

# Madigan, Dahl & Harlan, P.A.

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## Christopher W. Bowman joins Madigan, Dahl & Harlan as an Associate Attorney

Christopher W. Bowman joined Madigan, Dahl & Harlan on November 18, 2019, as an Associate Attorney. Chris is a 2009 *cum laude* graduate of William Mitchell College of Law, where he received the William Mitchell Merit Scholarship (75% of tuition), served as a charter member and editor of the William Mitchell Journal of Law & Practice, President of the school's chapter of the American Constitution Society, and was awarded the CALI Excellence for the Future Award in Tort and Business law. Before law school, Chris earned a Bachelor of Arts degree in Government and English from Lawrence University in Appleton, Wisconsin, spending his junior and senior years on the Dean's List and conducting an in-depth study of the European Union in Freiburg im Breisgau, Germany. Before joining MDH, Chris spent six-and-a-half years working at a national railroad-litigation firm headquartered in Saint Paul, Minnesota, where he represented employees of the nation's rail carriers in injury claims under the Federal Employers' Liability Act and whistleblower claims under the Federal Rail Safety Act in state and federal courts throughout the country, with a particular focus in Montana, Idaho, Washington, and Louisiana. Chris was one of the nation's leading attorneys under the FRSA, successfully arguing cases and appeals before the Department of Labor and the Fifth and Ninth Circuit Courts of Appeals and being recognized by competing firms, opposing



counsel, and members of the Judiciary as an authority on the law. He also worked as a judicial law clerk at the Minnesota Court of Appeals, working on a wide variety of cases. Chris is a member of the Minnesota State Bar Association's Appellate Practice Section Council, and was chosen by the MSBA to serve as appellate counsel, either for the MSBA sitting as *amicus curiae* or to argue in the alternative to ensure full development of the legal arguments where only party is participating in the appeal. In recognition of this work, the MSBA awarded Chris and his co-counsel its Award of Professional Excellence in June 2019. Chris joined MDH to expand the substantive nature of his practice. Chris looks forward to assisting the firm and its clients in business services and civil litigation matters.

## Social Security "No Match" Letters

Earlier this year, the Social Security Administration (SSA) [resurrected](#) its prior practice of sending "No Match Letters," officially called Employer



Correction Request Notices, to employers that it identified as having at least one name and Social Security Number (SSN) combination that did not match SSA records. This practice, which was utilized with some regularity for nearly two decades, was previously halted in 2012 after the SSA received complaints and lawsuits from labor unions, immigrant advocates, and the business community. Because of the renewed SSA efforts, some employers have been caught off guard by receiving these letters. If you get one, it is important to know what they are and, equally important, what they are not. The following are some "Dos and Don'ts" when or if, you receive a letter.

### Do

- Act promptly! While no-match letters did not previously specify a deadline, the renewed letters require the employer to provide updated information within 60 days of receiving the letter.
- Check to verify that the SSN identified in the letter matches the SSN that you listed on the employee's W-2, and that *that* number matches the number provided by the employee when they either applied for or began employment. It is possible that you received the letter because of a transposition error in filling out the W-2.

- If these numbers match, contact the employee and verify their legal name and SSN. Just as the letter may have been sent due to a transpositional error when the company fills out the W-2, it is possible that the employee simply made a mistake in filling out his or her information, or may have had a name change that you were not aware of.
- If you are able to verify the source of the discrepancy, correct the record with the IRS by completing and filing [Form W-2c](#) and report the correction to the SSA.
- Adopt a written policy on how to respond to no-match letters and how those responses will be organized and maintained.
- [Register](#) for Business Services Online, which will enable you to verify that SSN and name matches using the Social Security Number Verification Service.

### Don't

- Subject the employee to any adverse employment action (suspension, termination, etc.) based solely on receiving the letter. There can be a variety of reasons for a mismatch, ranging from the benign (typographical or transcription errors on either the part of the employee or the employer; name changes; or inaccurate SSA records, specifically involving the distinction between middle and last names in the Latinx community) to the more nefarious (fraud or identity theft). The letter is not notice that the employee is ineligible to work – only that there is some discrepancy.
- Don't make any further inquiry on the employee's immigration status. Receiving a no-match letter is *not* evidence that the employee is undocumented and inquiring about immigration status after the employee completes the I-9 form is permitted only in very limited circumstances.

