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The LITIGATOR

VOLUME VI OFFICIAL PUBLICATION OF THE CAPITOL CITY TRIAL LAWYERS ASSOCIATION ISSUE 3

Yes, we can improve our practice, morale and public image

By: John N. Demas, CCTLA President

In the last few years, profound and pronounced changes have occurred in the personal injury field, especially for those handling automobile collision cases. Starting in approximately 2000, insurance companies made a concerted effort to decrease the settlement amounts in all "soft tissue" cases. They purchased software programs—Colossus is the most well known—that analyzed claims by considering a number of factors such as the length and type of treatment, diagnostic codes, etc. These programs gave adjustors strict ranges to settle claims, with little, if any, authority to exceed the amounts.

Carriers also turned their attention to the "MIST" cases by hiring "experts" to refute causation and damages and aggressively defend these cases, all with great success. Emboldened by their success on the MIST cases, many carriers are now making low offers on all soft tissue cases forcing plaintiff's attorneys to try these cases or accept offers that are less than twice the medical specials. In fact, one carrier is basing the adjustor bonuses on how many cases the adjustors can settle close to the amount of the specials!

As a result of these insurance company tactics, settlement values across the board have dropped. With increasing costs of litigation and a more difficult jury pool (influenced by 30 years of carefully constructed "tort reform" messages), many attorneys have simply given up and not going to trial on any of these cases.

Also, the number of attorneys working solely on personal injury cases has dropped across the country. Membership in trial lawyer organizations is down. The Consumer Attorneys of California has lost nearly one-third of its members in the last few years. Attendance at statewide and national legal seminars is down. More and more experienced insurance defense attorneys are dabbling as plaintiff's lawyers, cherry-picking valuable cases.

Hopefully, many of you have already adapted to these insurance industry tactics and have learned to handle cases more cost-wweffectively and efficiently.

Morton L. Friedman Award winner Allan Owen, see page 3

But as members of CCTLA, what can we do to collectively improve our practice, morale and image as personal injury attorneys?

As I've mentioned before, I believe the organization's role is essentially two fold: 1) provide the best possible educational seminars and speakers to help our members and 2) actively participate in community events and public outreach to raise awareness of trial lawyers and what we do.

As for our educational efforts, we will continue to bring you great speakers and topics that should help you the rest of the year. We are also working on some new initiatives with respect to community service and public outreach.

One of the things I hear most frequently from our members is that trial lawyers don't do anything to counteract the organized insurance and corporate anti-trial lawyer message. Obviously, we can't match (or even come close to) corporate America's unlimited resources. However, we do have one thing we can harness and use: people.

This year, and hopefully for many years to come, CCTLA will make a concerted effort to emphasize community service and public outreach.

In that regard, I am pleased to report that CCTLA is currently working on two proposals: 1) Preparing educational "talking points" that members of our organization can use to speak to different groups

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Allan's CORNER

By: Allan J. Owen

Here are this edition's new important cases. Remember, these are culled from the Daily Journal and may not be published, so be sure to check before citing.

Summary Judgment. In **Demps v. San Francisco Housing Authority**, 2007 DJDAR 4693, the First District reverses its Biljac Associates v. First Interstate Bank, (1990) 218 Cal App 3d 1410, decision and holds that a trial court must rule on evidentiary objections and if it fails to rule on evidentiary objections in a motion for **summary judgment**, the objections are deemed overruled and the evidence is admitted and is available on the record on appeal.

Product Liability. In **Stillwell v. Smith & Nephew, Inc.**, 2007 DJDAR 4804, a federal case in the Ninth Circuit, plaintiff broke her leg in 1995 and doctors implanted a Russell Taylor metal reconstruction nail to stabilize a compound subtrochanteric fracture of her right femur. Two nails failed causing pain and disability and she sued the manufacturer of the devices based on strict liability, negligence and breach of warranty. District court granted summary judgment based on plaintiff's lack of proof of causation. District court had rejected the expert testimony of a metallurgist under the Daubert rationale. Appellate court held that the trial court wrongfully excluded the testimony; however, grants the motion for summary judgment based on plaintiff's failure to prove that the defects shown by the expert testimony were a cause of the delayed healing of her fractured leg. Basically, the problem here was that he was not an expert on a medical device and he couldn't say whether it would fail if there was non-union of the bone at some point. He could not answer whether "it's a race in time between union and failure of the nail" which, of course, it is.

