

Ohio Matters

An Official Publication of *The Ohio Chamber of Commerce*

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OHIO BUSINESSES... GOOD FOR LIFE

Every day, businesses throughout Ohio are doing great things that improve lives and strengthen communities. This summer, the Ohio Chamber of Commerce is embarking on a unique statewide image campaign that touts the positive things Ohio businesses are doing for individuals and their communities.

We want Ohioans to know that not only are the employers in our state providing jobs and benefits, they are also building parks, providing educational opportunities, mentoring children, helping those in need and making our state a better place to live. Ohio businesses are doing great things, and we want to raise the level of awareness of what they are doing through the Ohio Businesses ... Good for Life campaign.

In February, the Ohio Chamber sent out a request for stories, and businesses large and small, from all over the state, responded.

“We received stories that really moved us,” says Ohio Chamber President and CEO Andy Doehrel. “From baseball fields that support children with different abilities to providing job opportunities to adults who have had problems getting a job, Ohio businesses have great stories to tell.”

Through this campaign, Ohioans are hearing these stories through media buys on network television, social media, outdoor billboards, digital stories and the website www.ohiogoodforlife.com. Some examples of the stories follow.

- **The Miracle Park of Findlay** was made possible by Marathon Petroleum and Blanchard Valley Health System. This custom baseball field, with a cushioned, rubberized surface, allows kids with special needs to play baseball. The field hosts an organized league during the spring through the fall and will host a national Miracle Field all-star tournament with players from all over the nation in September.
- **The Grange Insurance Audubon Center** in Columbus provides a place for school-aged children to learn more about the natural world and conservation. The Scioto Audubon Park was once a blighted brownfield and is now 120 acres of parkland in the middle of Ohio’s capital city.
- **The Wilds** is a conservation center in southeastern Ohio made possible thanks to AEP’s donation of nearly 10,000 acres of reclaimed strip mining land between Zanesville and Cambridge. The Wilds is now a part of the Columbus Zoo and home to hundreds of animals both native and from other countries.
- **She Has A Name** provides jobs for women with alternative resumes. These jobs not only provide women with an income but also with the support they need to become leaders in the company and community.

Ohio Businesses... Good for Life.



Other projects include:

- Delta Dental’s installation of water bottle fillers in public schools cuts back on plastic bottles going to landfills while providing purified water for students.
- Ohio Art has provided jobs for generations of local families and has remained committed to manufacturing in Ohio through the ups and downs of the economy.
- UnitedHealth Foundation works with the Columbus Public Health to provide the CelebrateOne program, which educates parents on how to raise a healthy child to reduce the infant mortality rate.

companies, we would like to hear from more. If your company has a story to tell, submit it on the website at www.ohiogoodforlife.com.

“We know we are just scratching the surface when it comes to the good things Ohio businesses are doing for Ohioans,” says Doehrel. 🐾

People can also follow the campaign on Twitter @OhioGoodforLife and like the campaign on Facebook at Ohio Businesses. Good for Life at <https://www.facebook.com/OhioBusinessesGoodforLife/>.

We encourage everyone to follow the campaign and share it with your friends.

There are many more stories that will continually be shared throughout the summer and fall. While we have heard from many



*You have been with us
over the years.*

We appreciate our members.

We want to celebrate you.

We're all for Ohio.

Mark your calendars for Thursday, Nov. 8, as we will be celebrating our members with our 125th Member Gala. This free event will start at 4 p.m. with an open house at our new location, 34 S. Third St. Columbus, OH 43215, followed by a reception at 6 p.m. and dinner at the Renaissance Hotel, 50 N. Third St. Columbus, OH 43215. The dinner will include special guests and a video presentation. There is no cost for our members and a guest to attend, but registration is required and will be released soon.

Sponsorship information is available by contacting
Ashley Brown at (614) 228-4201.



OHIO CHAMBER PAC ENDORSES DEGENARO, BALDWIN FOR OHIO SUPREME COURT

In June, the Ohio Chamber of Commerce Political Action Committee (OCCPAC) announced its endorsements of Justice Mary DeGenaro and Judge Craig Baldwin.

“Ohioans are fortunate to have excellent candidates seeking to serve on the state’s highest court,” says Andrew E. Doehrel, president and CEO of the Ohio Chamber of Commerce. “However, Justice DeGenaro and Judge Baldwin clearly stand out.”

“During her tenure on the Supreme Court and the Seventh District Court of Appeals, Justice Mary DeGenaro has demonstrated a strong commitment to interpreting laws and applying them as written, rather than legislating from the bench. That commitment is critical for having a fair and predictable legal environment in Ohio, and we are pleased to endorse her. In addition, by virtue of serving on the Seventh

District Court of Appeals, which includes the areas of Ohio most directly impacted by the ongoing development of the Utica Shale play, she brings to the Supreme Court unique experience in understanding and applying oil and gas law.”

Prior to being appointed to the Ohio Supreme Court on Jan. 28, 2018, DeGenaro served 17 years on the Seventh District Court of Appeals. She is running to keep her seat that was vacated due to the early retirement of Justice William O’Neill.

Baldwin is running for the open seat created by the upcoming retirement of Justice Terrence O’Donnell.

“Judge Baldwin’s judicial philosophy is consistent with the Ohio Chamber’s longstanding preference for candidates who do not attempt to legislate from the bench,” says Doehrel. “We are proud to endorse

Judge Baldwin, who will seek to bring consistency to the judicial process.”

Baldwin currently sits on the Fifth District Court of Appeals, having been appointed in 2013 and elected in 2014 and 2016. Prior to that, he served on the Licking County Court of Common Pleas, Domestic Relations Division. He has also spent decades as an attorney in private practice, representing small business owners, among others.

