



Editor: Diane Slomowitz

Volume 6, Issue 2
Summer 2014

THE LEMON LAW SQUEEZE

FOS LAWYERS ARE "SUPER"!



By Diane Slomowitz

When I was young, my parents bought two first-year-on-the-market VW Jettas for my college-age brother and sister.

Fittingly, my sister's was bright lemon yellow.

Neither car ever worked. Both were at the mechanic's more than they were out.

The kicker? As my sister drove to Madison, her lemon of a lemon Jetta stopped working—cold—on a freeway curve, and slid into a guardrail.

All of this happened months before the effective date of Wisconsin's first "lemon law." My head still hurts

remembering my mom's shrieks at learning that the new law did not cover either of her "lemons."

Despite my family's woes, Wisconsin's "lemon law" has been a Wisconsin legal fixture since 1983.

The law still applies only to new cars. It still requires a "defect." And it still requires either four repair attempts or the car's being out of service for 30 days, all within the earlier of one year after delivery or during the express warranty period.

Other parts of the law, however, recently changed. The new changes could reduce a "lemon's" owner's remedies in four ways.

First (and the easiest to fol-

low), the owner must now use forms developed by the Department of Transportation, when it contacts the dealer.

The forms can be found at www.dot.wisconsin.gov/safety/consumer/rights. An unwary owner, however, could still have problems.

Second, and problematic, the time to sue has been cut in half, from six years after delivery to three (after delivery).

The new deadline to sue will coincide with the end of those vehicle warranties lasting three years. Under prior law, some vehicle owners waited until after their three-year warranties expired to decide whether to sue. That is no longer possible.

Continued on page 3

FOS shareholders Bruce O'Neill, Matt O'Neill, and Shannon Allen, and FOS of counsel attorney Ken Barczak have been named 2013 Super Lawyers.

All four were formally recognized in the *Super Lawyer* edition of *Milwaukee Magazine* as top Wisconsin business litigation attorneys.

This is the eighth year in which Bruce, Matt and Ken have achieved this honor.

It is the first year for Shannon, who was previously a "Rising Star."

Super Lawyer is an independent rating service. It uses independent research and peer nominations and evaluations to choose "Super Lawyers" from more than 70 practice areas statewide.

JOZWIAK ELECTED AS FOS SHAREHOLDER



FOS congratulates attorney Laura A. Jozwiak on being promoted to shareholder at the firm.

Laura's practice focusses on transactional and other business matters, trademark law and family law.

Laura, a Wauwatosa native, received her law degree, *cum laude*, from Marquette Law School.

Laura serves on the board of the Milwaukee Young Law-

yers Association and is a member of the Collaborative Family Law Council of Wisconsin. Laura also participates in the House of Peace's Volunteer Legal Clinic and Legal Action of Wisconsin's Volunteer Lawyer's Project.

Laura was profiled in the March 28, 2014 electronic edition and the April, 2014 print edition of the *Wisconsin Law Journal*. To see her profile, go to the News and Newsletters page of our website, foslaw.com.



THE GIVING (A LOT) SEASON:

THE SUPREME COURT STRIKES DOWN CAMPAIGN LIMITS



By Matthew W. O'Neill

For the second time in four years, the U.S. Supreme Court has broadened the right to engage in political speech. This time, it comes with a price.

2010's *Citizens United* decision held that corporations can engage in political speech.

The April, 2014 *McCutcheon* decision held that the total amounts individuals can contribute to federal candidates and political action committees (PACs), combined, may not be limited.

Both decisions reflect the Roberts Court's trend favoring uninhibited political speech over governmental attempts to rein in campaign speech and spending.

McCutcheon will have a lasting impact. Its core issue was narrow: does the "aggregate" limit an individual can contribute to all federal candidates and PACs violate the First Amendment?

Chief Judge Roberts, writing for the Court, answered yes. The Court found aggregate limits "do little, if anything," to address potential political corruption, "while seriously restricting participation in democratic process."

Few individuals will directly "benefit" from *McCutcheon*, since the aggregate federal limit was a healthy \$123,200.

