

The LITIGATOR

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OFFICIAL PUBLICATION OF THE CAPITOL CITY TRIAL LAWYERS ASSOCIATION

ISSUE 1



President's Goals for 2007 Include: Inform, Educate & Public Outreach

By: John N. Demas, CCTLA President

I would like to thank you for the opportunity to serve as your president this year. I look forward to working with our Board of Directors to provide our members with information and resources to help them represent injured victims more effectively and aggressively. I would particularly like to welcome our three new board members: Robin Brewer, Bob Lally and Stuart Talley.

My agenda for 2007 is threefold: 1) to provide informative and timely educational seminars; 2) work closely with our state wide organization, CAOC, in joint public outreach efforts; and 3) increase our social and community charitable events. I will address the first goal in this issue, followed by subsequent messages in the other issues.

With respect to the first goal, we have a variety of educational seminars planned for 2007. On March 22-23, we are co-hosting with CAOC our annual Tahoe Seminar. This year's seminar promises to be the best ever. We are having speakers representing the entire State discuss an array of subjects including medical liens, legal medicine, aggressive discovery, trial techniques, and technology.

I am also very excited to announce two blockbuster all-day seminars we are holding in June and September. Mark your calendars now for June 2, 2007 when we welcome David Ball to talk about damages. Many of you know Dr. Ball from his books and seminars on this topic. When he last visited us in 2003, Dr. Ball was on the cusp of notoriety with his book *Damages*. With the newest edition published last year, as well as his new research, Dr. Ball has truly revolutionized the way plaintiffs lawyers across the country try cases. In September, attorney David Wenner from Phoenix will be joining us for an unforgettable day long talk on juror bias. Mr. Wenner is recognized across the United

States as a premier authority on juror bias and decision making, and has lectured on the topic nationwide. We are also in the process of arranging an all day panel featuring some of our best known local attorneys sharing their approaches on how to handle defense experts.

Our regular monthly seminars will continue as planned. In addition, for our Problem Solving Clinics, we are having a year long series on handling an automobile collision case, from the pre-litigation level through trial. Our monthly luncheons will continue with exciting speakers discussing timely issues and events. In February, attorney Scott Sumner from Walnut Creek will discuss the latest discovery techniques in preventing defendants from finding out the amount of the "Haniff" specials.

Many of you may not know that you can be sustaining members of CCTLA for only

\$500 per year. This includes your membership dues, attendance at all luncheons, problem solving clinics, and seminars (excluding Tahoe). In light of the upcoming full year of events, this is a great opportunity to save some money and attend every event. Please contact Debbie if you are interested in becoming a sustaining member.

Equally important to our educational seminars is the effort we will make this year to share information amongst members. As the plaintiff's bar, we must make every effort to disseminate information amongst ourselves to combat the insurance industries well-coordinated efforts to prevent justice for our clients. We have taken a number of steps to accomplish our goal. We have redesigned our website (www.cctla.com) with a new password protected "members only" section. If you do not have a password, please call or email Debbie Keller at Debbie@cctla.com and you will be assigned one. This will allow you to easily and quickly upload and download depositions, pleadings and general office forms. So please, if you take an expert deposition, get the transcript on disk and simply upload it on the website. If you have a letter or a form you use that you think might benefit the rest of the members, take a minute and upload it. If you don't know how to do this, call or email me at jdemas@demasandrosenthal.com and I will personally make arrangements to pick up your depositions and forms and have them scanned and uploaded. I would also encourage you to continue using our list serve, a valuable resource for members to post questions and comments on any issue of interest.

Again, thank you for the opportunity to serve as your president. If you have any suggestions, comments or ideas about how our organization can better serve you, please do not hesitate to contact me directly.

Editor's Note

This year, we are making several changes to *The Litigator*. Based on input from our membership survey, this will be the last hard copy of the newsletter mailed to the membership (unless otherwise requested), with future copies being emailed and available on the CCTLA website. In addition, we invite members to keep us informed of noteworthy settlements and verdicts by emailing the information to jilltelfer@yahoo.com or faxing it to 446-1726. This now will be a regular feature of *The Litigator*.

Jill Telfer, Editor



Allan's CORNER

By: Allan J. Owen

This month, there are two interesting new cases on Uninsured Motorist Law and one on Premises liability. These cases are culled from the advance sheets in the Daily Journal; be careful as they may not end up published in the official reporter and cannot be cited without first checking.