Justices on the seven-member Supreme Court are elected on a nonpartisan basis to six-year terms. Their decisions can have a significant impact on Ohio’s economy, influencing the cost of goods and services, health care, education and the general costs of running a business. The Ohio Chamber has been a leader in educating Ohioans about the importance of the court and is committed to performing this responsibility again in 2018. 🐾



RESEARCH FOUNDATION STUDY SHOWS SLOW PACE OF GROWTH

The Ohio Chamber Research Foundation has released its newest study, **Bold Ohio: Accelerating the Innovation Economy**.

Ohio’s future in the innovation economy is at a pivotal point. Even with Ohio’s economic development initiatives, cutting-edge innovation, and business-friendly tax incentives and regulation reforms, the speed of technological advancements requires Ohio to embrace a new paradigm. As innovation’s role in driving economic growth continues to increase, Ohio’s statewide macroeconomics fall further behind.

Despite pockets of success, this slower pace manifests itself in the following categories.

- Slower population growth
- Slower growth in income and wages
- Increased poverty
- An aging and non-diverse population

Bold Ohio creates a roadmap for success in accelerating Ohio’s economy. As a new governor assumes office in January, significant bold steps are required to leverage and build upon existing efforts to catalyze long-term economic growth. At the heart of this blueprint is the recommendation for a statewide organizational approach to pursuing strategic innovation opportunities around four opportunity platforms.

- Data analytics
- Future health
- Nextgen manufacturing
- Smart infrastructure

Each of these platforms would be represented by new innovation hubs through which Ohio would foster the infusion of advanced innovation processes, products and techniques. Ohio already is home to several

successful initiatives that would benefit the entire state if scaled up. Examples include:

- **The America Makes** facility in Youngstown, Ohio, provides a significant stake in the ground in terms of signature research in nextgen manufacturing and materials.
- **REDIZone™**, located on the campus of Northeast Ohio Medical University in Rootstown, Ohio, enables innovators of biotechnology to take their research from concept to capital.
- **Smart Columbus, Drive Ohio** and the **Transportation Research Center** are paving the way for the entire state to succeed and lead with smart infrastructure design and models.
- **The University of Cincinnati’s** 21st century co-op experience breaks down the walls between being a college student and being an employee by exploring creative

opportunities for workforce development.

While each of these has been effective on the local level, they have not been sufficiently connected or scaled to make a statewide impact. Statewide innovation hubs will support current innovation while bringing together industrial partners, research institutions and the public sector in a new unique partnership to accelerate Ohio’s economy.

The hubs will advance technological convergence and capacity, attract and generate a skilled technical workforce, and foster the growth, attraction and creation of businesses. The innovation hubs will focus on industry-facing activities and specialized shared-use facilities to advance new product development, process improvements and commercialization of new technologies.

While past and current initiatives to catalyze entrepreneurial development have obtained

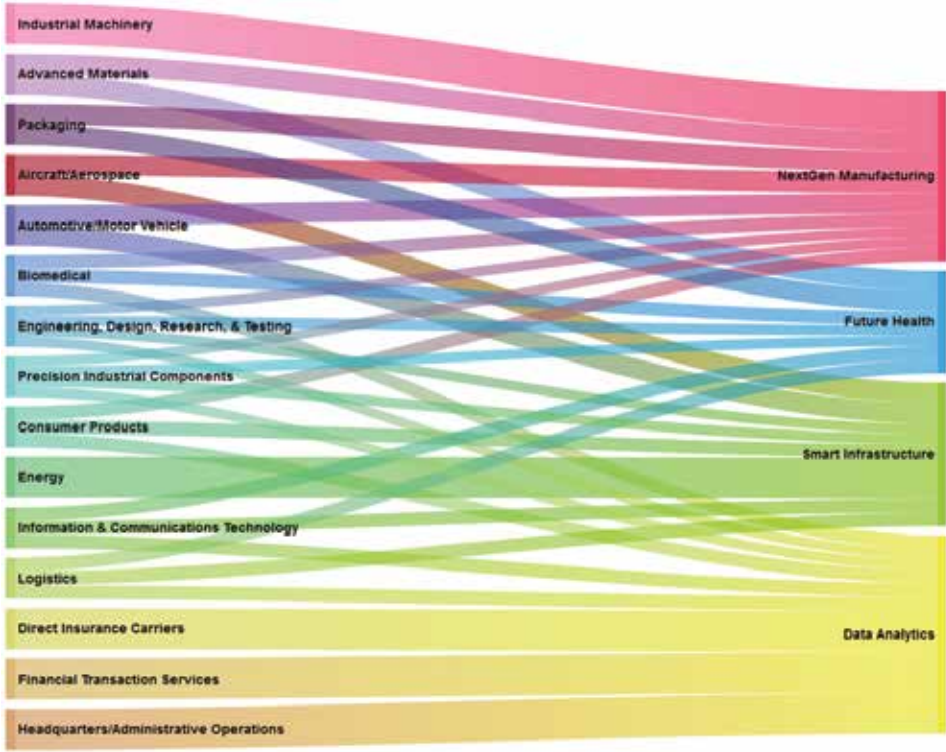
significant returns on investment, the overall macro entrepreneurship needle isn’t moving fast enough. Ohio must nurture a risk capital community that is both oriented toward early stage financing and committed to indigenous investment. Such indigenous funds would help to identify promising discoveries, support new ventures and facilitate their connection to outside capital.

Ohio must also achieve improved talent through the innovation hub model. Human capital is one of the few market factors that is locally based and has the potential to create significant advantages and disadvantages. Ohio needs to develop, retain and attract the talent that our industries demand by pouring significant talent development in to both the data analytics and the nextgen manufacturing innovation hubs, offering financial incentives for Ohio graduates pursuing careers in any of the opportunity platforms and creating an Ohio Alumnae Outreach Program.

The cost to implement this blueprint and invest in four innovation hubs is quite significant. Funding streams already exist that could provide resources for these efforts, and the price of not investing is even higher. Failure to advance the four innovation platforms identified will have significant long-term ramifications.

