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Leading the Fight for Consumer Rights

DAN O'DONNELL
CCTLA President

We cannot tarry here,
We must march …
— Walt Whitman
Pioneers, O Pioneers

I wish a happy and healthy New Year to CCTLA members. I am honored to serve as your President this year. Thank you, Stephen Davids, for your leadership in 2014 and your continued guidance in 2015.

Last year saw some spectacular jury wins by our members. Congratulations. Unfortunately, last year also saw the disappointing loss of Proposition 46. This reminds us that our fight for consumer rights is constant, and each of us must continue to march forward in that fight, despite setbacks.

CCTLA is tasked with helping members improve their practices so that we are ready for the battle. Whether you are a new attorney, a seasoned litigator or somewhere in between, our goal at CCTLA is to spark your creativity and develop your practice skills through our list serve, luncheons and seminars. Our January Tort and Trial program had 82 attendees, and the consensus was that once again it was excellent class.

March 20-21, CAOC and CCTLA are hosting the Aannual Tahoe Ski Seminar. As you have come to expect, the program and speaker line-up is phenomenal. Topics include discussion on liens, technology at trial, mediation skills, emerging practice areas and a Master Auto Panel. You will earn 10 MCLE credits. Please plan to attend.

For information on CCTLA's other upcoming luncheons and seminars, check out our website at www.cctla.com. If you have suggestions for educational topics, please contact me.

Let's make 2015 a banner year in our ongoing fight for consumer rights.

Mike's CITES

By: Michael Jansen

Here are some recent cases culled from the *Daily Journal*. Please remember that some of these cases are summarized before the official reports are published and may be reconsidered or de-certified for publication, so be sure to check and find official citations before using them as authority. I apologize for missing some of the full *Daily Journal* cites.

1. DISCOVERY AND SANCTIONS

Gonsalves v. Ran Li,
January 13, 2015, 2015 DJDAR 473

How many times have you propounded request for admissions and received the boilerplate defense response:

> *"Responding party has a lack of information and knowledge to admit this request for admission. A reasonable inquiry concerning this matter has been made and the information known are readily obtainable is insufficient to enable responding party to admit or deny this matter."*

What do you do? This case stands for what you cannot do; **you cannot cross-examine the defendant** regarding a non-answer to a request for admission (RFA).

Interpretation of the discovery statutes is subject to the appellate court's de novo review. People v. Shamrock Foods Co. (2000) 24 Cal.4th 415, 432. While any part of a deposition or interrogatory may be introduced at trial with certain restrictions, the statutes only provide that **admissions** in response to RFAs are binding on the party at trial. Code of Civil Procedure Sections 2025.620, and 2030.410, 2033.410. The appellate court cited a surprising paucity of relevant authority on this issue. This appellate court stated, "we are persuaded, therefore, that **denials of RFAs are not admissible evidence** in an ordinary case, i.e., a case where a party's litigation conduct is not directly an issue.

Plaintiff's counsel also tried to ask the defendant questions about "substantial factor" and causation. The court ruled that while appropriate to ask the defendant for a description of the incident, Plaintiff's counsel's repeated questions about whether Defendant's driving was a "substantial factor" in causing the incident where improper attempts to force the defendant to opine as to the ultimate issue of liability in the action. Since expert opinion evidence was admitted in this particular case, indicating that the question of causation was beyond the common experience of lay people, it was error to allow Plaintiff's counsel to attempt to obtain a lay expert opinion from the defendant.

The plaintiff also attempted to introduce evidence of prior speeding tickets the defendant had suffered. This appellate court rules that Evidence Code Section 1101 bars such evidence. "In personal injury actions arising from traffic accidents specifically, "as a general rule[,] evidence of prior traffic citations is not admissible to prove that on the particular occasion in question the driver receiving such prior citations was negligent." Travis v. Southern Pacific Company (1962) 210 Cal.App.2nd 410, 420. *BUT*, where the car's speed at the time of impact is an issue and the defendant opens the door by saying that he "always is conscious of speed laws," a driver may be impeached with the prior speeding tickets.

The plaintiff designated the treating surgeon as a non-retained expert witness. The defense moved to limit the medical expert's testimony. Dr. Santi Rao, an old pro, testified that he reviewed the plaintiff's medical history as part of his planning for treatment, including his full prior medical records before coming to a diagnosis or treatment plan. Therefore, the court had to allow Rao to testify: "Absent that crash, there is no way that he would have had these symptoms." The appellate court allowed Rao's testimony because he had clearly testified to a foundation.

The appellate court also found that Plaintiff's counsel committed misconduct in at least two instances: Plaintiff's counsel made several comments that both defendants were born in China, lived and worked in China and came to California only for visits. "Questioning or argument to counsel relative to the race, nationality or religion of a party, when irrelevant to the issues, is improper." Kolaric v. Kaufman (1968) 261 Cal.App.2nd 20, 27-

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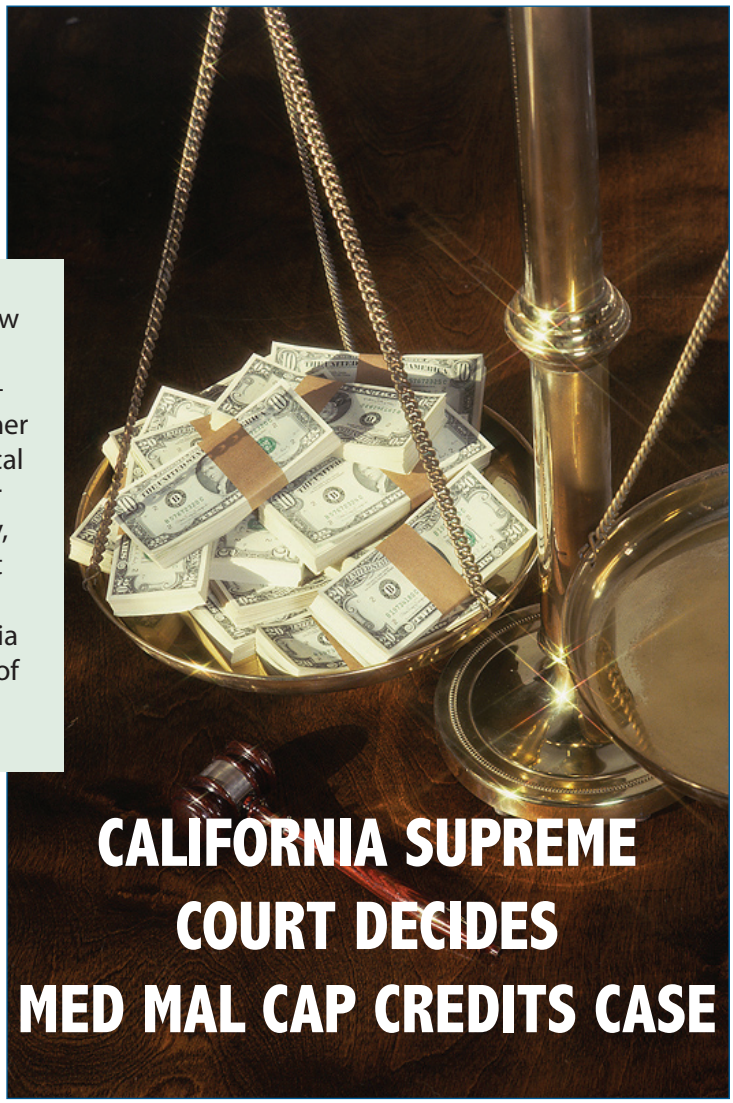

CALIFORNIA SUPREME COURT DECIDES MED MAL CAP CREDITS CASE

By: Daniel E. Wilcoxen

A new case from the Supreme Court of California (Dec. 15, 2014, opinion no. S214430, Hamid Rashidi v. Franklin Moser, out of L.A. County) deals with a very often seen problem in the medical malpractice area. As we all know, Civil Code Section 3333.2 (part of the 1975 MICRA Act) limits non-economic damages to $250,000. Many of us deal with cases where there is a settlement by one willing defendant (a medical negligent defendant or by some other defendant causing injury, such as a product liability defendant).

It has always been worrisome as to how much credit would be applied to the capped $250,000 non-economic damages from prior settlements when either negotiating a settlement with a medical malpractice defendant prior to trial, or determining what credits would apply, if any, against any judgment or verdict rendered against the recalcitrant defendant. This 7-0, unanimous, California Supreme Court opinion is the first bit of good news . . .

It has always been worrisome as to how much credit would be applied to the capped $250,000 non-economic damages from prior settlements when either negotiating a settlement with a medical malpractice defendant prior to trial, or determining what credits would apply, if any, against any judgment or verdict rendered against the recalcitrant defendant.

This 7-0, unanimous, California Supreme Court opinion is the first bit of good news (and clarification) that I've seen in a long time. The Supreme Court considered whether a jury's award of non-economic damages, which was reduced by the trial court to $250,000 under MICRA, may be further reduced by off setting the amount of a pre-trial settlement attributable to non-economic losses when the defendant who went to trial **did not** establish comparative fault of the settling defendant or judgment defendant.

The Second District Court of Appeal held that such reduction was required by the MICRA cap, but the Supreme Court **disagreed**.

The underlying facts of this matter claimed that 26-year-old Rashidi went to the emergency room at Cedar Sinai Medical Center with a severe nose bleed. Dr. Moser examined him and recommended surgery. In a surgery performed the same day, Moser ran a catheter through an artery in Rashidi's leg, up to his nose, where tiny particles were injected through the catheter to irreversibly block the blood vessel causing his nosebleed. The particles were manufactured by Biosphere Medical, Inc. When Rashidi awoke after surgery, he was permanently blind in one eye.

Rashidi sued Moser and Cedar Sinai for medical malpractice and Biosphere for product liability. The theory against Biosphere were that the particles that were to travel to the very small blood vessel were not regular in size and thus were able to migrate to smaller blood vessel structures. It was determined that the smaller particles caused Rashidi's blindness.

