

# Membership Matters

Quarterly News from The 501 Alliance

*June 2019*

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## Officers Elected

The Board of Directors elected the individuals listed below to serve as officers of the group at their May meeting. Each officer is elected to serve a one-year term and can serve up to three terms in a row in the same office. Please join me in congratulating the following individuals.

President:	Ms. Jan Mack HR Director Alternative Services, Inc.
Vice President:	Mr. Larry Poupard, CPA Chief Financial Officer Financial One Accounting, Inc.
Treasurer:	Mr. Art Gadowski Office Manager Kent County Office of the Defender
Secretary:	Mr. Donald A. Fields, MSHROD, SPHR VP of Organizational and Individual Development Vista Maria

For a listing of all of the individuals on the board, please visit our website at [501alliance.org](http://501alliance.org). If you're interested in becoming a director, please contact the Administrator at 800-968-9675.

## And the Winner is...

From a field of 21 candidates, the winner of the Harry and Shirley Klein Legal Scholarship award was announced at the annual meeting in May. Ms. Allison Kruschke was the winner and she was presented with a check for \$2,500.

Ms. Kruschke is currently enrolled at the MSU College of Law and her GPA is 3.65. In addition to pursuing her law degree, she has worked at the MSU Housing Law Clinic and the Legal Aid Society of Milwaukee. She has also volunteered at The Guest House of Milwaukee and has participated in the AmeriCorps program.

This scholarship was established by The 501 Alliance and Human Services for Workers Compensation boards in honor of Mr. Klein. Harry was a nonprofit advocate and was instrumental in forming the unemployment compensation group-reimbursing plan.

This scholarship was funded by contributions from the two boards and is posted at various law schools in Michigan. Candidates submit essays indicating how their background and qualifications fit with what Harry Klein tried to do with his life. Members of the board, along with a family member and judges, form the selection committee.

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## How Would You Rule?

### Background

The claimant was discharged for being away from her assigned workstation for an extended period of time. The state ruled the claimant did not qualify for benefits because she was discharged for misconduct. She appealed the decision and a hearing was scheduled before an Administrative Law Judge (ALJ).

### At the Hearing

*Employer's Evidence:* The employer testified the claimant, who worked the overnight shift, was not in her assigned work area when her team leader went to reassign the claimant to another area. The claimant was not on a scheduled break and she should have been in the work area with the rest of her team. The claimant's supervisor had the claimant repeatedly paged from 3:00 a.m. until 5:45 a.m. until she was finally found in the employees' locker room. She was lounging in a chair in a reclined position with a towel covering her face. The supervisor did not say anything to the claimant at the time but she did report the incident to Human Resources.

During the course of her employment, the claimant had received multiple warnings for avoiding her job duties, leaving her work area without permission and had been suspended for her attendance. The employer determined the claimant was away from her workstation and sleeping on the job and they discharged the claimant.

*Claimant's Evidence:* The claimant testified she heard one of the pages but did not respond because she was on her break. The claimant denied she was not in her assigned work area from 3:00 a.m. until 5:45 a.m. She testified she was away from her workstation from 4:00 a.m. to 4:30 a.m. because she was cleaning up a spill. The claimant further testified she saw her supervisor enter the locker room but she did not say anything because she was on her scheduled fifteen minute break and was resting. The claimant admitted she was lounging on a chair and had her eyes closed.

### The Hearing Decision

The ALJ found the claimant denied under oath that she was either sleeping or avoiding work. Although the employer provided evidence the claimant had been warned on numerous occasions for avoiding work, the employer did not meet the burden of proof that the claimant had either avoided work or had been asleep on the date of the final incident. Since the claimant denied the wrongdoings, the employer needed to provide a corroborating witness or evidence and they failed to do so. The claimant was found to be discharged but not for misconduct and was allowed benefits.

The employer appealed, arguing the claimant's testimony did not fully account for the entire time the claimant was missing and that they were able to establish the claimant was not involved in cleaning up a spill or working in any other area during those hours. In addition, they presented first-hand testimony the claimant was not at her assigned workstation for almost three hours and the claimant failed to advise her team lead she was away.

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### How Would You Rule? (continued)

#### The Board of Review Decision

The Board of Review (Board) disagreed with the ALJ's decision and reversed it. They found the decision made by the ALJ was not supported by the evidence presented during the hearing and that the claimant's explanation for her absence was not credible.

#### Takeaways

1. *Cases involving only one first-hand witness for the employer can be difficult.* In this case, the claimant denied the employer's allegations. The ALJ had to decide between the claimant's testimony and that of the employer's. In the case of a discharge, it is the employer who bears the burden of proof and overcoming the claimant's opposing testimony. When at all possible, the employer should present at least two first-hand eye witnesses to increase the chances of winning.
2. *If the claimant had not been previously warned for similar behavior, the Board might have found the claimant eligible.* In cases where a claimant is found to be away from a workstation without authorization and the claimant has a plausible explanation for the absence, the state can find the claimant's behavior amounts to an isolated incident of poor judgement. However, if the claimant had been previously warned for similar behavior, the state may decide the separation is the fault of the claimant, which could then lead to a disqualification of benefits.

### New Reporting Tool

The next time you're in the Employer Portal to run or view reports, you may see a new application labeled Report Dashboard. This is a new reporting tool that is being rolled out to members throughout the Summer. This new application will eventually replace the current reporting tool Insight Reports. Both reporting systems will still be available through October 31, 2019, which at that time the Insight Reporting system will be retired.

The unemployment claims information that you currently have available to you through Insight Reports will also be available through the Report Dashboard. There is also a new report available through the Report Dashboard that is labeled CaseView. This report gives more of a visual representation as compared to past reports and it provides a deeper look into your unemployment claims and enhanced filtering capabilities.

The 501 Alliance's website has been updated with live training event dates for the Report Dashboard and an on-demand training tutorial is also available. To register for a live training event or to access the on-demand training, log-in to your account at [501alliance.org](http://501alliance.org) and select "Training Courses" under the member menu.

Other learning opportunities are also available through our website, which includes courses on understanding the unemployment process, attending an unemployment hearing and using the CaseBuilder application to respond to a claim for unemployment benefits.