



**FOS WELCOMES  
LAURNA  
JOZWIAK**



FOS proudly welcomes Laurna Jozwiak as the firm's newest attorney. Laurna, a Milwaukee native, has been practicing law since her 2009 graduation *cum laude* from Marquette Law School.

Laurna will focus her practice on family law, business law and general litigation.

As an FOS attorney, Laurna will continue her longstanding commitment to community service. Laurna volunteers at the House of Peace Legal Clinic and with Legal Action of Wisconsin's Volunteer Lawyers Project.

**ITS OVER AND WE WON—THEY DID WHAT?**



*By Michael Hanrahan*

One day, you are served with a lawsuit against you for something you didn't do. You contact your FOS litigator for help. You produce relevant records to the opposing party (the plaintiff). You sit for your deposition, answering the plaintiff's attorney's questions. You prepare for and attend a multi-day trial.

And then, lo and behold, the jury sees through your opponent's claims and returns a verdict in your favor and the court enters judgment dismissing the case. It's over! You've won!

Not so fast...Weeks later, your FOS attorney calls because the plaintiff has appealed the judgment. You are wondering how that could happen, what it means, and what to do.

Appeals are crucial components of our legal system. Ideally, they protect litigants from trial court errors. Of course, they are frustrating to both victorious clients and their attorneys. Knowing the basics, however, can make that frustration manageable.

A party can appeal a final judgment with which it is dissatisfied. Once that happens, the attorney for the appellant (the one appealing) orders hearing or trial transcripts relevant to the issues it wants to raise. The court clerk then prepares a record of all filings transmitted to the Court of Appeals. The job of the respondent (the party who won in the trial court—you) is to make sure that all transcripts and filings go to the court of appeals.

Forty days after the record is transmitted, the appellant files a brief (with supporting citations) with the appellate

court, arguing why the judgment should be reversed. One month later, the respondent files his brief as to why the judgment is proper. Shortly after that, the appellant files a short reply brief.

Several months later, the appellate court either affirms the judgment (you win again), reverses the judgment outright, or reverses the judgment with instructions to the trial court (i.e. to hold a new trial, to provide more explanation for a ruling, etc.)

An appeal does not give your opponent a "redo" of the trial. The Court of Appeals does not substitute its judgment for the trial court, but reviews the appellant's arguments and the record to determine whether the trial court erred.

The appellate court's authority generally depends on whether the appellant is

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**IN THE HOLIDAY SPIRIT OF GIVING**

In the spirit of the holidays, and in lieu of holiday cards to our clients and friends, FOS will make a donation to Repairers of the Breach, Milwaukee's only daytime homeless shelter and resource center. FOS attorneys and families saw this worthwhile organization's operations first hand, when they worked there during the FOS October, 2010 service day.



*Al and Michael Young, with Eric Pagels, sort clothes at Repairers of the Breach*

## DOCUMENT, DOCUMENT—YOU WILL BE GLAD YOU DID!



By Diane  
Slomowitz

On my first day at FOS, almost 30 years ago, I eagerly, if tremulously, waited to learn the secrets of lawyerdom. What was the key? Knowing the law? Meeting other lawyers? Schmoozing court officials?

The answer came quickly. Shirley Sorter, a wonderful FOS estate planning attorney, told me to glue a legal pad and pen to my side. And to take detailed notes of everything I was told, by my firm colleagues, other attorneys, my clients, third parties, the courts--everyone.

Shirley's simple advice was the best I have ever received. But why am I repeating it in a newsletter read by non-lawyers? Because the need for documentation extends beyond tax receipts and tax audits. Basic and consistent documentation now could save you time, money and grief later.

We see it all the time. An employer is sued by an employee for discriminatory termination. The employee was really fired for poor job performance. However, the employer did not document the many instances of poor performance by and warnings to the employee. Without a paper trail, it is much more difficult and expensive

to defend against the discrimination claim.

Or, a man agrees to loan a "friend" money, but either does not memorialize the agreement or drafts only a bare-bones version of it. The "friend" makes a few payments on the loan in cash, and then stops paying altogether. When confronted, the "friend" says that he paid the loan off in full. Without receipts signed by the "friend," or other memoranda of the payment amounts, the dispute becomes the client's word against the "friend's" (now former friend).

Proper documentation is not the same as compulsive

documentation creation. Some things need no documentation. At the very least, when dealing with a material personal or business matter, take out a note pad and memorialize your understanding of events and stick it in the file. A little time and effort now can save a lot later.

One last thing: When documenting via the computer, know that it is possible to uncover every version of every document or email, placed on the hard drive, even if deleted from the open files. So, if you make changes, understand that your trail of changes can be unearthed and you might need to explain them.

## LORI CZARNECKI IS "UNSUNG HERO"



FOS legal secretary Lori Czarnecki has been nominated as an "Unsung Hero" of Wisconsin's legal community. A luncheon, held at the Italian Community Center on November 12, 2010, honored Lori and others who act in non-attorney legal positions.

The nominations and event, sponsored by the Wisconsin Law Journal, were designed to recognize the accomplishments of those whose contributions, while "behind the scenes," are noteworthy nonetheless.

Lori was also profiled in the November 15, 2010 *Wisconsin Law Journal*.

Lori's nomination confirms her superior professionalism and FOS's fundamental philosophy of providing clients with the best legal services, from everyone in our firm.

## ERIC PAGELS COMPLETES HIS SECOND CHICAGO MARATHON

FOS congratulates attorney Eric Pagels for successfully completing the October 10, 2010 Chicago Marathon.

This was Eric's third marathon, his first being the Milwaukee Lakefront Marathon in October, 2008.

