



FOS NEWS - Our clients come first

Editor: Diane Slomowitz



A YEAR ENDING WITH HOPE



Volume 14, Issue 4 Winter 2021



By Fran Hughes

The titles of this article and my Winter, 2020 newsletter article, "A Challenging 2020, With High Hopes for 2021," succinctly describe the continuing effects of the COVID-19 pandemic.

During 2020, the world was rocked by this new virus, which sickened many, caused the loss of family, friends, and colleagues, and brought many businesses to a standstill.

In the midst of and in many ways despite the pandemic's havoc, Fox,

O'Neill & Shannon remained open, serving our clients.

In 2021, great strides were made against the pandemic.

Private industry, working with governmental agencies, developed safe and effective vaccines in record time.

Loved ones and friends cautiously moved from Zoom to front yards and living rooms.

Closed businesses began to reopen.

At FOS, which never closed, in-person meetings replaced many Zoom ones.

Safety and security remained (and remain) our watchwords.

Then, the Delta variant threw us all for a loop.

During this difficult year, FOS responded to our clients' legal issues.

After all, people's lives go on, even with the pandemic.

Through 2021, FOS assisted our clients in buying and selling businesses, commercial properties and homes.

We helped clients create new businesses and succession plans for existing ones.

FOS represented litigants in civil and criminal investigations and proceedings. We worked to create and update clients' estate plans.

We also continue to monitor and respond to COVID-related legal developments affecting our clients.

FOS issues Client Alerts regarding COVID-19 related legal issues via social media posts, emails and foslaw.com.

For a complete collection of Client Alerts, dating back to the pandemic's beginning, go to foslaw.com/news-views.

This News and Views webpage also contains many timely and informative articles regarding legal issues unrelated to the pandemic.

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FOS NAMED "BEST PLACE TO WORK"

For the third consecutive year, FOS has been honored as a "Best Place to Work" by the Milwaukee Business Journal.

FOS received its award at an October 26, 2021 luncheon at The Pfister Hotel.

FOS received this award based on the nomination, individual responses to detailed questionnaires, and independent comments by FOS employees.

FOS is particularly grateful to be recognized by its employees and the Milwaukee Business Journal this year, during which FOS, our employees, and our clients continue to address the impacts of the COVID-19 pandemic on us all.

For FOS, this award confirms what everyone at FOS has long known - that FOS really is the best place to work.

JUDY JANETSKI—UNSUNG HERO



whose contributions are critical to law firms' successes.

Judy will receive her award at a December 10, 2021 luncheon at The Grain Exchange.

Judy will also be featured in a special publication of the Wisconsin Law Journal.

Judy is FOS's second "Unsung Hero."

FOS legal assistant Lori Czarnecki was previously honored.

FOS congratulates Business Manager Judy Janetski for being named a 2021 "Unsung Hero" by the Wisconsin Law Journal.

The "Unsung Hero" award recognizes non-lawyers

MOVING? BEWARE.



By *Jamie Barwin*

Renting a U-Haul and hiring friends with the promise of pizza and beer usually isn't enough to lure anyone to help move anymore (was it ever?).

Instead, internet searches ensue to locate reputable and cost-effective moving companies.

Unfortunately, many search results return less than reputable businesses that claim “5 star” or A+ Better Business Bureau ratings.

And many of these companies abscond with your belongings or hold them hostage for more money.

On my move from Michigan

to Wisconsin this summer, my family and I were victims of moving fraud.

My experience taught me, and now you, how to best avoid being a moving fraud victim:

1. Rely on a credible referral for a moving company;
2. Require an in-home estimate and inventory;
3. Obtain a price-lock guarantee;
4. Pick better reputation over a better price;
5. Do not trust a broker or moving company that requires cash;
6. Use the Federal Motor Carrier Safety Administration Checklist:

(oig.dot.gov/investigations/household-goods-moving-fraud);

7. Review the Department of Transportation Office of the Inspector General (“OIG”) website on moving fraud (oig.dot.gov/investigations/household-goods-moving-fraud);
8. Trust your gut.

