



Rollin' On



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COMMON SENSE, POLITICS AND CIVIL WARS

Sometimes things just don't go the way you want them to go. I've got a case right now involving a noncompete agreement which was signed four years after the date of hire. The employer wanted to rework the salary arrangements due to ESOP (employee stock ownership) reasons. The employee received a boost in gross pay but a deficit in net pay. The judge ruled that before tax, as opposed to after tax, numbers were to be used, meaning the agreement was enforceable. I asked a law student to find case law authority on the point, to which the law student said she could not find anything, and that common sense meant that net #s were to be used. I had to explain to her that common sense, judges and the law don't always mesh together very well.

President by Mistake

Anyway you look at it, it's all screwed up. You've got thousands of ballots that weren't marked correctly, with the comments that Democrats are ballot-challenged. You've reportedly got thousands of Bush supporters in the panhandle and on the West Coast who didn't vote after the networks declared Gore to have won the state. Does that mean that there were no local races of consequence, that these voters were making their trip to the voting booth only to vote for a President? That seems to be a stretch.

More intriguing, at least from my point of view as an attorney, is that there are two former Secretaries of State, James Baker and Warren Christopher, in Florida representing their political parties. As appointees in their previous lives, they maintained an air of dignity and statesmanship,

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representing their (and our) country in a professional manner. Now they put on their other hats for their current role, that of adversary for clients, and we've got a whole new ballgame. The gloves have been taken off, and they're taking shots at each other. It's not very pretty.

Why the change in decorum? Some would say that they're lawyers, stupid, that's the way lawyers behave. The normal response from lawyers is that they're doing what their clients are demanding they do. Whatever else is true, the practice of law has changed over the last several years. Lawyers are more aggressive, which sometimes equates to less professional. Again, the question is, is this due to the demands of the clients or to the inherent nature of the business? Is it somewhere in between? The old adage that lawyers battle each other during the day and then get together for drinks at night has some truth to it, on a historical level. There was more of that before, but my perception is that there's not much at all of that now. Part of the reason is that there's a lot more lawyers. How many clients would tolerate their lawyers schmoozing with the opposing lawyer at the end of a day in court, depositions or tough, unresolved negotiations? They would usually feel disrespected, or that their case was not that important, or that the lawyers are conspiring, or some other equally unappealing feeling.

is willing to sell his ticket for \$1,200. A lot of people would sell their ticket for that price, and considerably less. You would get you a comfortable seat in a warm spot watching the same game, with instant replay, Keith Jackson's endless litanies of Whoa Nellies, and a whole lot more. But you would miss a heck of a ballgame, for which you can't place a price.

Although I try to keep things neutral, I have to admit that I'm a Beaver fan. Two of my siblings attended OSU. I grew up watching the Beavers more than the Ducks, and as a senior in high school I was there to see OSU's infamous 3-0 1967 victory over O.J. Simpson's USC team, then ranked No. 1 in the nation, near the end of the season. This was after OSU's victory over then No. 2 Purdue, and the tie with then No. 2 UCLA, for which the Beavers became known as the Giantkillers. It wasn't a pretty game, especially when you see OSU's fullback, Bill Enyart, break into the open field and had he any speed, we could have observed a touchdown on that cold day. Yet watching a defensive lineman run down O.J. from behind, when a score could have meant defeat for OSU, was a thrill to behold. I always root for the Ducks as well, until the Civil War game, which makes it tough this year since the Beavers could send the Huskies to the Rose Bowl.

Oops, I got it wrong last month when I said that Nixon won the popular vote in 1960. In the fine tradition of newspapers, I guess I'm supposed to say that I regret the error. They never apologize.

That's all for now. Keep the cargo **rollin' on!**

The Obligatory Disclaimer

This newsletter is for informational purposes, does not provide legal advice and does not create an attorney-client relationship

Game Day Edition

Here it is, the day before the **BIG GAME**, and E-bay's got some guy who

Short Bio

Admitted to the state bars of Oregon, Alaska, Florida and Massachusetts. Practicing law for over 20 years and emphasizing transportation law, business law and related litigation