Rashidi settled with Biosphere for $2,000,000, and Cedar Sinai for $350,000. The case went to trial solely against Dr. Moser. Moser presented no evidence of Cedar Sinai or Biosphere's degree of fault. The jury found Moser's negligence caused Rashidi's injury, awarding $125,000 for future economic medical care, $331,250 for past **non-economic** damages and $993,750 for future **non-economic** damages. The court thereafter reduced the non-economic damages to $250,000.

Dr. Moser sought credit offsets against the judgment for pre-trial settlements with Cedar Sinai and Biosphere, but the trial court rejected this claim, finding no basis for allocating the settlement sums between economic and non-economic losses and noted the jury made no finding as to the settling defendants proportionate fault.

Moser appealed. The Second District Court of Appeal held that the offsets sought by Moser were required pursuant to CCP Section 877 and ruled that Civil Code Section 1431.2 (Proposition 51) required strict proportionate liability of non-economic damages, citing DaFonte v. Up-right, Inc. (1992) 2 Cal.4th 593, 600. The Second District found that when a pre-trial settlement does not differentiate between economic damages and non-economic damages, a post verdict allocation is required. Espinoza v. Machonga (1982) 9 Cal.App. 4th 268. Espinoza established

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an accepted methodology for such a post verdict allocation. The percentage of the jury's award attributable to economic damages is calculated and applied to the settlement which determines the amount that the non-settling defendant is entitled to as an offset.

Using this formula, the Second District found that the $125,000 for economic damages was 8.62 % of $1,450,000 ($125,000 divided by the total of ecoomic and non-economic damages of $1,450,000 = 8.62%). The Biosphere settlement of $2 million, times 8.62%, totaling $172,000, was for economic losses, completely off-setting the jury's $125,000 economic damages award.

The Second Appellate Court used a different calculation for the Cedar Sinai settlement, since it is a healthcare provider protected by MICRA. Thus, the court reduced the jury's award of non-economic damages to $250,000 pursuant to CC Section 3333.2, added the economic damages of $125,000, resulting in $375,000 total, finding that the economic damages were one-third of the reduced total award. The court applied that one-third to the $350,000 Cedar Sinai settlement and allocated $116,655 of the settlement to economic and the remaining $233,345 to non-economic damages.

Further finding that liability for non-economic damages was not joint but several, it acknowledged that each healthcare provider would pay a share of the non-economic damages based on its own comparative fault, Gilman v. Beverly California Corp. (1991) 231 Cal.App. 3d 121, 128-130."

When the $233,345 (two-thirds of $350,000) was subtracted from the $250,000 cap, Dr. Moser was only required to pay $16,655 total out of the $1,450,000 awarded against him ($125,000 economic and $1,325,000 non-economic).

However, the Supreme Court found that Moser failed to establish that any other defendant was at fault, which allowed Civil Code Section 1431.2 to require him to pay the entire $250,000 without offset. The supremes stated this would obviously be the case, unless MICRA demanded a different result.

The Supreme Court found that the statute, CC Section 3333.2, puts an absolute limit on the total amount of damages for non-economic loss an injured plaintiff may recover from "all defendant healthcare providers in a single action.".

This is a must read for anyone, because it affects settlement negotiations and may not allow defendants to a complete set-off if you settle with another medical malpractice defendant.

The Supreme Court stated, "This serves the purpose of MICRA: 'To reduce the cost of medical malpractice litigation and thereby restrain the increase in medical malpractice insurance premiums.' Fine v. Permanente Medical Group (1985) 38 Cal.3d 137, 159."

Rashidi relied on Hoch v. Allied-Signal, Inc. (1994) 24 Cal. App.4th 48, wherein Hoch sought only non-economic damages at trial, after settling with other defendants for a total of $382,500. The jury in Hoch awarded damages of $500,000, and the court entered judgment against the non-settling defendants for $175,000, consistent with the jury's finding that of 35% fault against said defendants.

On appeal, the non-settling defendant contended the plaintiffs had obtained a windfall when the $382,500 was added to the $175,000 for a total of $557,500, which was greater than the damages awarded by the jury, thus, was a windfall to Plaintiff. The Supreme Court agreed with the Hoch court which held **settlement dollars are not the same as damages.** Thus, you cannot compare the jury's award with settlements. Rashidi argued that the plain terms of CC Section 3333.2 distinguishes between "losses" and "damages" and contends he was entitled to his recovery of non-economic losses without limitation by way of the settlement, because his recovery for non-economic losses at trial was limited to $250,000. Thus, **there was no cap on settlement recoveries** and Rashidi would be entitled to the $250,000 capped amount of the non-economic portion, finding Moser was solely liable under CC Section 1431.2 because he failed to establish fault on the part of any other defendant.

The last two paragraphs of the opinion are telling, wherein the court states:

> *"We conclude that the cap imposed by CC Section 3333.2, subdivision (b), applies only to judgments awarding non-economic damages. Here, the cap performed its role in the settlement arena by providing Cedar Sinai with a limit on its exposure to liability. Had Moser established any degree of fault on his co-defendants at trial, he would have been entitled to a proportionate reduction in the capped award of non-economic damages. The Court of Appeal erred, however, in allowing Moser a set-off against damages for which he alone was responsible.*
>
> *III. Disposition. The Court of Appeals judgment is reversed insofar as it reduced the award of non-economic damages below $250,000 and affirmed in all other respects."*

The import of this case is obvious. It reminds me of a case I tried many years ago. I had two defendants in a failure to diagnose a severed tendon. I settled with one defendant for $50,000. I tried the case against the remaining defendant and got an award of $75,000, and the jury found that each doctor was 50% at fault. The defense attorney said, "You got $50,000, and the award is $75,000, so I only have to pay $25,000." I said, "No, you have to pay one-half of $75,000, or $37,500." The disagreement continued thereafter, and I used the example of: "What if I had settled with Defendant 1 for $10,000 instead of $50,000? Would you be telling me you owed $75,000 minus $10,000, or $65,000?" The defense attorney lost the argument and had to pay half of the $75,000.

I think that's the way to understand this case a little better. If, at trial, you don't determine the amount of fault attributable to the prior defendants, the $250,000 non-economic limit applies without reduction for prior settlements. Thus, as in my case of getting $50,000 from one defendant, and $37,000 from another, for a total of $87,500 (greater than $75,000), our Supreme Court agrees with that concept.

This is a must read for anyone, because it affects settlement negotiations and may not allow defendants to a complete set-off if you settle with another medical malpractice defendant.

This case also has great language in it that discusses the purpose and nature of MICRA, which may give rise to a future overturning of the $250,000 non-economic damages limit in that certainly over time that amount of money does not have the purchasing power it had in 1975—40 years ago. Thus, if the cap was increased, it still achieves the goals discussed in the Rashidi case—making certain what the damages for non-economics would be at time of trial based on a different, but larger cap.

Winston's Sniffings: Police-Involved Shootings

Winston is a five-year-old shih tzu who ended up on my front porch after a sequence of events that we will not bore you with just now. His chief feature is his extraordinary nose, which allows him to further his explorations in the empirical world. But Winston's button nose also has a strong moral and ethical component.

There has been much sadness at the multiple incidents involving unarmed African-American citizens and law enforcement. Winston is indebted to Travis Black for providing some of the empirical basis that Winston needs to reach his conclusions. Sources include the FBI Uniform Crime Report, Cato Institute and the U.S. Census Bureau.

In 2012, the United States population was approximately 314 million. There are 670,400 law enforcement officers, about 2.5 for every 1,000 citizens. About 521,200 crimes were committed in 2012.

In 2012, there were 52,200 assaults on police officers. Being in law enforcement means that any second, any day, a citizen who knows nothing about you as a person may commit violence against you because of your job: a job that all of us want you to do.

But for an African-American male, law enforcement can mean distrust, suspicion and ethnic profiling. Winston believes the goal is to emphasize that we need law enforcement just as much as we need inquiries and juries. Even more important than that, we need understanding of other people, whoever they are.

In 2012, of the 670,400 police officers, 6,600 were involved in a misconduct investigation (1%). Of those investigations, 1,520 involved allegations of excessive force (0.2%). Winston concludes, based on the numbers, that law enforcement as a whole serves our society very well. There is a large number of dedicated, fair-minded, compassionate and well-trained law enforcement officers. There are exceptions, of course, but they are statistically almost zero.

The inquiry doesn't end there. There were 126 law enforcement officers who died on duty in 2012. Almost the same number of African-Americans (123) was killed by the police. Police officers killed 326 caucasians. Winston did his own research and found that in 2013, blacks made up 13% of the population and whites 63% (DOJ Bureau of Justice Statistics), meaning that African Americans are disproportionately killed by the police.

From the same source: there were about 3,000 arrest-related deaths between 2003 and 2009. The casualties were almost always males, and mostly aged 25-34. Forty-two percent of these casualties were white, and 32% were black, again very disproportional. Divide the deaths by the average population, and there were three black deaths at police hands per million people, compared to one in a million for whites. The non-partisan journalism website ProPublica looked at FBI figures and found that young black men 15 to 19 years of age are 21 times more likely to be killed by the police.

Therefore, Winston concludes that the perception in the black community concerning law enforcement hostility has at least some statistical basis. But on the other hand, we found above that excessive force investigations are statistically zero. This seems somewhat contradictory, but Winston believes that two societal issues are raised, and they go beyond the numbers to the realm of perception and attitude:

1. Predominantly, violence exists within the races, and not between them, or between civilians and law enforcement. The Bureau of Justice Statistics confirms that 93% of black Americans are killed by fellow black Americans. Similarly, 84% of white American homicides are committed by fellow white Americans. One internet commenter correctly pointed out that we are far more likely to die at the hands of someone we know (including family members and acquaintances), than by a law enforcement officer or other stranger.

2. Perceptions and attitudes are reality. For many in the black community, the horrible violence of Bull Connor and his water cannons, and the attacks on peaceful protestors on the Edmund Pettus Bridge, are still vivid memories. Today's white police officers need to understand that even though these traumatic events occurred before their lifetimes, they are not relegated to history. The echoes of the Civil Rights era have not gone away, and will not.

Winston wonders how understanding—which leads to compassion and love— can be fostered. The greatest men for centuries, from Jesus to Gandhi to Dr. King, all told us to greet our tormentors with acceptance and love and to always practice non-violence. Law enforcement needs to understand that it is distrusted in certain communities, and it needs to find ways to earn back that trust. Recruitment policies could help, too.