Biomechanical Engineer Testimony: In **DePalma v. Rodrigues**, at deposition a biomechanical engineer testified that one would not expect a person of normal health to have suffered any injury in this low speed accident. He denied any other opinions. At trial, he was allowed to testify that the specific knee and shoulder injuries at issue would not be expected to result from the accident since the forces involved were comparable to what you would expect in normal daily activities and would not result in contact to the knee.

Only objection was that this testimony went beyond his deposition testimony. Affirmed—the court held that the deposition gave the general substance of planned testimony and that was sufficient. Wonder if the court ever read the expert statutes?

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Save the Date!

Don't Miss our "Juror Bias" Seminar with featured speaker: David Wenner

9 a.m. - 4 p.m. Saturday, Sept. 29
at the Holiday Inn

CCTLA salutes Allan Owen as man of heart, soul, passion– and service

Allan J. Owen has been presented with the Morton L. Friedman Award, in recognition of his heart, soul, and passion as a trial lawyer in service to the community. The Capitol City Trial Attorneys selected Allan Owen for this well-deserved award based on his tireless contributions to CCTLA and the Sacramento community.

Allan is a regular and invaluable contributor to The Litigator, CCTLA's education program and the mentor program, and he hosts endless fundraisers for charities and for our community leaders.

He has been integral in historical preservation in Sacramento, including the memorial auditorium when the Sacramento City Council decided to gut it to make it more modern, to attract bigger shows. Allan, along with his wife, Linda Whitney, and other committed citizens, felt the historical structure needed to be saved, along with the memory of the soldiers who it honors.

The group placed a local initiative on the ballot. Allan prevailed in the lawsuit brought by ex-mayors and others regarding ballot language. Now the memorial is being preserved for all generations.

Allan Owen and Mort Friedman

Recently, Allan was appointed to serve on the Memorial Auditorium Stakeholders Committee, which is working with a preservation architect to determine what needs to be done to preserve the auditorium and enhance it without destroying its historical significance.

Allan is a longtime member of the Sacramento Old City Association, and has done volunteer work for it through the years. He also is the co-director of the Capitol City Preservation Trust, which handles funds generated as remediation for the destruction of the Merium Apartments. The organization gives grants and loans to projects to preserve historic buildings in the city.

Allan Owen, with his plaque, right, and with his wife, Linda Whitney, above.

RECENT VERDICTS

RECENT VERDICTS AND SETTLEMENT

Richard E. Crow II, of The Crow Law Firm, on May 3, 2007, in the case of Jon Waterhouse vs. National Railroad Passenger Corporation (Amtrak) and Union Pacific Railroad Company, received a verdict in Sacramento Superior Court in the amount of $3,331,063.00. The judge was the Honorable Talmadge Jones.

This verdict was comprised of past lost earnings in the amount of $266,409.00, future loss earnings/loss of earning capacity of $1,529,014.00, future medical expenses in the amount of $585,640.00, past non-economic damages of $450,000.00 and future non-economic damages in the amount of $500,000.00.

This action was brought as a result of injuries Mr. Waterhouse sustained on July 18, 2003, while in the course and scope of his employment with Amtrak. Mr. Waterhouse, an engineer for Amtrak, was stopped at the Amtrak station in Sacramento. While walking parallel to the Amtrak train, a Union Pacific train collided with the rear of the Amtrak train, causing it to derail. Mr. Waterhouse, worried the train would fall on him, ran and jumped out the way in order to clear the wreckage. Mr. Waterhouse had a spinal cord stimulator placed in his low back and has now undergone 11 surgical procedures to his low back. Mr. Waterhouse, age 38, cannot ever return to work as a locomotive engineer and will have extensive work restrictions in any future employment.

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Roger Dreyer received a $4.6 million jury verdict in a wrongful death case of Giannoni v. RT-, in front of

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Above left, Judge Art Scotland considers bidding on some bottles of wine. Above right: Dr. Bijan Bijan, Trevor Nabholz DC, Jack Vetter, Judge Michael Virga and John Demas. Below, an overview of the auction area.

