

## **Brown v Cedar Creek Rod and Gun Club**

### **Case Status Summary**

Cedar Creek Rod and Gun Club was formed in 1992-93 as a not-for-profit corporation. At that time, there were discussions with the Callaway County Commission and the local residents to be sure the club would be operating in accordance with applicable state laws and local county ordinances. The club has broken no law, rule or ordinance, nor has that been alleged.

In January 2004, one couple, neighbors of the club living in Boone County nearly 600 yards away the club, filed a civil lawsuit against Cedar Creek Rod and Gun Club (but did not name Ralph and Mary Ann personally as Defendants). They claimed that they found the noise from the club's shooting a nuisance and requested a jury trial and a permanent injunction to cause the closure of the club. The Boone County judges recused themselves because of their acquaintance with either Ralph or Mary Ann Gates. Judge Beetem of Cole County was then appointed by the Missouri Supreme Court to preside over this trial in Boone County, the county in which the "injury" had occurred.

This matter finally reached trial on December 18-20 of 2007. Cedar Creek Rod and Gun Club contended that the club's use of unzoned land in rural Callaway County was in accordance with all laws, rules and ordinances and represented a reasonable use of the land (i.e., shooting there is not prohibited by the county). During the trial, every other land-owning neighbor testified in the gun club's behalf that the noise was not a nuisance and that they did not even notice it anymore. Despite this testimony, a Boone County jury of 9 women and 3 men found in favor of the Plaintiffs. Not only did the jury find in the Plaintiffs' favor, they awarded damages of \$700,000 to the Plaintiffs.

At the conclusion of the trial, the judge then placed a Temporary Injunction on the shooting club, limiting hours and dates of shooting through January 15. The permitted hours of operation under the Temporary Injunction represented nearly a 50% reduction in the hour of operations, including **no shooting on Sundays**. The club was seriously limited in the hours and days that trap and skeet could be shot, since some of the noise travels in a direction toward the plaintiffs' residence. In addition, the club would have to schedule special events within the confines of the Injunction, such as the 4H, FFA, and registered skeet, some of which would not readily lend themselves to the time constraints.

The judge requested that counsels for both parties meet to try to work an amenable shooting schedule; the Plaintiffs elected not to do this, nor their attorney did not make any written suggestions. The judge then issued a new Temporary Injunction (as the original expired on January 15). The new Injunction limits the schedule of shooting beginning on January 15, allowing the club to only shoot January 15 through March 31 on Tuesdays and Thursdays from noon to 6 p.m., Saturdays from 10 a.m. to 5 p.m., and the first and third Sundays from noon to 6 p.m. The club is permitted to shoot south of the trap and skeet fields on the sporting clays courses as long as the shooting does not direct the sound in a direction toward the plaintiffs' residence. The club is permitted to shoot sporting clays, Monday through Friday, from noon to 6 p.m. (These were the

days/hours the club had requested.) While this Order was an improvement, it is still a substantial decrease in the club's previous operating hours.

### **Comments**

We have heard from the Plaintiff's counsel that the Plaintiffs are not pleased with our being able to shoot and conduct business, and they are sending the judge a protest. In addition, the judge set an April schedule for the club's hours of operations and shooting. Please see the club web site for current hours of operations at:

<http://www.cedarcreekrodandgunclub.com/>

We have three attorneys working on this matter: Bob Buckley, Dan Simon, and Lou Leonatti. There are several avenues which we are vigorously pursuing for a new trial to overturn or reduce the amount of monetary damages awarded to the Plaintiffs. This verdict has done serious harm to our club, as well as other clubs in the future by setting a dangerous precedent. While the ruling looks pretty grim, there are precedents that seem to support that this was an unreasonable judgment based on the evidence presented, and there are other legal issues we are investigating.

We are planning to continue our scheduled events and will know more after the next hearing at 9 a.m. on February 20, 2008, at the Boone County Courthouse. The purpose of this hearing will be to determine the conditions of a Permanent Injunction. We will let you know more details as soon as we are apprised of that information.

Feel free to forward this information to interested parties or to call us if you have questions.

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