Citizens need to understand that law enforce-

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NOTE from Winston: this article is an editorial by Steve Davids, co-editor of The Litigator. The views expressed do not necessarily reflect the view of the CCTLA Board of Directors or membership, and only reflect the views of the author. Any reader interested in providing a written commentary will be provided a forum for their views. Please contact sdavids@dbbwc.com or jtelfer@telferlaw.com.

ment officers are predominately not racists, and they have jobs we all ask them to do. When someone is asked by law enforcement to stop and identify themselves—based on descriptions of a potential crime perpetrator— they should do so. And law enforcement should not stop young black men—including Muhammad Ali, Barack Obama and Eric Holder—just because they are in the wrong neighborhood, or are running.

Winston does not know what happened in Ferguson. Witness accounts vary. He finds it hard to believe that a police officer would fire point-blank at a man with his hands up. He equally finds it hard to believe that a young black man would charge an armed police officer, even if that young man had just committed a theft from a convenience store. This gets to the gulf between communities that is at the heart of the dispute. Mutual respect and perspective are necessary ingredients.

When I walk Winston in our neighborhood, we often run into our friend, a young African-American man named Eric, who has an infectious laugh. Eric often feigns fear of little Winston (all 14.5 pounds of him) because Winston is off-leash.

One time, we both laughed at the fact that Winston is black and white, and therefore he may have what it takes to heal our country. (This was before the tragedies that began at Ferguson.) The perspectives provided by humor, love, and understandings are—and should be—eternal.

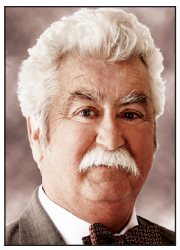
For Winston, the most painful image of Ferguson was a clearly anguished African-American gentleman seated in front of a street bonfire and holding a sign saying, "Black lives matter." Winston completely agrees but offers the following revision: "All lives matter." For Winston, the anguish in the photograph is not just the black gentleman with the sign, but the graffiti on nearby plywood boards: "Kill cops." Winston completely rejects this statement and knows from history (specifically Black Panther founder Eldridge Cleaver) that "If you are not part of the solution, you are a part of the problem."

Winston wonders if maybe the late, great George McGovern said it best: "Stop the killing, everywhere in the world." That includes our own great country.

SHARON ARKIN

PATRICK BECHERER

THORNTON DAVIDSON



KEVIN LANCASTER

Tort seminar offers 'valuable nuggets'

CCTLA's 32nd annual "What's New in Tort & Trial" seminar was well attended and provided much information. There were almost 90 attendees. Guest speakers Sharon Arkin, Patrick Becherer, Thornton Davidson and Kevin Lancaster "summarized (the past year's) important cases in their trademark rapid-fire style, packing it all into three hours," said CCTLA board member Lena Dalby.

"We have come to expect an excellent program each year...and as usual, the presenters did not disappoint," Dalby said. "The seminar was well attended and supplied many valuable nuggets that are likely to help every attending practitioner with several of their current cases. Definitely a seminar that should not be missed."

CCTLA thanks our speakers and member Craig Needham for coordinating the program. Thank you also to Noah Schwartz and Jerry Bergen of Ringler Associates for their sponsorship.

CRAIG NEEDHAM

A Primer on the Law of Expert Witnesses

By: Stephen Davids

"All generalizations are false, including this one." — Donald Rumsfeld

Primers are designed not to be comprehensive. This is both a false generalization, and an excuse. I am certain there is much more than could be discussed under this subject, but the hope is to introduce the general subjects.

EXPERIMENTAL EXPERT EVIDENCE

An experiment conducted outside the courtroom "present[s] serious questions concerning similarity of conditions, accuracy of observations, and tendency to confuse rather than clarify issues..." (Schauf v. So. Cal. Edison Co. (1966) 243 Cal. App.2d 450, 455.) *Admissibility* of such experiments is in the sound discretion of the trial court. (*Ibid*.) To be admissible, the experiment must: (1) be relevant; (2) have been conducted under substantially identical conditions as those of the actual occurrence; and (3) not confuse the issues or mislead the jury.

In DiRosario v. Havens (1987) 196 Cal.App.3d 1224, 1231, a videotaped experiment was used to re-enact the collision between a car traveling through an intersection, and a pedestrian. Even though there were discrepancies among the actual conditions and the conditions in the video, the Court of Appeal found no error in admitting the videotape. Despite the discrepancies, the videotape was allowable because it was at least "substantially similar" to the actual conditions. (Id., at page 1231.) "The videotape showed an approach to the identical intersection from the same direction that [defendant driver] approached. The same model car was used. The lighting conditions were the same. The person in the crosswalk was wearing red, as was [the minor plaintiff]." (*Id*., at page 1232.)

People v. Duenas (2012) 55 Cal. 4th 1 involved the murder of a police officer. The Supreme Court approved of the admission of a four-minute animation produced by a biomechanical engineer illustrating the engineer's opinion of how the shooting occurred. (*Id*., at page 18.) Duenas established the difference between animations and simulations. Animation illustrates the expert's testimony and is a demonstrative aid. However, simulations contain scientific principles requiring validation. Simulation "is itself substantive evidence." (*Id*., at page 20.) A simulation, by contrast, is admissible only after a preliminary showing that any "new scientific technique" used to develop the simulation has gained "general acceptance ... in the relevant scientific community." (People v. Kelly (1976) 17 Cal.3d 24, 30.)

Being an expert means never having to say that you don't have an opinion . . .

Kotla v. Regents of University of California (2004) 115 Cal. App. 4th 283, 293 was an employment case. Plaintiff presented testimony from an expert in human resources management and industrial psychology. He addressed a variety of facts that he concluded were evidence of a retaliatory motive on the part of the employer. (*Id*., at pages 289-291.) The Court of Appeal reversed: "testimony and opinions about the significance of the evidence did not assist the jury in its factfinding process. Instead, that testimony created an unacceptable risk that the jury paid unwarranted deference to [the expert's] purported expertise when in reality he was in no better position than they were to evaluate the evidence concerning retaliation. .... [The expert's] opinions about the evidence in this case did not offer the jury anything more than the lawyers can offer in argument. (*Id*., at pages 293-294, internal quotation marks and citations omitted.)

Summers v. A.L. Gilbert (1999) 69 Cal.App.4th 1155: it was impermissible for an attorney expert to testify to violations of laws and regulations by a trucking company. Further, "the admissibility of opinion evidence that embraces an ultimate issue in a case does not bestow upon an expert carte blanche to express any opinion he or she wishes." (*Id*., at 1178.) "... [W]hen an expert's opinion amounts to nothing more than an expression of his or her belief on how a case should be decided, it does not aid the jurors, it supplants them." (*Id*., at 1183, italics in original.)

An expert "must not usurp the function of the jury and reach the ultimate question of reasonableness" in a case where a battered woman killed her live-in boyfriend. (People v. Humphrey (1966) 13 Cal.4th 1073, 1099, Brown, J., concurring: expert testimony must be "aimed at an area where the purported common knowledge of the jury may be very much mistaken, an area where jurors' logic, drawn from their own experience, may lead to a wholly incorrect conclusion, an area where expert knowledge would enable the jurors to disregard their prior conclusions as being common myths rather than common knowledge.")

Westbrooks v. State of California (1985) 173 Cal. App. 3d 1203, 1210: a

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human factors' psychologist specializing in transportation safety was not allowed to testify how people see, hear, react and perceive stimuli for the purpose of showing that an ordinary, prudent driver would have stopped at a specific traffic control point.

Evidence Code section 802: an expert can testify to the reasons for an opinion, and the court can allow *voir dire* of the expert to make sure he / she is qualified.

Evidence Code section 803: the court can exclude opinions when there is not a proper basis. If there is a proper basis, the expert can state their opinion, but only after excluding from consideration anything found to be improper.

Evidence Code section 804:

If an expert testifies that his / her opinions are based on the opinions or statements of others, those persons may be called and questioned as though under cross-examination. (Subsection (a).)

This does not apply if the hearsay declarant is a party, someone identified with a party for purposes of Evidence Code section 776(d), or a witness who has testified in the case. (Subsection (b).)

Nothing in this section makes an opinion admissible that is otherwise inadmissible because it is based in whole or in part on the opinions or statements of others. (Subsection (c).)

An otherwise-admissible opinion is not made inadmissible because it is based on the opinion or statement of someone unavailable to testify.

Kelly v. Bailey (1961) 189 Cal. App. 2d 728, 737-738: a defense physician was allowed to rely on the opinions of another defense physician. But the out-of-court statement was "admissible not as independent proof of the facts but as a part of the information upon which the physician based his diagnosis and treatment, if any." (*Id*., at page 738.) The "other" defense doctor did not testify.

Whitfield v. Roth (1974) 10 Cal. 3d 874, 894-895, however, distinguished Kelly. In Whitfield, a doctor was precluded from relying on the opinions of other doctors because the out-of-court doctors' opinions were not utilized by the testifying doctor in forming his opinions. Further, the other doctors' opinions were hearsay.

E**vidence Code section 805:** expert testimony that is otherwise admissible is not objectionable just because it reaches the ultimate issue to be decided by the jury.

NON-RETAINED PHYSICIAN EXPERTS

A retained expert in a disclosure is one retained by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action." (Easterby v. Clark (2009) 171 Cal. App. 4th 772.) The disclosure requirements of Section 2034.210 et seq. "apply only to retained experts." (Huntley v. Foster (1995) 35 Cal. App. 4th 753, 756.) Thus, "the difference, for purposes of disclosure, between a treating physician who testifies as an expert and a retained expert is not the content of the testimony, but the content in which the physician became familiar with the plaintiff's injuries that were ultimately the subject of litigation, and which form the factual basis for the medical opinion." Easterly, supra., at page 772.

