CASES, REGULATIONS AND STATUTES

by Robert P. Achenbach, Jr

ANIMALS

COWS. The parties were neighbors with the plaintiffs owning a rural residence separated by a fence from the defendants' dairy farm. The plaintiffs' lawn was damaged when the defendants' cows escaped through an open gate in the fence. The gate was apparently left open by snowmobilers. Although the snowmobilers had been granted permission to enter the defendants' property in the past, the evidence indicated that it was the plaintiffs who had given the snowmobilers permission during the year of the escape and not the defendants. The trial court ruled that both parties were equally at fault for failing to inspect the fence and gate to prevent the cows from escaping and awarded the plaintiffs half of the proven damages. On appeal the appellate court upheld the trial court judgment as based on the evidence and duty of care required by each party. The court noted that the defendants' own testimony demonstrated that they were aware that the cows would travel to the gated area of the fence when the weather was warmer; therefore, the defendants knew that portion of the fence needed to be inspected when the weather became warmer. **Bryhan v. Pink, 718 N.W.2d 112 (Wis. Ct. App. 2006)**.

BANKRUPTCY

GENERAL

FEDERAL FARM PROGRAM PAYMENTS. The debtor planted seed wheat and seed cotton crops in 2001, and the crops suffered from drought. The debtor filed for Chapter 12 in May 2002 and the case was converted to Chapter 7 in January 2003. The Agricultural Assistance Act of 2003 was signed into law on February 20, 2003 and provided for payments to farmers for weather-related crop losses. In January 2004 the debtor applied for payments for the 2001 crop losses and received a payment in February 2004. The Bankruptcy Court held that the payments were estate property because the payments arose out of the prepetition crops. The Bankruptcy Court noted that all of the conditions for eligibility for the drought payments existed prior to the bankruptcy filing and the vesting of the rights in the payments, by passage of the legislation and the debtor's application for the payments, was the only event which occurred post-petition. On appeal, the District Court reversed and the appellate court affirmed, holding that the mere expectancy of legislation which would provide compensation for crop losses was too contingent to include the payments in the bankruptcy estate. The Bankruptcy Court had also held that the disaster payments were not included in the bankruptcy estate under Section 541(a)(6) as the proceeds of estate property because no crops existed on the filing date. The District Court and appellate court affirmed this holding. ***In re* Bracewell, 454 F.3d 1234 (11th Cir. 2006), *aff'g*, 322 B.R. 698 (M.D. Ga. 2005), *aff'g in part and rev'g in part*, 310 B.R. 472 (Bankr. M.D. Ga. 2004)**.

FEDERAL TAX

DISCHARGE. The debtor, an accountant, had filed several bankruptcy cases over 20 years with most cases dismissed for failure to comply with filing requirements. None of the cases listed the debtors' 1977, 1978 and 1979 tax liabilities in the schedule of claims. During the time between 1977 and the time of the current bankruptcy filing, the debtor had a source of income and had access to substantial funds under a power of attorney over the debtor's parent's estate. The debtor lived a lavish lifestyle but failed to pay the taxes, using the bankruptcy cases as a means of discharging the taxes when possible. The debtor also failed to file income tax returns except only after demand from the IRS. The court held that the 1977, 1978 and 1979 taxes were nondischargeable because the debtor willfully attempted to defeat and evade the payment of the taxes. ***In re* Zimmerman, 2006-2 U.S. Tax Cas. (CCH) ¶ 50,548 (S.D. Fla. 2006)**.

CONTRACTS

FORMATION. The plaintiff was a corporation which purchased farm products from producers and the defendant had sold crops to the plaintiff over several years. The plaintiff filed suit to enforce a contract for the defendant to sell 80,000 bushels of corn in December 2003. Although the defendant acknowledged that the defendant had entered into and delivered on two other contracts in 2003, the defendant denied the 80,000 bushel contract. To support its motion for summary judgment, the defendant provided affidavits from an employee of the plaintiff who had negotiated the other contracts and from a co-owner of the defendant. Both affidavits denied the existence of the alleged contract and noted that the defendant had not responded to any contacts about the contract which could be seen as affirmation of the contract. The plaintiff argued that the failure of the defendant to respond to e-mails and other inquiries about the contract demonstrated affirmation of the contract by the defendant's failure to object to the communications. The court noted that the e-mail required a signature from the defendant in order to confirm the contract provisions; therefore, the defendant's failure to respond could not be viewed as any confirmation of the alleged contract. **Cargill Inc. v. Jorgenson Farms, 719 N.W.2d 226 (Minn. Ct. App. 2006)**.

