



## *Laboring Results*

A Monthly Dispute Resolution E-zine  
of Elizabeth A. Moreno, A Professional Corp.

**July 2005**

### **The Supreme Court's Summer Triptik: McCreary and Pulaski County, Kentucky, Austin, Texas, New London, Connecticut, and San Diego, California.**

Summer vacation is here and you may wonder about doing something different during your time off. How about touring the following sites that have been made famous by the recent Supreme court decisions: McCreary and Pulaski County, Kentucky where the County Courthouses made three attempts at displaying the Ten Commandments and finally struck out, Austin, Texas where Texans used their Renaissance Revival Historic Landmark to their advantage in displaying the Ten Commandments and in New London, Connecticut where longtime homeowners were forced to sacrifice their homes for the good of the economy. If you have decided to stay close to home for the summer, check out Victoria's Mexican Food in San Diego, California, where it got the knife in a premises liability action.

#### **Kentucky's Unbridled Spirit**

The Supreme Court tamed Kentucky's unbridled spirit by striking down its display of the Ten Commandments at county courthouses in McCreary County, et. al. v. American Civil Liberties Union, United States Supreme Court, June 28, 2005. After three attempts, Kentucky struck out in displaying the Ten Commandments.

**Strike One:** In the Summer of 1999 Kentuckians put up in large traffic areas of two county courthouses, large, gold framed copies of an abridged text of the King James version of the Ten Commandments, including a citation to the Book of Exodus. A ceremony was conducted unveiling the Commandments by the Judge Executive, who was accompanied by the pastor of his church. During the ceremony the Judge Executive gave a mini-sermon that these were the rules to live by and told the story of an astronaut who became convinced there was a God after viewing the Earth from the moon.

**Strike Two:** After the ACLU sought a preliminary injunction, the Counties authorized an expanded 'secular' second display of the Ten Commandments accompanied by eight framed excerpts of proclamations and records where American historical figures mentioned the Bible and the Commandments. The resolution accompanying the display stated that the Commandments is the legal precedent upon which the civil and criminal codes of Kentucky are based and that the Founding Fathers had an explicit understanding of the duty of elected officials to publicly acknowledge God as the source of America's strength and direction. The District court held that it had religious connotations and ordered removal of the display. However, another attempt was made to display the Ten Commandments.

**Strike Three:** The Counties erected a new version of the Ten Commandments, but it was not accompanied by a resolution. Instead they framed a lengthier version of the Ten Commandments, along with eight copies of various American documents such as the Magna Carta, Declaration of Independence and the Bill of Rights. The Counties argued that the third display demonstrated that the Ten Commandments were part of the foundation of the American law and government.

**Kentucky Struck Out:** The Supreme Court found that in display one, the resolutions and the display presented an undisputed impermissible religious statement and purpose. Display two was still tainted by display one, in that the original resolutions invoking a religious purpose were not repealed and Kentucky did not deny their religious purpose and described display two as 'dead and buried.' As for display three, the sectarian spirit of hanging American documents did not dispel the religious purpose behind the display. The Ten Commandments in the Third display quoted *more* of the purely religious language of the Commandments than the first two displays. As the court stated that any observer of the display, would have thrown up his hands, and would probably suspect that the Counties were simply reaching for any way to keep a religious document on the wall of the courthouses, where they were constitutionally required to embody religious neutrality.

## **The Big Historical Texas State Capitol**

The Texas State Capitol in Austin is the largest of the State capitols in the United States and has been dedicated as an historic landmark for its Renaissance Revival architecture. Texas used this historical site to its advantage when the Supreme Court allowed its Ten Commandment display in Van Orden v. Perry, United States Supreme Court, June 28, 2005. The Renaissance Revival Capital is surrounded by 22 acres of

grounds, with an expansive array of 21 historical markers and 17 monuments including a monument of the ten commandments which commemorate the people, ideals, and events that compose Texan identity. The Ten Commandments monument that was presented and erected by the Fraternal Order of Eagles, consists of an eagle grasping the American flag, an eye inside a pyramid, and two small tablets with what appears to be an ancient script carved above the text of the ten commandments.

In order to avoid massive renovations of historical Federal buildings, the Court justified the Texas Ten Commandment display by comparing it to the displays of Moses with the Ten Commandments inside the Supreme Court's chambers, the Library of Congress, the National Archives, the Department of Justice and the Ronald Reagan Building, as well as in many other government buildings. The court found that these monuments not only had religious significance, but have a historical meaning, Moses as a lawgiver and leader. Texas has treated her Capitol ground monuments as representing the several strands in the State's political and legal history and the inclusion of the Ten Commandments monument in this group has a dual significance, partaking of both religion and government.

So if you meander around the State Capitol grounds in Austin, Texas, you will find the Ten Commandments monument.

### **New London, Connecticut's Waterfront Park**

The historical fact that petitioner/owner Kelo was born in her house in 1918 and lived there ever since did not persuade the Supreme Court in Kelo v. New London United States Supreme Court, June 24, 2005. The Court held that homeowners can be forced to sell in order to make way for a large pharmaceutical company's, Pfizer, development of the area. Kelo v. New London is an unsettling decision for property owners. The Court made it clear that property owner's land will be condemned to make way for a development. The Court found that the New London area was significantly economically distressed to justify inverse condemnation of the properties. However, the Court indicated that there is nothing stopping the States from placing further restriction on Federal exercise of the taking power. But what State would want to forego increased revenue to please a few property owners?

So this Summer, be sure to visit New London's newly constructed Waterfront Park, located on the Thames River and Long Island Sound, which is recognized as a destination point for tall ships and luxury cruise lines and gives visitors hours of pleasure strolling and taking in the breezes and sun of Southeastern Connecticut. Also, you might view the

site of the proposed Pfizer research facility where long time residents were forced to give up their homes for the good of the economy.

### **Victoria's Mexican Food Known for Supplying Knives**

A knife, no phone call and undocumented employees proved troublesome for Victoria's Mexican restaurant. In Morris v. De La Torre, California Supreme Court July 1, 2005, the court held that restaurants may be liable for employees who failed to call police while watching a man being beaten in a parking lot. The facts of this situation were incredible. One of the victim's assailants ran into the restaurant from the parking lot and demanded a knife. The employees did not prevent the assailant from getting a knife and the assailant walked out of the restaurant with a 12-inch knife. After the assailant left, the restaurant employees saw the assailant bend over a person and make stabbing motions. The employees did not call the police. The evidence indicated that the employees failed to make the phone call to the police because they were living and working in the United States illegally. Premises liability is just one of many headaches for this defendant. Before you plan a vacation meal at this restaurant, call ahead, because they may no longer be in business.....

**Have an enjoyable Summer Vacation!**

---

To ask a question, to request more information on dispute resolution services send an e-mail to [emoreno@eampc.com](mailto:emoreno@eampc.com) or log on to [www.eampc.com](http://www.eampc.com). To unsubscribe please send an e-mail to [emoreno@eampc.com](mailto:emoreno@eampc.com) and type remove in the subject line. If you know anyone who is interested in Laboring Results, do not hesitate to pass it along.

EAMPC  
Elizabeth A. Moreno,  
A Professional Corporation  
6080 Center Drive  
Suite 600  
Los Angeles, California 90045  
Telephone: 310.444.3804  
Facsimile: 310.390.8757  
[www.eampc.com](http://www.eampc.com)