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**CLIENT BULLETIN**

**COURT DECISION FINDS CORPORATE OFFICER PERSONALLY LIABLE  
ON CORPORATE CONTRACT DESPITE SIGNING USING CORPORATE TITLE**

A decision of the Franklin County Court of Appeals in *Wells Fargo Bank, N.A. v. WSW Franchising, Inc., et al.*, Case No. 09AP-26, demonstrates the folly of not reading a contract closely, especially a form contract, before signing.

The President of WSW Franchising, Inc. (a now defunct corporation), which did business under the registered trade name TravelPlex, signed a Business Card Agreement with Wells Fargo Bank, N.A., in the space designated “Owner Signature,” to obtain a MasterCard credit card in the name of TravelPlex. The name WSW Franchising, Inc. did not appear anywhere in the Business Card Agreement. The President signed his name and put “President” immediately following his signature. The trial court found the President personally liable for the debt owed on the MasterCard account, reasoning that as TravelPlex was simply a trade name, the designation of “President” was meaningless.

The President appealed the trial court’s decision, but lost for a totally different reason than that set forth by the trial court. The Court of Appeals noted that the Business Card Agreement contained the following provisions in it:

By signing below, the signer(s) agrees on behalf of the company named above to the terms and conditions of the Customer Agreement that will be sent and in their individual capacities jointly and severally unconditionally guarantee . . . all indebtedness of the . . . named above at any time owing under the MasterCard Business Card. . . . If company is a corporation or partnership, all owners must sign and include their corporate title.

The Court of Appeals reasoned that by signing and including his corporate title as instructed, the President was acting on behalf of a legal entity (WSW Franchising, Inc.) using a trade name (TravelPlex) to pay the indebtedness of the company and also agreeing to personally and unconditionally guaranty the indebtedness to Wells Fargo. The Court held that the President agreed to guarantee the debt to Wells Fargo so it was immaterial that TravelPlex was a trade name, not a legal entity, and that the title “President” was used.

The moral of the story is simple: corporate officers must closely read what they sign on behalf of corporations, and using their corporate title is sometimes not enough for them to avoid personal liability on what they sign for their corporation.

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**OHIO SUPREME COURT UPHOLDS CONSTITUTIONALITY OF  
“CAP” ON TORT AWARDS AGAINST POLITICAL SUBDIVISIONS**

Although not officially published yet and, therefore, subject to non-substantive editing, the Ohio Supreme Court has issued its slip opinion in a 5-2 decision holding that Ohio’s “sovereign immunity” statute is constitutional when it provides that the maximum amount that can be awarded against a municipality or other political subdivision for non-economic damages (i.e., “pain and suffering”) is \$250,000.

The majority cited in support of its decision the Court’s 2007 decision in *Arbino v. Johnson*, which upheld (also in a 5-2 vote) the constitutionality of the statutory cap on non-economic damages in lawsuits between private parties.

**ADVISING CONCERNING THE LEGAL IMPLICATIONS OF  
USE OF PARTICULAR DEED FORMS IS THE PRACTICE OF LAW**

In a just-published unauthorized practice of law case, the Ohio Supreme Court held that by providing advice concerning the legal implications of the use of particular deed forms by sellers of real estate, a title agency and its employees were engaging in the unauthorized practice of law.

**NO CHANGE IN STATE MINIMUM WAGE FOR 2010**

As the Consumer Price Index decreased 0.2% from September 1, 2008 to August 31, 2009, the state minimum wage will not change in 2010, remaining at \$7.30 an hour (\$3.65 for tipped employees). Under the Ohio Constitution Amendment adopted in 2006, the state minimum wage is tied to inflation. The state minimum wage law applies to employers with gross revenue of greater than \$267,000 a year.

**MEET THE CANDIDATES**

The law firm, the Delaware County Farm Bureau, The Delaware Gazette, The Sunbury News, the American Association of University Women, and Andrews House are co-sponsors for the League of Women Voters of Delaware County’s candidates and issues night from 7 p.m. to 9 p.m. on October 15, 2009, at the Delaware Area Career Center, 1610 State Route 521, in Delaware.

**FIRM NOW ACCEPTS DISCOVER**

In addition to accepting MasterCard and Visa, the law firm now also accepts Discover. If you would like to charge your payments, you may do so by completing the Credit Card Authorization slip that is included with our monthly invoices and returning it to our Delaware office, by calling our Accounting/Information Services Manager, Joan Swarts, or our receptionist, Chris Bell, at 740-363-1313, or by stopping in our Delaware office.

**NOTICE**

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.