

## At Your Service March 2012

By RIW on March 11, 2012

# At Your Service

The eNewsletter of RIW's Hospitality and Retail Services Group



March 2012  
Volume VI, Issue I

### CALENDAR

**\*\* SAVE THE DATE \*\***

May 15, 2012

20th Annual Restaurant Trends Seminar  
Location TBD

presented by Ruberto, Israel & Weiner, The Boston Restaurant Group and Cafco  
Construction Management Please visit [www.rtseminar.com](http://www.rtseminar.com) for more information and to  
register to attend

- March 11-13, 2012 – **New England Food Show**
- March 12, 2012 – Mass Restaurant Association Annual Awards Dinner
- April 4, 2012 – Maine Restaurant & Lodging Expo
- May 2-3, 2012 – **Inaugural Hotel Industry Conference to Explore Financing/Lending Opportunities in Rebounding Market**

### Negotiating Assignment of Lease Provisions: How it can impact the sale of your business



Many business owners dream about the eventual sale of their business. If you have a restaurant or retail chain, special care must be given to the assignment of lease provisions in your leases. Failing to prepare for such an eventuality well in advance, can complicate, or possibly kill a sale.

Typically, a landlord will require its consent to the assignment of a lease (or a sublease) and will sometimes agree to not 'unreasonably withhold its consent'. More sophisticated leases will provide that a change of control of the tenant is deemed an assignment of the lease for which the landlord's consent is required. In these situations, a sale of the stock or assets of your company would require the consent of the landlord, which could delay or even stifle the sale of your business, especially where there are multiple locations/landlords.

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### Protect Against Risk of Disclosure of Confidential Business Information Through Employee Owned Smart Phones and Other Mobile Devices

Technology is wonderful. You can get in touch with your employees anytime, anywhere. Smart phones, ipads and other android devices are regularly used in the transaction of business away from the office. Public internet access is everywhere; airports, hotels, trains, coffee shops and public parks. Whether your employee is traveling for business or pleasure, they are always in touch. Some companies issue mobile devices to their employees for business use and others allow employees to use their own mobile devices to transact business. In the latter case, employees are using their devices for the dual purpose of conducting business and personal use. There are benefits and limitations to either choice. Many companies have found it easier and more economical to allow their employees to use their own devices rather than issue the devices through the company. However, if a company allows employees to use their own mobile devices to conduct business it must make sure that it protects against the release of confidential and private information.

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### Changes to EEOC Regulations Broadens Employer Liability Under ADA



In 2008, Congress passed the Americans with Disability Act Amendments Act (the "Amendments") in response to several U.S. Supreme Court cases that narrowed the scope of protection under the ADA. On March 23, 2011, the U.S. Equal Employment Opportunity Commission ("EEOC") issued its regulations and interpretive guidance on the Amendments (the "Regulations"). Per the Amendments' directive, the Regulations are aimed to substantially narrow the defenses an employer has in response to claim under the ADA.

Not surprisingly, since the enactment of the Amendments, EEOC filings for disability discrimination claims have increased. Disability claim filings have grown from 17,734 filed in 2007 (the last year prior to the Amendments) to 25,742 filed in 2011, an increase of over 8,000 claims per year. With the increase in claims and scrutiny by the EEOC, it is important to understand the change in the landscape created by the Amendment and Regulations.

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## Marketing Corner

### Share the Love

It's nice for owners/managers to make the rounds... say hi and be attentive to familiar customers and friends, etc.

But don't neglect the average Joe (and Josephine). People like attention and to be made to feel special. New or occasional customers appreciate a pat on the back as much as longtime patrons.

Make your place, 'their place'. Treat everyone like a long-time customer and they just might become one.

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## Industry Trends

- Despite Economic Headwinds, Restaurant Sales Reignite visit:  
<http://www.restaurantnews.com/despite-economic-headwinds-restaurant-sales-reignite/>
- Strong Group Demand Setting the Stage for Positive 2012 Hotel Occupancy Outlook visit:  
[http://www.hotelnewsresource.com/article61457Strong\\_Group\\_Demand\\_Setting\\_the\\_Stage\\_for\\_Positive\\_2012\\_Hotel\\_Occupancy\\_Outlook](http://www.hotelnewsresource.com/article61457Strong_Group_Demand_Setting_the_Stage_for_Positive_2012_Hotel_Occupancy_Outlook)

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## In the News

Congratulations to Brad Dalbeck and Chris Damian of Legendary Restaurant Group for being named Restaurateur of the Year by the Massachusetts Restaurant Association.

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Ruberto, Israel & Weiner attorneys have comprehensive knowledge and expertise in the areas of law in which they practice and the industries served. Attorneys in RIW's Hospitality Practice Group have provided legal services to industry clients for over 30 years.

Additionally, our attorneys organize seminars, lecture, write articles, participate in trade associations, and serve on Boards of Advisors for retail, food and hospitality industry companies.

For a full description of our Hospitality Practice Group, including a list of representative clients, [click here](#).

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## ARCHIVES

**Click here** for past articles on a range of issues including: Finance; Leasing; Data Security; Succession & Estate Planning; Disputes; Construction; and Branding.

Published by Ruberto, Israel & Weiner. **Kelly A. Caralis, Esq.**, Editor.

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