Eric, who also ran in the 2009 Chicago Marathon, completed the 26.2 mile 2010 Chicago run in 3 hours and 35 minutes. That time placed him in the top 10 percent of the thirty-six thou-

sand plus marathon finishers. The marathon began and ended at Chicago's Grant Park after winding through 29 neighborhoods.

Congratulations Eric!

*Eric's view of the starting line*



## DIVORCE AND PAYING FOR COLLEGE



By Laurna  
Jozwiak

Is your son or daughter anxiously awaiting big, fat envelopes containing acceptance letters from colleges and universities across the country? Are you nervously anticipating the big, fat bills that increasingly come with the cost of higher education?

For all parents, worrying about how to pay for or assist with college expenses for their child is a stressful issue. For a parent going through a separation or divorce, the stress and worry about having to shoulder these costs alone can be even greater. But, separating and divorcing parents should keep in mind that there are a number of ways to plan for their children's future, including sharing the costs of higher

education with an ex.

First, it is important to realize that in Wisconsin, the law is clear: a court cannot order child support payments for any children that have reached the age of majority, unless they are under age 19 and still pursuing a high school degree or its equivalent. So, parents thinking they can go to court to get continued child support payments through the college years are out of luck. However, the courts, along with many parents, recognize that there "may be strong reasons or even a moral responsibility" to help children with college expenses.

The standard is much less clear when it comes to asking a court to consider the costs of an adult child's college expenses when determining maintenance awards: al-

though the educational expenses do not have to be considered when a court reviews a party's budget, they may be. These decisions are taken out of the control of the parents and left to the discretion of the court.

In short, it is much better to be proactive with your ex in planning for the future when drafting your marital settlement agreement. There are a number of different methods that can be used to plan, and the one chosen can be uniquely tailored to the particular circumstances of the parents involved.

If you and your ex haven't addressed the issue in the marital settlement agreement, but the time is coming close for deposits to be paid, contact the attorneys at FOS for guidance on how to work out an agreement going forward.

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challenging a factual finding ("John Smith left the building at 1:00"), or a legal conclusion made by the trial court ("The contract is unenforceable"). Because factual findings can be overturned only if there is no evidence in the record to support them, an appeal based on factual challenges is unlikely to succeed. Appeals challenging legal conclusions, on the other hand, have a

higher success rate, because the Court of Appeals reviews a legal issue independently, without any deference to the trial court.

An appeal is not a death sentence to a party's victory; it is another step in the legal process. If the trial court committed no errors, the Court of Appeals will affirm the judgment and ratify that victory, but that involves a few more months of waiting and frustra-

tion. That is, unless the party who lost the appeal takes the rare step of petitioning the Wisconsin Supreme Court for further review. However, that is an article for another newsletter.

**FOS now offers  
electronic tax filing.**

**Call us today for details!**

**Phone: (414) 273-3939**

## AL YOUNG UNSTOPPABLE AS FOX CUP WINNER



*Bill Fox presenting Al Young with the winning trophy.*

For the 8th consecutive year in this 9-year event, FOS attorney Al Young won FOS's FOX CUP golf tournament, despite the rules, created by last year's runner up Bill Fox, being stacked against him.

The runner up, Milwaukee County Circuit Court Chief Judge, and former FOS shareholder, Jeffrey Kremers, is now entrusted with creating the 2011 tournament rules and with the traditional second placer's ugly plaid jacket.

Also playing were FOS attorneys William Fox, Bill Soderstrom, Greg Ricci, Fran Hughes, Mike Hanrahan, Eric Pagels and Laurna Jozwiak and former FOS attorneys John Schaller, Jeff Kallio and Dana Dombrowski. FOS Office Manager Judy Janetski and Bill Fox's wife Karen Fox also participated.

Can Al keep up his winning streak? Tune in next year!



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Fox, O'Neill & Shannon, S.C. provides a wide array of business and personal legal services in areas including corporate services, litigation, estate planning, family law, real estate law, tax planning and employment law. Services are provided to clients throughout Wisconsin and the United States. If you have any questions about these articles or any other legal topics, please call us at (414) 273-3939.

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Watch for Series LLCs

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**WATCH FOR SERIES LLCs**



*By Al  
Young*

When a business owns real estate, we often recommend that the business be operated in one entity (a corporation or LLC) and that the real estate be owned in a separate entity (usually an LLC). Likewise, for clients who own multiple pieces of rental real estate, we often recommend that each property be owned in a separate LLC. Using multiple LLCs offers two advantages. First, the assets of one entity are isolated from the liabilities of

the other entity. Second, when it is time to sell, it is usually easier to sell pieces rather than an entire business or multiple properties.

A disadvantage of multiple entities is the associated administrative costs. A new development, the Series LLC, minimizes the administrative costs. A Series LLC is a single company for state law purposes. However, it is authorized to form sub LLCs or Series. Each Series may operate different businesses, have different assets, members and/or managers. The assets of each Series are protected against liabilities from

other Series.

Currently, only 8 states offer Series LLCs (Wisconsin is not one of them). A factor holding back the spread of Series LLCs has been uncertainty as to whether a Series LLC should be treated as a single entity or as multiple entities for federal tax purposes. Recently, the IRS published proposed regulations addressing the issue. The proposed regulations provide that each Series LLC is a separate taxpayer for federal tax purposes.

With more certainty of the federal tax classification of

Series LLCs, many more states, including Wisconsin, are likely to offer this type of business entity. Watch this newsletter for further developments.

**TAXES AND 2011**

**As of this printing, great uncertainty exists as to 2011 personal and estate tax rates, and the resulting planning opportunities and pitfalls.**

**Contact Al Young or Greg Ricci today with questions regarding your tax situation.**

**Phone: (414) 273-3939**