers are not covered entities (although their group health plans may be).
- Thus, HIPAA does not apply to FMLA medical information received by the employer.
- FMLA is not considered a group health plan.
- Therefore, FMLA information contained in an employer's files is not covered by HIPAA.
  - (Note that other types of programs for which the employer receives medical information – such as disability or worker's comp – are also not subject to HIPAA.)

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Accessing Medical Information

- FMLA administration may, however, be affected by HIPAA in one of two ways:
  - The doctor from whom the employer wants to get FMLA paperwork is likely a covered entity subject to the HIPAA rules. Therefore, the doctor should not be disclosing information without authorization.
  - It is preferable that the employee provide the medical certification to the employer to avoid this issue.
- Proposed regulations address HIPAA
  - Allow direct contact from employer to doctor
  - But requires employee to sign a HIPAA release so employer can get information from doctor

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Substitution of Paid Sick Leave for FMLA Leave

- Should give notice and run FMLA concurrently with paid leave whenever possible.
- Can require employees on paid sick leave to provide note proving illness in order to get sick pay
  - DOL Opinion Letter
  - In order to receive sick pay can require employees on FMLA, like other employees, to bring doctor's note
  - If employee refuses, must grant unpaid FMLA

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Employer Failure to Designate Leave Not Fatal

- **Facts:** Material handler unable to perform own job for 13 weeks, then terminated when restrictions became permanent because no work within her restrictions, sued under FMLA.
- **Result:** Failure to give FMLA notice absent harm is not an FMLA violation.
- **Reasoning:** Here medical records showed employee was unable to return to her own job after 12 weeks.
  - Even if she had received notice, she was not medically able to be reinstated.
  - *Roberts v. Owens-Illinois, Inc.* (N.D. Ill.)
- Proposed regulations clarify this issue

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---

---

---

---

---

---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Termination During FMLA

- **Facts:** During maternity leave, employee's position was eliminated as part of 23 person RIF. Is this an FMLA violation?

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---

---

---

---

---


---

---

---


---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Termination During FMLA

- **Result:** No FMLA violation if employer can prove termination would have occurred regardless of FMLA leave.
- **Reasoning:** Right to reinstatement does not exist if employer can prove position would have been eliminated regardless of FMLA leave, but here there was no written evidence of the alleged performance problems prior to leave, in fact employee had been promoted, and promotion of assistant to employee's job while on leave suggested possible violation.
- *Batka v. Prime Charter Ltd.* (S.D.N.Y.)

 FOLEY  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---

---

---

---

---


---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## Practical Advice: Termination During FMLA

- Practice Pointer - If an employee is going to be terminated during or shortly after FMLA leave, be very sure your documentation can support that the termination was not related to FMLA usage.

 FOLEY  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## FMLA Management Strategies

- Manage your FMLA process
  - FMLA administered through HR to the extent possible (not supervisors, security, receptionist, unrelated parties)
  - FMLA managed by a limited number of people
  - Consider using a call-in line

 FOLEY  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

 FOLEY EXECUTIVE BRIEFING SERIES

## FMLA Management Strategies

- Follow your FMLA process
  - Comply with all posting requirements
  - Include FMLA policy in handbook
    - Ensure method of tracking is defined (i.e., calendar year, rolling backward, etc.)
  - Train supervisors regularly
  - DO NOT over-educate your workforce about FMLA

 FOLEY  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

FOLEY EXECUTIVE BRIEFING SERIES

## FMLA Management Strategies

- Use all tools permitted in the regulations
  - Written leave request
  - Medical certification
    - DOL Form
  - Recertification
  - Second and third opinions
  - Fitness-for-duty report
  - Periodic status reports

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---


---

---

FOLEY EXECUTIVE BRIEFING SERIES

## FMLA Management Strategies

- Adequacy of medical certification
  - Medical certification procedure.
  - Employer must notify employee of defect in certification.
  - Second opinion not required if employee's certification shows no serious health condition.
  - Third opinion not mandatory
  - Burden on employee to update medical certification.



