



"RISKY BUSINESS" - - RISKIER THAN YOU THINK



By Jacob A. Manian

Does your shoe company use a fluoroscopic shoe-fitting machine? Are you in the business of selling artificially-colored ducklings or rabbits? Believe it or not, you may be committing a crime under Wisconsin law.

Didn't know you were committing a crime? In the words of Aristotle, "nemo censetur ignorare legem," nobody is thought to be ignorant of the law.

Granted, these examples may be extreme, but what about common business disputes, such as those involving intellectual property? What if you and your business are accused of misappropriating a trade secret? Infringing on a copyright? Or using a counterfeit mark?

Crossing the line into risky business practices may not only spur civil litigation but could also result in costly criminal investigations, or worse yet, criminal charges and penalties. This is particularly true of our intellectual

property laws.

Most people associate "white-collar" crime with, for example, embezzlement or perjury. But did you know that trade secret theft is a felony under both state and federal law?

In addition to creating potential civil liability, individuals engaged in theft of trade secrets can be punished under 18 USC §1832 by up to 10 years in federal prison and assessed large fines. Businesses can be fined up to \$5 million. Wisconsin law also provides for

imprisonment and fines for these violations.

Likewise, the willful infringement of a copyright for financial gain constitutes a federal crime under 17 USC §506. Punishment can include up to a decade in prison.

Violations of trademark law can result in federal indictment under 18 USC §2320 which prohibits trafficking in counterfeit goods and services.

Continued on Page 3

THE BANKS ARE BACK IN BUSINESS (WE THINK)



By William R. Soderstrom

The corporate and trust attorneys at FOS were among several hundred guests invited to a wonderful dinner sponsored by one of the home-grown Wisconsin banks here last month.

It was a very interesting event, and could, I think, be fairly described as a "re-coming out" party by the bank, which had suffered, along with almost all of our local banks, after the financial collapse in 2008.

The one message, made loud and clear, was the bank is aggressively looking to make loans and to find new customers.

The event paralleled what we have seen from other banks here, and that is a very aggressive push to make loans.

We have made it a practice in the last few years to regularly meet with a wide variety of bank officials, from Presidents to commercial loan officers, and that is the message we have been hearing lately over and over without fail.

And yet...there has been no more constant lament amongst our business clients than that they cannot obtain reasonable financing from the banks. I regularly hear, even now, that the banks don't seem to be in the business of making loans, that they are too conservative and adverse to taking risk here, etc.

So, there seems to be an enormous disconnect. What gives? I think this: many businesses are still operating under the perception that was developed, for good reason, after the financial

crisis; but that perception is well behind the current reality.

It is simply not reasonable for me to believe that banks are aggressively courting lawyers and accountants for the express purpose of finding leads to businesses, so they can **not** make loans to them. I am convinced that banks want to loan, and are aggressively competing with each other to do just that.

If your business is in need of financing, then I be-
Continued on Page 3



MEDITATIONS ON MEDIATION



By Laurna A. Jozwiak

You didn't come to the decision to file a lawsuit lightly. Or, you attempted to resolve your dispute with a disgruntled plaintiff soon after a suit was filed. Those efforts were unsuccessful. Now your attorney tells you that you have to go to mediation. What?

Mediation is a form of alternative dispute resolution in which the parties attempt to negotiate a settlement through the use of a neutral third party. Unlike in an arbitration or at trial, the mediator has no authority to issue any decisions to resolve the case.

But, if you weren't able to resolve your differences before, why go to mediation now?

In some cases, mediation is mandatory, such as custody and placement disputes in Milwaukee County. Many times, mediation is ordered by the judge. Or, your attorney may suggest going to mediation.

Whether you opt into mediation or are ordered, clients often have many questions.

Who are the mediators? Typically, mediators are retired judges, or attorneys, who have expertise and training in a particular area of law. They are completely neutral, and do not advocate on behalf of any party.

Who pays for mediation? Generally the parties split the mediator's hourly rate.