The real beneficiaries are federal candidates and PACs. Indeed, one lawyer saw the decision as harmful to his wealthy donor clients, who can no longer avoid endless donation demands by claiming they have "maxed out."

As if on cue, numerous "super joint fundraising committees" sprang up in April. These committees can now legally solicit immense contributions from wealthy individuals. They won't be shy.

McCutcheon will invalidate Wisconsin's current \$10,000

per year aggregate limit. Because \$10,000 is also the maximum state office candidate limit, before *McCutcheon*, the law had the effect of maxing out any donor who contributed the maximum to a gubernatorial candidate.

Every year, dozens of individuals unwittingly went over the maximum, and paid a fine.

No more.

McCutcheon also likely heralds the end of many individual contribution limits. *McCutcheon* did not invalidate the federal \$5,200 "base"

Continued on Page 3

LEGAL LEADER BRUCE O'NEILL PROFILED



The *Wisconsin Law Journal* has continued its recognition of FOS senior shareholder Bruce C. O'Neill through a video interview and a written profile.

Bruce was recently honored by the *Wisconsin Law Journal* as a 2014 Leader in the Law.

In conjunction with that honor, a special edition of the *Law Journal* profiled Bruce.

To read that article, go to the News and Newsletters page at www.foslaw.com.

In addition to the written profile, the *Law Journal* produced a video interview with Bruce.

To see the video, which includes candid photos taken over the years, go to www.youtube.com/watch?v=EAteBbAcC-8.

Follow us on LinkedIn



& Like us on Facebook



WALK/RUN TO SALUTE KAREN FOX

On Sunday, September 21, 2014, FOS will participate in its third annual Milwaukee's Susan G. Komen Race for the Cure walk/run. FOS's team, "The Karen Fox Trotters," honors the memory of Karen Fox.

Team registration deadline is September 4, 2014. To join our team, contribute, or for more information, log on to www.komensoutheastwi.org and search for the FOS team, "The Karen Fox Trotters."

HANRAHAN TOP RATED

FOS shareholder Michael Hanrahan has been named a 2014 Top Rated Lawyer in the labor and employment area by American Lawyer Media and Martindale-Hubbell™. Mike was previously named a 2013 Top Rated Lawyer.

Mike was honored as an attorney with the highest peer ratings for legal ability and ethical standards in the labor and employment specialty. American Lawyer Media is a leading provider of news and information to the legal industry.

WHEN IMITATION IS NOT THE SINCEREST FORM OF FLATTERY



By Laurina A. Jozwiak

What do Ozzy Osbourne, Clint Eastwood and Mario Batali have in common?

No, its not the start of a bad joke. Each has been in the papers recently because of efforts they've taken to police against potential infringement of their trademark rights.

In Ozzy Osbourne's case, he is trying to stop a brewery in Maryland from selling a beer called "Ozzy" which displays a logo featuring tattooed fin-

gers and a bat.

Clint Eastwood filed a lawsuit against the makers of a theater chair called "The Eastwood."

Finally, Mario Batali's restaurant group has threatened to sue a food truck over use of the name "Little BATALY."

These high profile cases may seem silly, but they emphasize a very important point — a trademark owner's work isn't over when the mark registers.

Trademark owners are legally obligated to police against potentially infringing uses of their marks.

Failure to do so may result in dilution of the mark, limits on enforcing trademark rights in the future, and even a total loss of all rights in the mark.

So, how can you protect your mark against infringement?

First, set in place a plan to actively monitor for infringing uses. This can be simple, such as reminding employees to be on the lookout for any other potentially confusing marks, or more involved, such as subscribing to a trademark monitoring service.

Second, seriously investigate and evaluate potentially in-

fringing marks.

Third, consult with your FOS attorneys to determine if legal action is warranted. Many times, a cease and desist letter can solve the problem. But, if the infringing use is serious, then legal action may be necessary.

No one else will do this work for you — you must be vigilant about protecting and enforcing your trademark rights.