FEDERAL AGRICULTURAL PROGRAMS

CROP INSURANCE. The FCIC has issued proposed regulations replacing the provisions currently found at 7 C.F.R. § 457.107 with new Florida Citrus Fruit Crop Insurance Provisions to provide policy changes and clarify existing policy provisions to better meet the needs of insureds and to restrict the effect of the current Florida Citrus Fruit Crop Insurance Provisions to the 2007 and prior crop years. **71 Fed. Reg. 60439 (Oct. 13, 2006)**.

ENVIRONMENT. The FSA has issued a Finding of No Significant Impact (FONSI) consistent with the National Environmental Policy Act of 1969 with respect to the implementation of the following Disaster Assistance Programs: (1) Hurricane Indemnity Program, (2) Feed Indemnity Program, (3) Livestock Indemnity Program, (4) Tree Indemnity Program, and (5) Aquaculture Grant Program as well as (6) the 2006 Livestock Assistance Grant Program. **71 Fed. Reg. 59718 (Oct. 11, 2006)**.

FEDERAL ESTATE AND GIFT TAXATION

LIFE INSURANCE. The IRS has provided amended guidance for safe harbors for using the 1980 or 2001 Commissioner's Standard Ordinary Mortality and Morbidity tables to determine whether mortality charges were reasonable. Under I.R.C. § 7702(a) , a life insurance contract is defined as any contract that qualifies as a life insurance contract under applicable state or foreign law and meets either the cash value accumulation test or the guideline premium or cash value corridor test. A contract meets the guideline premium limit if the sum of the premiums paid under the contract does not at any time exceed the greater of (1) the guideline single premium, or (2) the sum of the guideline level premiums to date. I.R.C. § 7702(c)(2). The guideline single premium is the premium required to fund future benefits under the contract. The computation of the guideline single premium must account for the mortality charge in the contract, or if none is specified, the charges used to determine the statutory reserves for the contract. The mortality charges that are taken into account for purposes of the guideline single premium must be reasonable. I.R.C. § 7702(c)(3)(B)(i)). This notice modifies *Notice 2004-61, 2004-2 C.B. 596*, by providing safe harbors that apply for purposes of determining reasonable mortality charges under I.R.C. § 7702, and guidance is provided regarding the gender- or smoker-based variations found in the 2001 CSO tables. **Notice 2006-95, I.R.B. 2006-45**.

REFUND. The initial estate tax return was filed in August 1996 and the estate made five installment payments of the estate tax from 1997 to 2001. In February 2002, the estate discovered that the estate tax return had an error which greatly overstated the estate tax liability. The estate filed an amended return and sought a refund of the excess estate tax already paid. The IRS denied the refund request for the payments made in 1997, 1998 and 1999 on the grounds that the refund was barred by the two year limitation on refunds claimed after the taxes were paid. The estate argued that the installments were not payments of the tax but merely payments in a suspense account to be held until the final tax was paid. The court held that each installment was considered a separate payment of tax and the limitation period for a refund claim ran from each payment; therefore, the refund claim for payments made more than two years after an installment was paid was barred. **Leveroni v. United States, 2006-2 U.S. Tax Cas. (CCH) ¶ 60,532 (N.D. Calif. 2006)**.

FEDERAL INCOME TAXATION

ACCOUNTING METHOD. The IRS has issued amended procedures by which a taxpayer may obtain automatic consent to change the method of accounting. The procedures were amended to include procedures for receiving automatic consent for a change in accounting method required for compliance with recent regulations under Treas. Reg. § 1.168(k)-1 (bonus depreciation deduction) and Treas. Reg. § 1.1400L(b)-1 (Liberty Zone bonus depreciation deduction). This revenue procedure modifies and amplifies *Rev. Proc. 2002-9, 2002-1 C.B. 327*. **Rev. Proc. 2006-43, I.R.B. 2006-45**.