Therefore, "because a percipient expert is not given information by the employing party, but acquires it from personal observation, the current statute treats him or her as a fact witness. Requiring an attorney to analyze such a witness's anticipated testimony and

subject the analysis to the opponent would invade the absolute protection given by the work product doctrine to the thought processes of an attorney in preparation for trial [Citation.]" (Hurtado v. Western Medical Group (1990) 222 Cal. App. 3d 1198, 1203.)

Therefore, whether to list an expert as a retained or non-retained expert is narrowed down to whether the expert was hired to form an expert opinion for trial, and the manner in which the expert became familiar with the subject matter of the expertise to form the factual basis for the opinion. If the disclosing attorney categorizes the witness as "non-retained," then it is fair for Plaintiff to assume that the expert has not been hired to form an expert opinion for trial, and that any "opinions" formed by the expert were acquired by personal observation, and not as the result of any information provided to the expert by the disclosing party. To the extent that a party provides information to a specific non-retained expert, the disclosure of that expert as non-retained is inherently flawed and insufficient, to the extent that the disclosing party did not include a declaration as required by C.C.P. §2034.260.

STANDARDS OF CARE ARE NOT PERSONAL

Spann v. Irwin Memorial Blood Center (1995) 34 Cal.App.4th 644, 655: professional standard of care is established by the accepted industry practice, not the opinion of a single expert. "We agree with the Osborn court that a single expert should not be permitted to 'second-guess an entire profession' when it comes to establishing a professional standard of care. (Osborn v. Irwin Memorial Blood Bank (1992) 5 Cal. App. 4th 234, 276.) Here, [expert] Dr. Feldschuh merely expressed his personal opinion of what the industry should have done in 1984. He did not state what the industry was actually doing at the time. Because a professional standard of care is established by the accepted industry practice, not the opinion of a single expert, Mr. Spann failed to create a triable issue of fact on this issue. Consequently, the trial court properly granted summary judgment on the cause of action for professional negligence."

EXPERTS ARE LIMITED TO WHAT THEY TESTIFIED TO AT THEIR DEPOSITION

Kennemur v. State (1982) 133 Cal. App.3d 907, 918: Plaintiff's failure to disclose an accident reconstruction expert's "expected testimony concerning the tire tracks either at [the expert's] deposition or as required by section 2037.3 [predecessor to CCP section 2034.260, requiring an expert disclosure] ... deprived [defendant] of the opportunity to prepare for [the expert's] cross-examination and for possible rebuttal (surrebuttal) of his testimony."

Jones v. Moore (2000) 80 Cal.App.4th 557 was a legal malpractice case where the plaintiff's standard-of-care expert identified his criticisms of the defendant at his deposition, and when specifically asked if he had further criticisms responses, that he did not at that time, but that if he developed additional criticisms he would let defense counsel know "well in advance, so as to be able to properly exercise your discovery rights." (*Id*., at page 563.) When, at trial, the same expert attempted to express additional and undisclosed criticisms, his testimony on that subject was precluded.

The Court of Appeal reasoned: "The purpose of section 2034 is to permit parties to adequately prepare to meet the opposing expert opinions that will be offered at trial. The need for pretrial discovery is greater with respect to expert witnesses than it is for ordinary fact witnesses because the other parties must prepare to cope with witnesses possessed of specialized knowledge in some scientific or technical field. They must gear up to cross-examine them effectively, and they must marshal the evidence to rebut their opinions." (Id., at page 565; internal quotations marks, bracketing, and ellipsis omitted.) Further, an expert witness "was in effect not made available for deposition as to the [ ] opinions he offered at trial—opinions which during deposition he assured defense counsel he did not have." (*Id*., at page 563.)

Jones v. May appears to preclude an expert from doing additional work after his / her deposition, even if that work involves refuting the opposing expert's opinions. I am not aware of a published opinion on this subject. It is de rigeur for an expert to comment on the deposition testimony of an opposing expert. But the formulation of new opinions based on new work / investigation may well be prohibited.

The question is: if your expert does additional work, can prejudice be cured by offering the opposing party all new materials, and the opportunity to depose the expert free of charge?

MOTIONS IN LIMINE

Sargon Enterprises v. USC (2012) 55 Cal. 4th 747: some poor souls may have thought that it would apply only to lost profits case. Not so. In its relatively short life, the case has already been cited 39 times in published California opinions.

In Pedeferri v. Seidner Enterprises (2013) 216 Cal. App. 4th 359, Sargon was used to reverse a plaintiff's personal injury verdict based on improper testimony about a defendant's marijuana usage. (The plaintiff was trying to apportion more fault to a business entity, as opposed to an individual driver.) Crudely stated, the expert's opinion was that the individual driver could not have been impaired at the time of the vehicle collision (despite his consumption of a "marijuana cake"), because he was so used to smoking marijuana that he would have developed a tolerance. Right.

Sargon reinforces that the trial court has a "gatekeeping" function to regulate and prohibit unreliable expert testimony. The jury system requires that the judge "prevent the jury from being satisfied by matters of slight value, capable of being exaggerated by prejudice and hasty reasoning ... to exclude matter which does not rise to a clearly sufficient degree of value'; 'something more than a minimum of probative value' is required." (*Id*., at page 769, quoting Judge Friendly in Herman Schwabe, Inc. v. United Shoe Machinery Corp. (1962) 297 F.2d 906, 912.)

In Sargon, the excluded expert testimony was from an economic damages expert who testified that the plaintiff start-up dental implant company would become "the market leader" in about 10 years. (*Id*., at page 757.) The California Supreme Court affirmed the trial court decision that the expert's testimony was inadmissible.

Would the result have been different if the expert had different scenarios? The only apt answer is, "Who knows?" If the expert posited scenarios under which Sargon became an industry leader in 5, 10, 15, or 20 years, may the opinion have been more reasonable?

Sargon: The role of the court is to "simply determine whether the matter relied on can provide a reasonable basis for the opinion or whether that opinion is based on a leap of logic or conjecture. The court does not resolve scientific con-

Continued on page 12

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THE DONALD L. GALINE ANNUAL TAHOE SKI SEMINAR

MCLE: 9 General; 1 Ethics

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◆ARE YOU GOING TO BE SUED FOR MALPRACTICE OVER A LIEN?
MCLE: 3.0 GENERAL
Moderator: Paymon Khatibi, Los Angeles
Do You Really Need A Medicare Set Aside?
JOHN CATTIE, Cincinnati, OH
Liens A to Z
DONALD M. DE CAMARA, Carlsbad
Is There Any Way Around ERISA?
DANIEL E. WILCOXEN, Sacramento
How The Medicare Liens Impact Your Case
GRETCHEN M. NELSON, Los Angeles

5:15 TO 6:15 PM
◆GETTING TO "YES": THE EFFECTIVE MEDIATION
MCLE: 1.0 GENERAL
Moderator: Robert Bale, Sacramento
Top Reasons Why Mediations Fail And/Or Succeed
HON. JOE HILBERMAN (RET.), Los Angeles
What To Do Before And After Mediation To Get To Yes
NICK LOWE, Sacramento
Bringing In Experts At Mediation
PATRICK R. LITTLE, Auburn

6:30 TO 7:30 PM
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MCLE: 2.0 GENERAL; 1.0 ETHICS
Moderator: Darren Pirozzi
Attorneys Who Use Technology v. Attorneys Who Don't — Ethical Rules
LAWRANCE BOHM, Sacramento
KENNETH J. KROOPF, Sacramento
Using Technology At Trial: Deposition And Transcript Organization, Using Social Media, Review Of Recent Ethical Issues, Using An iPad, Tips On Telling Stories
RAHUL RAVIPUDI, Los Angeles
DEBORAH CHANG, Los Angeles
Technical Experts: Updates for Lawyers
ALEX DEACONSON, Redlands
RON TODD, Los Angeles

8:30 TO 11:45 AM
◆EMERGING PRACTICE AREAS
MCLE: 3.0 GENERAL
Moderator: Anne Marie Murphy, Burlingame
CLASS ACTION: How To Find That Class Action Lurking In Your Files
TIM BLOOD, San Diego
ELDER ABUSE: CANHR
PRESCOTT COLE, San Francisco
EMPLOYMENT
SIMONA FARRISE, Los Angeles
QUI TAM
JUSTIN BERGER, Burlingame
CONSUMER PROTECTION: Emerging Practice / Consumer Insurance Issues
LEE HARRIS, San Francisco
PRIVACY CASES
MIKE ARIAS, Los Angeles

12:00 TO 1:00 PM
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◆KEYNOTE: MARK GERAGOS TRIAL SKILLS BEFORE TRIAL
MCLE: 1.0 GENERAL
Moderator: Daniel O'Donnell, Sacramento

1:15 TO 3:15 PM
◆MASTERS IN TRIAL: EMERGING ISSUES IN AUTOMOTIVE AND TRANSPORTATION LITIGATION
MCLE: 2.0 GENERAL
Moderator: John Demas, Sacramento
UBER: An Overview Of Issues
CHRISTOPHER B. DOLAN, San Francisco
Latest Trends In Trucking Litigation
ADAM SHEA, Los Angeles
Know The Exceptions To The Going And Coming Rule To Help Your Clients
CHRISTOPHER W. WOOD, Sacramento
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Expert Witnesses

Continued from page 11

troversies. Rather, it conducts a circumscribed inquiry to determine whether, as a matter of logic, the studies and other information cited by experts adequately support the conclusion that the expert's general theory or technique is valid." (Id., at page 772, italics added.)

The two key words in the preceding quotation are "logic" and "conjecture." (*Id*., at page 770: speculative matters are not a proper basis for an expert's opinion.) Your opponent will likely now claim that all of your experts' opinions are "illogical" and "conjectural." In a recent case involving my own firm, Sargon motions *in limine* were filed as to virtually every retained expert and accused each expert opinion of being "illogical."

Sargon was distinguished in Garrett v. Howmedica Osteonics Corp. (2013) 214 Cal. App. 4th 173: "Unlike Sargon, supra., 55 Cal.4th 747, this case involves the exclusion of expert testimony presented in opposition to a summary judgment motion. The trial court here did not conduct an evidentiary hearing, and there was no examination of an expert witness pursuant to Evidence Code section 802. Absent more specific information on the testing methods used and the results obtained, the trial court here could not scrutinize the reasons for [the expert's] opinion to the same extent as did the trial court in Sargon. We do not believe, however, that the absence of such detailed information justified the exclusion of [the expert's] testimony."

