

# Good Company

Fall 2011

SRBG

SHEEHAN PHINNEY  
BASS + GREEN PA

Attorneys at Law  
Innovative Approaches. Practical Solutions.

## Featured Articles

### **Shareholder Voting on Executive Compensation Begins**

by Michael J. Drooff



During the recently-completed 2011 proxy season, public company shareholders voted on executive compensation for the first time under a key provision of the Dodd-Frank Act. At a large majority of companies, shareholders voted to approve executive compensation. [[Contact](#)

[Author](#)]

[[FULL STORY](#)]

### **Relaxed Payroll Withholding Standard: A Brave New World for NH Employers**

Employer and Employee can now agree on withholding from wages

by Elizabeth A. Bailey



When most of us review our paystubs, we are all woefully aware of the amount of wages that we don't receive due to withholdings. Most of us are generally familiar with federal withholdings such as FICA and FUTA. However, many people are unaware that New Hampshire state law also addresses wage withholdings. N.H. RSA 275:48 ("RSA 275:48"), entitled "Withholding of Wages," is enforced by the New Hampshire Department of Labor and sets forth several categories of deductions that an employer may make from an employee's wages. Effective August 6, 2011, RSA 275:48 was amended to add RSA 275:48, I(b)(12) which allows employers and employees, in limited circumstances, to mutually agree to a wage withholding. This new provision gives New Hampshire employers and employees greater flexibility to effectuate voluntary payments from wages. [[Contact Author](#)]

[[FULL STORY](#)]

## Client Focus

### **Best Fitness: A Foundation for a Better You**



Founded in 1990, Best Fitness has grown to become a force in the fitness industry. With thousands of gyms and fitness centers popping up all over the east coast, simply having equipment and square footage is not enough. Best Fitness recognizes their members need more than just a keytag to be successful, they need results.

[[FULL STORY](#)]

## Congratulations Dan Viederman

### **Congratulations Dan Viederman, Verité CEO - Social Entrepreneur of the Year**



Congratulations to our client and colleague, Dan Viederman, CEO of Verite, on being named the Social Entrepreneur of the Year by the Schwab Foundation for Social Entrepreneurship.

[[FULL STORY](#)]

## Register Now

SPB+G's 22<sup>nd</sup> Annual  
Public Sector Labor and

## **Benefits and Drawbacks of ESOPs**

by Paul S. Reuland



An Employee Stock Ownership Plan ("ESOP") is a tax-qualified defined contribution employee benefit program intended to invest in the stock of the plan sponsor company. To establish an ESOP, the sponsor company creates a trust with the sole purpose of holding shares of the company. To acquire shares for the trust, the company may contribute newly issued shares, purchase shares with cash on-hand, or, as is more frequently the case, borrow funds from an outside lender against future earnings. Once in the trust, ESOP shares are allocated to individual employee accounts according to a pre-determined formula (for example, length of employment). When an employee departs, the company is obligated to purchase the employee's shares at fair market value. [\[Contact Author\]](#)  
[FULL STORY]

## **Is the Sky Really Falling or Is this Just Push Back Against another Government Regulation?**

Most private-sector employers required post "Employee Rights Under the National Labor Relations Act"

by Diana K. Wieland



The sky will not fall on January 31, 2012, when most private-sector companies post "Employee Rights Under the National Labor Relations Act". Companies already put up over a dozen federal and state posters and those posters tell employees what their legal rights are and where to file a complaint. Those posters have not caused employees to run screaming to agencies to file complaints, and there is no reason to believe this new poster will cause employees to run to a union or the National Labor Relations Board to file a charge. However, it is understandable how employers have resisted this latest edict from the federal government.

[\[Contact Author\]](#)

[FULL STORY]

## **Upon Further Review, the Ruling on the Field Stands: No Time Will Be Added to the Clock**

First Circuit Rules that an Employer May Not Extend Non-Compete Agreements Beyond the Agreed-Upon Duration

by Erin M. Anderson



In the never-ending tussle between employer and employee rights, employees have won another one. Under Massachusetts law, a court is unable to toll or otherwise extend the duration of a non-compete agreement or other restrictive covenant prohibiting competition and/or solicitation. The

## **Employment Law Review and Update**

*For Municipalities, Counties and School Districts*

Thursday, October 20, 2011

8:00 AM to 3:15 PM

SPB+G Manchester Office

1000 Elm Street, Manchester, NH

This labor and employment law event brings together representatives of management, labor and the New Hampshire Public Employee Labor Relations Board to share information and updates on subjects that they regularly encounter. Experienced labor negotiators, employment lawyers and public sector officials attend to discuss a variety of timely issues among peers.

The registration fee includes continental breakfast, lunch, refreshments and seminar materials. For more information please go to the event section of [www.sheehan.com](http://www.sheehan.com).

