



Larry Spiegel, Esq.

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COURT TRIALS

Dear Client,

Court Trials Drop. The number of state court tort suits (a tort is generally any civil wrong) that made it to trial declined steadily over the 10 year period ending in 2005, dropping to about 4 percent. Only 4 in 100 civil cases filed in Courts in the United States ever get to trial. Presumably the other 96 percent are settled, abandoned or ruled on by the Court without the necessity of a trial.

BUSINESS START-UPS

More Business Start-Ups Than Failures in 2009. Despite universal economic gloom, 2009 was a boom year for the founding of small business according to a study by a German research institute. More small businesses were started last year than liquidated. There is a saying that unemployment fosters creativity so that in the United States, the longer the economic downturn or the perception of it continues, the more new businesses will start up.

"HARD W" IN OUR FUTURE?

Is There a "Hard W" In Our Future? Economists are saying there's about a 1 in 5 chance of a double-dip or "hard w" downturn. This could be triggered by any number of factors including a premature tightening of fiscal and/or monetary policies; not very likely, a major retrenchment of consumer spending in the face of rising unemployment; a slight possibility, a sharp and sustained rise in oil prices (either because of a supply disruption or increased speculative activity); this one defies any reasonable analysis, and the failure of a few large financial institutions; here, at least in the United States, the government has made it clear that it will not allow this to happen. (Because of the economic strength of Brazil, China, the United States, selected Middle East and African countries, it's possibly unrealistic to think that some combination of more than three of these factors could ever drag global growth back into negative territory.)

Enjoy Entrepreneur's Alert! Larry Spiegel

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FLORIDA CORP'S AND LLC REMINDER

File your Florida Annual Uniform Business Report before May 1, 2010. The current fee for Florida Corp's which file their Uniform Business Reports by May 1, 2010 is \$150 and 138.75 for Limited Liability Companies which file before May 1, 2010. Non-Profit Corps pay \$61.25. The Florida Legislature has enacted a penalty of \$400 for Corporations and LLCs associated with filings received after May 1, 2010. File your Uniform Business Report **NOW** and

take advantage of the reduced fees. When Spiegel & Utrera, P.A. is your General Counsel, a review of your Annual Uniform Business Report is included as part of the General Counsel Club without additional charge. Spiegel & Utrera, P.A. will also expedite delivery of your Uniform Business Report to the Secretary of State's office in Tallahassee without any additional charge whatsoever. If you have any questions, call your nearest Spiegel & Utrera, P.A. office.

DELAWARE CORPORATION ANNUAL REPORT

All Corporations incorporated in the State of Delaware are required to file an Annual Franchise Tax Report and pay the franchise Tax. Additionally, the Corporation must file an Annual Report. There is a \$25 filing fee for the Annual Report. Annual reports and appropriate remittances

must be received (not postmarked) by the Delaware Franchise Tax Board on or before the due date of March 1, 2010. Late filings will receive a penalty of \$100 and interest will be assessed at the rate of 1.5% per month on the tax and penalty until fully paid

DELAWARE LLC'S, LIMITED PARTNERSHIPS AND GENERAL PARTNERSHIPS

Every domestic or foreign limited liability company, limited partnership or general partnership shall pay an annual tax in the amount of \$200 to the Delaware Division of Corpo-

rations on or before June 1st of each year. Payments are only considered timely if received (not post-marked) by June 1st. You may pay online at ecorp.state.de.us

CALIFORNIA ANNUAL STATEMENT OF INFORMATION

All domestic stock and foreign corporations qualified to do business in the State of California are required to file the Statement of Information annually during the applicable filing period. The applicable filing period is by the end of the calendar month of the corporation's original date of incorporation or qualification to do business in California and the imme-

diately preceding five months. The Statement of Information form should be mailed to you by the State's office prior to you receiving this newsletter. If you have not received the Statement of Information, you may go to the General Counsel Club's website at www.AmeriLawyer.com/casoi for your statement of information form.

Did You Know? One advantage of registering a fictitious name, DBA or assumed name is that you can obtain a Federal Identification Number for the fictitious name, DBA or assumed name to enable you to open a bank account for the business under that name.

Tell Over 10,000 People About Your Successful Business For Free. Send us your stories for inclusion in future issues of Entrepreneur's Alert. Spiegel & Utrera, P.A. is committed to delivering professional legal services at extremely affordable prices. But our primary concern is with your business - how did our services help you? Why did you initially choose Spiegel & Utrera, P.A. and what keeps you coming back?