And very important for plaintiffs opposing summary judgment: "In light of the rule of liberal construction, a reasoned explanation required in an expert declaration filed in opposition to a summary judgment motion *need not be as detailed or extensive as that required in expert testimony presented in support of a summary judgment motion or at trial*." (*Id*., at page 189; italics added, internal citation omitted.)

Welcome to the New World of expert witnesses. And that's false generalization as well.

DON'T MISS CCTLA'S SPRING FLING!

PAGE 23

CCTLA IS GIVING SOMETHING AWAY FOR FREE, BUT YOU HAVE TO WORK HARD FOR IT!

By: Travis Black, Member of the CCTLA Board of Directors

Beginning in April, the CCTLA Board of Directors will sponsor an opportunity for our members to attend free workshops on the nuts and bolts of trying a simple chiropractic case. You know, the type of case that all of us have in our offices. You will learn how to try a case. You will learn how to tell your client's story. You will have homework.

We need to find out how many attorneys would be interested in becoming a part of this program. We need you to email Debbie Keller at Debbie@cctla.com. We want to hear from you about what you think is the best time for these programs to take place. Would evenings during the week work, or a Saturday instead? How long should these programs go?

From 1992 to 2005, civil trials declined by over 50%. A generation ago, the plaintiffs' bar was full of attorneys who had tried more than 100 cases before they were considered "senior attorneys." How many of us can name more than a dozen attorneys in the Sacramento area who have tried 100 cases? Recently CCTLA put on a seminar on the nuts and bolts of trying a simple chiropractic case. We had more than 40 attorneys in attendance. The vast majority of these attorneys had tried fewer than five cases in their careers. Many of these attorneys had practiced law for several years.

Brian Kabateck, the CAOC 2013 president, wrote an interesting article. His argument was that we as a plaintiffs' bar just don't try enough cases. We need to try more big cases, and also more small cases. This is what trial lawyers do!

What is the reason for this vast difference in the trial experience of our trial lawyers? It could be the difficulty of getting into court, or the cost of trying a case, or the fear of losing. Other possibilities are: the fear that the black-hat insurance companies have instilled in us over the years; and the fear that many of us don't have a mentor whom we can turn to.

There are two components to trying a case: (1) understanding all the technical aspects required to be able to successfully try a case (filing the law suit, dealing with discovery, motions and court procedures); and (2) understanding the art of trying a case, and how to develop your client's story with an effective *voir dire*, opening statement, direct and cross examination, and closing.

The CCTLA Board of Directors has an obligation to our members to assist in any way we can to help attorneys learn how to put a case together, from the initial intake through the trial. As a result, we will be offering a series of seminars or forums, beginning in April. These will be free to our members. Those who want to attend, and are willing to apply themselves, will feel confident walking into a courtroom and facing down the loyal opposition.

When you have completed these forums, we will have mentors available to assist in any way we can, from answering questions to actually assisting with trials. An interesting twist in looking at this program is that we have had a huge outpouring of support from our seasoned trial attorneys.

FACTS OR STORY

How many times have you walked into a courtroom and heard an attorney tell a jury, "Ladies and gentlemen, let me tell you the 'facts' of this case." Gerry Spence has said that it's not the "facts" of the case that count, it's the "story" that the jury needs to hear. We all know the facts of the accident, the medical treatment, *et cetera*, but how do you learn your client's story? How do we develop that story? How do we tell the story to the jury in such a way that the jury will help you? If you want to know, we will teach you!

We are planning monthly forums where we will take a trial and break it down into its individual components. We'll start with developing the story and theme of the case, and then move to *voir dire*, opening, direct and cross examination and closing arguments.

SHOW ME TO TELL ME

You can go to all kinds of seminars where well-known attorneys will <u>*tell*</u> you the way they try cases. However, I believe that the better way is to <u>*show*</u> you how to try the case. The attorneys who attend these monthly forums will have the opportunity to work on their own cases. The attorneys who attend this program will have the opportunity to actually try their cases in front of their group and get valuable feedback. By the time you walk into your courtroom to try your case, you will have practiced every element of the trial numerous times.

Once you have completed this program, you will have the opportunity to work with a mentor whom you can discuss your cases with.

Clay Arnold has graciously volunteered to allow us to use the courtroom he has in his office for these programs.

We need to find out how many attorneys would be interested in becoming a part of this program. We need you to email Debbie Keller at Debbie@cctla.com. We want to hear from you about what you think is the best time for these programs to take place. Would evenings during the week work, or a Saturday instead? How long would you like to see these programs go?

This is a wonderful opportunity which hasn't been offered in years. The programs will start in April, so please respond soon.

2014 Holiday Reception & Awards

Outgoing CCTLA President Stephen Davids (left) is thanked by Bob Bale (right). Dan O'Donnell, CCTLA's 2015 president, is center.

Andrea Lutge, Patrick Crowl and Angelina and Nolan Jones.

With 160 people in attendance, CCTLA recognized Hon. Alan Perkins as the CCTLA Judge of the Year, Mondi Milbourne with the Laura Lee Link Clerk of the Year Award, and Dan Glass as the CCTLA Advocate of the Year at the 2014 holiday reception.

The evening was an especially memorable one with Charlie Link, husband of the late Laura Link who served the Sacramento Superior Court for 28 years, presenting the award to Mondi.

The contributions and accomplishments of outgoing CCTLA President Stephen Davids and his board were acknowledged, and Dan O'Donnell was installed as 2015 president.

The event, held in December at the Citizen Hotel in Sacramento, also was a fundraiser for the Mustard Seed School that educated homeless youth., and CCTLA presented school representatives with a check. Bob Bale and his band got the crowd on the dance floor.

Special thanks go to Executive Director Debbie Frayne Keller and her sister, Colleen McDonagh, for organizing and putting on such an enjoyable event.

Jill Telfer, Jo Pine and Bill Seabridge.

Judge Alan Perkins and Diane Perkins.

Chris Whelan, Wendy York and Linda Whelan.

Dan Glass and Stephen Davids.

Judge Robert Hight, Associate Justice Ronald Robie, Justice Art Scotland (Ret.), Judge Jim Mize and Rick Crow.

Above, Mondi Milbourne receives her Laura Lee Link Clerk of the Year Award from Charlie Link, husband of the late Laura Link.

Colleen McDonagh and CCTLA Executiive Director Debbie Frayne Keller.

Dan O'Donnell, Judge David Brown, Margaret Doyle, Judge Raymond Cadei and Justice Art Scotland (Ret.)

MEMBER VERDICTS & SETTLEMENTS

VERDICTS

Personal Injury/Negligence $5.6 Million

CCTLA members Larry Lockshin and Kristoffer Mayfield secured a jury award of $5.6 million for a former Amtrak railroad engineer who sustained a beating when he was attacked on the job by a West Sacramento street gang.

Amtrak sought to blame Keating during the trial for the severe head and neck injuries he suffered in the April 16, 2007, beating on the eastbound tracks, just west of the I Street Bridge. Attorneys for the railroad company said Keating should have called police and never should have climbed off the train when purported members of the Broderick Boys street gang began throwing rocks at it.

The Amtrak lawyers said his decision to confront the gang members made him the "sole cause" of his injuries. The company also raised questions at trial about Keating's judgment, saying he had a history of drinking and smoking marijuana excessively, charges that the engineer denied in his testimony.

Keating testified at trial that he stopped the train to shoo a trespasser off the railroad tracks and that when he came down, he and the train's conductor found themselves bombarded by rock-throwing gang members. Keating said they threw rocks back at their attackers and that he threw the first punch in the confrontation when he saw one of the assailants—with a rock raised overhead—coming at him and a co-worker.

The jury came back with its decision after nearly two days of deliberations, finding Amtrak negligent in providing Keating with a safe place to work. The panel also held Amtrak liable for an incident in 2010, after Keating had returned to work, when someone in West Sacramento flashed a laser pointer into his engine compartment. Keating testified that he thought he was about to be shot and that the laser flash ignited a new round of post-traumatic stress disorder. The lawyers argued that Keating will probably never be able to work again as a result of brain and neck injuries he suffered in the beating.

In breaking down the award, the jury found that Keating was entitled to $2.37 million in past and future wage losses, $260,000 in past and future medical costs, $330,000 in lost household services and $3 million in pain and suffering. Jurors assigned six percent of the "comparative fault" for Keating's damages to the engineer, leaving Amtrak responsible for 94 percent of the damages, or a little more than $5.6 million.

Pregnancy & Gender Discrimination/Retaliation $185.872 Million

CCTLA Director Lawrance Bohm, Charles Moore and law clerk Kelsey Ciarmboli secured a $185,872,719.52 verdict for their client in Rosario Juarez v. AutoZone Stores, Inc., Case No. 08-CV-00417-WVG, in San Diego, CA, in front of the federal judge; counsel for defense were Nancy E. Pritikin, Gregg Sindici and Liliya Stanik all of Littler Mendelson P.C., San Francisco, CA.

The verdict was comprised of $393,749.52 in past wages, $228,960 in future wages, $250,000 in non-economic damages and punitive damages in the sum of $185 million.

Juarez began working for AutoZone in December, 1999, as a cashier and was promoted to the position of parts sales manager in 2001, where she remained in that position for three years. In 2004, Juarez complained to upper management that she had been unfairly passed over for promotion to store manager. Shortly after complaining, Plaintiff was informed she would be put in a store manager training program for several months. Male employees who worked for AutoZone did not have to go through this training program that was only required for store manager candidates who came from other companies.

Eventually, in October 2004, Plaintiff was given her first opportunity to serve as a store manager. Plaintiff excelled in the position and had a positive impact on her store's sales and appearance. Juarez was assigned a district manager, a male, who was demeaning and condescending to Plaintiff and the other women in her store. Although Plaintiff's store was steadily improving in response to her efforts, the district manager would continuously comment that she could not handle the job.

