



The Strong Firm
Attorneys P.C.

STRONG • POINTS • NEWSLETTER

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The Strong Firm in the News

The Strong Firm Donates 50 Free Skate Night Passes to The Montgomery County United Way. This marks the second year The Strong Firm has donated skating passes to the MCUW. Big Brothers Big Sisters, a MCUW funded partner, will receive this year's passes.

The Strong Firm Cooks up Meal at the Viking Cooking School for Local Family. This year, The Strong Firm held its annual holiday celebration at the Viking Cooking School at Hubbell & Hudson, preparing a holiday feast for a local single mother undergoing cancer treatment while parenting two teenage boys.

Bret Strong Named *People Scene* "2010 Person of the Year." Bret Strong, Managing Shareholder of The Strong Firm, will be featured as one of *People Scene's* 2010 *People of the Year*. "It is an honor to be named one of the People of the Year," noted Bret. "In my twenty plus years of living in The Woodlands, I have been honored to serve many organizations and see much accomplished. It is truly a privilege to be a part of such an incredible community and I appreciate the opportunity to receive this recognition."

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Signs of Strong Growth

By: Bret L. Strong

As we forge into the beginning of a new decade, our firm is starting to see signs of a recovery in the commercial lending and commercial real estate sectors. We are seeing clients that have been on the sidelines waiting out the market in lending and real estate development become active. That being said, we are pleased to announce the recent addition of D. Joe Griffin as our new law clerk, with the intent for him to become an associate attorney with the firm pending his graduation from The University of Houston Law Center and passage of the July 2010 bar exam.

He is a candidate to receive his Juris Doctorate from the University of Houston Law Center this May. Throughout law school, he has served as Publications Editor for the *Houston Journal of International Law*, President of the J. Reuben Clark Law Society student chapter, Director of External Affairs for The Federalist

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BRET L. STRONG
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The founder and managing shareholder of The Strong Firm P.C.

What About the Kids? Essential Planning for Parents

By: Tracey L. Johnson

The most common area of concern for parents as they begin to prepare an estate plan, and often the most agonizing decisions that need to be made, are related to how to make sure that their children are adequately cared for if for any reason the parents are unable, due to death or incapacity, to care for them themselves. Countless sleepless nights can be avoided by taking a few simple but prudent steps to plan for the day-to-day care of your children, as well as for the management of any assets that they may have or acquire. The following is a brief discussion of some critical areas in which parents can provide for the future care of their children.

Guardianship and Agency Documents

Perhaps the most important component of any parent's estate plan is the "Appointment of Guardian for Children in the Event of Death or Incapacity." This document allows a parent to designate in advance who should care for their child on a day-to-day basis, and who should manage their

child's finances if for some reason the parent is unable due to death or incapacity (it is important to note that these can be two different people). While in most families with two living and active parents each parent names the other natural parent of the child as guardian (and generally the law provides that a fit surviving parent will always be named the natural guardian of their child), it is important to consider who you would designate as an alternate to fill this role in the event of the death or incapacity of both parents.

Another important document for parents to consider is a "Designation of Health Care Agent for Children." This document allows a parent to designate that if their child is in the care of certain named individuals and the parent is not immediately available to make health care decisions on their child's behalf, then the named individuals are able to make medical decisions on behalf of their child in their stead. If your child frequently visits their grand-

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Eric joined the Strong Firm P.C. in 2005 after graduating from South Texas College of Law. He is licensed to practice law in the State of Texas and in the United States Federal District and Bankruptcy Court for the Southern District of Texas.

Having lived in Asturias, Oropesa Del Mar and Madrid, Spain, Eric is completely fluent in Spanish and uses these skills in his work with some of the firm's international Spanish-speaking clients.

Facebook, MySpace, Twitter, and LinkedIn Friend or Foe of the Business Owner?

By: Eric R. Thiergood, Sr.

The Rise of Social Networking Sites for Commercial Use

Social networking sites such as Facebook, MySpace, Twitter, and LinkedIn have evolved from electronic media used mainly by individuals to connect with family, friends, and colleagues into an emerging business tool utilized by companies ranging from small family owned businesses to Fortune 100 companies such as Wal-Mart, Ford, and AT&T, to name a few. Companies are utilizing these sites in a variety of business capacities including marketing, employee recruitment, community involvement, and in limited cases, even to communicate with employees. This trend is projected to continue to grow as more and more companies of all sizes and types begin to utilize social networking sites as an integral business tool. However, as with any emerging technology, a number of legal issues will begin to surface as the commercial utilization of social networking sites increases.