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## **SPB+G's Business Law Institute**

*Finding and Successfully Closing and Angel Investment*

Wednesday, October 26 2011

Program from 4:30 to 6:00 PM

Networking from 6:00 to 7:00 PM

SPB+G Manchester Office

1000 Elm Street, Manchester, NH

In this session of the Sheehan Phinney Business Law Institute, speakers will discuss angel investing from the perspective of the entrepreneur. Angel investors have been an important part of the capital-raising process since the early days of capitalism. However, developments in recent years have seen the consolidation of angel groups, the standardization of investment criteria and terms and a refocus of their attention on growth industries.

For more information please go to:

[www.sheehan.com](http://www.sheehan.com)

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## **SPB+G and i4Market's Effective Brand Selection and Promotion**

*Legal and Marketing Considerations for*

courts cannot affect the length of time even in the face of a blatant breach or series of breaches. This limitation is equally true in the event the term expires while the matter is being litigated or is even under consideration by the court. [[Contact Author](#)]

[FULL STORY]

### ***Protecting Your Domain: What You Need to Know About ICANN'S New Top Level Domain Changes***

*by Daniel K. Fink*



In the ever growing and ever changing world of cyber marketing, winning the race for ownership of particular domain names often means the difference between mass exposure or being lost in the crowd. Traditionally, businesses competed for the coveted “.com” and “.net” top level domains. Over the years, other top level domains have been added. More change is about to come. First, in an unprecedented move, parties may now apply to create and run their own generic top level domain like a “.com” or “.info”. The possibilities are vast (e.g., “.dog”, “.cannon”, etc.). Additionally, there will be a new “.XXX” for use in connection with the adult entertainment industry. Parties wanting to protect their brands in connection with both of these new developments will want to review the various avenues available to secure their brands in cyber space.” [[Contact Author](#)]

[FULL STORY]

### ***The Fox Guarding the Hen House: Who Should Implement Litigation Holds***

*by James P. Harris*



There is a trend emerging from courts sanctioning parties who fail to preserve evidence, particularly electronically stored information (“ESI”). Several courts have indicated that companies should not allow employees directly implicated in the dispute to preserve their own files or determine what is, and what is not, relevant to the case. In other words, some courts now suggest that someone not directly implicated by the litigation should preserve the ESI and review it for relevance, because employees involved in the litigation should not be trusted to preserve and turn over potentially harmful evidence. [[Contact Author](#)]

[FULL STORY]

### ***When Guidance Is Not Really a Rule: EPA's Effort to Expand Vapor Intrusion Investigation***

*by Robert R. Lucic*

Awareness of the potential risks from indoor air contamination has existed for decades. In 2002, the Environmental Protection Agency issued a

***Protecting and Promoting Your Brand***  
Wednesday, November 9, 2011  
Program from 2:00 to 5:00 PM  
Networking reception to follow  
SPB+G Manchester Office  
1000 Elm Street, Manchester, NH

This complimentary program, co-hosted by Sheehan Phinney and i4Market, will walk you through the various considerations in brand selection and promotion.

For more information please go to:  
[www.sheehan.com](http://www.sheehan.com)

## Upcoming Events

NH High Tech Council  
Entrepreneur Forum  
Wednesday, October 19, 2011  
5:30 PM  
F.I.R.S.T. Place  
200 Bedford Street  
Manchester, NH  
For more information please go to:  
[www.nhhtc.org](http://www.nhhtc.org)

Business NH Magazine Top 100  
Companies Reception  
Monday, October 24, 2011  
5:00 PM to 7:00 PM  
Capital Center for the Arts  
44 South Main Street  
Concord, NH  
For more information please go to:  
[www.millyardcommunications.com](http://www.millyardcommunications.com)

BIA Annual Dinner  
***Lifetime Achievement and New Hampshire Advantage Awards***  
Wednesday, October 26, 2011  
4:30 PM to 8:30 PM  
Center of NH/Radisson  
700 Elm Street  
Manchester, NH  
For more information please go to:  
[www.nhbia.org](http://www.nhbia.org)

North Shore Chamber of Commerce  
Annual Dinner & Leadership  
Awards  
Wednesday, October 26, 2011  
5:00 PM to 8:00 PM  
CoCo Key Hotel  
50 Ferncroft Road  
Danvers, MA  
For more information please go to:  
[www.northshorechamber.org](http://www.northshorechamber.org)



"Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater to Soils" out of "concern that volatile chemicals in buried wastes or groundwater can emit vapors that may migrate into the indoor air spaces of buildings." In other words, breathing vapors can make people sick. [\[Contact Author\]](#)  
[\[FULL STORY\]](#)

