WORD ON THE STREET

February 2018
Issue 2

TAFT STREET LAW FIRM, PLLC
Boca Raton, Florida
http://TaftStreetLaw.com
Info@TaftStreetLaw.com | (833) TAFT-LAW

INSIDE THIS ISSUE

"The way to get started is to quit talking and start doing."

– Walt Disney

Facta, Non Verba

By Charles J. Esposito, Esq.

Greetings and Salutations!

Welcome to the second issue of *Word on the Street*, the semi-occasionally occurring newsletter from the Taft Street Law Firm.

The first core value of our company is *Facta, Non Verba*. Oh boy, lawyers using Latin. Yes!

The literal translation is "acts, not words," but in the colloquial sense it means **actions speak louder than words.**

At Taft Street, we believe that our work product conveys what we're all about much better than simply *talking* about what we do. We're big believers in "do as I do" and not in "do as I say."

Our clients know that we don't just *say* what we're going to do, we go out and do it. That's why we print *Facta, Non Verba* on all of our business cards. Our core values are ideals that we strive for and all of them stem from the idea that we must take action, rather than talk about taking action.

Onward!

Charles.Esposito@TaftStreetLaw.com

Can You Sue A Golf Course?

By Charles J. Esposito, Esq.

When someone starts a question with, "Can I sue…" really what they're asking is "*Can I Win?*" As with any question of law, the answer is "it depends."

What if you get hit by a golf ball and are injured?

There are multiple courses of action you can take including filing a claim for damages against the person who hit the errant shot and against the facility you were playing golf at. Just because you are injured though, does not mean you will win your claim.

> "I am sure that the Framers of the Constitution . . . fully expected that sooner or later the paths of golf and government, **the law and the links**, would once again cross . . ."
>
> - Justice Antonin Scalia (*PGA v. Martin*)

Duty of Care

In order to recover for your injuries caused by someone else's negligence, that person must owe you some duty of care. If you are trying to sue a golfer, you must ask whether they owed you a duty to exercise ordinary care for your safety. Should they have even hit? Should they have warned you?

Certainly, it seems that if you are in someone's line, they have a duty not to hit or, at least, to warn you. But what if you aren't in their line? Must they warn you? What if you aren't even on the same hole? Are errant shots just a part of the game? *It depends*.

Assumption of the Risk

Did you know you were in someone's potential line, but didn't move? "Assumption of the risk" is one defense a golfer or golf course can raise in a claim for your injuries. Basically, the defense can argue that by playing golf you assumed the risk of getting hit by a ball. Case closed, right? *It depends*.

Design Defect

Have you ever stood on the tee of one hole and thought you were really close to the green of another hole? You might be on alert for errant shots. The defense would argue you were aware of the risk.

What if the 15th hole is parallel to the 14th hole, but there are trees between them. Do you expect to get hit by an errant shot? An expert witness might say that the course design is defective because, like the example with the tee box, the risk of getting hit by an errant shot is high, but unlike that example, you may not be aware of that risk because of the design of the course.

Ultimately, whether you win you claim or not depends on the facts surrounding your particular case. Proving negligence on a golf course is difficult, but it's not impossible.

2nd Amendment Law – Current Affairs

By Charles J. Esposito, Esq.

Unfortunately, our community has become part of the long list of those that have endured the tragedy of a mass school shooting. As we cope with the emotional realities of what is being called the Parkland Shooting, many are turning to the political realm to enact change. But, just what is the current status of 2nd Amendment jurisprudence in the United States?

In 2008, the Supreme Court in *District of Columbia v. Heller* interpreted the meaning of the 2nd Amendment more extensively and definitively than in any previous case when it struck down a Washington D.C. ban on handgun possession in the home.

Writing for the majority, Justice Scalia states that the 2nd Amendment guarantees the *individual right* to possess and carry weapons in case of confrontation.

But What About the Militia?

The majority opinion states that the first two clauses of the 2nd Amendment are "prefatory," meaning they announce a purpose.

- "A well regulated Militia" means all males physically capable of acting in the common defense.
- "Security of a free State" means the security of the free country (not of individual states).

The opinion discusses the history of the "militia" and "State" and concludes that tyrants throughout history did not ban militias, but instead took away the people's arms and used supportive militiamen or armies to control political opponents, which is why the 2nd Amendment protects an individual right. Thus, the prefatory clause states the purpose behind the guaranteed individual right.

Limitations

Though *Heller* lays out an individual right to bear arms, it also says that right is not unlimited. For instance, "Arms" does not include weapons specifically designed for military use. The Court also states that longstanding prohibitions on the possession of firearms by felons and the mentally ill, along with laws forbidding firearms in sensitive places like schools are not unconstitutional.

This is the current state of 2nd Amendment law.

"Both Justice Scalia and Stevens wrote excellent opinions in that case."

- Justice Neil Gorsuch On *Heller*

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

- *2nd Amendment*

Undoubtedly some think that the Second Amendment is outmoded in a society where our standing army is the pride of our Nation, where well-trained police forces provide personal security, and where gun violence is a serious problem. That is perhaps debatable, but what is not debatable is that it is not the role of this Court to pronounce the Second Amendment extinct.

- Justice Antonin Scalia *DC v. Heller*

Title Agency

With Taft Street Law Firm

Should you use a real estate attorney or a title agency for your title insurance and real estate closing?

If you are looking to sell your property, you need to make sure you have clear and marketable title. A title search can be ordered, but if title is not marketable, who will work to clear it?

Some title agencies have attorneys on staff, but a real estate attorney who is also a title agent can work together with the underwriter to satisfy any clouds on title.

Buyer Side Representation

We always recommend that the Buyer in a real estate transaction pay for title insurance. After all, the policy is insuring their purchase. If you are buying property and the seller is providing title, however, you can hire a real estate attorney to review the title search and insurance, and accompanying documentation.

Taft Street Law Firm is proud to announce that we have attained our title agency license in the state of Florida and can now provide title insurance as part of our real estate closings!

Future Endeavors

By Charles J. Esposito, Esq.

NEW AND EXCITING TIMES!

The Taft Street Law Firm is continuing to move forward in its mission to provide quality legal representation to our clients.

We have made public our core values and we will strive to live up to them with each and every case we handle on behalf of our clients.

Be sure to visit our website at TaftStreetLaw.com, where we have more information including a new section on Real Estate Law. Thank you for reading and please do not hesitate to contact us if you need any help.

(833) TAFT - LAW

(833) 823 - 8529

"There is little success where there is little laughter."

- Andrew Carnegie

LAW FIRM
TAFT STREET

TAFT STREET LAW FIRM, PLLC
Boca Raton, Florida
http://TaftStreetLaw.com
Info@TaftStreetLaw.com | (833) TAFT-LAW