



The Strong Firm

Attorneys P.C.



Bret Strong
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Eric R. Thiergood, Sr.
Shareholder

Brian Albert
Shareholder



BUSINESS LAW



REAL ESTATE LAW



OIL, GAS & ENERGY LAW



ESTATE PLANNING & PROBATE



COMMERCIAL LITIGATION



BUSINESS MEDIATION



EMPLOYMENT LAW

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WINTER 2019-2020 STRONG POINTS NEWSLETTER

Founded in 2004 by Attorney Bret L. Strong, The Strong Firm P.C. is dedicated to serving the legal needs of The Woodlands, Greater Houston and beyond. Since The Woodlands business attorneys at The Strong Firm understand the business environment at a local, state and national level, we are able to give people practical, knowledgeable advice on all aspects of their business transactions and disputes.

We understand that in a tough, competitive, global marketplace, timely and cost-effective legal advice about business transactions taking place throughout the state and the world is important. Our business law firm in The Woodlands, Texas stands ready to help you and your business tackle legal issues ranging from the common to the complex every step of the way. We are dedicated to providing you with high-quality, personalized service that is unparalleled in the legal market.

The articles and other information contained in this newsletter are not legal advice, and this letter is not a solicitation for legal employment if you are currently represented by an attorney in a given matter. You should consult with an attorney of your choosing for advice regarding your individual situation. We invite you to contact us and welcome your calls, letters, and emails. Your receipt of this newsletter and/or contacting our firm does not create an attorney-client relationship.

To retain our services please contact us and we will send you a written engagement letter for your consideration and execution in order to hire our firm and create the attorney-client relationship. Please do not send confidential information to us until such an attorney-client relationship has been established.

Not certified by the Texas Board of Legal Specialization



CREAM GOLD SPONSOR LUNCHEON

Commercial Real Estate Association of Montgomery County (CREAM) is an amazing organization that is leading the commercial growth in Montgomery County, and The Strong Firm P.C. was honored to be awarded as a 2019 CREAM Gold Partner. Bret Strong, Managing Shareholder of The Strong Firm P.C., attended the awards luncheon on November 6, 2019, at the fabulous Zanti Cucina Italiana.



EMPLOYMENT LAW UPDATE 2019

April Walter of The Strong Firm P.C. delivered a presentation on Wage and Hour Law that provided attendees with important updates for the coming year at the 2019 Employment Law Update, produced by The Woodlands Area Chamber of Commerce and The Woodlands Bar Association. Cody Schlegel, the newest associate at The Strong Firm P.C., was in attendance as well.



YES TO YOUTH: PIE IN THE FACE SHOWDOWN & DINNER

Bret Strong, Eric Thiergood, and Christina Harugthy of The Strong Firm P.C. had the pleasure of attending the Yes to Youth Celebrity Waiter Dinner & Pie in the Face Showdown. Pie In The Sky-Magnolia paired up with YES to YOUTH - Montgomery County Youth Services, for their grand opening, and all proceeds from the event benefit the youth of Montgomery County through the services offered by YES to YOUTH - Montgomery County Youth Services.



GREATER HOUSTON WOMEN'S CHAMBER OF COMMERCE

Laura Dumas, Managing Counsel of the Litigation practice at The Strong Firm P.C., had the honor and pleasure of serving on the Panel of Women Leaders at The Woodlands North Houston Conference for Women, presented by The Greater Houston Women's Chamber of Commerce. The panel discussed topics including career choice, what led them to their current leadership roles, and the positive impact each of their individual mentors had on their trajectory into a leadership role.



ICE RINK PREVIEW PARTY

The Strong Firm P.C. continued our tradition of hosting the opening of the Ice Rink at the Cynthia Woods Mitchell Pavilion for the 2019 season. This is one of our favorite events of the year and it was a joy to see our community come out to kick off the holiday season with us. As an added tradition, we teamed up with a local non-profit organization to donate all proceeds from ticket sales to the event, and this year all ticket sales and additional donations benefit YES to YOUTH - Montgomery County Youth Services.