CCTCA's Spring Fling & Silent Auction

Above, Judge James Mize and Judge Darrel Lewis. Below, Rick Crow, Judge Loren McMaster and Craig McIntosh. Right, Marcy Friedman and John Poswall.

Above, the SFBFS executive director with volunteers Ed and Patricia Campini and Bridge Builders coordinator Dorothee Mull. Right, Linda Hart, Dave Sedeno, Carol and Margaret Doyle.

CCTLA's 4th annual Spring Fling was a huge success with 89 people in attendance, raising $10,686 for the Sacramento Food Bank & Family Services.

The SFBFS programs include:

- Providing moms with guidance and their infants with food and diapers
- Providing early childhood education and youth services
- Feeding the hungry
- Clothing the poor
- Housing homeless families with children

Many thanks to those who contributed to making the event a success with their attendance and donations. Special thanks to hosts and organizers Allan Owen, Linda Whitney, Margaret Doyle, Paul Wagstaffe, Robin Brewer, Laressia Carr, Jill P. Telfer and Debbie Keller.

Uninsured Motorist Primer

Procedural and Evidentiary Issues

A Five Part Series: Part Four

BY: Allan J. Owen, CCTLA Past President

Previous Litigator issues discussed "What is an Uninsured Motor Vehicle and an Underinsured Motorist," "Who Is Covered" and "Hit and Runs-Special Considerations." Next month's publication will address "Credits, Release and Subrogation." These materials are not intended as a substitute for careful research of the particular issue involved nor is this article meant to be complete in and of itself without reference to other and more complete discussions of the topic of uninsured and underinsured motorists. The reader is referred to Insurance Code §11580.2, Clifford, California Uninsured Motorist Law (6th Ed.), and CEB, California Uninsured Motorist Practice. Insurance Code §11580.2 provides the minimum requirements for uninsured motorist coverage in the State of California.

PROCEDURAL ISSUES

Uninsured and underinsured motorist cases must be decided by arbitration. Although many policies still contain language requiring more than one arbitrator, Insurance Code §11580.2(f) requires that the arbitration be done before a single, neutral arbitrator. The decision of the arbitrator is final, even if it contains an error of law on the face of the award. **Moncharsh v. Heily & Blase**, (1992) 3 Cal 4th 1. Policy language allowing either side to reject the arbitrator's award and proceed to trial is void. **USAA v. Superior Court**, (1990) 221 Cal App 3d 79. The procedure for selecting an arbitrator may be defined by the policy. In the last few years, it appears that less and less insurance carriers are requiring the use of the American arbitration Association. Whether the policy does or does not provide for its own selection process, the arbitrator can be selected by agreement or, if the parties cannot reach an agreement and the policy does not require American Arbitration Association intervention, either party may petition the court under CCP §1282, et seq., for the appointment of a neutral arbitrator.

Prior to arbitration, the statute of limitations must be protected. There are several limitation periods which must be fulfilled. Within two years of the date of the accident (as of January 1, 2004- See **Ballard v. CSAA**, [2005] 129 Cal App 4th 211), the insured must either settle his claim, make a formal demand for arbitration, or file suit against the uninsured motorist. Venue is appropriate either in a county where the action against the uninsured motorist could be filed or in a county where arbitration would be appropriate (the county of residence of the insured). Generally speaking, the arbitration should be held in the county where the claimant's attorney practices law. This may be to the claimant's advantage if the accident occurs in a "low verdict" county. This statute does not apply to an underinsured motorist claim. **Quintano v. Mercury Casualty**, (1995) 11 Cal 4th 1049.

The second statute of limitations is the four year statute for statutory causes of action. The courts have held that the four year statute requires that a petition to compel arbitration must be filed no later than four years after there has been a demand for arbitration and a refusal to arbitrate. **Spear v. CSAA**, (1992) 2 Cal 4th 1035. Earlier cases had held that the four year statute commenced upon either the filing of the complaint against the uninsured motorist or upon demand for arbitration. The Spear case seems to provide for a more liberal interpretation as to the four year statute.