What happens in mediation? Usually, the parties gather at the same office, in separate rooms. The par-

ties present a summary of their position and the evidence in their favor privately to the mediator. The mediator then travels between the parties and attempts to negotiate a settlement by facilitating a discussion about the strengths and weaknesses of each position and suggesting compromises.

How long does mediation take? Sometimes, a few hours. Other times, mediation can occur over a number of days or weeks.

Will the judge know what we talked about in mediation? All mediation negotiations are confidential; anything that is discussed in mediation cannot be later used at trial.

Why go to mediation? There are two main bene-

fits: 1) The costs involved in mediation are significantly less than trial; and 2) You and the other party control the outcome in mediation – in litigation, all of the decisions are made by the judge or jury.

Many cases settle at mediation, saving the parties time, money, and the uncertainty of trial.

Even if mediation is unsuccessful, it provides an opportunity to understand better the opposing party's position and ultimate goals of litigation. It is never a waste to explore meaningful options to settle your case.

QUESTIONS?

CALL US
414-273-3939,

OR EMAIL US AT
info@foslaw.com

FOS ON THE MOVE



FOS shareholder Francis Hughes has been elected President of the St. Thomas More Lawyers' Society of Wisconsin. In addition to his duties as President, Fran continues as a member of the Society's Board of Governors.



FOS shareholder Diane Slomowitz has been appointed a profile writer for the Association of Women Lawyers newsletter.

The Association promotes the development of female attorneys and the integrity of the legal profession.



FOS shareholder Matthew O'Neill moderated the CLE panel presentation on Federal Jurisdiction at the Annual Meeting of the Bar Association of the Eastern District of Wisconsin on April 25, 2013.

FOS SERVICE DAY

On June 1, FOS employees and family members will be participating in the firm's 4th annual service day as a way of giving back to the greater Milwaukee community that we have all come to call home.

This year, we will be volunteering at the Despenza De la Paz food

pantry, filling food bags and performing any other needed tasks.



FEED THE HUNGRY



FOS has been named as one of the 2013 U.S. Top Ranked Law

Firms by LexisNexis® Martindale-Hubbell®, in association with ALM Media.

Only law firms with at least 10 attorneys, at least one third of whom have achieved AV® Preeminent™ ratings, were eligible for consideration for this honor.

According to LexisNexis, an AV ranking demon-

strates a lawyer's "expertise, experience, integrity and overall professional excellence."

FOS is honored to be included in this "select group recognized for exceptional legal abilities and professional ethical standards," as described by LexisNexis.

We will continue to provide our clients with the best legal services. As our motto states: "Our clients come first."



By Francis J. Hughes

We've all read stories in the press over the last several years, that the bottom fell out of the real estate market. We've seen for ourselves how real estate values have dropped, and how properties have been taken over by banks, either through formal foreclosure or a borrower's surrender. Sad stories abounded.

But recently, we've probably all seen stories related to a come-back in the real estate market. Values are increasing, sales are occurring and occupancy levels of commercial space are rising.

What does this all mean? You might benefit from a real estate transaction. If your business could use better, more usable space, or more permanent space,

this may be the time to act. If you have money to invest, you might consider purchasing real estate or a bank's position in a mortgage loan on real estate.

Banks are telling their customers that they are ready to lend on real estate transactions and, while there was certainly a period of time when this was true, we have seen evidence that the tide may have turned and strong deals are desirable.

If you are contemplating a real estate transaction, purchase, sale or lease, please contact FOS early in the process. We can assist you with the letter of intent, brokerage contract, terms of purchase or lease.

We can assist with due diligence, contingencies and getting the contract right, so that you understand what you're buying or leasing and what opportunities and risks may be present.

NEW I-9 FORMS REQUIRED

As of May 7, 2013, employers must use a new I-9 form to document the employment eligibility of new employees.

The new forms have additional space to include employee's foreign passport information (if applicable), telephone and email addresses. They also have a more expanded layout and (we hope) improved instructions.

For information, contact dslomowitz@foslaw.com.

The Banks

Continued from Page 1

lieve this is a good time to shop the market, because good banks are in the market to loan. The attorneys at FOS have long and very strong relationships with a number of local banks here, and very often those relationships start at the very highest levels of those banks.