MEALS ON WHEELS NO-SNACK NOVEMBER

Brian Albert and Brittany Sloan had the pleasure of presenting a donation to Meals on Wheels Montgomery County. As a continued tradition, in lieu of purchasing office snacks for the month of November, The Strong Firm P.C. makes a donation to Meals on Wheels Montgomery County, and it is an honor and a privilege to continue this tradition each year. We feel strongly about contributing how we can, and No Snack November is just one small contribution, but one that we have been proud to take part in for the past five years.

STRONG POINTS: WINTER 2019-2020

MEANINGFUL NEW YEAR'S RESOLUTIONS

As 2019 comes to a close, it's a good opportunity to reflect on what we've accomplished and make resolutions for what we hope to do in 2020. I have never been a fan of New Year's resolutions as they often seem like short-term, immeasurable goals. Things like "I am going to exercise more" or "I am going to lose weight" are common. As lawyers, it is our job (or at least we think it is) to tell people all the things they are doing or not doing correctly, which complicate their lives. So I would like to take this opportunity to educate our loyal readers on resolutions that truly can last throughout the year(s):

Planning For Your Next Great Idea.

We know and represent many people with amazing ideas for making life easier and more enjoyable while also earning a decent living. We love this stuff! I promise you can tell us all your secrets and we ethically have to keep them confidential (we are like a therapist in that respect). We work hard to guide entrepreneurs to success. We do it every day and can do it for you.

Planning For Your Ducks to Be In A Row.

In our hectic world, it seems chaos, sometimes, becomes the norm. A lawyer's life is attempting to make order out of conflict and disorder. We can help you set your life in order by reviewing those contracts you never read or update, or taking the time to explain the lease agreement you are about to renew. Resolve to push that stress off on someone whose job it is to fix it. We are here for you!

Planning For Your Eventual Immortality.

One hundred percent of our clients, despite their best efforts, depart this life at some point, and every one of them leave without their possessions and, in almost all cases, with loved ones who cared about them and for whom they cared. There is no better New Year's resolution than to give yourself and your loved ones the gift of certainty and knowing your wishes. We have done this for thousands of people. Come see us in 2020.

We wish everyone a very happy 2020! Happy New Year!

Bret Strong is the founder and Managing Shareholder of The Strong Firm P.C. His areas of practice include oil, gas and energy; commercial real estate; mergers, acquisitions, and sales; and business law and contracts. He earned his Juris Doctorate, cum laude, from South Texas College of Law, and a B.S. in Business Finance from the University of Colorado at Boulder. He is admitted to practice law in Texas, Colorado and before the United States Supreme Court. Bret is a founding board member of The Woodlands Bar Association, former Chairman of The Woodlands Area Chamber of Commerce and four time Ironman Triathlete.



Bret Strong
Managing Shareholder

STRONG POINTS: WINTER 2019-2020

DO IT RIGHT THE FIRST TIME



Eric R. Thiergood, Sr.
Shareholder

The Federal Reserve's recent decision to cut interest rates by a quarter point for the third time this year will likely spur a new round of investment in residential rental properties. Whether you are a first-time investor or already have a broad property portfolio, you should always obtain sound legal counsel before consummating a real estate transaction. Fail to do so and you run the risk of being in a situation where you are calling us after the fact and asking us to review a prior transaction that has turned south or, more often than not, asking us to try to salvage a deal that is headed that direction. Below is an example of a call I received numerous times from people who started investing in residential rental properties without first seeking qualified legal advice.

Client: *"I am investing in residential real estate, and I need some legal assistance."*

Attorney: *"Sure, we can help you. When are you purchasing the rental property? We typically advise you purchase the property in the name of your entity (usually a limited liability company, corporation, or limited partnership)."*

Client: *"I already bought the house. Since I didn't have an entity formed, I just bought it in my own name."*

Attorney: *"Ok...that is not advisable. I wish you would have come to me before closing on the property so we could have purchased it in the name of a newly formed entity."*

Client: *"Can't I just form a new entity later and transfer the property into the new entity at that time?"*

Attorney: *"Yes, you can, but I would not advise delaying doing so. Also, having to go back and fix this will cost you more in time and money than if you had purchased it in the name of an entity in the first place."*

A transaction not properly structured from a legal perspective will expose an investor to personal liability. The advice many of our parents or even grandparents gave us to "do it right the first time" is very applicable when it comes to real estate investing. Well before an investor actually closes on his or her first rental property, investors should meet with a qualified business/real estate attorney and a certified public accountant to discuss structuring the purchase in a manner that not only shields them from personal liability, but also affords them the best tax treatment possible.