Insurance Code §11580.2(f) now provides for discovery in uninsured motorist cases. The uninsured motorist proceeding is designated a special proceeding allowing attorneys to issue subpoenas. The superior court has exclusive jurisdiction over any discovery disputes. If no prior petition has been filed, a petition may be filed regarding discovery disputes. **Miranda v. 21st Century Insurance Company**, (2004) 117 Cal App 4th 913. It is important to note that the first court applied to has control until the conclusion of the uninsured motorist case unless there is a motion to change venue.

Thus, where the accident occurs in a distant county, it may be in your best interests to file a petition regarding the uninsured motorist case in the county where you practice at your earliest possible convenience to avoid having the carrier win the race to the courthouse and place you in an inconvenient or inhospitable jurisdiction.

Any discovery allowed under the CCP (within certain limits) is available 20 days after the accident (note that the 20 days begins running from the date of

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"Pillah" Talk©

with the Honorable Lawrence K. Karlton,

Judge of US District Court for Eastern District of CA.

An ongoing series of interview with pillars in the legal community
By: Joe Marman

Q. Judge Karlton, Have things changed in the legal community from when you first started practicing law?

A. After having on the bench for 26 years, I can say that I think I have the best job that a lawyer can have. You get much more time to think of your decision, and I still enjoy learning more of the law each day.

Q. Is there anything that you dislike about your job?

A. Not much actually, perhaps lawyers posturing in front of me.

Q. Do you have any life's heroes?

A. I have liked Justice Brennan, because he understood more than most judges of the dilemma of lesser-represented people. I like Justice Blackmun, because of his expansive amount of life's experiences, and he grew even more knowledgeable as a Supreme Court Justice.

Q. Have there been changes to the civil practice that you can comment on?

A. I think that lawyers today are over-extended. It is hard to devote the attention and respect to cases that the cases deserve. Lawyers feel entitled to be millionaires, where they have too many clients and take on too many cases. The medical malpractice caps do not help doctors or patients. It is too bad that we cannot get rid of MICRA.

Q. Do you feel juries give good results?

A. I think that generally the system works pretty well. If a jury finds a different result that I would have found, I think that maybe they saw something that I did not. I would not like professional jurors, because they would be professional fact finders, like a judge, but they would not be representative of the real community.

Q. Is there any advice that you can offer to young attorneys?

A. I was very aggressive as a young plaintiff's lawyer. I think lawyers should try to get the jury's trust. I think that often lawyers undersell their cases to the jury.

Q. Have you heard any memorable cases that you think stand out?

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RECENT VERDICTS

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Judge Hersher. Defense counsel: Rick Linkert for AIG atty; Tim Spangler-RT house counsel.

The decedent was 55 years old at the time of her death. Liability was admitted. Defendant prevailed on a motion to exclude evidence of how she was run over in a crosswalk. Therefore, the only issue presented to the jury was damages.

RT had a self retention of $2mm, and they offered it. AIG was the carrier for the excess, and they said that $2mm was value and never made an offer of anything more than the $2mm.

At the time of death, the decedent had just finished her doctorate and had only been working for six weeks. As a result, one major issue was whether she would get a job paying her the same amount when the job ended in June.

Plaintiff claimed nine years of future work life lost and economics of around $1mm. If she worked to 70, then it would be $1.4mm. The jury gave full time work until 65 in economics. She had a husband of 31 years and two adult children, ages 26 and 18.

The 26-year-old was married at the time of trial. The husband was the highest ranking member of the CHP administrative staff so he was making over $100k at the time of her death. She was not the principal wage earner and the youngest was going to be going off to school.

Jury awarded $3.525mm in non-economic damages with $2.05mm to husband, $750k to the oldest, and $775 to the youngest.

Uninsured Motorist Primer

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the accident and not from the date that you make a claim or the carrier hires an attorney, etc.) Thus, you can get a jump on the carrier by beginning your discovery early. A form set of requests for admissions requesting that the carrier admit to coverage, uninsured motorist status, negligence, etc., may be sent to the carrier prior to their involvement of an attorney to represent them.

Absent timely answers or an appropriate motion for a protective order, the carrier may waive its right to contest whether or not the tortfeasor was actually an uninsured motorist by failure to timely respond to requests for admissions on these issues.