Whatever the reason, we'd love to hear your stories for possible inclusion in upcoming issues of Entrepreneur's Alert and/or as testimonials on our website. In a paragraph or under, describe your experience with Spiegel & Utrera, P.A. and how we've helped you grow your business. Our readers will get to hear about your company and how you've benefited from our services at the same time.

Entrepreneurs, Unite! and help us continue to push the boundaries of value for the benefit of your business.

Clicknwhistle.com This new website is designed to help businesses with mostly free advertising. Besides categorizing businesses according to products and/or services, it allows the advertiser to select target discounts and deals. This is based on the principal that baseball is not America's pastime but rather getting a good deal is what America is all about. Additionally, the website is helping to stamp out pay for click fraud wherein disgruntled employees, customers or even competitors may run up your advertising bill without any corresponding benefit to you and, in many cases, without any credit being given by your search engine.

Need Help Financing Your Business? Spiegel and Utrera, P.A. can assist you. Contact Larry Spiegel at (800) 603-3900, ext. 219.

NEVADA ANNUAL LIST AND BUSINESS LICENSE

All Nevada entities are required annually to file an Annual List and obtain their Nevada Business License. The filing period each year is the anniversary month of the original filing date of the entity. For example, an entity formed on March 28, 2008 must file its Nevada Annual List and Business License application during March of each subsequent year. CAUTION: The Annual List and Business License

application must be received by the Secretary of State within that month. Payments for the Nevada Annual List and Business License application are only considered timely if received (not postmarked) during the month in which the entity is required to obtain the Nevada Business License. Please call Spiegel & Utrera, P.A. General Counsel Club at (800) 734-9900 to see if your entity qualifies for the statutory exemption.

ENTREPRENEUR'S ALERT GOES GREEN

Entrepreneur's Alert will transition into a green online publication during 2010. The new online Entrepreneur's Alert will replace the printed edition and will only be available to active members of the Spiegel & Utrera, P.A. General Counsel Club. In

order assure that you do not miss any upcoming issues, we want to be certain we have your email address. Please go to www.AmeriLawyer.com/green and complete the very limited questionnaire.

CUSTOMIZED NEW YORK LLC PUBLICATION SAVER

Spiegel & Utrera, P.A., P.C. now offer customized New York Limited Liability Company, including statewide publication requirements. You select the name of the company, the capitalization and the speed of

service. Contact our NYC office at (212) 962-1000 for further assistance or visit AmeriLawyer.com/red-dicorppage.htm for a list of pre-formed New York LLC's to choose from.

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vide your company with a London address, we can open a U.K. bank account for your company, provide you with a registered office and provide General Counsel Assistance from our London solicitor's office. Call our London office when you are ready to expand your product or services over seas at 011 44 207 284 3700.

SMALL BUSINESS ADMINISTRATION

The United States Small Business Administration offers many services to entrepreneurs. A good starting point for programs and services to help you start, grow and succeed with your business can be found at

www.sba.gov/smallbusinessplanner/index.html This section is a primer on planning your business, starting your business, managing your business and ultimately closing your business.

DID YOU KNOW? Tax responsibilities continue until the Corporation, LLC or any entity is legally dissolved. www.AmeriLawyer.com/411

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State & Federal Tax Returns. On or before March 15, 2010, every corporation and Limited Liability Company in the USA is required to file a federal tax return. An S Corporation files IRS form 1120S, a regular corporation files IRS form 1120 and a Non-Profit corporation files IRS form 990 or 990 EZ. The date for filing of a tax return for a Limited Liability Company depends on the Limited Liability Company's filing status as a corporation (March 15, 2010), partnership (April 15, 2010), or sole proprietorship (April 15, 2010). Most states require the filing of State Tax Returns; should you have any questions, please call the General Counsel Club at (800) 734-9900.

S Corporation Election. Under the Internal Revenue Code, a regular corporation has until March 15, 2010 to elect to become an S corporation. If you desire to become an S corporation, you must take immediate action. If you need more information, call Natalia Utrera, Esq. at (800) 603-3900, ext. 208.

Equal Employment Opportunity is the Law. The law requires an employer to post notices describing the Federal laws prohibiting job discrimination based on race, color, sex, national origin, religion, age, equal pay, disability and genetic information. You may order up to 10 copies of the EEOC's poster online at www.eeoc.gov/employers/poster.cfm.

DID YOU KNOW? One advantage of registering a fictitious name, DBA or assumed name is that you can obtain a Federal Identification Number for the fictitious name, DBA or assumed name to enable you to open a bank account for the business under that name.