The first case is O'Hanesian v. State Farm, 2006 DJDAR 16509. In this case, plaintiff's counsel argued that his judgement against the underinsured motorist was binding on his underinsured motorist insurance carrier. When the carrier refused to pay him benefits based solely on the judgement, he sued for declaratory relief and bad faith. Not too surprisingly, the trial court's sustaining of a demurrer without leave to amend was upheld on appeal.

In the second case, Bouton v. USAA, 2006 DJDAR 16616 defendant carrier's UM policy provided that any coverage issues were NOT to be decided by arbitration. The court found this was void as against the public policy declared in Van Tassel v. Superior Court which held that the decision as to whether a particular person is an insured under a UM policy is to be decided by the arbitrator.

The case of Ambriz vs. Kelegian (2007) D#046453, the 4th DCA very thoroughly discusses the issue of how inadequate security can be a substantial factor in causing criminal assaults on tenants. Prior to raping the

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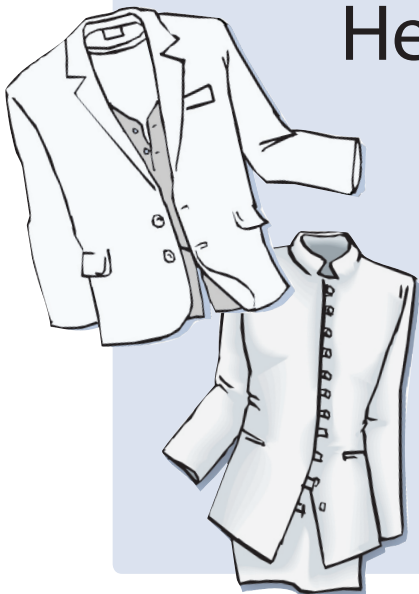
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plaintiff in the laundry room, the transient rapist had been seen inside of plaintiff's supposedly secure building on more than 19 occasions and had threatened and scared the tenants on multiple occasions. The tenants (including plaintiff) had complained to the landlord about the trespassing and threats and about broken locks on the security gates and doors. The plaintiff was raped by the

same intruder that she and other tenants had complained about. The Court overruled the granting of Summary Judgment and held that a triable issue of fact exists as to whether or not the landlord's failure to maintain its entry doors and locks was a substantial factor in causing plaintiff's injury. To read the case, go to: <http://www.courtinfo.ca.gov/opinions/documents/D046453.PDF>



Help Someone Get a New Start With Your "Law Suit..."

The Capitol City Trial Lawyers Association recognizes the serious issue of homelessness and poverty in our city, and would like to help solve the problem—with our "Law Suits" Campaign. We are collecting suits and other professional attire from our members, to be donated to the Sacramento Food Bank to assist the less privileged during their search for employment.

We will be accepting these donations at our CCTLA functions during the next several months, including the luncheons and Problem Solving Clinics.

To schedule a pick-up, please contact Jill P. Telfer at 446-1916 or email her at jilltelfer@yahoo.com

“Pillah” Talk[©] with Deborah Ortiz, California Senator from District 6

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

Deborah, what are you especially proud of in your career?

I have been fortunate to chair the Senate Health Committee since 1998. As such, I've been able to immerse myself in areas that I care deeply about, such as stem cell research and cancer treatment and prevention. I've been able to promote Healthy Families programs and improve Medi-Cal access to the poor. I have had several bills passed which promote gender-based cancer research. I also have been very involved in promoting stem cell and biomedical research. I authored the 2002 law that made California the first state in the nation to specifically authorize embryonic stem cell research, and I was instrumental in the passage of Prop. 71, which will provide \$3 billion over the next ten years to both private and government research programs. Stem cell research has a very promising future in improving the lives of millions, but we must protect our public investment. I'm currently authoring legislation and leading the push to protect our public investment in three ways: By ensuring that no private company can lock up patents derived through this publicly-funded research; ensuring that if any patents are authorized, 25-50% of the licensing revenue will be returned to the state, and three, to allow publicly-funded medical program to obtain the products of the research at the lowest available commercial price. I've also been involved in obesity issues, and authored the state's first ban on sales of sodas in grade schools. I've authored legislation dealing with toxic molds, and am continuing a three-year effort to create the nation's first state-based bio-monitoring program.

What do you think happened in the 2004 Florida election where the U.S. Supreme Court ruled to override the Florida election process and put Bush in office?