The stakes are high for Ohio. First movers in creating the next generation environments based around these innovation hubs will enjoy disproportionate advantages and economic growth. Now is the time for a **Bold Ohio**. 🐾

For more information please contact Katie M. Kogelman, executive director, at (614) 629-0921 or email research@ohiochamber.com.



AMID STATEHOUSE TURMOIL, KEY PRO-BUSINESS PRIORITIES STILL ADVANCE

The first sentence of a blog post published on the Ohio Chamber’s All for Ohio blog on Dec. 27, 2017, said this: “It was, to say the least, an unusual second half of 2017 around the Statehouse.”

As Bachman-Turner Overdrive sang, “You Ain’t Seen Nothing Yet.” Although we couldn’t have known it at the time, the first six months of 2018 made the last six months of 2017 seem downright normal by comparison.

When Ohio lawmakers wrapped up business for the first half of 2018 and left Columbus on June 27, it brought to an end what was undoubtedly one of the strangest six-month periods ever for the Ohio General Assembly. The main reason was a nearly eight-week stretch during which the Ohio House of Representatives was without a speaker.

The direct cause of this turmoil was the resignation of former Speaker Cliff Rosenberger on April 12. He resigned under a cloud amid news that the FBI may be investigating some of his travel and other expenses.

Unable to agree on how or when to take an official vote to fill the unexpected vacancy — much less who to choose to fill it — the House was at an impasse and unable to conduct its ordinary business. Finally, on June 6, the House elected Rep. Ryan Smith as the new speaker. Even this process was extraordinary. Four representatives were nominated, and it took 10 ballots to decide the outcome. Despite the fact that Republicans control the 99-member House with a substantial 66-33 majority, Smith

was elected with a plurality, but not a majority, of votes.

Even before Rosenberger’s resignation, there was a bitter battle being waged between Smith and another Republican, Rep. Larry Householder, to position themselves to succeed the term-limited Rosenberger. This caused ongoing friction within the GOP caucus. Further, all of this occurred in the midst of a heated May 8 primary election, in which 16 incumbents faced primary opposition — all but one secured their party’s nomination — and there were 53 contested House primaries.

The eight weeks without a speaker left the House paralyzed, and no legislation — including important pro-business bills backed by the Ohio Chamber — could be voted upon. However, the House subsequently tried to make up for lost time; during three marathon session days, the chamber passed 70 bills and agreed to changes the Senate made to 20 others. Included among these 90 bills were several that will help strengthen Ohio’s business climate.


Most significant was the passage of Senate Bill 221, which builds upon the existing authority of the successful Common Sense Initiative to minimize the negative impact that state regulations have on business. It passed both the Senate and the House with wide, bipartisan support. By the time you read this, we anticipate Gov. John Kasich will have signed this bill to make sure Ohio rules and regulations are as jobs-friendly as possible.

Also awaiting Kasich’s signature is Senate Bill 220. This legislation —

the first of its kind in the nation — provides businesses that institute a robust cybersecurity program in compliance with the statute an affirmative defense in a lawsuit involving a data breach. In today’s world, where companies are daily confronting increasingly complex cybersecurity challenges, SB 220 further incentivizes businesses to invest in and maintain reasonable cybersecurity measures to protect employee, customer and other private information.

One of the bills to which the House agreed to changes made in the Senate was House Bill 292. Last year, the legislature eliminated the longstanding right of taxpayers to obtain a direct review by the Ohio Supreme Court of decisions rendered by the Board of Tax Appeals. This change made an already costly process even more costly and would have resulted in tax law possibly being applied differently across Ohio. However, the Senate included an amendment to HB 292 that partially restores the right of direct appeal. The governor has already signed this bill into law.

While these were the only bills supported by the Ohio Chamber finalized by the legislature, the first half of 2018 saw four other key bills pass one chamber and get initial review in the other. These are measures to: 1) require local taxing entities to pass a resolution authorizing a property tax valuation challenge and notify the property owner prior to filing the challenge (HB 343); 2) cut down on drive-by lawsuits against businesses for alleged disability accessibility violations (HB 271); 3) clarify that



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employees of a franchisee are not considered employees of a franchisor for the purposes of the tax code, unemployment compensation, workers’ compensation and other areas affecting the employment relationship (HB 494); and 4) require state agencies to reduce regulatory restrictions by 30 percent by the end of 2022 (SB 293).

These bills, in particular, are now primed to be completed when lawmakers return to Columbus. While there are a handful of days on which either the House or Senate is scheduled to possibly be back in action prior to the November election, the strong likelihood is that these — and all other remaining bills of interest to employers — will still be pending when legislators resume business afterward. (To see the Ohio Chamber’s top legislative priorities for the remainder of the 132nd General Assembly, go to www.OhioChamber.com/top-priorities.) The legislature’s lame duck session once again promises to be intense, active and, yes, crazy. Let’s just hope it’s the normal craziness, and not a sequel to the strangeness of the year’s first six months. 🐾

IS THAT DOG ON THE JOB?

As enforcers of Ohio’s Laws Against Discrimination, the Ohio Civil Rights Commission acknowledges the differences among a mere pet, an emotional support animal and an assistance or service animal, and the legal rights that owners of each animal may or may not have in places of public accommodation.

However, the commission recognizes that business owners and managers may not be familiar with the differences and may be reluctant to refuse service to anyone with an animal for fear of violating the rights of a person with disabilities in places of public accommodation. So what are the differences among these types of animals, and what rights do people with disabilities and business owners have?



THREE TYPES OF ANIMALS IN PLACES OF PUBLIC ACCOMMODATION

- Pets are trained or untrained animals that do not perform any work or tasks to aid a person with a disability.
- Emotional support or comfort animals are trained or untrained companion animals that a medical professional deems to have a benefit for a person with a disability. This animal does not perform specific work or tasks to assist a person with disabilities. For example, a dog that calms a person with an emotional disorder when that person pets it could be an emotional support animal.
- Service or assistance animals are animals trained to perform work or specific tasks to assist a person with disabilities. For example, a dog that guides a visually impaired person around obstacles or alerts a person with epilepsy to an impending seizure may be considered a service or assistance animal. Ohio law does not restrict assistance animals to dogs.