Movers cannot make you pay more than 110 percent of a non-binding estimate upon delivery.

And they must return your goods when you pay 100 percent of a binding estimate.

Know these signs of a moving scheme:

1. The broker/mover breaks commitments before the fact (“Truck broke down; see you tomorrow”);
2. The moving truck has no license plates, is unmarked, or rented;
3. The truck is obviously too small;
4. The mover insists your property was undervalued, and doubles or triples the estimate.

Some movers may purposefully damage or “mislay” items.

Others may hold your shipment hostage, which alone violates federal law.

Even in the midst of fraud, you may feel pressured or have a deadline to leave

Moving, cont. on pg. 3

A Year Ending With Hope, cont. from pg 1

As 2021 ends, FOS is in the midst of multiple multimillion dollar acquisition and related transactions, several of which are targeted to close before or shortly after the New Year.

And, while many law firms downsized, in July, FOS welcomed experienced Attorney/CPA **Jamie Barwin** to its taxation, estate planning and business groups.

Jamie quickly and effectively jumped into her practice, preparing complex tax returns and estate plans for, and consulting on significant tax and business

matters with, numerous FOS clients.

Jamie’s article, “*Moving? Beware*” above, provides a needed warning of the increasingly common moving company scams.

Jamie also wrote a timely article about cryptocurrency investments, “*Including Cryptocurrency in Your Estate Plan*,” for our fall estate planning newsletter, foslaw.com/wp-content/uploads/2021/10/Fall-2021-EP-Newsletter.pdf

Also this year, the firm’s high-quality work and those

who accomplish it were again recognized.

Shareholders **Matt O’Neill** and **Jacob Manian** and Of-Counsel **Ken Barczak** were named to the list of 2021 Super Lawyers, and shareholders **Mike Koutnik** and **Laurina Kinnel** were named to the list of 2021 Super Lawyers Rising Stars.

O’Neill, Manian and Koutnik were also named “Best Lawyers in America.” FOS was named “Best Law Firm” by *U.S. News & World Report*.

Our Office Manager, Judy

Janetski, received a 2021 “Unsung Hero” award from the *Wisconsin Law Journal*. Judy plays a huge role in FOS’s success.

FOS was especially gratified to be named a *Milwaukee Business Journal* “Best Place to Work” for the third consecutive year, based on confidential employee surveys.

All during the pandemic.

As I write this, COVID-19 case numbers, hospitalizations, and deaths are on the decline.

Ending with hope, cont. on pg. 3

WATCH THOSE “TRUE” TESTIMONIALS: FALSE ADVERTISING CAN COST YOU REAL MONEY



By Laurina Kinnel

More and more social media platforms are being flooded with claims of “fake news.”

In partial response, the Federal Trade Commission (“FTC”) recently issued hundreds of warnings signaling that it intends to crack down on fake product and service reviews.

The FTC sent out Notices of Penalty Offenses to more than 700 different companies.

Those notices warned those companies that they could be subject to significant civil penalties – up to \$43,792 per violation! – if they issue or promote illegally deceptive endorsements or fake reviews.

Companies receiving these notices run the gamut, from Amazon to Google, Facebook to General Motors.

An FTC press release notes that

“[t]he rise of social media has blurred the line between authentic content and advertising, leading to an explosion in deceptive endorsements against the marketplace. Fake online reviews and other deceptive endorsements often tout products throughout the online world.”

A company’s mere receipt of a Notice of Penalty Offense does not mean that it has actually engaged in deceptive or unfair advertising.

Nonetheless, and as tempting as it may be, product sellers, service providers, and reviewers should avoid creating, using or promoting reviews or testimonials which “stretch the truth.”