Using Social Networks for Marketing

Most companies that have established a presence on social networking sites have done so mainly for the purposes of marketing. Since the internet is global in its reach, companies must be careful to ensure that their use of the site, and more importantly the marketing activities they are utilizing, comply not only with Texas law, but with the laws of all states. For example, sweepstakes, giveaways, and contests that may be permitted in Texas may be restricted or even completely prohibited in other states. If your company opts to utilize a social networking site such as Facebook or MySpace which permit input and responses from customers, be aware that you may and most likely will receive some negative comments or posts from dissatisfied customers. Depending on the site used, your ability to control or delete what customers write about your company on your site may be limited. A company must also be aware that their social networking postings can create some unwanted attention from the Security and Exchange Commission ("SEC"), as the SEC now monitors the Twitter and other social networking activity of publicly-traded companies.

Human Resource Matters

Recent surveys of HR managers for major corporations show a significant percentage reporting that they have reviewed an applicant's Facebook or MySpace page when considering the applicant for employment. While most of the HR managers claimed they did not use the content of the applicant's social networking site as a factor in deciding whether or not to hire the applicant, several did admit that seeing potentially negative images on an applicant's social networking page (e.g. excessive alcohol or drug usage or sexually explicit or suggestive material) could possibly influence their hiring decision. Viewing the social networking page of an applicant could provide information that an employer normally would be unable to ask about, such as age, race, number of children, and marital status. Obtaining this information via an applicant's social networking page could potentially place an employer at risk for a hiring discrimination claim based on information that the employer improperly obtained about the applicant from their social networking page.

Employee Use

An increasing number of employees ranging from senior management to line level employees use the internet on a daily basis in their job functions. Use by employees of social networking sites while at work specifically for strictly personal and non-work related activities is a problem that has increased in frequency. As a result of this personal use by employees, some employers are seeing a marked decrease in productivity and an increase in mistakes by employees. Many companies have found that providing only "work specific access" to the internet or blocking certain social networking sites has helped combat the loss of productivity often associated with employee access to social networking sites during work hours. Employers also run the risk that potential trade secrets and proprietary information could be disseminated via social networking sites by employees, both intentionally and unintentionally. While this information could be spread just as easily by an off duty employee from his or her home computer, it is advisable that companies establish and communicate to their employees a clear and concise policy strictly prohibiting the use of social networking sites for personal or non-business uses during work hours or on work computers, and strictly

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parents or stays with family or friends when you are out of town, this would be a very helpful document for those individuals to have available to present to health care providers in the event of an emergency.

Trust Planning

Having a Will in place is a major component of ensuring that your wishes are carried out with respect to the distribution of your estate to your children, and a properly executed Will can save your heirs lots of time and money. However, many parents do not contemplate that in the event of their untimely death, their child or children may come into considerable wealth (via receipt of life insurance proceeds, the inheritance of a business or significant assets, etc.) without the skills or ability to manage such wealth. Therefore, it is important to consider whether or not it would be prudent for your estate assets to pass to your child outright, or if it would be best for such assets or your business to be placed into a trust for the benefit of your child. This arrangement is beneficial because it allows funds to be expended for the benefit of your child as you direct, but your child will not have full access to the trust assets until they reach a specified age.

Planning for the Special Needs Child

Families with special needs children frequently require specialized planning. Special Needs Trusts are a commonly utilized tool that allow children to maintain their eligibility for government benefits while still providing for their support. Additionally, for parents with special needs children who are about to turn eighteen, it may be necessary to seek appointment as guardian of your adult child so that you can continue to manage their day to day care and finances.

While no parent ever wants their contingency plan for the care of their children in their absence to be needed, it is abundantly clear that these mechanisms are extremely useful in making sure that your family is protected. The lasting sense of peace that planning for the care of your children can provide makes the difficult decisions and careful preparation beyond worthwhile. If we can be of assistance in addressing these and any other estate planning needs you may have, please give us a call.



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Tracey joined The Strong Firm P.C. upon licensing in 2008 after graduating magna cum laude from South Texas College of Law. While at South Texas, she served on the editorial board of the South Texas Law Review, the flagship legal publication of the college, as an articles editor. Tracey enjoys reading, travel, and keeping up with her dogs.