Under state and federal fair housing laws, housing providers and condominium associations with

no-pet policies are required to allow residents to have emotional support or comfort animals as a reasonable accommodation of a disability. In many circumstances, business owners may choose to permit emotional support animals, or even pets, but Ohio law does not similarly require accommodation of emotional support or comfort animals in places of public accommodation. However, businesses are required to make reasonable accommodations for service or assistance animals in places of public accommodation. Businesses cannot charge extra admission or fees for a service animal.

It is up to a business owner or manager to determine if an animal is a service or assistance animal. Ohio businesses operating as places of public accommodation can legally ask patrons with an animal the following two questions.

- Is the animal required because of a disability?
- What work or task(s) has the animal been trained to perform?

If the animal’s handler cannot answer these two questions, or if the answer is that the animal is not required because of a disability or does not do

any work or tasks, that handler is not protected by Ohio’s civil rights laws and the business can deny the handler the right to bring the animal into the establishment.

An owner, manager, keeper or proprietor of a place of public accommodation may not request medical documentation or certification of training, but the law does allow businesses to require service animals to be harnessed, leashed, or tethered, unless such a restraint would interfere with the animal’s work.

Even service or assistance animals can be removed from a place of public accommodation if the animal’s handler cannot control the animal or if it is not housebroken. If a service animal is removed, the business should give the handler an opportunity to participate in or enjoy the place of public accommodation without the animal. 🐾

For more details, or OCRC’s guidance on animals in housing, employment, places of public accommodation and higher education, see OCRC policy T-31 Animal Assistants as a Reasonable Accommodation for Individuals with Disabilities at <http://www.crc.ohio.gov/LegalPolicy/CommissionersPolicyGuidanceMemos.aspx>.

By Robert S. Gilmore and Kirsten B. Mooney, Kohrman Jackson & Krantz LLP

10 TIPS FOR COMPANIES IN ENFORCING (AND DEFENDING AGAINST) NON-COMPETES

If your company finds itself on either side of a non-compete dispute, here are some tips for both enforcing an agreement as the former employer and defending against a non-compete as the new employer.

TIPS FOR A FORMER EMPLOYER

- 1 Carefully draft the non-compete agreement. The key word for drafting a non-compete is “reasonable.” Identify your specific business interests and tie these to the post-employment restriction. If the two cannot be reconciled, the non-compete may be presumptively unreasonable. In addition, explicitly describe the restriction by specifying which activities are prohibited, providing geographic boundaries and defining a timeframe for enforcement. As a best practice, always check state-specific law to determine any additional restrictions, as laws regarding non-competes vary largely by state. Some consider non-competes in violation of public policy, while others provide wide discretion to employers.
- 2 Conduct an exit interview. Do this with a departing employee to confirm all continuing obligations. At this time, the former employer may gather valuable information, provide copies of agreement(s) and advise as to the company’s expectations for post-employment conduct. This is also the perfect time to document which company property the departing employee possesses and demand its return. The departing employee should sign an acknowledgment form certifying the return of all company property.
- 3 Determine your course of action. Upon a violation of a non-compete agreement, decide if it is best to send a cease-and-desist letter or proceed directly to litigation. A cease-and-desist letter reminds the employee of any legal obligation and demands the employee immediately cease the unlawful conduct. You may send this letter to both the former employee and the new employer.
- 4 Initiate a lawsuit. Litigation is often preferred if there is significant harm or damage to the former employer and/or evidence is likely to be destroyed. Typically, the goal in initiating a lawsuit is to obtain immediate injunctive relief. However, keep in mind that when filing suit, the former employer must be prepared to present a compelling case in order to meet the court’s difficult standard of proof. You may also want to consider the court in which you file and whether to name the new employer as a defendant.
- 5 Find a resolution. Because litigation is risky and expensive, the former employer may wish to find an early resolution. This could save costs, quickly resolve the dispute and alleviate concerns regarding the employee’s conduct.

However, if the harm to the former employer is significant, continued litigation may be the best option.

TIPS FOR A NEW EMPLOYER

- 6 Property interview candidates. The new employer should first determine if a potential candidate is subject to a non-compete agreement. Always ask the candidate about these at the earliest possible time, whether in an initial meeting, telephone call, or formal interview. In addition, upon a candidate’s potential hire, the new employer should assess the likelihood of litigation and the potential claims against it. These may include tortious interference, aiding and abetting, misappropriation of trade secrets and others.
- 7 Require an acknowledgment. Always confirm that the candidate is a “good leaver.” A good leaver is a candidate who has behaved appropriately in separating from the former employer and has returned all materials and/or property. The new employer should require the candidate to sign an acknowledgment, affirming that he or she has taken these steps.
- 8 Indemnify the new employee. Due to potential conflicts of interest, the new employer should encourage the candidate to seek independent legal counsel regarding the enforceability of the non-compete. However, the candidate may ask that the new employer indemnify him or her against potential litigation. If agreed to, any agreement to indemnify the candidate should be clear and exclude indemnification for intentionally dishonest or fraudulent conduct.
- 9 Promptly respond to cease-and-desist letters. Even if everything goes smoothly, you may still receive a cease-and-desist letter complaining about the circumstances of the employee’s hire and threatening suit. A prompt response to these letters is important. Cease-and-desist letters often also include preservation notices. Accordingly, upon receipt of the letter, take all appropriate steps to issue a document hold notice to pertinent individuals.
- 10 Have defense strategies. There are a number of defense tactics available to successfully invalidate a non-compete agreement. The new employer may argue that the non-compete is too broad in scope or duration and/or is unnecessary to protect the former employer’s legitimate business interests. Generally, courts consider any limitation that creates an undue hardship as unreasonable. 📌

For more information, contact Robert S. Gilmore at rsg@kjk.com or (216) 736-7240 or Kirsten B. Mooney at kbm@kjk.com or (216) 736-7239.