In August 2005, Juarez became pregnant. At first, she kept her condition secret for fear that the district manager would become more critical and upset. In early November, 2005, Juarez told the district manager she was pregnant. Immediately, the district manager became more aggressive, mean and critical of Juarez. The district manager repeatedly remarked in front of workers and customers that he did not believe Plaintiff could perform the work in her "condition" and told her to "step down."

Juarez was placed on a Performance Improvement Plan (PIP). At all times while on the PIP, Juarez and her sales team met or beat sales targets set by the company. Nevertheless, the company falsely claimed she failed to improve and meet expectations.

In February, 2006, Juarez was demoted to assistant manager and placed in a different store. She lost her bonuses and overtime pay, and she was replaced by a male store manager. Juarez worked until she was nine months pregnant, then took maternity leave one week before the birth of her second child.

While on leave, in April, 2006, Juarez filed a charge of gender and pregnancy discrimination with California Department of Fair Employment and Housing concerning her demotion. Following her maternity leave, Juarez returned to her demoted position in 2007. While employed, Juarez filed a lawsuit in state court in January, 2008, challenging her demotion as discrimination based on gender and pregnancy. She was deposed by AutoZone in October, 2008, as part of her lawsuit. On Nov. 20, 2008, Juarez was fired by AutoZone.

The verdict in favor of Plaintiff included $250,000 for past emotional distress for garden-variety emotional

harm such as anger, anxiety, emotional distress, worry and the like. Plaintiff testified to the shame and embarrassment she felt after her demotion.

At the time of her termination, she was a single mother caring for her two young children. During a lengthy period of unemployment, she and her children would make burritos and sell them just to make money to survive. Although Juarez eventually found new employment with a different auto parts company, the difference between the earnings and benefits resulted in significant financial losses.

Punitive Damages Phase:

Plaintiff presented an economist to assess the company's ability to pay punitive damages. Using AutoZone's public financial disclosures, it was established that the cash flow of the company, after all operational expenses, is $20,798,192 a week. Although on paper the company had a negative net worth of $1 billion, Plaintiff's economist explained the company's net worth is not a reliable indicator of the company's ability to pay because the excess cash was used to repurchase its stock, which had the effect of making outstanding shares more valuable. Plaintiff's economist further testified that AutoZone had the ability to pay a $100,000,000 punitive damage award after only four weeks of operations.

In the closing argument, Plaintiff's counsel argued that the reprehensibility of the conduct was extremely high because the unlawful acts were committed by the legal department which was responsible for guiding operations around the world. Specifically, counsel suggested that the award should equate to one week of the company's extra cash for each year of injustice suffered by Plaintiff. Counsel expressed a hope that the verdict would come to be known as the "Juarez Award" and would underscore that women are an equal part of the workplace, that they have a right to work when pregnant, and that retaliation will not be tolerated. In opposition, AutoZone argued that it had heard the message and no further punitive damages were required.

Personal Injury
$3.69 Million

CCTLA member Ed Smith and Steve McElroy prevailed for their client in Caton State v. John Skarr with a verdict of $3,694,691 before Judge Alan Perkins in Dept. 35 of the Sacramento Superior Court. The verdict was based on past medical specials of $140,488; past income loss of $300,000, future medicals of $450,000, future income of $1,072,000, past general damages of $400,000, and future general damages of $1,250,000.

A cervical spine injury had devastating personal and economic impacts on Plaintiff, a young professional who is married and the father of two children. The matter was defended by Phil Bonotto of Bonotto & Rushford, who followed Kimberly Waters of the Law Offices of Michael M. McKone as counsel for the Allstate-insured defendant.

The matter stems from a rear-end traffic collision on a surface street in Folsom, CA, in April, 2010. The male, teenaged defendant admitted being distracted, and liability was never significantly contested. There was moderate property damage to Plaintiff's vehicle.

Plaintiff was a 38-year-old periodontist (dental specialist), had immediate complaints of pain to his neck and visited an urgent-care clinic the same day. He initially received extensive conservative care with his primary-care physician, a chiropractor and multiple courses of physical therapy.

Multiple radiographic studies and diagnostic facet block injections revealed he had sustained a one-level cervical disc protrusion at C5-6 and multi-level facet joint injuries. His later care included Dr. Anthony Bellomo at Sacramento Spine Care, diagnostic facet blocks, eventual radio-frequency ablations bilaterally at C4, C5 and C6 by Dr. Thomas Mowery, and surgical consultations with Dr. Justin Paquette and Dr. Philip Orisek. Orisek performed a C5-6 disc replacement in 2013.

Plaintiff had just purchased an existing periodontal practice in El Dorado County about six months before the collision, while he was also working as an independent contractor through several other dental offices. As a result of his injuries he was forced to reduce his work schedule from five to six days per week to approximately three and a half days per week in order to keep his symptoms at a tolerable level.

Considering the typical income potential for this type of specialty practice, the injuries have substantially shortened his work-life expectancy, the resulting income loss was large. The timing of these injuries have also increased Plaintiff's damages by compounding concerns for his long-term ability to support his family.

Plaintiff's expert witnesses included Dr. Laurence Miller (physiatrist), Dr. Diana Bubanja of Oakland (functional evaluation), Richard Andersen Los Angeles (vocational rehabilitation), and Dr. Charles Mahla (economist).

Defendant's expert witnesses were Dr. Tyler Smith (spine surgeon), Craig Enos (CPA), and Dr. Robin Levi (dental practice economics).

It was a policy-limits claim long before Plaintiff had his disc replacement surgery, and offers to settle for those limits remained open long after surgery had occurred. The serious nature of Plaintiff's multi-factoral injuries, the equivocal response to various treatment modalities, the major impact that was occurring to his professional practice were all highlighted on multiple occasions.

Allstate refused to take plaintiff's injuries, symptoms, and significantly mounting economic damages seriously, never offering more than beyond half of policy limits shortly before trial.

Offers and discussions included several policy demands and plaintiff's 998 at $1.1 million (combined auto and umbrella limits) in June, 2013, that was kept open about nine months to accommodate defense's multiple requests for additional time and/or information. Defendant's first offer was a 998 early in 2014, at $400k, which was raised to $600k prior to trial. Additionally, there was approximately $550,000 in pre-judgment interest from

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date of Plaintiff's 998, as well as significant costs.

SETTLEMENTS

Retaliation — $645,000

CCTLA member Jill P. Telfer, with the assistance of law clerk Pat Crowl, negotiated a $645,000 settlement for their whistle blower client, a special agent with the California Department of Justice (DOJ). The settlement required the exemplary agent to retire within six months, ending his 26-year-career with DOJ. The plaintiff, who worked in the Division of Law Enforcement (DLE), was first subjected to retaliation in 2004 when he assisted other peace officers who were being discriminated against and ultimately filed his own complaint of discrimination.

The first wave of retaliatory acts against the plaintiff occurred when he worked as a special agent with the former Bureau of Narcotics Enforcement (BNE). He sought assistance from those in leadership at DLE prior to seeking assistance outside of DOJ to stop the discrimination and retaliation, not knowing the leadership was involved in some of the retaliatory acts. On Feb. 11, 2010, a jury confirmed DOJ had retaliated against the special agent and awarded a verdict of $560,709. the court awarded the Law Offices of Jill P Telfer attorney fees and costs in the sum of $704,007.

During the pendency of the first lawsuit, former DLE Deputy Director Rick Lopes[1], former BNE Chief John Gaines[2], former Deputy Attorney General (DAG) and former BGG Chief Jacob Applesmith involuntarily transferred Rodriguez from BNE to the Bureau of Gambling Control (BGC). Plaintiff has worked at BGC since August 21, 2007. After the victorious verdict, he was again retaliated against, including denying him earned out-of-class pay, threatening to change his schedule knowing it would create hardship given Plaintiff's childcare needs, and setting him up to fail.

Retaliation intensified when DOJ lost its appeal of the first verdict, with Lopes reassigning the agent to work in the chain of command of former BNE Special Agent in Charge James Parker, who had retaliated against the special agent at BNE. Parker, at the direction of Lopes and others, orchestrated the retaliation at BGC to mimic the actions taken against the agent at BNE. This included removing him from a FBI task force and from acting supervisory special sgent positions and assigning individuals less qualified agents, encouraging frivolous complaints against him after meeting with subordinates outside the chain of command, and thereafter requesting an Internal Affairs investigation against the agent based on the frivolous complaints. Pretextural discipline was authored, but not given to the agent although it was placed in his personal file.

The perpetrators of the retaliation had a history of retaliation, and the evidence in the case showed DLE had a history of covering up or at least not correcting the behavior, so the unlawful conduct percolates. There are others similarly-situated who have also been retaliated against for filing complaints.

Based on the evidence obtained, it appears as though DOJ continues to attempt to cover up Parker's wrongful acts to the detriment of the public after he leaked confidential information regarding ongoing BGC investigations, including the alleged siphoning of $119 million in profits to a cardroom to former BGC Chief Robert Lytle. Although BGC has filed an accusation against Lytle, it has not taken any action against Parker, who has retired from DOJ and now works for the federal government.

***

[1] Current chair of the California Gambling Control Commission and responsible for administering the provisions of the Gambling Act

[2] Current El Dorado District Attorney investigator

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Continued from page 2

28. While improper, in this case, however, since the defense raised no objections and never asked for an admonishment, the objection was overruled.

Plaintiff's counsel further argued, "when we talk about negligence in a case like this, ladies and gentlemen, and when we get our community together, what we do is we have a conversation really about what we believe reasonable conduct in our community is. That's what your verdict will do in this case. Your verdict will not only send a message to the defendant, but also to the whole community." The appellate court stated: "Counsel is granted wide latitude to discuss the merits of the case. Both as to the law and facts and is entitled to argue his or her case vigorously and to argue all reasonable inferences from the evidence. [Citation] Any suggestion that the jury should "send a message" by inflating its award of damages, however, would be improper where, as here, punitive damages may not be awarded." Nishihama v. City and County of San Francisco (2001) 93 Cal.App. 4th 298, 305.

In this case, Plaintiff's counsel urged the jury to send a message by holding Defendant liable for negligence, not by urging the jury to return a large damage verdict. Therefore, the "send a message" argument is acceptable.