The IRS has issued revised procedures for some corporations to obtain expeditious approval of a change in annual accounting period from or to a 52-53 week tax year. Changes from the previous revenue procedure, Rev. Proc. 2002-37, 2002-1 CB 1030, include (1) an interest in a pass-through entity that does not have a required taxable year does not make a corporation ineligible for use of this revenue procedure; (2) exclusion of S corporations and terminated S corporations from use of these procedures; (3) exclusion of a corporation that exits a consolidated group in its first effective year; (4) incorporation of the clarification in *Notice 2002-72*, that certain entities with required taxable years that must concurrently change their annual accounting period as a term and condition for the approval of a related taxpayer's change of annual accounting period must do so under the applicable automatic approval procedures notwithstanding any limitations in those procedures to the contrary or any conflicting testing date provisions; and (5) for purposes of a change in annual accounting period, a consolidated group consists of the parent and any subsidiary that is a member of the group on the last day of the short period. **Rev. Proc. 2006-45, I.R.B. 2006-45**.

The IRS has issued amended procedures for certain partnerships, S corporations, electing S corporations and personal service corporations (PSCs) to obtain automatic approval to adopt, change, or retain their annual accounting period under I.R.C. § 442 and Treas. Reg. § 1.442-1(b). Entities complying with these guidelines will be deemed to have established a business purpose for the adoption, change, or retention to the satisfaction of the IRS. Changes from the previous revenue procedure, *Rev. Proc. 2002-38, 2002-1 C.B. 1037*, include (1) the addition of trusts that want to change to their required year and removal of partnerships that have minor, temporary percentage changes in ownership; (2) terminated S corporations, and partnerships, S corporations, electing S corporations or PSCs that make or terminate an I.R.C. § 444 election; (3) a taxpayer required to make a concurrent change as a term for the approval of a related taxpayer's change of accounting period is automatically included in the scope of the guidance, notwithstanding any contrary limitation; and (4) the definition of first effective year is modified to include a short period of six days or less. **Rev. Proc. 2006-46, I.R.B. 2006-45**.

ALTERNATIVE MINIMUM TAX. The taxpayer entered into an incentive stock option purchase agreement under which the taxpayer purchased $2 million of stock for just under $100,000. Although the purchase did not result in regular taxable income, the gain was realized for AMTI purposes. One year later, the taxpayer sold the shares for $248,000 and realized a regular capital gain of $148,000 and $1.9 million in AMT capital loss. The taxpayers claimed the AMT loss against current AMTI, resulting in no AMT for that tax year and a credit for the prior AMT payment. The court held that the taxpayers were limited to claiming only $3,000 of the capital losses for both regular and AMT purposes. **Palahnuk v. Comm'r, 127 T.C. No 9 (2006)**.

CHARITABLE DEDUCTION. Under I.R.C. § 170(f)(11), added by the American Jobs Creation Act of 2004 (Pub. L. No. 108-357), a taxpayer is required to get a qualified appraisal from a qualified appraiser for donated property if the taxpayer is claiming more than a $5,000 deduction for the donated property. The IRS has issued transitional guidance relating to the terms "qualified appraisal" and "qualified appraiser" found in I.R.C. § 170(f)(11) as defined by the Pension Protection Act of 2006 (Pub. L. No. 109-280) and I.R.C. § 6695A, which deals with substantial or gross valuation misstatements. I.R.C. § 170(f)(11)(E)(i) provides that a "qualified appraisal" must be conducted by a "qualified appraiser" in accordance with generally acceptable appraisal standards. Under the guidance, an appraisal, to be qualified, must generally comply with all of the requirements of Treas. Reg. §1.170A-13(c) (dealing with substantiation) and must be conducted by a qualified appraiser in accordance with generally accepted appraisal standards. An appraisal will be treated as having been conducted in accordance with "generally accepted appraisal standards" if it is consistent with the substance and principles of the Uniform Standards of Professional Appraisal Practice (USPAP), as developed by the Appraisal Standards Board of the Appraisal Foundation. Under I.R.C. § 170(f)(11)(E)(ii), the term "qualified appraiser" means, among other things, someone who has earned an "appraisal designation" from a recognized professional appraiser organization. Under the guidance, this requirement is satisfied if the appraisal designation is awarded on the basis of demonstrated competency in valuing the type of property for which the appraisal is performed. I.R.C. § 170(f)(11)(E)(iii) provides that to be a qualified appraiser an individual must at least demonstrate verifiable education and experience in valuing the type of property subject to the appraisal. This requirement is satisfied if the appraiser makes a declaration in the appraisal that, due to background, experience, education, and membership in professional associations, he or she is qualified to make appraisals of the type of property being valued. The IRS plans to issue regulations for the new rules, and until those regulations are published, taxpayers can rely on this notice, which generally applies to contributions of property, for which a deduction of more than $5,000 is claimed on returns filed after August 17, 2006, and before the effective date of the expected regulations. **Notice 2006-96, I.R.B. 2006-40**.