By Miriam L. Rosen, McDonald Hopkins PLC

AN EPIC DECISION ON ARBITRATION HAS IMPLICATIONS FOR EMPLOYERS

In a much-anticipated decision, the U.S Supreme Court ruled on May 21, 2018, that class action waivers in mandatory employment arbitration agreements are enforceable under the Federal Arbitration Act (FAA).

The Epic Systems Corp. v. Lewis, No. 16-285, 584 U.S. (2018) decision resolves a long-simmering controversy over whether an employer can force an employee to arbitrate a claim as an individual, as opposed to joining a class or collective action. As a result of this decision, employers may require employees to agree to mandatory arbitration terms that prohibit collective or class action claims.

This dispute pitted the interpretation of the FAA, which promotes resolution of claims through arbitration, against the National Labor Relations Board’s (NLRB) expansive interpretation of employees’ rights to engage in protected concerted activity under the National Labor Relations Act (NLRA). In the past, these two laws had not been interpreted as conflicting with arbitration of employment claims routinely upheld. However, an aggressive Obama-era National Labor Relations Board took the position that such arbitration agreements violated the NLRA because they precluded the employees from participating in concerted activity.

The *Epic* case, a consolidation of three separate cases, involved individual employees who had previously signed arbitration agreements waiving the right to join a class claim. However, the employees each later sought to participate in a Fair Labor Standards Act (FLSA) class action lawsuit. Their employers, in turn, asserted that the arbitration agreements precluded participation in the class action claims. The employees argued that they could not be forced to give up their rights to engage in “protected concerted activity” under the NLRA by waiving the right to join a class claim. Essentially, the employees claimed that their NLRA rights trumped the arbitration agreement.

In its 5-4 decision, the Supreme Court held that class action waivers in mandatory employment arbitration agreements are enforceable under the FAA. Writing for the court’s majority, Justice Neil Gorsuch stated that the FAA’s mandate for enforcing arbitration agreements could not be construed to conflict with the NLRA’s protection of concerted activity because the NLRA secures rights to organize and bargain collectively, but does not include a right to bring a class or collective action.

In a bit of a slapdown to the NLRB for its aggressive position in this matter, the Supreme Court noted that “[t]his Court has never read a right to class



actions into the NLRA — and for three quarters of a century, neither did the National Labor Relations Board.”

WHAT IT MEANS FOR EMPLOYERS

The impact of this decision goes beyond the interplay of the FAA and the FLSA. Employers can rely on arbitration agreements to preclude litigation of all types of employment-related class claims. This is particularly good news for employers in industries such as health care, food services and retail that tend to experience higher levels of class action litigation.

On the other hand, employers must still evaluate whether arbitrating claims on an individual basis is in their best business interests. While arbitration is often viewed as a less costly and more efficient alternative to litigation, that is not necessarily the case.

Requirements for discovery, briefing, experts and hearing time, along with the fees for private arbitrators, may mean that the cost advantage does not really exist. In addition, from an efficiency standpoint, arbitrating multiple individual claims may be a less attractive alternative than responding to a single class claim.

Employers should also consider how employees and the public may react to compelled arbitration of sexual harassment and discrimination claims. Such a requirement is often viewed as an attempt to shroud systemic misconduct. In fact, New York’s recently passed sexual harassment training law includes a prohibition on mandatory arbitration. However, the prohibition does not apply “where inconsistent with federal law.” Other states are considering similar legislation and there is speculation that Congress could follow suit and limit mandatory arbitration of sexual harassment and discrimination claims.

What employers can take away from this epic decision is that arbitration agreements prohibiting class claims are now another viable tool available to employers seeking to limit employment-related liability. Like any other tool, an employer will need to evaluate the effectiveness of that tool for its own workforce. 📌

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OHIO BUSINESSES’ MEDICAL MARIJUANA DECISION IMPACTED BY OUTSIDE FORCES

Ohio’s deadline for having its medical marijuana system up and running is Sept. 8, 2018. Before this date, employers need to determine and declare where their company stands in relation to allowing employees to use marijuana as medicine.*

Ohio employers may choose to prohibit or accommodate employee use. And although challenging, some workplaces will blend their approach by need (e.g., DOT requirements) or choice.

Ohio has addressed the employment issue in its bill, and the good news is that Ohio House Bill 523 — legalizing the use of marijuana as medicine — provides Ohio employers with flexibility.

HB 523 states:

- Employers are not required to accommodate use, possession or distribution.
- Employers can refuse to hire, and can discharge, discipline and take adverse employment action.
- Employers can establish a drug-free workplace program.
- Employers cannot be sued for adverse action taken based on medical marijuana use.

This law does not interfere with federal restrictions on employment.

- No unemployment will be paid for an employee violating an employer’s drug-free workplace.
- This law will not interfere with workers’ compensation.
- Drug-Free Safety Program (DFSP) requirements remain valid.
- Rebuttable presumption is still in place.
- Medical marijuana will not be covered by health insurance.

For the employer that does not want to accommodate use, the available workforce pool may become more limited. For the employer who does want to accommodate use, many drug-free workplace program operational details will have to be determined and articulated in company policy and practice. However, an Ohio employer may want to consider issues beyond the state’s borders as it finalizes its corporate position. It will be vital that employers depend upon their legal counsels and drug-free workplace consultants.

For some Ohio employers, the decisions they face may not be as simple as determining what they want for employees in their sole Ohio facility. Every week, there are significant developments around the country regarding state legalization of both medical marijuana and recreational marijuana, and some could directly affect how Ohio employers deal with this issue in their workplaces.