The Florida election could be classified as the “perfect political storm.” You had a software system that was not tested, and a biased Katherine Harris, the secretary of state, working to put Bush in office. By the way, how did Anthony Kennedy rule in that case?

I believe he voted with the majority to put Bush in office.

I had Anthony Kennedy as my Constitutional Law professor in law school at McGeorge. He was brilliant, and he really wanted us students to know and understand constitutional law.

Do you recall of any other horrendous judicial decisions?

Well, I think recent rulings overturning decisions that increased the ability of communities of interest to elect their representatives are very troubling. In the 1980s, the U.S. Supreme Court in the Watsonville decision held at-large elections had discriminatory effects on communities of interests, specifically racial and ethnic minorities. Those rulings enhanced the ability of ethnic representation in a positive way. However, in the mid- to late-1990s, those cases were overturned, and that has diluted the ability of communities of interest to elect their representatives.

What do you think motivates politicians to do their jobs considering the low level of pay and the long hours? Is it for power and later acquired jobs in the private sector?

No, I am convinced that most, if not all politicians take on their jobs in an effort to make the world a better place. I am happy to give a stronger voice to the poor. There is a lot of sacrifice to this job, there is little job security with having to run for office again every few years, and there is no retirement plan.

How do you feel about term limits in the California legislature?

I think it is a terrible idea. Term limits cause reduced consistency in the legislature, less chance for legislators to learn the legislative system and its policies and more opportunity for new legislators to be influenced by special interests. Although, term limits did help me get into my position. There was never a woman in my position as Senator in the 6th District.

What would you want more in your life or in the world?

I would like more equity in the world and more balance in my life.

I am sorry about what happened with your race for the Secretary of State campaign.

What do you plan on doing in the future?

I think I would like to continue to work in public service, perhaps in the area of health advocacy and creating good public policy. I would also want to reduce the disparities in health care provided to poor communities. I am looking forward to this next phase in my life.

RECENT VERDICTS

Wilder vs. Jimenez, et al.—Jury verdict of \$19,000 (\$5,000.00 for past medical, \$3,000 for future medical, \$8,000 for past non-economic, and \$3,000.00 for future non-economic.); MVA rear-end. Plaintiff's counsel: David Rosenthal.

Plaintiff: 51 year old female. The emergency room doctor testified by videotaped deposition that plaintiff suffered a mild neck strain that she would have expected to get better within a short period of time. The ambulance and emergency room visit cost \$2,000. Plaintiff treated with a chiropractor for about 4 months with improvement beginning at month two, although suffers flare-up. Treatment cost \$3,000 for the first 4 months, and \$500 for the later treatment.

Defense Benchmark expert testified plaintiff sustained a very mild neck strain. He said the emergency treatment was reasonable and maybe 2-3 therapy visits, but none of the chiropractic treatment was reasonable and probably aggravated her condition. Benchmark was paid \$8,000.

CSAA: carrier; Terry Snook: defense attorney. Arbitration award of \$14,000, rejected by defendant. Trial Judge: Gail Ohanesian.

Observations of the jurors: 1) the younger jurors were much more conservative than the older jurors; 2) the most impressive evidence to them was the damage to the vehicles; 3) they thought the Benchmark expert was credible even though he had repeatedly testified for the defense and earned a lot of money doing so; 4) they believed plaintiff got better withing 6 months, but nevertheless gave money for future damages.

Russell v. Runge—Jury verdict of \$248,000; \$75,000 of which was punitive. Fraud in the purchase of real estate and subsequent verbal agreement to split the equity in the home in three years. Plaintiff's counsel: Jill P. Telfer

Plaintiff and defendant purchased home in 1998, placed in the defendant's name because of better credit rating and thus interest rate. Romantic relationship ended, plaintiff agreed to wait for her portion of the equity for three years so the defendant did not have to move. Defendant months later began a romantic relationship with another, plaintiff asked

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Uninsured Motorist Primer

A FIVE PART SERIES: PART TWO

BY: Allan J. Owen, CCTLA Past President

(This is the second portion of a five part series. Subsequent parts will be published in future issues of *The Litigator*)

