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1. Easements

A property owner with an easement over adjacent land for emergency use began to use it daily, openly and notoriously, as the primary access to her home for over five years. She was entitled to a jury trial to determine if she had acquired a permanent right to continue using the easement "by prescription".

2. Prostitution

"Why should it be illegal to sell something that it is legal to give away?" So said an appellate judge considering the constitutionality of selling "erotic services". Nonetheless, the criminal statute is constitutional because there are rational government interests to outlaw such conduct, including controlling disease and human trafficking, which do not violate the guaranty of due process, freedom to associate, or free speech.

3. Discrimination

After a long-term tennis club worker was told she was too fat to fit into new uniforms, she was eventually terminated for planting a hidden tape recorder at a board meeting. Pretrial dismissal was denied because termination for a "physical disability" is illegal. A jury must decide if she was really fired for the tape recorder, or if it was just a "pretextual" excuse.

4. Flushable Wipes

A consumer paid extra for environmentally friendly "wipes". She sued the manufacturer because they failed to disperse in water as readily as toilet paper. The consumer is entitled to a trial because the threat of future injury was imminent since she intended to buy more if they performed as labeled.

5. Native Americans

A tribe member sold tax-free cigarettes against state law and was enjoined from further sales and required to pay substantial penalties. Although "tribal sovereignty" sometimes preempts state law, here there was no comprehensive tribal regulation and the state's interest in taxing such purchases outweighed the interests of the tribe.

6. Contracts

A manufacturer sued a distributor under a 2001 contract, prevailed, and requested reimbursement of attorney's fees under a 2010 agreement between the same parties. Reimbursement was denied because there was no evidence the second contract intended to incorporate all provisions of the first. Its reference was not clear and unequivocal.

This office serves as a "lawyer of first resort" advocating for small businesses and individuals with disputes and transactions, including accident victims by referral only. We specialize in personalized client service. If we can be of any assistance with your legal issues, consider contacting us as soon as a question is identified. Your recent referrals have been greatly appreciated.

Remember: Preventative lawyering is the most effective kind.

Sincerely,

HARMON SIEFF

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