## Firm News

- [DiBrigida Elected President of Sheehan Phinney](#)
- [Sheehan Phinney Welcomes New COO Kevin Russell](#)
- [Sheehan Phinney Named Top in State by Best Lawyers in America](#)
- [Sheehan Phinney Welcomes Two New Attorneys](#)
- [Sheehan Phinney Hosts 22nd Annual Public Sector](#)
- [Sheehan Phinney Elects New Shareholder](#)
- [Recalde Named to ATHENA PowerLink® Governing Body](#)
- [Thomas Selected For Leadership Greater Manchester Class of 2012](#)
- [Perten Honored with Babson College Deans' Award](#)
- [Hantz Named Vice Chair of Josiah Bartlett Center for Public Policy Board](#)
- [Waters Named to Massachusetts Bar Association Civil Litigation Section Council](#)
- [Fierman Elected Officer and Director of the Boston Club](#)
- [Reidy Speaks at Care Net National Conference](#)

## Business Resources

- [Raising Capital for the Emerging Business](#)
- [Doing Business in New Hampshire](#)
- [Selling the Private Business](#)
- [NHLABORNET](#)
- [Sheehan Phinney Bass + Green](#)
- [Sheehan Phinney Capitol Group](#)

## Good Company Archives

- [Summer 2011](#)
- [Spring 2011](#)
- [Winter 2011](#)
- [Issues from 2003 to 2010](#)

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Business NH Magazine  
Rising Stars Awards  
Monday, November 7, 2011  
5:30 PM to 7:30 PM  
McAuliffe-Shepard Discovery Center  
2 Institute Drive  
Concord, NH  
For more information please go to:  
[www.millyardcommunications.com](http://www.millyardcommunications.com)

Nackey S. Loeb School of  
Communications First  
Amendment Awards  
Thursday, November 10, 2011  
7:00 PM to 8:30 PM  
Capital Center for the Arts  
44 South Main Street  
Concord, NH  
For more information please go to:  
[www.loeb.school.org](http://www.loeb.school.org)

Concord Chamber of Commerce  
92<sup>nd</sup> Annual Meeting & Citizen of  
the Year Award  
Monday, November 14, 2011  
5:00 PM to 8:00 PM  
Grappone Conference Center  
70 Constitution Avenue  
Concord, NH  
For more information please go to:  
[www.concordchamber.com](http://www.concordchamber.com)

Easter Seals Annual Celebration  
Tuesday, November 15, 2011  
5:00 PM to 6:00 PM  
Followed by Easter Seals Live!  
Center of NH/Radisson Hotel  
700 Elm Street  
Manchester, NH  
For more information please go to:  
[www.nh.easterseals.com](http://www.nh.easterseals.com)

Hanover Chamber of Commerce  
2011 Leadership Awards Banquet  
Tuesday, November 15, 2011  
Cocktail Reception 5:00 PM to 6:15 PM  
Dinner and Program 6:30 PM to 9:00 PM  
Alumni Hall, Hopkins Center  
Hanover, NH  
For more information please go to:  
[www.hanoverchamber.org](http://www.hanoverchamber.org)

NH High Tech Council, HR  
Exchange  
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## Contact Us

We would like to hear from you. Let us know what you think, what you like about "Good Company" and what you would like to see in future issues.

E-mail [goodcompany@sheehan.com](mailto:goodcompany@sheehan.com).

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### ***cubicles, nannycams and iPhones: Can you see what I see?***

Wednesday, November 16, 2011  
8:00 AM to 9:30 AM  
Sheehan Phinney Bass + Green PA  
1000 Elm Street, 17th Floor  
Manchester, NH  
Speaker: [Diana K. Wieland](#), SPB+G  
Manchester  
For more information please go to:  
[www.sheehan.com](http://www.sheehan.com)

Boston Business Journal &  
Mass High Tech Innovation All  
Stars  
Wednesday, November 16, 2011  
6:00 PM 9:00 PM  
House of Blues  
15 Lansdowne Street  
Boston, MA  
For more information please go to:  
[www.bizjournals.com](http://www.bizjournals.com)

New Horizons Thanksgiving  
Breakfast  
Tuesday, November 22, 2011  
7:15 AM to 9:00 AM  
Center of NH/Radisson Hotel  
700 Elm Street  
Manchester, NH  
For more information please go to:  
[www.newhorizonsforNH.org](http://www.newhorizonsforNH.org)

NH High Tech Council, HR  
Exchange  
***2011 Top Ten Wage and Hour  
Violations and How to Avoid Them***  
Wednesday, December 14, 2011  
8:00 AM to 9:30 AM  
Sheehan Phinney Bass + Green PA  
1000 Elm Street, 17th Floor  
Manchester, NH  
Speaker: [James P. Reidy](#), SPB+G  
Manchester  
For more information please go to:  
[www.sheehan.com](http://www.sheehan.com)

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MANCHESTER  
1000 Elm Street  
Manchester, NH 03101  
603.668.0300

CONCORD  
Two Eagle Square  
Concord, NH 03301  
603.223.2020

HANOVER  
Two Maple Street  
Hanover, NH 03755  
603.643.9070

BOSTON  
255 State Street  
Boston, MA 02109  
617.897.5600

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