INTRODUCTION

The last issue of the *Litigator* discussed What is an Uninsured Motor Vehicle and an Underinsured Motorist. Following publications will address "Hit and Run" Motor Vehicles—Special Considerations, Procedural and Evidentiary Issues, and Credits, Release and Subrogation. These materials are not intended as a substitute for careful research of the particular issue involved nor is this article meant to be complete in and of itself without reference to other and more complete discussions of the topic of uninsured and underinsured motorists. The reader is referred to Insurance Code §11580.2, Clifford, California Uninsured Motorist Law (6th Ed.), and CEB, California Uninsured Motorist Practice. Insurance Code §11580.2 provides the minimum requirements for uninsured motorist coverage in the State of California. Many carriers' policies (intentionally or unintentionally) contain provisions that are more generous than the uninsured motorist law requires. These more generous provisions will prevail over the narrower statutory provisions. Utah Property & Casualty Insurance Guaranty Association v. USAA, (1991) 230 Cal App 3d 1010. Many carriers' policies contain provisions which are void as they conflict with Insurance Code §11580.2. Prudential LMI Com. Ins. v. Superior Court, (1990) 51 Cal 3d 674.

WHO IS COVERED?

The Insured and Others

The Insurance Code and all policies set up two different levels of coverage - that for the named insured and that for others.

Where the named insured is an individual, broad coverage is provided to the named insured, his or her spouse, and relatives residing in the household. The coverage for this class of persons is extremely broad - they are covered "while occupying the insured vehicle or otherwise"—in other words, they are insured for virtually any incident caused by an uninsured motorist.

Note that the spouse of the named insured, under the current phrasing of the Insurance Code, is covered whether they are

residing in the same household or not. Some carriers anticipated a change in the Insurance Code and thus those policies require that the spouse be residing in the same household in order to be extended the broader coverage. Such policy language is void since it is in conflict with the requirements of the Insurance Code, which was not amended.

This is important since, given that the spouse of the named insured is covered whether or not a resident of the same household, residents of the spouse of the named insured who reside in the spouse's household which is different from that of the named insured are also extended the broader coverage!

Thus, where husband and wife are separated but not divorced and wife's mother is residing with the wife, the husband's uninsured motorist coverage would apply to the situation where the wife's mother is struck by an uninsured motorist while she is a pedestrian. Coverage would also apply where there is a legal separation with a minor child residing with the spouse and not with the named insured.

Where the named insured is an entity (such as a business policy), no one is given the broader coverage. If your car is owned by your business, check the policy.

The uninsured motorist protection also covers any other person while "in or upon entering into or alighting from" an insured vehicle. Thus passengers in an insured vehicle are covered by the uninsured motorist coverage on that vehicle's policy. Someone leaning in the window of the insured vehicle speaking to the driver would likewise be covered as would someone putting chains onto the vehicle. Cocking v. State Farm, (1970) 6 Cal App 3d 965. However, where the insured motor vehicle has broken down and someone other than the named insured is walking from the insured vehicle down the road to get help, he is no longer covered by the uninsured motorist protection afforded to the insured vehicle. Mullins v. Mayflower, (1992) 9 Cal App 4th 416. When someone in this second tier is injured on the way to the insured motor vehicle, unless they have actually come into contact with it, there is no coverage. Menchaca v. Farmers, (1976) 59 Cal App 3d 117.

It is important to note that in California, where two policies cover the victim

(the policy covering the insured vehicle and the victim's own personal auto policy under which he or she is the named insured), the two policies cannot be stacked. However, the victim is entitled to recover damages up to the full amount of the larger of the two policies and the damages will be prorated, assuming that the policies do not specify which is primary and which is secondary. Mid-Century v. Gardner, (1992) 9 Cal App 4th 1205.

The uninsured motorist coverage also covers the heirs and anyone entitled to recover for loss of care or support of the injured victim. In a loss of consortium situation or wrongful death situation, there was some question as to whether or not the per person or the higher per accident policy limits applied. Lantis v. Condon, (1979) 95 Cal App 3d 152, which held that loss of consortium was a separate injury and not a derivative claim, gave some support to the idea that the higher per accident policy limits applied. In State Farm v. Bull, (1981) 127 Cal App 3d 568, the courts held that the per person limits rather than the per accident limits apply where the policy specified the per person limits applied to injuries or damages sustained by others as a consequence of the bodily injury, including damages for care and loss of services.

The Extent of Coverage

The extent of coverage of the uninsured motorist policy can give rise to some very interesting situations. The author handled a case where the decedent was an adult child living away from home. While riding as a passenger in her own vehicle which was uninsured and which was being driven by an uninsured motorist, she was killed in an accident with another vehicle driven by an uninsured motorist and no insurance covered the owner.