\$3.8 MILLION FOR POOL DROWNING

A hotel and its manager must pay \$3.8 million for the drowning death of a 19-year-old football player on its premises. Plaintiff's decedent drowned in the pool at the hotel. The pool had been closed 11 days earlier by the County health department because of water turbidity. But the decedent's family claimed the hotel workers told the decedent and other guests they could use the pool.

After the decedent disappeared in the deep end of the pool, rescuers were unable to find him for about 12 minutes because the pool water was so cloudy. EMS workers eventually pulled him from the bottom of the pool and revived him. The decedent was hospitalized and lingered for more than three months in a vegetative state before dying.

\$3.25 MILLION AWARDED TO VICTIM OF AMBULANCE MOLESTATION

A jury has ordered an ambulance company to pay \$3.25 million in compensatory and statutory damages after one of its paramedics groped a woman while she was semiconscious and being rushed to a hospital. The jury found that the company had received prior complaints that the paramedic had sexually assaulted at least three other women prior to the incident and yet failed to act to keep him away from patients. The 26-year-old Plaintiff suffered from

chronic gastrointestinal problems. After passing out in her home, she was taken by ambulance to a hospital. Plaintiff testified that during the ride, she awakened to find the paramedic's hand in her pants. Still only semiconscious, she was unable to move or call for help. At the time of the incident, Plaintiff saw the face of the paramedic and saw his name was on his uniform and she remembered that.

FAMILY OF BOY WHO CHOKED TO DEATH AWARDED \$5 MILLION

The choking death of an elementary school student has focused attention on schools' preparations for emergencies. Evidently, the school staff lacked training in CPR and the Heimlich maneuver when a 9-year-old boy choked on a turkey corn dog. School district officials have said

they did everything possible. The school district won't have to pay more than \$500,000 because the state caps the amount that can be collected from a government entity unless the legislature authorizes payment.

SECURITY FIRM MUST PAY \$10.2 MILLION

A jury recently awarded \$10.2 million to a 28-year-old man who was left a quadriplegic when he was stabbed with an ice pick and stomped in the neck in a brawl watched by a security guard who took no action. The incident occurred when the Plaintiff was leaving a commercially produced Halloween party with friends. A man none of them knew approached, became aggressive toward one of the Plaintiff's friends, then called over a

group of his own friends. A fight ensued. When the fight started, the Plaintiff's girlfriend ran to the locked doors of a nearby Convention Center and screamed "Do something! Do something!" to a guard, who told her the company was responsible only for security inside the building. She said she told him to call 911. The fight escalated and continued for a 20 to 30 minute period outside the convention center's doors, the security guards never called 911.

Debt Collector Settles Class Action for \$2.55 Million. A debt collection company has agreed to a \$2.55 million judgment to settle a lawsuit brought by thousands of residents of particular state who claim they were wrongly led to believe they had to pay costly fees to avoid criminal charges for bouncing checks.

Jury Awards \$1.5 Million in McDonald's Parking Lot Brawl Suit. A jury recently awarded \$750,000 each to the parents of a 21-year-old man who was strangled to death in a McDonald's parking lot. During the course of the case, the attorney for the Plaintiff argued that "profit over safety, that's what this case is about." The Plaintiff's case was based on 750 calls for police service from the McDonald's and the surrounding parking lot between 2001 and 2005. The incidents included juvenile disturbances, loitering and reported assaults. About 200 of the calls mentioned some form of alcohol use and most were made between midnight and 5 a.m. on Friday nights into Saturday mornings and Saturday nights into Sunday mornings. The McDonald's drive-through is open 24 hours. The defense had argued that McDonald's was not liable because the types of thing that were happening around the McDonald's didn't indicate a homicide was about to take place. The jury disagreed and awarded a total of \$1.5 million to the parents.

We hope that you find the information beneficial. As always, you may submit an inquiry online or you may call us on the Spiegel & Utrera General Counsel Club Line at (800) 734-9900 to discuss your particular situation or call me directly at (800) 603-3900, ext. 219.

Visit our claims and litigation site on www.amerilawyer.com/claimsandlitigation/

STORE NOT LIABLE FOR WOMAN'S SUICIDE

A Court has ruled that a window washer who fell from an office desk could not sue the tenant under State law requiring contractors and property owners to provide workers with appropriate safely devices such as

scaffolds. The Court said there could be no liability for the tenant because it had not hired the Plaintiff's employer to clean the window and otherwise exercised no control over Plaintiff's work.