While it is impossible to truly "unring the bell", a buyer could transfer a rental property to an entity after it was first acquired individually, but doing so is a costly process. Investors face additional filing fees, run the risk of personal liability for the time the property was in his or her name, and the subsequent transfer could terminate any existing title insurance policy issued to the investor individually. It will also likely trigger a breach of the deed of trust (the mortgage) if the property was purchased with a loan. With that being said, these risks if properly addressed and mitigated, may still outweigh the risk of the personal liability an investor would face if they held the property personally, but acquiring the property in the name of the entity in the first place, is almost always a better option. The Strong Firm P.C. can assist clients at any stage of the real estate investment process, but the sooner you get experienced legal counsel involved, the better. Again, it's always better to "do it right the first time."

Eric R. Thiergood, Sr., Shareholder, joined The Strong Firm P.C. in 2005 as a law clerk and was promoted to associate attorney upon being licensed by the Texas State bar in 2007. In 2015, Eric was promoted to income shareholder. Eric has served as lead counsel for borrowers in successfully negotiating and closing complex commercial loans ranging from \$10 million to \$2.1 billion. Eric is fluent in Spanish and uses his skill in his work with some of the firm's international Spanish-speaking clients.

STRONG POINTS: WINTER 2019-2020

2019 LEGISLATIVE UPDATE-TEXAS POA LAWS

In odd numbered years, Texas property owners associations (POAs) must consider any new laws affecting POAs that became effective following the Texas legislative session earlier that year. For 2019, a few such laws recently went into effect specific to residential POAs (but excluding condominium associations).

HOUSE BILL 234 – Protection of Lemonade Stands

House Bill 234 adds Section 202.020 to the Texas Property Code (the “Code”), which prohibits a residential POA from enforcing any restrictive covenant that would prohibit a minor child from occasionally operating a lemonade stand (or other non-alcoholic beverage stand) on property located in the subdivision provided the child has the permission of the owner of such property.

HOUSE BILL 1025 – Membership on Board of Directors

House Bill 1025 amends Section 209.00591 of the Code, which governs membership on a board of directors for a residential POA. As amended, Section 209.00591 now permits a residential POA comprised of multiple sections to specify board positions that must be elected from a designated section of the subdivision and to require each board member representing a section to reside in that section. In most cases, Section 209.00591 also now prohibits a person who lives at the same primary residence with a current board member from also serving on the board at the same time.

HOUSE BILL 2554 – Political Signs

House Bill 2554 adds a new Chapter 259 to the Texas Election Code, recodifying Section 202.009 of the Code, which previously imposed restrictions against the enforcement of restrictive covenants that prohibit the display of political signs, as Section 259.002 of the Texas Election Code.

SENATE BILL 741 – Possession and Discharge of Firearms

Senate Bill 741 adds Section 202.020 to the Code, which provides that POAs may neither include nor enforce a provision in a dedicatory instrument that prohibits, restricts, or has the effect of prohibiting or restricting any person who is otherwise authorized from: (1) lawfully possessing, transporting, or storing a firearm, any part of a firearm, or firearm ammunition; or (2) lawfully discharging a firearm.

If you believe your POA covenants, rules, or regulations may be impacted by these new laws, we encourage your board of directors to confer with legal counsel to consider any necessary changes.

Brian Albert, Shareholder, originally joined The Strong Firm P.C. in 2012 having prior experience with multiple Fortune 500 companies. After a brief departure from the Firm to spend time working for a large, publicly-traded waste management company as in-house counsel handling a variety of commercial and municipal transactions and litigation matters, Brian rejoined the Firm as a Shareholder in 2018. Brian's practice focuses on the Firm's corporate and business transactions practice groups where he utilizes his skills and experience in representing clients in a variety of business transactions and counseling on general corporate, real estate, and other business matters.



Brian Albert
Shareholder



PROBATE

The Strong Firm P.C. represented co-executors in probate estate litigation for recovery of funds which were misappropriated.



REAL ESTATE LAW

The Strong Firm P.C. guides seller in \$3.9 million commercial property sale.