Conduct which could give rise to false or deceptive advertisements subjecting compa-

nies to civil penalties include:

1. falsely claiming that a third-party endorsement has been received;
2. misrepresenting whether one providing an endorsement is an actual or recent consumer of a product or service;
3. making deceptive performance claims; or
4. misrepresenting an endorser’s experience as being the typical or ordinary consumer experience.

To assist companies in making or promoting appropriate endorsements, the FTC has put together an endorsement guide.

The guide contains answers to commonly asked questions about blogs, social

media, product placement, and testimonials.

That guide can be found at: [ftc.gov/tips-advice/business-center/guidance/fics-endorsement-guides-what-people-are-asking](https://www.ftc.gov/tips-advice/business-center/guidance/fics-endorsement-guides-what-people-are-asking).

Use caution when advertising on social media or soliciting endorsements for your business.

You know your product or service is great. The truth should be good enough to sell it.

So, focus on honest and accurate descriptions and representations by real reviewers.

And, if you ever have questions, contact your FOS attorney.



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Consider staying put until you contract with a reputable mover. If need be, advise your realtor or landlord of your problem.

Damages for not timely vacating may be less expensive than the extortion fee.

Avoid heated arguments with the mover. Call the police if you feel threatened or danger. Moving scam fugitives (oig.dot.gov/wanted-fugitives) may be armed and dangerous.

If you unfortunately become the victim of moving fraud, you do have remedies.

First, document everything that happened and inventory (and photograph) all items missing, damaged, or being held hostage.

Keep all relevant documents for your records. Then:

Request immediate relief from the mover/broker in writing (use Certified Mail).

Contact your insurer, bank and credit card company.

File an administrative complaint with the Wisconsin Department of Agriculture, Trade and Consumer Protection.

File an administrative complaint with the federal Department of Transportation (DOT)’s National Database or call the Office of Inspector General (OIG)’s Fraud Hotline.

Determine whether the contract requires you to participate in arbitration or mediation. Consider filing a civil lawsuit.

If you have been a victim, know you have recourse and there are people available to help guide you in seeking the relief.

Ending with hope, cont. from pg. 2

We end 2021 and enter our 60th year of service in 2022, hoping that the virus will soon be controlled, if not eradicated. And that we can all experience a new “normal,” similar, but not identical, to the old one.

As always, thank you for your trust in FOS, our attorneys and staff. We look forward to continuing our partnership with you in 2022.

Call, Zoom, email, or text us. We’re here for you.



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WISCONSIN NEEDS EXPUNGEMENT REFORM



By Jacob Manian

You're a successful, up-standing citizen, with a good job and happy family, who gives back to the community whenever you can.

Just after you turned 18, however, you had a run-in with the law that resulted in a criminal conviction.

Despite being on the straight and narrow, you're haunted by that prior conviction.

You'd like to get it expunged—erased—from your records.

Unfortunately, Wisconsin's current expungement statute likely does little to nothing to help you, even though you've reformed yourself and made positive strides in life.

The statute only applies to persons committing criminal offenses while 25 years old or younger, and only for offenses for which the maximum penalty is 6 years or less (with exclusions even for those offenses).

Further, expungement must be ordered at the time of sentencing. The court must at that time make findings

that the conviction will be expunged once the sentence is completed and that the public will not be harmed by expungement.

Many attorneys do not think of asking for such findings.

The statute does not help the vast majority of people who have made non-violent, criminal mistakes when young, but who have since turned their lives around.

Without the expungement statute, the only available remedy is to petition the Governor's Pardon Advisory Board to request a pardon of the old conviction.

Considering that a low-level criminal conviction can bar

one from employment, housing, licenses, and other social and economic opportunities, Wisconsin is long-overdue for expungement reform.

Despite annual efforts from proponents of expungement reform, opponents in the legislature have prevented the enactment of positive changes.

Change will only come when the legislature votes to expand the statute's reach.

For questions regarding whether someone might be eligible for expungement under Wisconsin's current law, or for questions regarding Wisconsin's pardon process, contact your FOS attorney.