TRUST CAN PROHIBIT INTERFAITH MARRIAGE

A trust that disqualified grandchildren who marry outside the settlor's religion is enforceable, a Court has ruled. The settlor executed a trust with the restriction that any grandchild who married outside the Jewish faith would be deemed deceased. The settlor's widow exercised her power of appointment, leaving in place the restrictive clause but changing the distribution to a fixed sum rather than a lifetime trust to be distributed at her death. When she died, all grandchildren had been married for at least a year, but only one had a Jewish spouse. A non-qualifying grandchild sued her father, the co-executor of her grandparents' estate. Ruling for the settlor, the Court stated, "The wife's scheme...does not operate prospectively to encourage the grandchildren

to make certain choices regarding marriage. It operated on the date of her death to determine which, if any, of her grandchildren qualified for distribution on that date. The condition was either met or it was not met. There was nothing any of the grandchildren could have done at that time to make themselves eligible or ineligible for the distribution. As such, there is no 'dead hand' control or attempt to control the future conduct of potential beneficiaries...The settlor's wife did not impose a condition intended to control future decisions of their grandchildren regarding marriage or the practice of Judaism; rather, she made a bequest to reward, at the time of her death, those grandchildren whose lives most closely embraced the values she and the settlor cherished."

HOMEOWNER STRICTLY LIABLE FOR DOG BITE

A homeowner may be strictly liable for a neighbor's dog bite injuries even though the dog owner, not the homeowner, let the dog out of the house, a Court has ruled. The homeowner allowed her daughter's friend and his two dogs to move in temporarily, knowing that one of the dogs, Boo, had "nipped" a 6 year-old girl. One day, the dog owner let the dogs out unleashed and Boo bit a neighbor. Under a state statute, someone who "harbors" or "keeps" a dog is strictly liable for injuries caused by the dog. The homeowner argued she did not have immediate control of the dogs at the time of the biting incident. The Court ruled that the homeowner had "harbored" the dogs and she was strictly liable. The

Court stated that "Under our case law's definition of harboring, which we adopt, the homeowner harbored Boo." She allowed the dog to live in her home for several months, affording the dog shelter and lodging. Here, the homeowner took neither 'affirmative' nor 'explicit' steps to terminate her harboring of the dog before the dog bite incident. Indeed, the dog continued to live in her home for some time after the dog bite incident. When a homeowner has become a statutory owner by virtue of the dog's living in her residence for several months, that status does not vary on a minute-to-minute basis, depending on which person happens to open the door to let the dog run free.

Corporations and LLC's Wanted. Spiegel & Utrera clients are looking for aged "for profit" corporations, "not-for-profit" corporations and LLC's. Especially needed are "for profit" corporations with a federal tax identification number, bank account, favorable unemployment compensation ratings or favorable worker's compensation modification experience ratings. Also needed are 501(c)(3) non-profit corporations with favorable letters of determination issued by the IRS and a bank account. Please visit www.AmeriLawyer.com/agedcorps/clientowned.htm for more information

Property From Bigamous Marriage Is Divisible. A wife could not avoid a division of property even though her marriage was declared invalid because of her husband's bigamy, a Court has ruled. The Plaintiff filed an action to have her marriage nullified after learning that the Defendant had another wife at the time of the parties' marriage. In addition, the Plaintiff requested that all property in her possession be confirmed as her separate property. However, the Court decided that the parties' union was a "putative" marriage under state law and, therefore, the property acquired through that union was "quasi-marital" property subject to division as community property. By making that decision, the Court rejected the Plaintiff's contention that the putative marriage law did not apply to her because she was an innocent party.

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Actual resolution of legal issues depends upon many factors, including variations of facts and State and Federal laws. This newsletter's accounts of trials, verdicts and settlements of others is not intended to illustrate the experience of Spiegel & Utrera, P.A. in the areas discussed but rather to provide insight into legal developments and issues. Spiegel & Utrera, P.A. makes no representation as to its involvement in any of the cases or matters discussed herein. The results in one case do not necessarily indicate the quality or value of any other case. Lawrence J. Spiegel, Esq. is responsible for the contents of this newsletter.



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Amendments, Changes or Transfers Relating to Your Corporation or LLC and Additional General Counsel Club Membership Cards can now be conveniently processed online. Please visit www.AmeriLawyer.com/411 to initiate the process involving any amendments or transfers relating to your company. To order additional General Counsel Club Membership Cards for officers and employees in your company, please visit www.AmeriLawyer.com/additionalcard.

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