Just a few years ago, the mantra in the drug-free workplace industry was, “Although there have been challenges, employers have consistently prevailed in prohibiting employee use of marijuana.” Back then only a few states included employee protections in their legalization of medical marijuana.

Currently, 12 states — Ohio is not one — have specific protections for employees. There have been court decisions in Rhode Island, Connecticut and Massachusetts that have thus far ruled in favor of the employee and may have a much

broader impact.

- Three factors remain relatively consistent.
- If employees are regulated under federal law, marijuana use is prohibited.
 - Private industry employers can prohibit use on premises.
 - Private employers can prohibit an employee from being impaired on the job.

Even if an Ohio-based company and its employees do not work outside of Ohio, the directives being forged by other states can still impact your Ohio business. No matter where an Ohio employer stands on accommodating use of medical marijuana, another state’s law can complicate corporate operations. Employers should get feedback from their legal counsel and program consultants before making decisions.

For example, under California House Bill 64, recreational marijuana use is legal. Consider a situation in which an Ohio-based employee travels for work or vacation to California, and per California’s legalization, uses in that state. Then, upon returning to Ohio, the employee tests positive in a routine drug test. Or, while in California, what if the employee posts a picture using marijuana? An Ohio employer should address this in policy if such activities could negatively impact the company’s public image and business opportunities.

In years past, we said the most important concerns were those in the state-location where the employee would be tested. Although this is still a working premise, a recent case in Minnesota (*Olson v. Push, Inc.*, No. 14-3160 (8th Cir. Feb. 22, 2016)) complicated that. A court found Minnesota’s workplace drug test law can apply to employees in other states when the employee or the employer has contact with Minnesota.

As a result, we need to be cautious about assuming that we understand the impact of the laws of any involved state when it comes to drug-free workplace issues. What can appear to be a simple matter of an employee violating a drug-free workplace policy may end up being evaluated under a different employee protection issue because of things such as the employee’s working relationship to another state.

Employers need to consider several factors as they determine their stance. They need to consider what states they work in, what type of work they do, where testing takes place, their tolerance for risk and much more, things that may only be understood by their counsel or consultants.

Employers will benefit from staying apprised of developments at the local level, as well as nationally. And there are potentially many more twists and turns before Ohio’s September deadline.

Working Partners® will be offering medical marijuana technical assistance to help employers uncover and explore options to arrive at a stance that is best for their company’s drug-free workplace operations. 🍷

* NOTE: The content of this article is meant for informational purposes only and not for the purpose of providing legal advice. As such, it should not be used as a substitute for consultation with a legal professional or other competent advisor. Please contact a licensed attorney to obtain advice with respect to any legal issue discussed in this article or regarding a situation specific to your business.

Working Partners is a nationally recognized expert on drug-free workplaces. For more information, visit www.workingpartners.com.

New program shows employers that GRADUATES ARE READY TO CONTRIBUTE TO THE WORKPLACE



The high school graduating class of 2018 is the first class that was able to earn the OhioMeansJobs — Readiness Seal. This seal was developed so that employers know the graduates are prepared to contribute to the workplace and their communities.

The seal is a formal designation that high school students earn indicating they have the personal strengths, strong work ethic and professional experience that businesses need. Students who have earned the seal will have it on their diploma and their transcript, so employers should start seeing them from applicants.

The development of the seal was a team effort among the Ohio Department of Education, Ohio Department of Higher Education and the Governor’s Office of Workforce Transformation. Through a survey of Ohio business leaders — some of which were Ohio Chamber members — they identified 15 skills that students must demonstrate.

To earn the OhioMeansJobs — Readiness Seal, each student must complete the following steps and demonstrate proficiency in each of the 15 identified skills.

- Using the OhioMeansJobs — Readiness Seal form, record how he or she demonstrated each professional skill. A student is only required to document how he or she has demonstrated each skill in one of three possible environments — school, work or community. But the student cannot document all 15 skills in the same environment. For example, with school, at least two environments must be reflected among the demonstrated skills.
- Have each skill validated by at least one mentor. A mentor is an experienced adviser the student trusts. A minimum of three mentors must be involved in the overall validation process and sign the form. By signing the form, each mentor is recommending the student to a prospective employer or higher education provider.

The student is encouraged to secure letters of recommendation from his or her mentors. The student also may engage in career planning and career readiness on OhioMeansJobs.com.

The 15 essential professional skills identified by Ohio businesses are below. Students must demonstrate proficiency in each of these skills to earn the seal. These skills were developed thanks to the input of our members.

- **Drug free** — The student commits to being drug free.
- **Reliability** — The student has integrity and responsibility in professional settings.
- **Work ethic** — The student has effective work habits, personal accountability and a determination to succeed.

- **Punctuality** — The student arrives to commitments on time and ready to contribute.
- **Discipline** — The student abides by guidelines, demonstrates self-control and stays on task.
- **Teamwork/collaboration** — The student builds collaborative relationships with others and can work as part of a team.
- **Professionalism** — The student demonstrates honesty. He or she dresses and acts appropriately and responsibly. He or she learns from mistakes.
- **Learning agility** — The student desires to continuously learn new information and skills.
- **Critical thinking/problem-solving** — The student exercises strong decision-making skills, analyzes issues effectively and thinks creatively to overcome problems.
- **Leadership** — The student leverages the strengths of others to achieve common goals. He or she coaches and motivates peers and can prioritize and delegate work.
- **Creativity/innovation** — The student is original and inventive. He or she communicates new ideas to others, drawing on knowledge from different fields to find solutions.
- **Oral and written communications** — The student articulates thoughts and ideas clearly and effectively in written and oral forms.
- **Digital technology** — The student has an in-depth understanding of emerging technology and leverages technology to solve problems, complete tasks and accomplish goals.
- **Global/intercultural fluency** — The student values, respects and learns from diverse groups of people.
- **Career management** — The student is a self-advocate. He or she articulates strengths, knowledge and experiences relevant to success in a job or post-secondary education.