REAL ESTATE LAW

The Strong Firm P.C. acts as legal counsel for seller in \$1.8 million commercial property sale.



OIL, GAS & ENERGY LAW

The Strong Firm P.C. acts as legal counsel to corporate client in multimillion-dollar acquisition of oil and gas assets.



BUSINESS LAW

The Strong Firm P.C. represents private investor in company & principal due diligence and document review of an Alabama based \$6 Million private placement.



BUSINESS LAW

The Strong Firm P.C. represents shareholder in \$5.6 million partial stock sale of privately-held corporation.



REAL ESTATE LAW

The Strong Firm P.C. provides legal services to borrower in \$12.3 million construction loan for medical office building property.



REAL ESTATE LAW

The Strong Firm P.C. assists borrower in \$5.56 million cash-out refinancing of multitenant medical office building property.



REAL ESTATE LAW

The Strong Firm P.C. provides counsel to buyer in \$4.1 million commercial property acquisition.

STRONG POINTS: WINTER 2019-2020

HOLIDAY FAMILY PLANNING



Brittany A. Sloan
Associate Attorney

Nothing epitomizes Christmas cheer like a family discussion around the tree about Granny's diminished capacity. Like it or not, holiday gatherings present one of the best forums for tough discussions like estate planning, incapacity planning and long-term care options. As you come together with your families for the holidays this year, consider asking the following questions:

Do you have all your estate planning documents in place?

Make sure your siblings, parents and grandparents have drafted basic documents with a knowledgeable attorney: wills, statutory durable powers of attorney and medical powers of attorney. Also, ask if you have been appointed in those documents to serve as executor of the will, trustee of any trust or agent under the powers of attorney.

Where are your documents located?

Many families have been advised to keep their important papers in a bank safe deposit box, but these documents can become inaccessible after their death, requiring a court order if the executor has not been added as someone who may access the box.

Do you have a list of all your assets?

Understandably, most families try to keep finances very private, but it's important for at least the executor to be able to access a list of all the estate assets. Without some guidance from the family, there is no way for the executor to come up with the estate assets on their own.

Do you have a plan in place for your long-term care?

While some families set aside investments or have insurance for their long-term care, others plan to apply for Medicaid once the need arises. Make sure you understand your family's healthcare planning to ensure it's the best option for them.

The most successful family end-of-life transitions I've witnessed have been when the family tackles the hard conversations and operates with total transparency. It is imperative for children and siblings to maintain open and consistent communication, especially with possible complications such as dementia and Alzheimer's disease. If you're able to have these tough conversations together this holiday season, your entire family will be able to start the new year with true peace and comfort.

Brittany joined The Strong Firm P.C. as an experienced associate in May 2019. Brittany has a Juris Doctorate from Texas Tech University School of Law, a Master's in Business Administration from the Rawls College of Business at Texas Tech University, and a Bachelor of Fine Arts in Studio Art from the University of Mary Hardin-Baylor. Brittany is an Accredited Claims Attorney by the U.S. Department of Veteran Affairs and an Appointed Attorney Representative by the U.S. Social Security Administration. She is a member of the National Academy of Elder Law Attorneys, Montgomery County Bar Association, and the Woodlands Bar Association. Brittany is also a graduate of Leadership Montgomery County – Class of 2018.

STRONG POINTS: WINTER 2019-2020

PORCH PIRATES FACE NEW PUNISHMENTS

Every year around the holidays there is an increasing number of reports about thieves (commonly called "porch pirates") stealing packages in front of homes. This crime is becoming all too common and this type of theft is no longer limited to the holiday season. While it may be funny to see a thief's reaction when a property owner chimes in from a Ring doorbell in the middle of an attempted burglary, the reality of how prevalent this crime has become is simply terrifying as it makes everyone in the community a target. Fortunately, the Texas Legislature has enacted House Bill 37, a new law aimed at deterring offenders by upping the punishment for such crimes.

Effective Sept. 1, 2019, it is now a felony to steal anything considered mail, including letters, postcards, packages and other sealed items. Mail theft was not previously defined in the state's penal code, and this bill gives state and local law enforcement the ability to handle cases where before it was a matter for federal officers.