DOMESTIC PRODUCTION DEDUCTION. In calculating the deduction under I.R.C. § 199, taxpayers are to subtract (1) the costs of goods sold and other expenses allocable to domestic production gross receipts (DPGR) from (2) the DPGR. Treas. Reg. § 199-4(d) requires taxpayers to determine deductions allocable to DPGR using I.R.C. § 861. The IRS has issued procedures for taxpayers to obtain automatic consent to change elections relating to apportionment of interest expense under Treas. Reg. § 861-8T(c)(2). **Rev. Proc. 2006-42, I.R.B. 2006-44**.

I.R.C. § 199 allows a deduction based on the lesser of a taxpayer's qualified production activities income (QPAI) in the tax year, or taxable income (determined without reference to I.R.C. § 199) in the tax year. The deduction is limited to 50 percent of the Form W-2 wages paid by the taxpayer during the calendar year that ends in such tax year. The Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), Pub. L. No. 109-222 amended I.R.C. § 199 to provide that such wages do not include any amount that is not properly allocable to domestic production gross receipts (DPGR). The IRS has issued proposed regulations under which a taxpayer may determine the amount of W-2 wages properly allocable to DPGR for limitation purposes using any reasonable method that is satisfactory to the IRS based on all the facts and circumstances. The new regulations provide safe harbors for determining this amount. For taxpayers using either the I.R.C. § 861 method of cost allocation under Treas. Reg. §1.199-4(d) or the simplified deduction method under Treas. Reg. §1.199-4(e), the amount of W-2 wages properly allocable to DPGR can be determined by multiplying the amount of W-2 wages by the ratio of the taxpayer's wage expense included in calculating QPAI for the tax year to the taxpayer's total wage expense used in calculating the taxpayer's taxable income for the tax year. For purposes of determining the amount of wage expense in cost of goods sold (CGS) under this safe harbor, a taxpayer may determine its wage expenses included in CGS using any satisfactory method based on all of the facts and circumstances. A taxpayer that uses the small business simplified overall method of cost allocation may use the small business simplified overall safe harbor method. Under that method, the amount of W-2 wages properly allocable to DPGR is equal to the same proportion of W-2 wages that the amount of DPGR bears to the taxpayer's total gross receipts. **71 Fed. Reg. 61662 (Oct. 19, 2006)**.

LOW INCOME HOUSING CREDIT. The IRS has issued a revenue ruling providing the bond factor amounts for calculating the amount of bond considered satisfactory under I.R.C. § 42(j)(6) or the amount of United States Treasury securities to pledge in a Treasury Direct Account under *Rev. Proc. 99-11, 1999-1 C.B. 275* for dispositions of qualified low-income buildings or interests therein during the period January through December 2006. **Rev. Rul. 2006-51, I.R.B. 2006-41, 632**.

PARTNERSHIPS

DISREGARDED ENTITY. The IRS has adopted as final regulations which clarify the existing regulations concerning when a partner may be treated as bearing the economic risk of loss for a partnership liability based upon a payment obligation of a business entity that is disregarded as separate from its owner under I.R.C. §§ 856(i), 1361(b)(3), or Treas. Reg. §§ 301.7701-1 through 301.7701-3. The regulations provide that in determining the extent to which a partner bears the economic risk of loss for a partnership liability, payment obligations of a disregarded entity are taken into account for purposes of I.R.C. § 752 only to the extent of the net value of the disregarded entity as of the date on which the partnership determines the partner's share of partnership liabilities pursuant to Treas. Reg. §§ 1.752-4(d) and 1.705-1(a). However, the regulations do not apply to an obligation of a disregarded entity to the extent that the owner of the disregarded entity otherwise is required to make a payment (that satisfies the requirements of Treas. Reg. § 1.752-2(b)(1)) with respect to such obligation of the disregarded entity. Under the regulations, the net value of a disregarded entity equals the fair market value of all assets owned by the disregarded entity that may be subject to creditors' claims under local law, including the disregarded entity's enforceable rights to contributions from its owner but excluding the disregarded entity's interest in the partnership (if any) and the fair market value of property pledged to secure a partnership liability (which is already taken into account under Treas. Reg. § 1.752-2(h)(1)), less obligations of the disregarded entity that do not constitute, and are senior or of equal priority to, payment obligations of the disregarded entity. **71 Fed. Reg. 59669 (Oct. 11, 2006)**.