We are as invested in the local economy as anyone, and we would be delighted to provide you with good introductions to the right people in all areas of commercial financing. Just give us a call.

"Risky-Business"

Continued from Page 1

Certain violations could result in up to two decades in prison and huge fines. Businesses can be fined up to \$30 million. Wisconsin law also allows for imprisonment and fines for such violations.

In Wisconsin, electronic software and data is protected under §943.70. Commonly referred to as the Wisconsin Computer Crimes Act, the law protects against the destruction or modification of computer data and programs, and also forbids unauthorized access or copying. Felony charges can result, depending

upon the violation.

These examples demonstrate the severe consequences that can follow from crossing the line in an effort to gain a competitive edge.

Even if you and your business are ultimately cleared of criminal wrongdoing, the costs and bad publicity associated with any criminal probe can be devastating.

And so, as our "flat-world" economy requires everyone to up their game like never before, we must be mindful not only of potential civil liability for risky business practices, but also of the

potential costs and consequences of a criminal investigation.

FOS can help you and your business navigate the choppy waters you may face in your never-ending quest for better and bolder innovation and ideas.

NEED A SPEAKER?

FOS attorneys frequently speak to small and large groups. If you are interested in having an FOS attorney speak to your group, contact your FOS attorney or Judy Janetski at jkjanetski@foslaw.com or 414-273-3939.



622 N. Water Street
Suite 500
Milwaukee, WI 53202
Phone: 414-273-3939
Fax: 414-273-3947
www.foslaw.com

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.

Address label

IN THIS ISSUE

Page 1

Risky Business.../The Banks are Back ...

Page 2

Meditations on Mediaton/FOS on the Move/FOS Service Day

Page 3

Top Ranked Nationwide/New I-9 Forms Required/Practice Corner

Page 4

Avoid Your Home's Probate

This newsletter is for information purposes only and is not intended to be a comprehensive summary of matters covered. It does not constitute legal advice or opinions, and does not create or offer to create any attorney/client relationship. The information contained herein should not be acted upon except upon consultation with and the advice of professional counsel. Due to the rapidly changing nature of law, we make no warranty or guarantee concerning the content's accuracy or completeness.

SAVE TIME, MONEY -- AVOID YOUR HOME'S PROBATE



By Allan T. Young

Most married couples own their home as survivorship marital property. At the first death, probate of the home is avoided because title automatically vests in the surviving spouse.

To document that the surviving spouse is the owner of the property, Form HT-110 must be recorded with the local Register of Deeds.

A problem arises when the home is owned by the surviving spouse, now a single individual. Unless action is

taken during the surviving spouse's lifetime, the home will be subject to probate at his or her death.

Probate can be avoided by transferring the home to a revocable trust, or by executing a Transfer on Death Deed and recording it with the Register of Deeds.

Executing and recording a Transfer on Death Deed is similar to placing a beneficiary designation on the home. At death, title automatically vests without probate in the beneficiary named in the document.

Married couples can execute and record a Transfer on

Death Deed while both spouses are living. At the first death, title to the home will automatically vest in the surviving spouse. At the second death, title will automatically vest in the designated beneficiary.

Keep in mind, however, that Form HT-110 must still be filed with the Register of Deeds after the first death. It must also be filed with the Register of Deeds after the second death.

A Transfer on Death Deed is an effective way to avoid probate for a home. Consider whether it might be appropriate for you. If so, FOS can help.

FOS WALK/RUN

On Sunday September 22, 2013, FOS will participate in its second annual Milwaukee's Susan G. Komen Race for the Cure walk/run.

FOS' team, "The Karen Fox Trotters", honors the memory of our dear Karen Fox.

Team registration deadline is September 6, 2013. To sign up, contribute, or for more information, log onto www.komenmilwaukee.org and search for the "Karen Fox Trotters" team in the "Komen Race for the Cure" area or call Team Captain Judy Janetski at 414-273-3939. Walk/run for Karen Fox!