The degree of the offense is dependent on the number of addresses from which packages were stolen:

- ✔ Less than 10 addresses is a Class A misdemeanor
- ✔ More than 10 but less than thirty is a state jail felony
- ✔ More than thirty is a third-degree felony

These offenses are more stringent if it is discovered the package or mail had personal identifying information about the recipient. And the felon could face a higher degree of punishment if it was known or should have been known by the felon that the recipient of the mail or package was a disabled or elderly individual.

If convicted, a person could spend anywhere from six months to ten years in prison. Additionally, the statute allows for a hefty fine ranging anywhere from \$4,000 to \$10,000. Although there is criticism that the bill does not go far enough in that it does not create options for more secure delivery, this is certainly a step in the right direction towards harsher punishment for an all-too-common crime.

Kristen Bates, Associate Attorney, joined The Strong Firm P.C. as an experienced associate in August 2017. Prior to joining The Strong Firm P.C., she was an associate attorney at Hughes Watters & Askanase, L.L.P. in Houston where she represented business clients in civil litigation, real estate and bankruptcy matters. She received her Juris Doctorate from the University of Houston Law Center. Kristen is licensed to practice law in the State of Texas and in the U.S. District and Bankruptcy Courts for the Northern, Western, Southern, and Eastern Districts of Texas



Kristen Bates
Associate Attorney

STRONG POINTS: WINTER 2019

I OWN THE SURFACE, SHOULDN'T I BE ACCOMMODATED?



Cody Schlegel
Associate Attorney

It is no secret Texas relies heavily on the oil and gas industry and is home to some of the nation's most productive crude oil and natural gas fields. So, it is no surprise Texas' approach to oil and gas law makes it one of the most pro-mineral estate jurisdictions in the country. For example, according to Texas law the mineral estate is considered "dominant" and a mineral lessee is permitted to use the surface however they see fit for their operations, so long as the use is reasonably necessary and in compliance with the terms of the lease. This often gives the impression that owners of land subject to mineral leases are at the mercy of the lessee, particularly when that mineral lessee is a major operator. This is not the case. In addition to protections inherent within a well-negotiated lease, landowners are afforded many forms of protection under Texas law. One such form is the Accommodation Doctrine.

The Accommodation Doctrine, adopted by Texas in the 1970s, is a relatively unique approach to ensuring a mineral estate cannot unilaterally and without consequence interfere with a landowner's existing surface use. Three elements are required for a landowner to invoke the accommodation doctrine:

There must be an existing surface use. Prospective uses are not enough. You must be able to show the mineral lessee's actions interfered with something that already existed or, in some cases, something you had already begun preparing for.

The lessee's proposed use must substantially interfere with the existing surface use. It is not enough that the lessee's operations will only incidentally or partially affect your surface use. The strongest cases are able to show the existing use was/would be completely ruined by the mineral lessee's operations.

The lessee must have reasonable alternatives available. It must be shown that the mineral lessee is/was capable of conducting its operations (i.e., drilling a well) in any other way or in any other location than the way/location that affects your existing surface use.

So while the mineral estate is considered dominant, it must still take into account and accommodate a landowner's existing surface use. Common forms of relief in these situations are injunctive (stop it from happening before it does) or monetary, depending largely on when the surface owner invokes this doctrine.

It is also important to reiterate that landowners should seek qualified and experienced legal counsel to represent them in lease negotiations with mineral lessees. It is far too common to see landowners jump into a contract with an operator after seeing a big number without realizing what it means for their property.

Cody joined The Strong Firm P.C. in 2019, as an associate, after his clerkships with the firm in the summers of 2018 and 2019. He obtained his bachelor's degree in Energy Management from The University of Oklahoma. Cody then attended graduate school at The University of Tulsa, where he earned his JD/MBA in just three years, along with a Sustainable Energy and Resources Law Certificate. While a student at The University of Tulsa, Cody also clerked in-house for upstream and midstream companies, and he served as the Executive Articles Editor of the Energy Bar Association's Energy Law Journal, where his article was published in 2018. Cody is native to The Woodlands community and is a graduate of The Woodlands High School. He grew up playing competitive soccer, and still enjoys playing soccer and other sports as a hobby. Cody is glad to be back serving The Woodlands, both as an attorney, and as an active member of this uniquely philanthropic community.