PENSION PLANS. The IRS has published the cost-of-living adjustments (COLAs), effective on Jan. 1, 2007, applicable to dollar limitations on benefits paid under qualified retirement plans and to other provisions affecting such plans. The maximum limitation for the I.R.C. § 415(b)(1)(A) annual benefit for defined benefit plans increased to $180,000 and the I.R.C. § 415(c)(1)(A) limitation for defined contribution plans increased to $45,000. The I.R.C. § 402(g)(1) limitation on the exclusion for elective deferrals under I.R.C. § 402(g)(3), which affects elective deferrals to I.R.C. § 401(k) plans and to the government's Thrift Savings Plan, among other plans, increased to $15,500. The dollar amount under I.R.C. § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a five-year distribution period increased to $915,000. The dollar amount used to determine the lengthening of the five-year distribution period increased to $180,000. The I.R.C. § 414(q)(1)(B) limitation used in the definition of a highly compensated employee remains unchanged at $100,000. The annual compensation limit under I.R.C. §§ 401(a)(17), 404(l), 408(k)(3)(C) and 408(k)(6)(D)(ii) increased to $225,000. The annual compensation limitation under I.R.C. § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed COLAs to the compensation limitation under the plan to be taken into account, increased to $335,000. The I.R.C. § 408(k)(2)(C) compensation amount for simplified employee pension plans (SEPs) increases to $500. The I.R.C. § 408(p)(2)(E) limitation regarding SIMPLE retirement accounts remains unchanged at $10,500. The I.R.C. § 457(e)(15) limitation on deferrals with respect to deferred compensation plans of state and local governments and tax-exempt organizations increased to $15,500. The compensation amounts under Treas. Reg. § 1.61-21(f)(5)(i) concerning the definition of "control employee" for fringe benefit valuation purposes remained at $90,000. The compensation amount under Treas. Reg. § 1.61-21(f)(5)(iii) increased to $180,000. The dollar limitation under I.R.C. § 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan increased to $145,000. The dollar limitation under I.R.C. § 414(v)(2)(B)(i) for catchup contributions to an applicable employer plan other than a plan described in I.R.C. § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at $5,000. The limitation under I.R.C. § 414(v)(2)(B)(ii) for catchup contributions to an applicable employer plan described in I.R.C. § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at $2,500. **IR-2006-162**.

RETURNS. The IRS has announced limited tax relief for taxpayers in Hawaii, Honolulu, Kauai and Maui Counties in Hawaii due to the earthquake that occurred on October 15, 2006. Affected taxpayers have until October 23, 2006, to file most tax returns that have either an original or extended due date falling on or after October 15, 2006, and on or before October 23, 2006. This relief applies to individual, corporate and estate and trust income tax returns; partnership, S corporation and trust returns; estate, gift and generation-skipping transfer tax returns; and employment and certain excise tax returns. **IR-2006-164**.

The IRS has announced limited tax relief for taxpayers in Erie, Genesee, Niagara and Orleans counties in New York. Due to sudden snowstorms in these counties, affected taxpayers have until October 23, 2006, to file most tax returns that have either an original or extended due date falling on or after October 12, 2006, and on or before October 23, 2006. This relief applies to individual, corporate and estate and trust income tax returns; partnership, S corporation and trust returns; estate, gift and generation-skipping transfer tax returns; and certain excise tax returns. **IR-2006-160**.