Where the claimant also has a workers' compensation claim arising from the same incident, the arbitration cannot be held until the workers' compensation claim has been concluded unless good cause is shown. **Wrangle v. Interinsurance Exchange**, (1992) 4 Cal 4th 1. Based on the **Wrangle** case, it seems fairly clear that it will be virtually impossible to show good cause for proceeding with the arbitration prior to conclusion of the workers' compensation claim. The only circumstance the author can think of would be where it is clear that the claimant would not be entitled to any further medical care and the claimant is not entitled to any permanent disability. It would appear that the combined holdings in **Wrangle** and **Spear** cited above should resolve the ongoing issue as to whether or not the four year statute can run during the pendency of a workers' comp proceeding. CCP §998 applies to uninsured motorist arbitrations but no interest is recoverable. Costs and expert fees (not including the arbitrators' fees) are recoverable over and above the policy limits. **Pilimai v. Farmers Insurance Exchange**, (2006) 2006 Cal Lexis 8363; **Weinberg v. Safeco**, (2004) 114 Cal App 4th 1075.

EVIDENCE

The Insurance Code does not specify whether or not the normal rules of evidence apply in an uninsured motorist arbitration proceeding. Section 20 the Accident Claims Arbitration Rules of the American arbitration Association states that the arbitrators need not adhere to the formal rules of evidence.

CCP Section 1282.2(d) also holds that the arbitrators are not bound by the normal rules of evidence. Customary practice seems to be that arbitrators will allow virtually any evidence at an uninsured motorist arbitration; however, this varies arbitrator by arbitrator. It is the author's practice to allow the introduction of almost any credible evidence subject, however, to the warning that the arbitrator will assign it whatever value the arbitrator feels it deserves.

Blatant hearsay and other evidence which far from satisfies the formal rules of evidence is usually so unreliable as to not provide a basis on its own for a decision by the arbitrator. Thus, good practice requires that, to the extent possible, admissible evidence be used. However, since the proceedings need not adhere to the formal rules of evidence, it is generally accepted practice to submit medical records and reports, affidavits, expert reports, etc., much as one would use for a court-ordered arbitration proceeding in superior court.

Often times, the only evidence of the uninsured status of the driver is a statement from the tortfeasor himself. Under these circumstances, the evidence appears to be admissible under the rules of the American Arbitration Association and the Code of Civil Procedure; however, whether such evidence will carry the day or not is certainly going to vary arbitrator to arbitrator. Proof of the uninsured status of the tortfeasor is beyond the scope of this article.

Generally, uninsured motorist arbitrations are virtually identical to court-ordered arbitrations. Some arbitrators prefer to handle them a bit more formally, given that the award is binding. The particular propensity of your arbitrator is again beyond the scope of this article.

President

Continued from page one

and organizations; and 2) partnering with local community and non-profit groups and media outlets to raise awareness of what we do and improve our image in the community.

With respect to the speaking engagements, we will provide interested members with suggestions of different topics along with talking points for each topic, and will work with each member in choosing an organization or group to address.

For example, if a member was interested in speaking to high school students about the role of the civil justice system and jury trials, or talking to the Kiwanis Club about insurance limits and the importance of uninsured motorist coverage, we would help the member prepare by providing him/her with an overview of important facts and issues to discuss.

It is important to note that the purpose of these talks is intended to be educational, as opposed to trying to preach to the public about how personal injury lawsuits are down or how the system would collapse without trial lawyers.

As far as community involvement is concerned, our organization has consistently participated in community service events in the past such as the bicycle helmet giveaway, KVIE fundraisers, and our annual silent auction and reception to raise money for the Sacramento Food Bank.

However, we have not been successful in getting our charitable and community service work publicized. We are currently working on developing community service events that will be publicized to show the public (i.e. our jurors) how we are contributing positively to our community.

I understand that public opinion and attorney morale cannot be changed overnight. But as trial lawyers and members of our community, we have an obligation to make an effort to start changing our image and work on improving the outcomes for our clients and our practices.

Please consider joining us in working with our community. Isn't it time we started doing something about our image rather than constantly complaining about how we are perceived and how jurors hate us and our clients?