In this case, the author argued that the mother was entitled to recover under her own personal uninsured motorist coverage. Insurance Code §11580.2 provides that the uninsured motorist coverage must pay all damages which the insured is entitled to collect from an uninsured motorist, including damages from wrongful death. The case came before

Continued on page 5



CCTLA members donated \$865 for the Mustard Seed School at the school's Annual Meeting & Holiday Reception. Mustard Seed School was established in February, 1989, to help meet the needs of homeless children in the Sacramento area. It is a free private school that serves homeless children ages three to 15. From left, CCTLA board member Joe Marman, Treasurer Kyle Tambornini and Parliamentarian Kerri Webb delivered the donated funds to the school.

Uninsured Motorist Primer . . .

Continued from page 4

the Superior Court on cross-motions for summary judgment. Unfortunately, the superior court found in favor of the carrier. Rather than take their chances on appeal, the carrier did settle this case.

It is respectfully submitted that had the case gone to appeal, I believe the insured's position would have prevailed. See Valdez v. Federal Mutual Insurance Company, (1969) 272 Cal App 2d 223. The clear language of the statute and the policy provides for coverage under these circumstances. Admittedly, neither the insured nor the carrier intended coverage under these circumstances; however, these "reasonable expectations" would be relevant only if the policy language or the statutory language were ambiguous (State Farm v. Ball, supra) (which they are not), and even then so long as at least one interpretation of the policy would give rise to coverage, coverage should have been found. Insurance Code §11580.2(a)(1) provides that the coverage must include "all sums which he, . . . shall be legally entitled to recover as damages for bodily injury or wrongful death, from [the uninsured motorist]."

A recent case held there was no coverage for these circumstances (Smith v. Royal Insurance Company, (1986) 186 Cal App 3d 239); no petition for hearing was filed.

Another interesting situation arose where the insured is injured in a single car accident while riding as a passenger in her own vehicle. The accident was caused completely by the negligence of the operator of that vehicle whose policy limits were lower than the uninsured motorist coverage policy limits on the insured's vehicle. The insurance carrier for the vehicle denied coverage for the injuries to the insured based upon the family member exclusion.

This denial certainly was correct; however, the question then arose as to whether or not the insured could present an uninsured or underinsured motorist claim (uninsured because the carrier denied coverage; underinsured once the policy covering the driver paid its policy limits). The carrier denied uninsured motorist coverage and clearly was entitled to do so. Cal Casualty Indemnity Exchange v. Hoskin, (1978) 82 Cal App 3d 789. It is the author's opinion that the carrier would also have been well within its rights to deny underinsured motorist coverage. This is especially true in light of the statutory definition which requires an underinsured motor vehicle rather than an underinsured motorist. For reasons not entirely clear to the author, the carrier agreed to extend underinsured motorist coverage.

Again, this is why it is so important to not only read the cases and the Insurance Code, but also to read the particular policy in question and, more importantly, to communicate directly with the carrier to determine their position.

"Resident of the Household"

The term "resident of the household" is important because, as seen above, relatives who are residents of the household of the named insured or the spouse of the named insured have much broader coverage than do other persons. Interestingly enough, the term has been held to be ambiguous and thus it must be interpreted against the insurance carrier. National Auto & Casualty Insurance Company v. Underwood, (1992) 9 Cal App 4th 31. The validity of this holding is somewhat questionable since the language is directly from the statute and is not chosen by the carrier.

Nonetheless, this theory should be used whenever presenting an uninsured motorist claim since a finding of residency certainly

will be favorable to the claimant.

As the National Auto court noted, residency has been found under circumstances where a daughter has temporarily moved to her own apartment as an experiment in living alone but maintains close contact with the family and plans to join the family in an out-of-state move in the near future. Children of divorced or separated parents who retain joint custody have been found to have two residences for insurance purposes. College students and draftees have been found to be residents of their parents' homes. Stepchildren, as members of the family, are entitled to coverage (Reserve Insurance Company v. Piscotta, (1982) 30 Cal 3d 800); foster children have been held not to be family members and thus have no coverage.