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Melissa is licensed to practice law in both Texas and Colorado. She began her practice in Denver, Colorado in 2002, and joined The Strong Firm P.C. in 2006 as its first associate after graduating from The University of Texas Law School. Melissa enjoys various team sports and is an avid skier. She is residing and raising her family in Conroe, Texas.

Before You Close the Deal Commercial Real Estate Due Diligence

By: Melissa R. Proctor

Before purchasing real estate for commercial purposes, it is prudent for buyers to consider the due diligence approach that makes sense for the project at hand. Whether it is a large or small transaction, key due diligence steps allow buyers to address potential problems from the outset, and prevent unexpected and substantially more expensive problems from arising. Advance planning with legal counsel for inclusion of the appropriate due diligence provisions in the sales contract can provide an important framework for protecting the buyer's real estate investment.

Title - Are You Actually Getting What You Are Buying?

The most fundamental issue every buyer needs to investigate is what the seller actually owns in the subject property. The most customary way to do so is by obtaining a title commitment for title insurance. The title company is charged with scouring the publicly recorded documents related to the property, including deed records, to determine whether the seller is the true owner of the property. In addition, the title commitment indicates whether the seller has ownership of the minerals lying under the land, identifies easements on the property, uncovers restrictions such as covenants on the land, lists oil and gas leases, as well as anything else that is recorded and affects the property. Buyers should carefully review all exclusions to the title policy, make any relevant objections, and ultimately make sure they have a full understanding of what the seller is actually capable of conveying. The purchased title policy will provide important insurance to the buyer for title to the property.

Survey - Where is the Land, and What is on It?

A survey depicts the location of the property, provides the legal description of the property, identifies recorded easements, and also detects visible easements. The survey also notes the existence and location of any structures, fences, bodies of water, or improvements. It shows whether neighbors are encroaching onto the property, and aids in the assessment of whether adequate access to the property is available. The survey is a vital tool in determining whether the property will be usable for the purpose that the buyer intends and for any for plans for future development.

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From left: **Melanie Edleston**, office manager; **D. Joe Griffin**, law clerk; **Bret L. Strong**, attorney, founder, and managing shareholder; **Eric R. Thiergood, Sr.**, associate attorney; **Melissa R. Proctor**, associate attorney; **Tracey L. Johnson**, associate attorney

We provide legal services in the all of the following areas:

- **Business Law and Contracts**
- **Financing, Trademarks, and General Corporate**
- **Corporations, Partnerships, and LLCs**
- **Real Estate**
- **Commercial Disputes**
- **Wills, Probate, Trusts, and Estates**



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Environmental Study - What Liability Can be Predicted?

Under certain complex federal as well as Texas laws, land owners can be held liable for environmental contamination that previous owners of the land were responsible for creating. Therefore, depending on the circumstances, it can be extremely important to run environmental studies to determine potential liability for environmental contaminants, if, for example, the previous owner(s) of the land used the property for oil and gas purposes or used certain chemicals on the land. A Phase I study involves a site evaluation of the property, consisting mainly of visual inspection by an environmental consultant. If a Phase I study reveals potential contamination, a Phase II study could be necessary to sample and test the levels of possible contamination. The results of environmental studies provide buyers with crucial information related to potential liability associated with the property under consideration. Your attorney or broker can provide more information on these important safeguards.

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prohibiting the sharing of company proprietary information or trade secrets at any time. If blocking or restricting an employee's use of social networking sites while on duty is not feasible or desired, companies may opt to simply monitor an employee's internet use while at work. Any policy restricting or monitoring employee use of social networking sites while on duty should be included in the company's employee handbook and should be signed by the employee.

Most companies will find that the benefits of utilizing technology such as social networking sites to market their business far outweigh the potential risks briefly outlined above. With foresight, proper legal guidance, and clearly defined policies and procedures regarding the use of social networking sites for business purposes, even the smallest of companies will be able to take advantage of this emerging technology to grow their business.

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Society student chapter, Coordinator for The North American Consortium on Legal Education ("NACLE"), and has actively participated in the Hispanic Law Students Association. Additionally, Joe has held a clerkship with The Department of Foreign Affairs in Mexico City, D.F. in their international litigation section. Prior to attending law school, he worked as a Senior Account Executive with HSBC Bank, Consumer Lending.



D. JOE GRIFFIN

Joe received his undergraduate degree from Brigham Young University in Provo, UT in International and Latin American Studies. He is married with three beautiful children and he resides here in South Montgomery County.