Please call me (442-9000) or email me (jdemas@demasandrosenthal.com) if you are interested in contributing to these important projects.

Trial Lawyers For Public Justice Update

Hotels.com sued for discrimination against thousands of disabled travelers

By Sarah Dean, Public Justice Correspondent

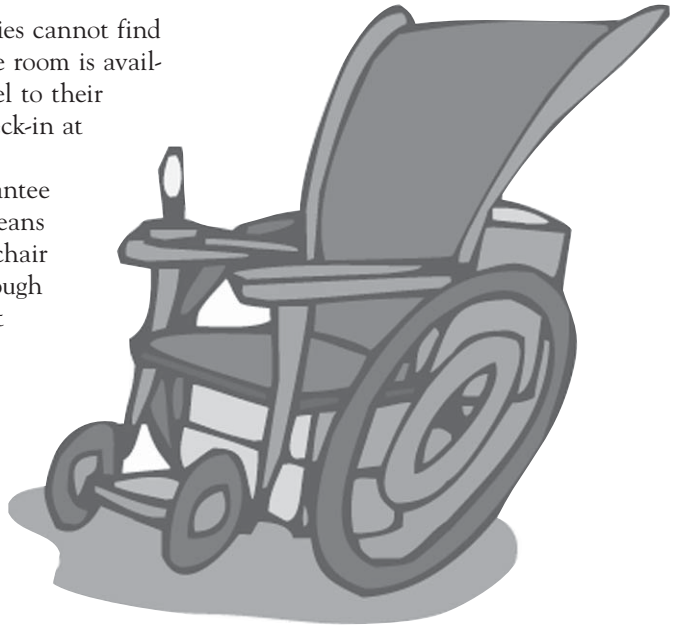
Hotels.com, one of the world's largest online travel agencies, is discriminating against people with disabilities by refusing to guarantee reservations for wheelchair-accessible rooms, according to a California class action lawsuit filed May 22, 2007. The lawsuit is one of the first of its kind in the country. Because of the substantial size of the California market, the case has national implications.

The complaint, filed in the California Superior Court for Alameda County, seeks to enjoin hotels.com from continued violation of the state's civil rights laws. No damages are being sought. Plaintiffs in this landmark case are represented by the public interest law firms Disability Rights Advocates (DRA) and Public Justice (formerly Trial Lawyers for Public Justice), and Chavez & Gertler LLP, a leading class action law firm in Mill Valley, Calif.

"I want to be able to reserve hotel accommodations online at hotels.com just like anyone else," says plaintiff Bonnie Lewkowicz. "It would be impractical and even dangerous for me to rely on a hotel reservation service that does not guarantee the hotel room I am booking is accessible to someone in a wheelchair."

Hotels.com grossed $2.3 billion in 2006. It bills itself as a "one stop shopping source for hotel prices, amenities and availability" and claims to offer the "Lowest Rates – Guaranteed." The hotels.com website does not allow an individual to search for rooms accessible to the mobility impaired, does not define what qualifies a room as accessible, and does not uniformly report on the accessibility features which may or may not be offered.

More importantly, hotels.com will not guarantee that a wheelchair-accessible room will in fact be available. Instead, it treats accessibility as an optional "amenity," like a kingsized bed. Individuals with disabilities cannot find out whether an accessible room is available until after they travel to their destination and then check-in at the hotel.



"The failure to guarantee accessible hotel rooms means that a person in a wheelchair who pays for a room through hotels.com literally might not be able to enter the room after they arrive at the hotel," said Kevin Knestrick, attorney with DRA, a non-profit law center based in Berkeley, Calif., that specializes in high-impact lawsuits on behalf of people with disabilities. "Hotels.com is excluding people with mobility disabilities from its services. This is hostility to disabled and elderly people, not hospitality."

Studies show that 69 percent of adults with disabilities in the U.S. (more than 21 million people) traveled at least once in the past two years, and 52 percent (about 16 million people) stayed in hotels, motels, or inns during that time.

Lewkowicz and co-plaintiff Judith Smith are both members of the AXIS Dance Company, a not-for-profit troupe of disabled and non-disabled dancers based in Oakland, Calif. AXIS regularly tours throughout California and the nation. Ms. Smith and Ms. Lewkowicz need accessible hotel accommodat`ions when traveling because they rely on wheelchairs for mobility.