In an interesting case handled by the author, a daughter was struck by an uninsured motorist on the daughter's wedding night as she and her husband were unloading wedding presents into the apartment they intended to reside in at the conclusion of their honeymoon. The daughter's clothing and other worldly possessions were still at her mother's home, and the married couple had intended to spend at least one night at the parents' home upon return from their honeymoon. The daughter was held to be a resident of her parents' home and thus entitled to coverage under her parents' \$300,000.00 uninsured motorist policy.

The issue as to whether or not someone is a resident of the household is an issue which is to be determined by the arbitrator. VanTassel v. Superior Court, (1974) 12 Cal 3d 624. The arbitrator's decision on this issue is not reviewable by the court even if the error in law appears on the face of the award. Moncharsh v. Heily & Blase, (1992) 3 Cal 4th 1 (overruling a long line of cases which had held that errors of law appearing on the face of arbitration awards are reviewable).

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Pictured, right, are the award recipients (from left):
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 JUDGE MORRISON ENGLAND: Judge of the Year
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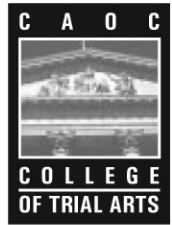


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Judicial Council adopts new rules to improve jury practice

By: Christopher L. Kreeger

For many years, a very small percentage of civil trial judges in California have allowed jurors to become part of the process, and allow them to submit written questions to witnesses. Many judges and trial lawyers opposed this procedure for a multitude of reasons, i.e. delay, confusion, and usurpation of traditional roles.

However, getting jurors involved as "citizen judges" in the jury trial process provides some interesting insight as to what they think is important.

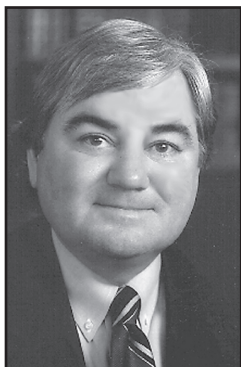
As part of a decade-long effort to improve the state jury system, the Judicial Council of California recently has adopted new rules that allow jurors to take notes during all civil and criminal trials and to submit questions to witnesses. Effective January 1, 2007, the rules are designed to encourage the use of innovative jury practices in the trial courts and to institutionalize certain practices that have been successful in state pilot projects.

Under the new rules, jurors will be permitted to take written notes in all civil and criminal trials. While note-taking is widely used in state courts, there is no statewide requirement that all courts permit this practice. The new rule requires judges to allow jurors to take notes

and to inform jurors that they may take written notes during trials, and it requires courts to provide suitable materials for this purpose.

Other new juror rules include the following:

- A rule recommending that judges encourage counsel in complex civil cases to prepare notebooks for jurors that contain trial-related materials, such as notes, witness lists, seating charts, exhibits lists, and other material as appropriate.
- A rule recommending that judges permit jurors to submit written questions directed to witnesses.
- A rule authorizing judges to permit counsel to make brief opening statements about a case to the entire jury panel before jury selection.
- A rule authorizing judges to preinstruct the jury on the basic principles of law that will govern the proceedings, as well as on the roles and responsibilities of the jurors overall.
- A rule authorizing judges to provide assistance to jurors at an impasse through additional or clarifying instructions and through additional closing arguments from counsel.



Crawford stood out as an attorney, mediator

The Northern California legal community was saddened to learn of the unexpected passing of JAMS Mediator/Arbitrator James Crawford on January 21, 2007, at the age of

54. He leaves a wife, Pamela, and son, Kevin, currently a sophomore at Christian Brothers High School in Sacramento.

From 1987 to 1995, he served as director, vice-president and president of the Capitol City Trial Lawyers Association. Crawford was initially thrust onto the stage of the local bar when his mentor, friend, and business partner, Bud Moore, succumbed unexpectedly to cancer in 1982.

Crawford, then licensed for a only five years, took over a substantial case load of complex cases. Never wavering, he brought all of them to success, including a suit on behalf of the parents of a six-year-old boy who died after a controversial bone marrow transplant. Crawford sued both the parents' health insurer and an HMO to secure proper treatment for leukemia with a then disputed and experimental technique. Other results over seven figures were obtained over the

next decade. Crawford also achieved success in a trial arising from the Lindhurst High School shooting incident in 1992. During this time, he was law partners with John Stefanki and Steve Block.

In the early 1990s, Crawford was among the first in Sacramento to offer mediation services to lawyers. Working out of his law office at 10th and G Streets in Sacramento, he gradually turned his litigation savvy, engaging personality, and unending patience into a negotiation technique that succeeded at all levels.