SAFE HARBOR INTEREST RATES

November 2006

	Annual	Semi-annual	Quarterly	Monthly
		Short-term		
AFR	4.89	4.83	4.80	4.78
110 percent AFR	5.38	5.31	5.28	5.25
120 percent AFR	5.88	5.80	5.76	5.73
		Mid-term		
AFR	4.69	4.64	4.61	4.60
110 percent AFR	5.17	5.10	5.07	5.05
120 percent AFR	5.65	5.57	5.53	5.51
		Long-term		
AFR	4.90	4.84	4.81	4.79
110 percent AFR	5.39	5.32	5.29	5.26
120 percent AFR	5.89	5.81	5.77	5.74

Rev. Rul. 2006-55, I.R.B. 2006-45.

SOCIAL SECURITY. Beginning with the January 2007 payment, the average monthly social security standard benefit payment is $623 for an individual and $934 for a couple. The maximum amount of annual wages subject to Old Age Survivors and Disability Insurance for 2007 is $97,500, with all wages and self-employment income subject to the medicare portion of the tax. For retirees under age 65, the retirement earnings test exempt amount is $12,960 a year, with $1 withheld for every $2 in earnings above the limit. The retirement earnings test exempt amount (the point at which retirees begin to lose benefits in conjunction with their receipt of additional earnings) for individuals age 62 through 64, will rise from $33,240 a year to $34,440 a year for the year in which an individual attains age 65; the test applies only to earnings for months prior to reaching age 65. One dollar in benefits will be withheld for every $3 in earnings above the limit, and no limit on earnings will be imposed beginning in the month of the individual's 65th birthday. **SSA News Release, Oct. 20, 2006**.

PRODUCT LIABILITY

COMBINE. The plaintiff was injured when the plaintiff's car hit a combine with a "bean head" owned and towed by one defendant and manufactured by another defendant. The plaintiff claimed that (1) the defendant owner negligently operated the combine on the night of the accident and thereby directly caused the collision and the plaintiff's injuries; (2) the defendant manufacturer negligently designed the bean head by not putting lights or "adequate reflective devices" at its extremities; (3) the defendant manufacturer breached the implied warranty of merchantability and the implied warranty of fitness for its intended purpose by selling a bean head that was not fit for travel on public roads; and (4) the defendant manufacturer was strictly liable for the defective design and manufacture of the bean head without proper illuminating mechanisms. The plaintiff alleged that the defendant owner was driving the combine with the bean head extending four feet over the center line without lights or reflective devices to warn oncoming traffic. The defendants denied that the bean head extended over the center line and claimed that the accident resulted because the plaintiff failed to keep a proper lookout. The jury determined that the plaintiff was 90 percent at fault, the defendant owner was 10 percent at fault and the defendant manufacturer was not at fault. On appeal the plaintiff objected to the admission of several items of evidence as to the driving record of the plaintiff, the nonexistence of any accidents with the combine by the defendant owner and the nonexistence of any reported accidents by similar combines manufactured by the defendant manufacturer. The court upheld the admission of all the evidence as relevant to the possible negligence of the parties. **Bach v. Gehl, 2006 Minn. App. Unpub. LEXIS 1152 (Minn. Ct. App. 2006)**.

SECURED TRANSACTIONS

LANDLORD'S LIEN. The plaintiff leased farm land to a tenant under a lease agreement which provided for a crop share rent and statements as to the crops to be planted. The lease was accompanied by a handwritten statement of the crops to be planted over the lease term. The tenant granted security interests in the crops and grew wheat on a portion of the land. The plaintiff argued that the secured creditors did not have a valid security interest in a wheat crop because the lease agreement did not allow any wheat to be grown on the land and, if the security interest was valid, the plaintiff claimed a landlord's lien against the wheat crop with priority over the security interest in the wheat. The court held that there was insufficient evidence presented at the trial level to determine whether the wheat was grown in accordance with the lease agreement. The court also held that the landlord's lien was restricted to cover only amounts designated as rent and remanded the case to determine the full amount of rent to be charged. **Stokes v. Farmers Grain Terminal, Inc., 2006 Ark. App. LEXIS 662 (Ark. Ct. App. 2006)**.

CITATION UPDATES

Sjuts v. Granville Cemetery Association, 719 N.W.2d 236 (Neb. 2006) (prescriptive easement) see p. 152 *supra*.

Source Food Technology, Inc. v. United States Fidelity and Guaranty Co., 2006 U.S. App. LEXIS 25525 (8th Cir. 2006), *rev'g*, 2005 U.S. Dist. LEXIS 32438 (D. Minn. 2005) (business interruption insurance) see p 143 *supra*.

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