Plaintiff's counsel also took on the defense radiologist. The doctor and Plaintiff's counsel got ugly, and the judge sustained an objection and admonished the jury to disregard Plaintiff's counsel's comments. However, Plaintiff's counsel failed to let it go and had to mention it in his final argument. "Remarks intended to play upon the emotions of sympathy, shock and horror [are]… improper matters for the jury to consider [citation.]" Horn v. Atchinson, Topeka and Santa Fey Railway Company (1964) 61 Cal.2nd 602, 609.

Plaintiff's medical bills were paid by worker's comp, which the defense wished to introduce. The plaintiff argued collateral source, and the trial court agreed. However, Plaintiff's counsel then argued to the jury: "You can't know what they have to be paid back. There are very specific laws about this… there are very specific rules about paying work comp back and claims the [sic] had." The appellate court found that Plaintiff's counsel thus argued matters not in evidence and that the trial court had ruled could not be discussed, to wit, workers' compensation insurance. "Plaintiff's counsel's comment about [plaintiffs] obligation to reimburse the workers' compensation system contravened the purpose of the court's ruling because it suggested that [plaintiff] *could not* receive a double recovery." Therefore the argument was misconduct.

Plaintiff's verdict for $1,208,642.86 was reversed and remanded.

LITIGATION TIP:

If you are going to drop a motion, do so before the opposition is due. In such a situation, a trial court that states its reasons for awarding sanctions or not will probably not be disturbed on appeal because it is an abuse of discretion decision. An appellate court will not substitute its judgment for that of the trial judge.

Evilsizor v. Sweeney,
December 5, 2014 DJDAR 14549

This is a family-law case in which respondent Joseph Sweeney issued a subpoena for bank records of his wife, Keri Evilsizor. The subpoena sought records from Keri's accounts, which also included financial information about her father, John Evilsizor. John Evilsizor moved to quash the subpoena without meeting and conferring with Joseph Sweeney's attorney. Sweeney responded immediately to the motion by agreeing to amend the subpoena to exclude father John Evilsizor's account activities. Father John Evilsizor withdrew his motion to quash, but after the response to the motion was due from Joseph Sweeney.

John Evilsizor tried to drop his motion to quash a couple of days before the hearing, but the court refused. On that date of the hearing, Sweeney came into court asking for sanctions under Code of Civil Procedure Section 1987.2. The trial court stated at the hearing that the underlying motion to quash was not made in bad faith. Even though John Evilsizor dropped his motion, he did not drop it until after Sweeney was required to respond. The trial court stated, "I don't believe that this type of expenditure of resources was necessary." The trial court ordered John Evilsizor to pay Sweeney one half of what Sweeney asked for in sanctions, $2,225.

John Evilsizor argued that the award of attorney's fees under Section 1987.2 was improper because Sweeney did not prevail on the underlying motion to quash. The appellate court cited the language of 1987.2, which requires that sanctions may be awarded in the court's discretion if the court finds that the motion was made in bad faith or without substantial justification. The appellate court equated "motion was made" with "due service and filing of the notice of motion." The appellate court stated, "by faulting John [Evilsizor] for not withdrawing his the motion sooner, the trial court implicitly found that the statutory reference to when the "motion was made" may be interpreted broadly. Pursuing a pending motion to quash after it becomes clear that it is unjustified may be considered "making" a motion under the CCP.

Sanctions may only be awarded under 1987.2 if the motion was made in bad faith or without substantial justification. The appellate court ruled that "a [trial] court's decision to impose a particular sanction is "subject to reversal only for manifest abuse exceeding the bounds of reason".

As to "substantial justification," the appellate court stated it means "a justification is clearly reasonable because it is well grounded in both law and fact." Doe v. United States Swimming, Inc. (2011) 200 Cal.App.4th 1424, 1434.

The appellate court found that the trial court's statement that John Evilsizor did not withdraw his motion quickly enough was the basis for the sanction and was not so far outside the bounds of reason to conclude that the trial court was wrong. The appellate court stated that they are not free to substitute their discretion for that of the trial court so long as the trial court's ruling was a reasonable exercise of its discretion.

Even though the appellate court seemed to blame Sweeney's office for some of the uncivil behavior during this

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case, the appellate court did not reverse the order for sanctions.

2. INTERPLEADER
(CCP Section 386.6)

Southern Calif. Gas Co. v. Flannery,
Dec. 16, 2014, 2014 DJDAR 16615

Individuals sued Southern California Gas Company for damage suffered as a consequence of the 2008 Sesnon wildfire. One attorney represented the parties for a while but was substituted out for another attorney. The first attorney filed a notice of lien against any recovery.

The parties settled the case with Southern California Gas Company. Southern California Gas Company decided to interplead the money rather than fight with the attorneys over who gets what amount. One of the parties filed an anti-SLAPP motion against Southern California Gas Company's interpleader complaint. Southern California Gas Company filed a motion for discharge.

The trial court granted the discharge motion and denied the anti-SLAPP motion. The appellate court affirmed, leaving the parties to battle over the money. The appellate court found the anti-SLAPP motion was not likely to prevail. Southern California Gas Company was entitled to pay the settlement and get out of the case.

3. CCP SECTION 473(b) vs. CCP SECTION 473(d)

Nixon Peabody LLP v. Superior Court of Los Angeles
Oct. 17, 2014 DJDAR 14126

Real parties in interest bought two Florida golf clubs in 2007. In 2012, they initiated a lawsuit in Los Angeles County Superior Court against numerous entities, mostly over failure to disclose. The real parties in interest filed nearly identical suits in the United States District Court for the Eastern District of Texas and then the Central District of California, three lawsuits in three jurisdictions. In November, 2012, their attorney advised them to dismiss two of the cases, the Los Angeles Superior Court case and the Central District of California case. Under Federal Rule 41, the defendants moved to dismiss the Eastern District of Texas case under the Federal Rules.

The real parties in interest sought to renew all of the cases when the Texas case was dismissed. The real parties filed a motion under CCP Section 473(d) arguing that the voluntary dismissal was void because they did not provide informed consent to their attorney, Mr. Hall. The Los Angeles Superior Court granted the motion to set aside the dismissal. Due to appeals in the cases taking over a year and one half, this proceeding is a writ proceeding in the California appellate court.

CCP 473(d), "the court may, upon motion of the injured party, or its own motion, … set aside any void judgment or order." Under 473(d) the court must decide:

1) whether the order or judgment is void; and, 2) whether the trial court properly exercised its discretion in setting it aside. CCP Section 473(d) questions whether the trial court properly exercised its discretion in setting aside the judgment. Such an evaluation is a question of law reviewed de novo.

In this case, the real parties in interest contended that attorney Hall had no authority to dismiss the action without the client(s') informed consent as to all the risks and alternative options. However, the real parties in interest did consent to the dismissal; Hall committed malpractice by advising them that they could dismiss the case and not suffer the Rule 41 two-dismissal rule. Thus, this California appellate court ruled that Hall acted within his authority and the dismissal was not a void judgment or order. "The fact that Mr. Hall mistakenly gave incorrect advice leading to dismissal of a separate case in another jurisdiction does not render the dismissal in this action void."

CCP Section 473(b) allows a court to "relieve a party of his or her legal representative from a judgment, dismissal, order or other proceeding taken against him or her through his or her mistake, inadvertence, surprise or excusable neglect."

LITIGATION TIP:
If "mistake, inadvertence, surprise, or excusable neglect" is the basis of your motion, it must be done within six months. It is much harder to prove "void" judgment if the motion must be made after six months.

CCP Section 473(b), however, requires the motion to be made within six months. While Hall's decision was a mistake, the real parties in interest moved under CCP 473(d) because cases were on appeal during the lapse of over six months.

4. DUTY

1. Lawrence v. La Jolla Beach and Tennis Club, Inc.
(Oct. 31, 2014) 2014 DJDAR 14737

Five-year-old plaintiff Michael Lawrence fell from a window in his family's second-story hotel room at the La Jolla Beach and Tennis Club, suffering serious head and brain injuries. The window had a six-inch ledge and no bars. Michael testified that he was looking out the window and lost his balance, pushing against the screen, which popped out, causing him to fall on his head many feet below.

The defendants moved for summary judgment on the basis of a building inspector's declaration indicating that the subject window complied with all applicable building codes. There are no requirements for "window restrictors," and screens are intended to keep insects out, not small children in. The plaintiffs responded that compliance with building codes does not establish that defendants were not negligent. Furthermore, the plaintiffs submitted testimony from the hotel's former director of operations that he ordered bars on the hotel's oceanfront bay windows because people often sat on the window sills and leaned against the screens. The hotel director of operations stated that placing the bars on the windows minimized the screens falling out, as well as people.

The plaintiffs further submitted expert testimony that the hotel room was in a dangerous condition. The expert stated in his declaration that on average, 18 children ages 10 and under die annually from falls from windows. Therefore, the

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American Society for Testing of Materials (ASTM) has been requested to develop standards for devices that would protect children from falling out of windows and several devices have been recommended.

The defense countered that the ASTM standards have not been adopted by the state, San Diego County, or the City of San Diego, where this incident occurred.

The trial court granted the defendants' motion for summary judgment, ruling that "defendants did not breach their duty of care, and the accident was not caused by defendants' failure to install a safety device on the window." The appellate court pointed out two cases seemingly contradictory: Pineda v. Ennabe (1998) 61 Cal.App.4th 1403 and Amos v. Alpha Property Management (1999) 73 Cal.App.4th 895. In this case, the appellate court ruled that the defendants have not met their summary judgment burden to show that they had no duty of care. This appellate court pointed out that the declarations submitted by the plaintiffs raised a triable issue of fact as to whether defendants breached their duty of care. Based on the various facts submitted by the plaintiffs, a trier of fact could reasonably find that the defendants breached their duty to take measures to prevent an incident such as the one herein. Moreover, a question of fact as to causation exists, which the trial court glossed over by finding no duty.