Veteran and young attorneys alike felt Jim Crawford could communicate with any client, and knew exactly the "help" that each case needed to resolve. Without fail, he would attribute the successful resolution of a case to the work of the lawyers, and deflect the many accolades that were thrust upon him.

This self-effacing manner probably undermined efforts to market his ADR practice, but his reputation for settling cases eventually led Judicial Arbitration and Mediation Services (JAMS) to recruit him for its newly opened Sacramento office in 1995. There he handled more than 2000 cases, until his career was prematurely ended by heart failure, following recent health complications.

Among his many achievements, Jim Crawford was most proud of his family. He

graduated from UC Davis in 1973, magna cum laude, and was also a star pitcher for the intercollegiate baseball team. A natural southpaw, he was named an Academic All-American and all-league pitcher for the Far Western Conference his senior year. He was inducted into the UC Davis Baseball Hall of Fame shortly after it was founded.

When his baseball career concluded, Crawford attended Santa Clara Law School, graduating magna cum laude in 1977. His law career began at the Sacramento law firm of Hefner, Stark and Marois, before he left with Bud Moore to form Moore, Crawford and Stefanki. Mr. Block joined the firm shortly after Mr. Moore's passing.

Family and friends recall a loyal and caring man, with a good dose of humor. He founded the Sacramento Barrister's Softball League and was player manager of a successful team for many years. He was a friend, confidante, and mentor to many fine lawyers in this region and will be missed.

Remembrances may be donated in memory of Mr. Crawford to the Kevin Crawford Education Fund in care of Ernie Long at Matheny, Sears, Linkert & Long, P.O. Box 13711, Sacramento, CA 95853-4711; or Shriners Hospital for Children Northern California, 2425 Stockton Blvd. Sacramento, CA 95817.

SEQ Chapter of TLPJ turns 25, becomes Public Justice

By: Sarah Dean, Public Justice Correspondent

WASHINGTON – It is unusual enough these days, but in 1980, it was a downright revolutionary idea, even for activist Ralph Nader, who conceived it. Nader challenged the trial bar to establish a “national public interest law firm” to take on government and corporate interests in the name of the wronged, the poor and the powerless.

On Jan. 31, 1982, over 200 lawyers, most of them prominent practitioners, brought Nader’s idea to life, launching Trial Lawyers for Public Justice. They set in motion a practice that has, in 25 years, collected a string of victories tapping into the mainstream of American life—consumer rights, workers’ rights, environmental protection, civil rights and civil liberties, public health and safety, access to justice, and government and corporate accountability.

Last month, on its 25th birthday, TLPJ made another forward bound. With its board’s and membership’s overwhelming approval, the organization changed its name to “Public Justice,” a move that officials say will, itself, do more justice to the firm’s mission and vision.

“Over the past 25 years, TLPJ fulfilled and surpassed an inspiring vision – building the trial lawyers’ public interest law firm,” said Alan R. Brayton, president of the Public Justice Foundation, the non-profit organization that supports the law firm’s work. “We’ve become Public Justice because we want to pursue an expanded, inspiring vision—building America’s public interest law firm.”

Brayton, a founding partner of the Brayton Purcell law firm in Novato, CA, said that, in the past quarter century, no national public interest law firm in the country has been more involved in a broader range of “high-impact, cutting-edge litigation.”

Public Justice is now supported by, and

frequently calls on, a nationwide network of over 3,000 attorneys—members of the Public Justice Foundation—dedicated to using their skills and resources to fight for justice. The membership includes trial lawyers, appellate lawyers, consumer advocates, civil rights attorneys, employment lawyers, environmental attorneys, class action lawyers, constitutional law experts, law professors, and many others. Working with them, Public Justice brings litigation that makes a real difference.

Public Justice often partners with major public interest groups across the country, adding legal counsel or representation to the menu of approaches deployed in the name of social justice. Its Access to Justice Campaign, Class Action Preservation Project, Mandatory Arbitration Abuse Project, Federal Preemption Project, and special project against court secrecy—Project ACCESS—are keystone initiatives aimed at battling unconstitutional, discriminatory and otherwise unfair practices by governments and business alike.

“One of the reasons for our name change is that, despite the wide range of our work, many people took our name to suggest that our membership was limited to trial lawyers, our work was limited to trial work, or our cases were limited to “trial lawyers’ issues” -- i.e., personal injury cases and issues related to them,” said Arthur Bryant, long-time executive director of Public Justice. “None of that is so.”