Wheelchairs require large doorways and disabled travelers usually need grab bars and accessible bathrooms. Without such features, many cannot stay in a hotel room. Currently, virtually all hotels in California are required to maintain accessible hotel rooms for the use of patrons with disabilities.

"Disabled travelers are effectively denied access to hotel.com's discounted rates and convenient side-by-side comparisons of available rooms," explains Victoria Ni of Public Justice, a national public interest law firm specializing in cutting-edge litigation. "As a result, disabled travelers have to spend extra time and money just to secure a workable hotel reservation."

In 2006, American online consumer travel sales generated $79 billion. For American travelers, the Internet is an indispensable tool as both a resource for planning trips and as a booking agent. Adults with disabilities spend over $10 billion annually on travel, and almost half of them consult the Internet to support their disability-related travel needs.

"It's unfortunate that hotels.com doesn't care about people with disabilities," says Smith. "They gave us no choice but to seek the protection of the court."

The full complaint in the case is posted on the Public Justice website at www.publicjustice.net.

Out & About

A reception honoring Senator Darrell Steinberg was held this month, hosted by Allan Owen, Margaret Doyle, Kyle Tambornini and Robin Brewer. A number of CCTLA's members attended the fundraising event for the senator's re-election campaign.

(It should be noted that this and other political fundraising events are not CCTLA-sanctioned).

Top photo: Kyle Tambornini, Margaret Doyle, Sen. Darrell Steinberg, Allan Owen and Robin Brewer. Immediately above: Sen. Steinberg with CCTLA Executive Director Debbie Keller and Jim Frayne. Right: Linda Whitney, Sen. Steinberg and Allan Owen.

Noteworthy insurance settlements obtained

Mike W. Jones, of Hansen Culhane Kohls Jones & Sommer LLP, has secured several noteworthy settlements this year, including:

• Settlement with Farmers on a soft tissue neck whiplash rear end case, for $30,000 policy limit. Client was part-time commissioned sales with Kaiser medical. Lost wages were calculated at $8 to $10K given the commission factor. Meds were only $800 per Healthcare Recoveries. A policy limit demand was made by way of demand letter. Policy limit was paid.

• Settlement with Allstate Commercial on a trip and fall, for $30,000. Case was against a retirement community association with walking trails. Client tripped on a raised sidewalk trail while walking the path. No lost wages, and Kaiser Healthcare Recoveries were less than $500, with an additional $800 in out of pocket. Client suffered a hairline non-surgical knee fracture that healed over time. Initial offer was $2,500. Investigation disclosed several areas of the path that had been repaired in the past and this location had been marked for repair as well.

• Settlement with State Farm on an uninsured auto case, for the policy limit of $100,000. Plaintiff suffered disc herniation as a passenger in a rear-end crash while husband was driving near the Galleria. Policy limit demand by way of demand letter was denied. Case was sent to counsel.

An immediate request for binding arbitration was made with a CCP 998 demand. An IME was scheduled for a date after the expiration date of the 998. Deposition of the Client and Dr. Neuberger were taken. The policy limit demand was accepted the day before expiration of the 998. Medicals were paid through the med-pay provisions.

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We invite members to keep us appraised of noteworthy settlements and verdicts by emailing the information to jilltelfer@yahoo.com or faxing it to me at (916) 446-1916.

Jill Telfer, Editor

"Law Suits" becomes a CCTLA success story

Our "Law Suits" campaign was a success, with more than 40 suits and professional outfits collected to donate to the Sacramento Food Bank & Family Services. Special thanks to Joe George for his generous donation. This clothing will be provided to the less advantaged to assist them in their quest for work.

'Pillah" Talk

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A. I recall one where Joe Genshlea represented the richest man in Sacramento County that was being sued by a bank. Genshlea cross-complained for fraud against the bank, and gave the best oral argument that I have ever heard. He convinced the jury that the bank was fraudulent, and the jury gave a very large verdict against the bank.

Also, in 1983, there was a case of a failure to provide medical care to a prisoner, and the plaintiff died. The lawyer argued that "if my client were an angel, this case would be worth millions; however, my client was a prisoner, but he still deserves what is right."

