

Missouri Press' grab bag of legal issues

One of the best things about being the hotline attorney is hearing from Missouri Press member papers and knowing what is going on in your newsrooms and advertising departments. It is a wonderful peep into what is happening around the state in terms of today's hot news story and who is buying advertising.

Without talking about the individual papers involved, let me give you a tiny glimpse into what an amazing plethora of activities we have going on journalistically in the state at any one time.

For example, lately I've had several calls from reporters asking about certain actions of public officials they are covering in meetings of public governmental bodies. The reporters are watching those officials whose heads are down and whose thumbs are hard at work texting on their cell phones during the meeting. Is that a violation of the Sunshine Law, they want to know?

That's one of the hard questions to answer at the moment. To whom are they texting? If they are texting to just one person, then probably you don't have an issue of a discussion involving a quorum of the public body, unless it turns out we are talking about a public governmental body of three, in which case I'd be very concerned. If they are texting to a staff person, that would very likely be a permitted activity. But whose cell phone is that? If it's privately owned, that makes it more likely to be private, but if it is a cell phone provided by and paid for by the public body, then even if it's just one person, arguably everything on that phone is a public record. Fortunately for us, the Sunshine Law does talk about "electronic communication," so the law is flexible enough to cover some of these situations, depending on the facts.

Look for this to be a developing area of the law as public officials become more and more tied to doing business on their cell phones.

This spring seemed to bring a plethora of school district superintendent discharges. School boards tend to be

very secretive in terms of those negotiations. The Sunshine Law allows such negotiations to be conducted through closed meetings and the records of those activities, including votes taken, are allowed to be kept closed until any settlement agreement is finally signed by all parties. But at that point, minutes of meetings and votes taken, along with the settlement agreement, must be made public. Reporters really struggle with waiting for those negotiations to be concluded!

The advertising calls are just as interesting. This time of year, we begin to see a tremendous influx of political advertising of all kinds. Some papers call to get reminders about what needs to go into the attribution lines of a political ad – and they get a reminder they can print off and post the "Paid for by" brochure that is readily available to you on the Missouri Ethics Commission's website. It's so important to have that language in political ads in order to avoid a potential fine from the commission. Oh, and by the way, remember (with a federal Senate race and House races across the state, as well as it being a Presidential Election year) that the rules are slightly different on the federal level. Information on those rules is available on the Federal Election Commission website (www.fec.gov).

Another frequent subject of advertising calls relates to legal notices submitted by owners of self-storage unit facilities who are preparing to sell the

contents of a unit where they have not been paid rent. Should the newspaper run the name of the purported owners of those units, given that the ad says these individuals owe the owner unpaid rent? The statute in question that requires the ad is Section 415.415.4 (3), which states: "At least seven days before the sale, advertise the time, place and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held. Such advertisement shall be in the classified section of the newspaper and shall state that the items will be released for sale."

Given that owners are required by law to run these ads and they have a good-faith belief that the owner is the person they have listed, there appears to be no reason not to run the names, if the owner is asking it be done.

This is just a small sample of all the interesting calls that you make to the hotline on a regular basis. It's always good to hear from all of you and the work our Missouri newspapers do is so important for their communities. Never hesitate to touch base if we need to discuss a story or advertisement you are working on!

"Some papers call to get reminders about what needs to go into the attribution lines of a political ad — and they get a reminder they can print off and post the 'Paid for by' brochure that is readily available to you on the Missouri Ethics Commission's website."