For the graduating class of 2018, earning this seal also fulfilled one of their graduation requirements. Ohio employers should start seeing the seal on the diplomas and transcript of the 2018 high school graduates. As of press time, the Ohio Department of Education did not have a total number for how many students received the seal this year. Therefore, it will be reported in this publication and on our social media as soon as that number is released. 🍷

For more information on the seal, go to the Ohio Department of Education’s website <http://education.ohio.gov/> and search for OhioMeansJobs — Readiness Seal.

BECOME A BUSINESS ADVOCATE

Join an Ohio Chamber committee

Our eight standing committees are the lifeblood of the Ohio Chamber of Commerce. Each committee focuses on a particular area that is important to Ohio’s business community. These committees study the needs of Ohio’s businesses and recommend policies to the board of directors. The committees also review pending legislation and recommend what action, if any, should be taken on a bill.

Attendance is encouraged, but optional. Committee members also receive regular emails that keep members abreast of topics impacting their committee. Committee membership is open to anyone who is employed by an Ohio Chamber member company.

If you are interested in joining a committee, please contact Sherry Heffner at sheffner@ohiochamber.com or (614) 228-4201.

EDUCATION & WORKFORCE DEVELOPMENT

Mission: To respond to the needs of Ohio employers for qualified, well-trained employees by promoting policies that meet the demands of today’s workplace by pursuing strategies that link education and workforce development in a seamless system and embed skills-based learning into academic instruction.

Staff contact: Director, Small Business & Workforce Policy, Kevin Boehner, kboehner@ohiochamber.com

LABOR & EMPLOYMENT

Mission: To protect employers’ rights to manage their workplace with limited governmental involvement and regulation and to simplify Ohio’s employment law statutes in a way that’s fair to both employers and employees.

Contact: Director, Labor & Legal Affairs, Don Boyd, dboyd@ohiochamber.com

ENERGY & ENVIRONMENT

Mission: To advocate for energy policies that promote Ohio’s economic competitiveness and protect businesses’ access to affordable, dependable energy and ensure environmental policies and regulations are not overly burdensome and are based on sound science.

Contact: Director, Energy & Environmental Policy, Zack Frymier, zfrymier@ohiochamber.com

HEALTH CARE

Mission: To advocate for an affordable and sustainable market-based health care system that provides access to quality, affordable health care for all Ohioans.

Contact: Vice President, Government Affairs, Keith Lake, klake@ohiochamber.com

OHIO SMALL BUSINESS COUNCIL

Mission: To promote and protect the establishment, growth and vitality of small business in Ohio. Members of the Ohio Small Business Council (OSBC) learn how to be an advocate for their business and voice their concerns directly to Ohio’s decision makers. Participation in OSBC is limited to individuals representing a for-profit business that employs fewer than 400 directly supervised persons. Small business owners and managers are especially encouraged to join this committee.

Contact: Director, Small Business & Workforce Policy, Kevin Boehner, kboehner@ohiochamber.com

PUBLIC AFFAIRS

Mission: To monitor and evaluate public affairs issues and activities, including elections, campaign finance, ethics and lobbyist regulations, when of interest to the business community; and to examine proposed state constitutional amendments or initiative petition efforts that affect the electoral process.



Contact: Vice President, Government Affairs, Keith Lake, klake@ohiochamber.com


TAXATION & PUBLIC EXPENDITURES

Mission: To foster a fair and equitable tax system that stimulates growth, innovation and job creation and minimizes compliance costs and administrative burdens.

Contact: Director, Tax & Economic Policy, Jeff McClain, jmcclain@ohiochamber.com

WORKERS’ COMPENSATION

Mission: To ensure Ohio’s workers’ compensation system runs efficiently and effectively for both state-funded and self-insured employers, is effective in providing proper medical treatment for injured employees and keeps its cost for employers competitive with other states’ systems.

Contact: Director, Labor & Legal Affairs, Don Boyd, dboyd@ohiochamber.com 


OHIO CHAMBER INSURANCE PROGRAM

Did you know that your company can switch its health insurance plans at any time?

Let the Ohio Chamber of Commerce Insurance Program give you a free, no-risk quote to compare your current rates with our plans. We offer health and dental plans, as well as a provider for health savings accounts and a wellness company. Before you do any other shopping for your company’s health insurance needs, get a quote from us by contacting Kathy Eshelman at 614-228-4201 or keshelman@ohiochamber.com.



Through the Ohio Chamber, your company can obtain:

- **Health insurance.** The Ohio Chamber Insurance Program offers multiple health plan options for companies with two or more employees. Plans are customizable to fit your company’s specific needs. We partner with BE Solutions to provide companies with insurance quotes.
- **Dental insurance.** Ohio Chamber member Delta Dental offers Ohio Chamber members an exclusive dental plan, with options for businesses with two or more employees. Delta Dental is the biggest name in dental benefits and has the largest dental network in Ohio and across the country.
- **Health Savings Accounts.** For companies that want to offer Health Savings Accounts (HSAs) for high-deductible insurance plans, Liberty Health Bank is the Ohio Chamber’s preferred provider. Liberty Health Bank offers robust HSA options that provide an opportunity for your employees to put money back in their pockets while helping your company decrease its tax liability.
- **Wellness.** WellnessIQ helps companies control health care costs by implementing a variety of wellness initiatives leading to marked advancement in employee productivity and morale. 

Be sure to take advantage of some or all of our health care-related member benefits. More information is available on our website at <http://ohiochamber.com/insurance/>.

NEW MEMBERS

The following companies have joined the Ohio Chamber of Commerce this year. We welcome them into the Ohio Chamber of Commerce and look forward to serving them well into the future.