Q. What would you like more of in life?

A. World Peace.

Q. What do you think of Alberto Gonzalez firing the federal prosecutors?

A. It is not my place to comment on political issues.

Q. What do you think of the Florida election issue where the US Supreme Court put Bush into office?

A. That decision was very difficult to understand. The Supreme Court did not follow the equal protection doctrine. The court took an extraordinary version of the law. Rich and poor people should be treated the same.

Q. Do you have any opinion on the constitutionality of the detainees being held in Guantanamo prison?

A. I cannot comment on that, since I may have a case pending in front of me on those issues.

Q. Do you have any opinions on global warming?

A. I cannot comment on that due to a potential future case.

Q. Any opinions on the conflict between federal laws and state laws on medical marijuana?

A. I can't comment.

Q. Do you have any opinions on what is going on in Iraq?

A. Yes, I do have strong opinions, but I cannot comment on them.

Q. Do you have any closing comments?

A. Yes, I think that most of the public does not understand how difficult it is to try cases. Lawyers work hard. People should respect their lawyer's hard work. People think that if their lawyer wins that "I gave you a great case" and that if their lawyer loses, "You are a bad lawyer."

Inside This Issue

Capitol City Trial Lawyers Association
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Sacramento, CA 95812-0541

JUNE

Thursday, June 28
CCTLA Problem Solving Clinic
Topic: TBA; Speaker: TBA
Location: Sacramento Courthouse, Dept 5
Time: 5:30 to 7 p.m.
CCTLA Members Only, $25.

Friday, June 29
CCTLA Luncheon
Topic: TBA; Speaker: TBA
Location: Firehouse Restaurant
Time: Noon
CCTLA Members Only, $25

JULY

Tuesday, July 10
Q&A Luncheon
Vallejo's (1900 4th Street)
Time: Noon
CCTLA Members Only

Thursday, July 26
CCTLA Problem Solving Clinic
Topic: TBA; Speaker: TBA
Location: Sacramento Courthouse, Dept 5
Time: 5:30 to 7 p.m.
CCTLA Members Only, $25

Friday, July 27
CCTLA Luncheon
Topic: TBA; Speaker: TBA
Location: Firehouse Restaurant
Time: Noon
CCTLA Members Only, $25

AUGUST

Tuesday, August 14
Q&A Luncheon
Vallejo's (1900 4th Street)
Time: Noon
CCTLA Members Only

Thursday, August 23
CCTLA Problem Solving Clinic
Topic: TBA; Speaker: TBA
Location: Sacramento Courthouse, Dept 5
Time: 5:30 to 7 p.m.
CCTLA Members Only, $25.

Friday, August 24
CCTLA Luncheon
Topic: TBA; Speaker: TBA
Location: Firehouse Restaurant
Time: Noon
CCTLA Members Only, $25.

SEPTEMBER

Tuesday, September 11
Q&A Luncheon
Vallejo's (1900 4th Street)
Time; Noon
CCTLA Members Only

Thursday, September 27
CCTLA Problem Solving Clinic
Topic: TBA; Speaker: TBA
Location: Sacramento Courthouse, Dept 5
Time: 5:30 to 7 p.m.
CCTLA Members Only, $25

Friday, September 28
CCTLA Luncheon
Topic: TBA; Speaker: TBA
Location: Firehouse Restaurant
Time: Noon
CCTLA Members Only, $25

Saturday, September 29
CCTLA Seminar
Topic: Juror Bias
Speaker: David Wenner
Location: Holiday Inn
Time: 9 a.m. to 4 p.m.
Cost: TBD

Contact Debbie Keller @ CCTLA at (916) 451-2366 for reservations or additional information with regard to any of these seminars.

CCTLA COMPREHENSIVE MENTORING PROGRAM

The CCTLA Board has developed a program to assist new attorneys with their cases. If you would like to receive more information regarding this program or if you have a question with regard to one of your cases, please contact:

Jack Vetter: jvetter@vetterlawoffice.com
Chris Whelan: chwdefamation@aol.com
Cliff Carter: cliff@ccalawcorp.com

CCTLA Calendar of Events