©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

---

---

FOLEY EXECUTIVE BRIEFING SERIES

## Other questions?

©2008 Foley & Lardner LLP

**FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---

---

---

 **FOLEY EXECUTIVE BRIEFING SERIES**

---

**Contact info:**

**Ann I. Mennell**  
**777 East Wisconsin Avenue**  
**Milwaukee, WI 53202-5306**  
**Direct Dial: 414.297.5813**  
**Fax: 414.297.4900**  
**E-mail: amennell@foley.com**

 **FOLEY**  
FOLEY & LARDNER LLP

©2008 Foley & Lardner LLP

---

---

---

---

---

---

---

---

**FOLEY EXECUTIVE BRIEFING SERIES**



---

**New FMLA Protections for  
Military Members and FMLA  
Open Forum**

Ann I. Mennell

 **FOLEY**  
FOLEY & LARDNER LLP

---

---

---

---

---

---

---

---





## Federal FMLA Toolchest for Addressing Possible FMLA Misuse

1.	Look carefully at the Certification of Health Care Provider form to ensure it is complete. Does it show that the employee/family member is incapacitated? Does it provide enough information to establish the existence of a serious health condition? Is there any evidence of alteration by the employee?
2.	With the employee's permission (which may be obtained as part of the Request for Leave), contact the employee's health care provider in order to authenticate or clarify information contained on the Certification.
3.	Talk to the employee about the need for leave. Offer to assist the employee with making doctor's appointments outside of regular work hours. Remind the employee of the obligation to cooperate with the employer and try to plan absences in a way that meets both the Company's and the employee's needs.
4.	Require employees with chronic serious health conditions to recertify their serious health condition no more often than once every 30 days in connection with an absence.
5.	Recertification can be required more often than once every 30 days, however, in connection with an absence if information received casts doubt on the stated need for leave or if the circumstances have changed significantly (e.g., the frequency of absences).
6.	In long-term FMLA situations, consider obtaining a second opinion from a health care provider that the employee does not regularly use.
7.	If the first and second opinions differ, consider obtaining a binding third opinion from a mutually agreed upon doctor. Note: the third opinion is not mandatory.
8.	Consider surveillance. Before disciplining, confirm that observed activity is truly inconsistent with FMLA leave.
9.	Track absence pattern. Watch for a noticeable pattern.
10.	Require fitness-for-duty note before allowing employee to return to work following his or her own serious health condition.
11.	Require the employee to call in periodically to report their status.
12.	Require employee to follow regular attendance procedures, regarding calling before the beginning of shift, calling the correct location to report absences, etc. Failure to follow the procedure may result in discipline. However, it cannot result in denial of an otherwise qualifying leave.
13.	Consistently require the employee to comply with all FMLA certification and documentation requirements as well as all regular attendance procedures.

**Ann I. Mennell, Partner**  
**Foley & Lardner**  
**414.297.5813**  
**amennell@foley.com**



## ANN I. MENNELL



PARTNER

AMENNELL@FOLEY.COM

777 E WISCONSIN AVENUE  
MILWAUKEE, WI 53202-5306  
(414) 297-5813

Ann I. Mennell is a partner with Foley & Lardner LLP and a member of the firm's Labor & Employment Practice and Automotive and Energy Industry Teams. Ms. Mennell provides union and nonunion employers with employment law advice and provides assistance with problem prevention and dispute resolution. She regularly handles union organizing campaigns, arbitrations, unfair labor practice charges and collective bargaining negotiations. Ms. Mennell also represents employers before federal and state courts and administrative agencies in all areas of employment law, including family and medical leave, disability discrimination, harassment, and wage and hour matters.

Ms. Mennell creates and presents training programs and workshops for human resources professionals and supervisors which focus on practical advice to ensure compliance with employment laws. She is a frequent speaker on FMLA, ADA and return to work issues. Ms. Mennell consults employers on development and delivery of diversity initiatives.

Working closely with employers, Ms. Mennell promotes the use of technology to increase the efficiency and effectiveness of delivery of legal services. She also utilizes creative alternative dispute resolution mechanisms to resolve workplace disputes prior to trial.

Ms. Mennell provides pro bono employment law advice to small non-profit organizations. She is a former member of the board of directors for the Hope House homeless shelter and a speaker regarding the impact of domestic violence on the workplace on behalf of the Task Force on Family Violence.

A native of Los Angeles, Calif., Ms. Mennell received her J.D. degree from the University of Michigan in 1990 where she served as the president of Phi Alpha Delta legal fraternity. She received her Bachelor of Science





---

degree, with honors, in political science and economics from the University of Wisconsin in 1985.

Ms. Mennell is admitted to practice in the State of Wisconsin, the Seventh Circuit Court of Appeals, the United States District Court for the Eastern and Western Districts of Wisconsin, and the United States District Court for the District of Arizona. Ms. Mennell is a member of the Labor and Employment Law section of the American Bar Association, the State Bar of Wisconsin, the Milwaukee Bar Association, and the Association for Women Lawyers.