- ACT Inc., Iowa City, Iowa
- Baum Lumber Inc., Chester
- Bio-Serv Corp., Troy
- Black Swamp Steel Inc., Holland
- Bowman & Landes Turkeys Inc., New Carlisle
- Bresco Broadband, Columbus
- Christian Life Center, Dayton
- CHSPSC, LLC, Franklin, Tennessee
- CleanTurn Enterprises, Columbus
- Commerce Carriers Corp., Springfield
- Crest Bending Inc., New Washington
- DaVita Kidney Care, Northwood
- Dennison Bridge Inc., Dennison
- Dover Fabrication and Burn, Dover
- Elyria Fence Inc., Elyria
- Fresenius Kidney Care, Columbus
- Hinckley Management Group LLC, dba Dunkin’ Donuts, Hinckley
- Homan Plating and Manufacturing Inc., Dayton
- Inclusivity, Perrysburg
- JPI Inc., Englewood
- Lee’s Grinding, Strongsville
- Mettler Toledo, Columbus
- Miami Valley Gasket Co., Dayton
- Miller Cable Co., Green Springs
- N & E Learning LLC, Grove City
- New Horizons Developmental Providers LLC, Canton
- Norwalk Economic Development Corp., Norwalk

- Ohio Physical Therapy Association, Gahanna
- Preble County Council on Aging Inc., Eaton
- Predictronics Corp., Blue Ash
- R.T. Hampton Plumbing & Heating Inc., Massillon
- Shaffer Distributing Co., Columbus
- Sikich, Akron
- Singleton Reels Inc., Mantua
- TE-CO Manufacturing, Union
- The Butcher & Grocer, Grandview Heights
- Thee Executive-Panel LLC, North Canton
- The Glen at St. Joseph, Dayton
- Thyssenkrupp Industrial Services Na Inc., Southfield, Michigan
- Thyssenkrupp Logistics, Inc., Southfield, Michigan
- Thyssenkrupp Materials, Southfield, Michigan
- U.S. Bank, Minneapolis, Minnesota
- Utility Resource Group LLC, Troy, Michigan
- WELD Women for Economic and Leadership Development, Canal Winchester
- Zanesville Welfare Org & Goodwill Ind., Zanesville
- Zins Plumbing LLC, Cincinnati



The new Chamber headquarters is directly across the street from the Statehouse.



The new Ohio Chamber of Commerce headquarters is at 34 S. Third St.



CHAMBER HOSTS GALA TO CELEBRATE MOVE

The Ohio Chamber of Commerce is finalizing our move to our new headquarters at 34 S. Third St. in downtown Columbus, directly across from the Senate entrance to the Ohio Statehouse. The building formerly housed The Columbus Dispatch and is an iconic presence on Capital Square. It is listed on the Columbus Register of Historic Properties.

For the past five years, as part of our strategic plan, we have been looking for a headquarters closer to the Statehouse that provides enough space for our members and activities. This location allows us to have a visible presence with Ohio’s decision-makers.

We will occupy the first two floors of the newly renovated building. The first floor will be dedicated to hosting our members and the organizations we work with. There will be three meeting rooms of varying size, a large gathering area that can be used for events, a library and a video room. The second floor will be home to our staff.

As we are celebrating 125 years, it seems appropriate to make the move into this historic building. We have scheduled an open house for Thursday, Nov. 8, at 4 p.m. for our members, followed by our first Member Gala Dinner at the Renaissance Hotel two blocks north of our new headquarters. If you are in town at the beginning of August, we are more than happy to give you a tour.

Since our formation in 1893 in Cleveland, we have had nine headquarters buildings located throughout downtown Columbus.

- **1912** – 338 Chamber of Commerce (possibly in Cleveland)
- **1920s** – 145 E. State St. (now a surface parking lot at the corner of Third and State streets)
- **1928** – Deshler Hotel at the northwest corner of Broad and High streets (torn down in 1969 to make way for an office building)
- **1930s** – Huntington Bank Building at 17 S. High St. (still standing)

- **1944** – The Huntington Bank Building was used for military operations for WW II, so the Ohio Chamber moved to the Hoster Building at the corner of Fourth and Broad streets (we believe where the Chase building is now).
- **1950** – back to the Huntington Bank Building
- **1970s** – moved to 35 E. Gay St.
- **1996** – moved to 230 E. Town St.
- **Summer of 2018** – will move into the first and second floors at 34 S. Third St.

While our location is new, our mission continues: As the state’s leading business advocate and resource, the Ohio Chamber of Commerce aggressively champions free enterprise, economic competitiveness and growth for the benefit of all Ohioans. See you at our new digs! 🏗️

Andrew E. Deschul

EDITORIAL POLICY

Articles written by guest columnists do not necessarily reflect the position of the Ohio Chamber of Commerce. The Chamber’s position on key issues will be clearly stated. The Ohio Chamber of Commerce does not necessarily endorse the products and services advertised in *Ohio Matters*. Articles can be reproduced, but only with permission from, and attribution given to, the Ohio Chamber of Commerce. For authorization, please contact Ohio Chamber Vice President of Communications Julie Wagner Feasel at 614.228.4201. The Chamber reserves the right to reject advertising based on content and does not accept advertising that is in conflict with a position of the Chamber.

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POSTMASTER

Please send address changes to *Ohio Matters*, Attn: Database Manager, Ohio Chamber of Commerce, 34 S. Third St., Suite 100 Columbus, Ohio 43215

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INTRODUCING THE OHIO CHAMBER OF COMMERCE INSURANCE PROGRAM – DENTAL BENEFITS

We are excited to announce our partnership with Delta Dental of Ohio to offer dental benefit plans exclusively for Ohio Chamber members!

Delta Dental of Ohio benefits provide:

- Coverage for small businesses with two to 99 employees
- Multiple plan designs to fit your company’s needs
- The largest dental network with Delta Dental of Ohio

Member-exclusive dental benefits from Delta Dental of Ohio can be purchased as a standalone plan. If you already have a plan with Delta Dental, you can switch to this new one at any time.

For more information, go to www.ohiochamber.com/insurance.