With you doing your part, FOS's attorneys can help you keep unlawful imitators at bay.

The Giving (a Lot) Season
Continued from page 2

contribution per candidate, but the writing is on the wall.

The Court identified the right to "contribute to a candidate's campaign" as among the most "basic" rights in our democracy, arm in arm with the right to vote and the right to publicly advocate for a chosen candidate.

Eventually, the Court, as currently constituted, will likely hold that this right outweighs the government's interest in arbitrarily limiting the amount of direct contributions.

So, get out your checkbooks. The First Amendment beckons.

The Lemon Law Squeeze
Continued from page 1

Third, owners can no longer recover double damages. Actual damages and potential attorneys' fees still remain.

Fourth, if a party hinders or does not reasonably cooperate, the court can impose a variety of sanctions, from extending opponents' deadlines to dismissing an action.

If the law does or could affect you, it is more important than ever to contact your FOS attorney.

And, if I were you, I'd stay away from yellow cars.

QUESTIONS?
CALL US @
414-273-3939

SHANNON ALLEN - WOMAN IN THE LAW



FOS congratulates shareholder Shannon Allen on being named one of the 2014 Women in the Law by the *Wisconsin Law Journal*.

Shannon will be honored at a June 12, 2014 dinner at the Pfister Hotel.

Shannon joins FOS shareholder Diane Slomowitz, who was named one of the 2012 Women in the Law.

FOS'S SERVICE DAY



FOS will hold its 5th annual service day on Saturday, May 31, 2014 at the Despensa de la Paz food pantry.

Participants will greet and register attendees, fill and disburse food parcels, and accept and organize clothing donations.

O'NEILL PROCLAMATION

Lancaster, California has issued a formal proclamation commending FOS shareholder Matthew O'Neill.

The City lauded Matt for his "excellence in trial advocacy" and "exceptional achievement in securing a \$12,000,000 settlement" on behalf of the City in a federal securities fraud action.



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 do not want to receive future newsletters from Fox, O'Neill & Shannon, S.C. please send an email to info@foslaw.com or call us at (414) 273-3939.

IN THIS ISSUE

Page 1
Lemon Law/Jozwiak/Super Lawyers

Page 2
Campaign Limits/O'Neill Profiled/
Hanrahan Top Ranked

Page 3
Trademarks/Shannon Allen-Woman in the
Law/FOS Service Day/Proclamation

Page 4
The Young'ns Have Arrived!

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.

THE YOUNG'NS HAVE ARRIVED!



By William R. Soderstrom,
Managing Shareholder

You will see in another story in this issue that Laurna Jozwiak has become a shareholder here at FOS.

Laurna is a terrific lawyer, with brains and initiative and uncommonly good common sense for a young attorney. She graduated with honors from Marquette Law School right as the financial crash was occurring; the crash resulted in a terrible disruption of the market for new law school graduates. I am really

happy that one side event to those terrible times was Laurna landing at our doorstep.

Laurna was the first of quite a bit of hiring here at FOS. In the last few years Matt O'Neill and Shannon Allen, who were partners at the Friebert Finerty litigation firm, joined the FOS litigation group. We also added Jake Manian, who had been a high profile assistant district attorney at the Milwaukee County District Attorney's office for 5 years.

Peter White was a CPA at Deloitte & Touche, and he joined our tax and estate plan-

ning group.

And last summer we added Mike Koutnik to our business practice. Mike was in the top ten percent of his class at Marquette Law School and was on law review.

Why all this hiring? The simple answer is, we have an enormous increase in the amount of legal work coming into our office since things sorted themselves out after the financial crash in 2008, including the addition of a number of new business clients who were formerly with larger firms, and we needed bright, energetic and ambitious

younger attorneys to help us get the work out. And it's not only their considerable work contributions that we have come to value. We try to hire people who have the abilities and character to accept the way we practice law; which is that we expect excellent results in everything, and we expect all of our attorneys to do whatever is necessary to produce those results.

But, we also want people who are fun to be around, who take their job seriously but do not take themselves very seriously. We think we hit the jackpot with this group.