2. Annocki v. Peterson Enterprises, LLC (Dec. 5, 2014) 2014 DJDAR 16111

Joseph M. Annocki was killed as he rode a motorcycle on Pacific Coast Highway in Malibu when he collided with an automobile operated by a customer of Geoffrey's, a restaurant. The automobile driver was leaving Geoffrey's parking lot and proceeded to attempt to make a left hand turn onto PCH when he realized there was a median barrier preventing such a turn. He stopped and began backing up when Annocki, traveling at the speed limit of 45 to 55 miles per hour, hit the automobile. The plaintiff's theory was that even though the dangerous condition was the highway, Geoffrey's had a duty to put up a sign indicating "right hand turn only" or have an attendant indicating that a left turn could not be made there. Plaintiffs allege that the defendant knew, or should have known in the exercise of reasonable care, that its parking lot and driveway were designed in such a way as to create a danger of decreased visability on the adjacent highway.

The defendant's demurred contending Plaintiffs alleged no fact showing that it had a duty to warn of any alleged dangerous conditions on the adjacent highway. The trial court sustained the demurrer finding that the Pacific Coast Highway was inherently and obviously dangerous, and therefore if a business had a driveway on such an inherently and obviously dangerous roadway, there was no duty to warn about it. The appellate court cited Barnes v. Black (1999) 71 Cal.App.4th 1473, 1478-1479. The appellate court analyzed the factors in **Rowland v. Christian** (1968) 69 Cal.2nd 108 and concluded that the defendant had a duty to warn patrons of the danger in exiting its parking lot as it was on notice of the dangerous condition of the highway and the risk it posed to patrons leaving the restaurant as well as the danger to persons traveling the highway from a patron exiting the lot in an unsafe manner. The appellate court looked at the Rolland v. Christian factors and anything Geoffrey's would have done could have avoided the incident herein. The appellate court gave Plaintiffs leave to amend their third amended complaint to state additional facts necessary to establish the duty

PRACTICE TIP:

Some trial courts ignore the Rowland v. Christian elements and leap to the conclusion there is no duty in order to dump your case. Keep a checklist of the Rowland factors in mind when pleading your complaint. Plead facts that fulfill the Rowland factors to avoid the defense attempt to knock your case out with a demurrer summary judgment motion.

5. CIVIL PROCEDURES GONE WILD

1. Dennis Nasrawi v. Buck Consultants LLC (Nov. 6, 2014) 2014 DJDAR 14927

Retired public employees of Stanislaus County sued Buck Consultants and Harrold Loeb, who provided actuarial services to the Stanislaus County Employees Retirement Association. The suit was brought allegedly because Buck's and Loeb's actuarial negligence caused the pension trust to be dramatically underfunded. The Stanislaus County Employees Retirement Association has not sued Buck and Loeb, which Plaintiffs claim is a breach of its fiduciary duty to the employees. Plaintiffs further allege Buck and Loeb aided and abetted other breaches committed by the Stanislaus County Employees Retirement Association (SCERA).

Buck and its employee, Loeb, provided actuarial services to the SCERA. Plaintiffs allege that Buck and Loeb intentionally advised the Employees Retirement Association (ERA) to underfund their pension plan. Plaintiffs also allege that Buck and Loeb concealed the Employees Retirement Pension's (ERP) plans intentional misconduct in underfunding the retirement. Plaintiffs also allege that Buck and Loeb were negligent. Plaintiffs entered into a tolling agreement with Buck subject to 30 days' notice of termination, extending the statute of limitations.

Initially, Plaintiffs sued Buck and Loeb in Stanislaus County Superior Court. Buck and Loeb removed the action to federal court. Plaintiffs amended their complaint twice in federal court. Two years after removal to federal court, the Federal District Court remanded the case to state court. Plaintiffs successfully moved to transfer venue to Santa Clara County with a then-operative second amended complaint asserting claims for actuarial negligence and breach of fiduciary duty against Buck and Loeb. The Santa Clara County Superior Court sustained the demurrer with leave to amend.

The third amended complaint alleged breach of fiduciary duty against the SCERA and an aiding and abetting claim against Buck and Loeb. The Santa Clara County Superior Court sustained a de-

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murrer to the third amended complaint on the grounds that plaintiffs lacked standing and had failed to allege concealment by Buck and Loeb with sufficient particularity. Plaintiffs then filed a fourth amended complaint asserting only a claim for aiding and abetting a breach of fiduciary duty against Buck and Loeb.

Before Buck and Loeb could respond to the fourth amended complaint, Plaintiffs moved the court to file a fifth amended complaint to add SCERA as a defendant under a breach of fiduciary duty theory. The court granted Plaintiffs' motion to file the fifth amended complaint. The defendants demurred to the fifth amended complaint.

The trial court sustained the SCERA's demurrer without leave to amend on grounds that Plaintiffs had failed to demonstrate compliance with the Government Claims Act (Section 810, et seq); that the employees retirement association has immunity as a governmental entity under Section 815.2, and Plaintiffs failed to allege legally cognizable damages. The trial court also sustained Buck and Loeb's demurrer without leave to amend on the theory that Plaintiffs' failure to state a breach of fiduciary duty claim against SCERA was fatal to their claim against Buck and Loeb.

Even though a claim against a governmental entity may not clearly fall within the traditional tort claims area, it may be necessary to comply with the tort claim filing deadlines. See Government Code Section 905.

Since this plaintiff did not fall within any of the exceptions stated in Government Code Section 905, section 910 applies and a claim must be filed within six months, etc. Even if the plaintiffs were not required to comply with the government code claim statute, SCERA had immunity because the board's failure to sue Buck and Loeb turned on whether that omission was the result of the exercise of the discretion vested in the board.

Under Government Code Section 820.2, if it is a discretionary decision, it is immunized.

Buck and Loeb argued that if the Stanislaus County Employees Retirement Association was dismissed, then Buck and Loeb could not be found liable for aiding and abetting. The appellate court cited Casey v. U.S. Bank National Association (2005) 127 Cal.App.4th 1138, 1144 and CACI 3610 for the elements necessary in aiding and abetting civil liability cases. The appellate court marched through the various elements of Casey and Schulz v. Neovi Data Corp. (2007) 152 Cal. App.4th 86, 95, which is cited by Casey and concluded that all of the elements of aiding and abetting were alleged in the fifth amended complaint. The appellate court thus sustained the demurrer to the fifth amended complaint without leave to amend as to the Stanislaus County Employees Retirement Association's demurrer. Buck and Loeb's demurrer was reversed.

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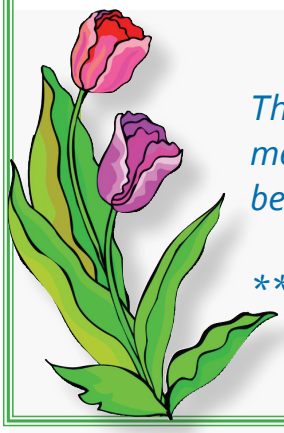

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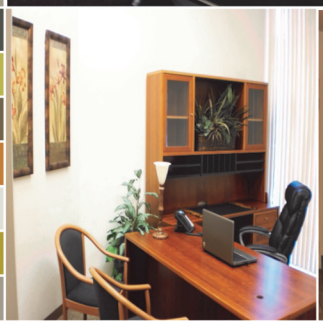

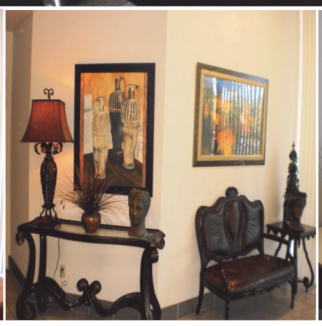

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California Supreme Court's Welcome Decision on Med Mal Cap Credits Case

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February

Friday, February 27
CCTLA & ADR Section Luncheon
Topic: "MEDIATING A PERSONAL INJURY OR BUSINESS CASE WITHOUT TEARING YOUR HAIR OUT: PRACTICAL ADVICE FROM MEDIATORS AND PRACTITIONERS"
Speakers: Judge Richard L. Gilbert (Ret.); Ernie Long, Esq.; Hank Greenblatt, Esq.; and Nicholas Lowe, Esq.
Noon, Firehouse Restaurant
CCTLA members $30 / $35 non-member

March

Tuesday, March 10
Q&A Luncheon
Shanghai Garden, Noon
800 Alhambra Blvd
(across H St from McKinley Park)
CCTLA Members Only

Friday, March 27
CCTLA Luncheon
Topic: "HOW TO BUILD THE VISUAL FOUNDATION FOR YOUR PI CASES FROM DAY ONE: TAUGHT BY A FORMER PI PLAINTIFF ATTORNEY."
Speaker: Morgan C. Smith, Esq.
Firehouse Restaurant, Noon
CCTLA Members - $30

April

Tuesday, April 14
Q&A Luncheon
Shanghai Garden, Noon
800 Alhambra Blvd
(across H St from McKinley Park)
CCTLA Members Only

Friday, April 24
CCTLA Luncheon
Topic: "DO IT RIGHT - DO IT ONCE - GET IT SETTLED"
Speakers: Michael Ranahan & Michael Ornstil
Firehouse Restaurant, Noon
CCTLA Members - $30

May

Tuesday, May 12
Q&A Luncheon
Shanghai Garden, Noon
800 Alhambra Blvd
(across H St from McKinley Park)
CCTLA Members Only

Thursday, May 21,
CCTLA'S 13TH ANNUAL ALLAN OWEN SPRING RECEPTION & SILENT AUCTION
Location: TBA
Time: 5 to 7:30 p.m.

Friday, May 29,
CCTLA Luncheon
Topic: TBA
Speaker: Lawrence "Lan" Lievense, FHFMA, FACMPE, FHIAS
Firehouse Restaurant, Noon
CCTLA Members - $30

June

Tuesday, June 9
Q&A Luncheon
Shanghai Garden, Noon
800 Alhambra Blvd
(across H St from McKinley Park)
CCTLA Members Only

Friday, June 26
CCTLA Luncheon
Topic: TBA
Speaker: Bruce Hagel, Esq. Firehouse Restaurant, Noon
CCTLA Members - $30

Contact Debbie Keller at CCTLA , 916 / 917-9744 or debbie@cctla.com for reservations or additional information about any of the above activities.

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CCTLA Calendar of Events