If you would like to speak further with one of our attorneys regarding this or other employer-employee related matters, please email us at [email@mdh-law.com](mailto:email@mdh-law.com) and visit our website at [www.mdh-law.com](http://www.mdh-law.com).

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### Update on Changes to Minnesota and City of Minneapolis Wage Theft Law

Employers located throughout the state of Minnesota should take note that the new Minnesota Wage Theft laws went into effect on July 1, 2019. The new law imposes affirmative obligations on employers to provide their employees with written notices, additional earnings statements and employment recordkeeping requirements. Those who violate these new laws can be subject to civil fines up to \$5,000 per violation, as well as compensatory damages to aggrieved employees. Even criminal penalties may be imposed if it is determined that the employer engaged in wage theft with the intent to defraud their employee or employee.

Under the new state law, Employers must provide written notices to their new employees PRIOR to the commencement of their employment absent certain aspects of their position. Notices must be provided in English, or the specific language

requested by the employers. While there is no specific required format, the following information must be provided in writing:

- Rate of pay and the basis of that pay including whether the employee is paid by the hour, shift, day, week, salary, piece, commission, or other method;
- Allowances claimed for meals and lodging;
- Paid vacation time, sick time, or other PTO accruals and terms of use;
- Employee's employment status, including whether the employee is exempt from minimum wage, and/or overtime pay;
- A list of deductions that may be made from the employee's pay;
- Information about the pay period, including the number of days in the pay period, a schedule of pay days, and the first pay date upon which the employee will receive their first paycheck.
- The legal name of the employer, as well as any d/b/a other operating name;
- The physical address of the employer's main office, and its main address if different; and
- The telephone number of the employer.

Any changes to the notices initially provided to employee must be provided in writing and signed by the employee prior to the change going into effect. Minnesota's law also imposes new requirements for earning statements. The employer must provide earnings statements at the end of each pay period with all of the previously required information under Minnesota law plus:

- The basis of pay, including whether the employee is paid by the hour, shift, say, week, salary, piece, commission or other method;
- Allowances, if any, claimed for meals or lodging;
- The legal or operating name of the employer;
- The physical or mailing address of the employer; and
- The employers telephone number.

Finally, Employers are subject to new recordkeeping requirements. Employers must now ensure that their employee records reflect:

- Employees paid at piece rate and the number of pieces complete at each piece rate;
- A list of all personnel policies provided to the employee, including the date the policies were given to the employee and a brief description of the policy; and
- A copy of all wage notices and updated wage notices provided to the employee.

All employee records must be readily available for inspection within 72 hours of a request from the Minnesota Department of Labor and Industry. In addition to the state law, The City of

Minneapolis has also passed a citywide ordinance effective January 1, 2020, that imposes all of the same obligations as the state law, as well as some additional requirements. Employers who are located within the City, or whose employees work 80 or more hours a year within the City limits should be aware of the additional obligations under the new ordinance and be sure to follow them.

Under the Minneapolis Ordinance, employers must provide notices containing all of the information required by the state as well as the additional information listed below. This information must be provided to not only new employees, but also to their existing employees by January 1, 2020, if they have not already provided them with the information required under the statute. The additional information that needs to be contained in the notices under the ordinance is as follows;

- Documentation of the employee's hiring date;
- An explanation of the employee's rights under the Minneapolis Sick and Safe Time Ordinance;
- A statement that the sharing of gratuities is voluntary, if the employee will receive tips or gratuity; and
- The employer's overtime pay policy.

Finally, the City of Minneapolis also requires that the employer provide on the employee's earnings statement the number of hours of the employee's accrued and unused safe and sick time.

If you would like to speak further with one of our attorneys regarding this or other employer-employee related matters, please email us at [email@mdh-law.com](mailto:email@mdh-law.com) and visit our website at [www.mdh-law.com](http://www.mdh-law.com).

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