In the meantime, the crucial victories continue. Just last month, nearly 200 peaceful protesters arrested in the “no protest zone” at the 1999 World Trade Organization conference won a verdict against the City of Seattle in a case brought by Public Justice under its old name. A Seattle district court jury found on Jan. 30 that the city had unconstitution-

ally arrested the demonstrators, jailing them for up to four days without probable cause. TLPJ’s team of lawyers had previously settled a part of the case against the city on behalf of more than 100 peaceful protesters who had not been in the “no protest zone,” but were arrested nonetheless.

In another recent Public Justice victory, a circuit court in West Palm Beach, FL, ruled that a class action ban in a payday lender’s form agreement is “unconscionable” and unenforceable. The ruling in Reuter v. Check ‘n Go affects tens of thousands of Florida customers who were charged interest rates as high as 615% and may influence similar cases pending nationwide.

In the last few months alone, Public Justice has also won: a Colorado Supreme Court decision unsealing evidence that Framers Insurance based its adjusters’ compensation on their success in limiting payouts, a settlement restricting toxic sulfuric acid emissions from Ohio’s largest power plant, a nationwide class action settlement requiring Dell Computer to stop deceptive “bait and switch” sales practices and refund overcharges to consumers, an en banc federal appeals court decision invalidating a mandatory arbitration clause that required a franchisee to travel from California to Boston to have her claims heard, and a federal trial court decision in Philadelphia—the nation’s first—rejecting the drug manufacturers’ argument that new Bush Administration regulations preempt and immunize them from lawsuits for inadequately labeling prescription drugs. Public Justice is fighting for justice nationwide.

“This organization has made an extraordinary difference over the past 25 years,” said Bryant. “It will make an even bigger difference over the next 25 years as Public Justice.”

Recent verdicts . . .

Continued from page 3

the new partner to buy her out, with the new partner refusing, stating she did not know where the relationship was going. Within 45 days the defendant and her new partner filed as domestic partners with the defendant deeding one-half of the property to her new partner as a gift.

Plaintiff attempted to mediate before suing, defendant agreed to mediation to string the plaintiff out so she would miss the statute of limitations of her contract claim. The case did not settle in mediation, plaintiff’s former attorney allowed the statute of limitations to run so plaintiff was left only with a fraud claim.

General damages were not allowed because the case concerned fraud in the purchase of real estate. Plaintiff invested approximately \$33,000 in money and work into the home.

Defense counsel: Hayne R. Moyer and Stephan A. Parshall of Moyer, Parshall & Tweedy, and Glen Shea. Trial Judge: Eugene Gualco. Experts: John Nichalou (plaintiff) Frank LaBella (Defendant)

Visochin v. Nishimura Brothers, et al.—Settlement though Mediator Nick Lowe. Plaintiff’s counsel John Demas. MVA. \$600,000.

Defendant, a landscape company owner on his way home from work, failed to see plaintiff and made a left turn directly in front

of him. Plaintiff’s vehicle sustained major damage. Although liability was fairly clear, defendants did claim plaintiff failed to have his headlights on.

Plaintiff, a 37 year old Russian immigrant employed as a truck driving dispatcher, sustained the following injuries: Broken nose, small (1/2 inch scar near his left eyebrow, comminuted talus (ankle) fracture.

Injuries/specials: Total gross medical bills approximately \$130,000. Wage loss: \$18,000. Plaintiff claimed the screws in the ankle would eventually have to be removed and replaced. Defendants contested the need for future treatment.

Case settled at mediation shortly after defendant’s filed an answer.

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FEBRUARY

Thursday, February 22

CCTLA Problem Solving Clinic
Topic: Starting Discovery
Speakers: David Rosenthal and Cliff Carter
Location: Sacramento Courthouse, Dept 5
Time: 5:30 to 7 p.m.
CCTLA Members Only - \$25.

Friday, February 23

CCTLA Luncheon
Topic: A Pre-Emptive Strike at Hanif and Nishihama: Protecting Collateral Source Information in Discovery
Speaker: Scott Sumner, Esq.
Location: Firehouse Restaurant
Time: 12 noon
CCTLA Members Only - \$25.

MARCH

Tuesday, March 13

Q&A Luncheon
12 noon - Vallejo's (1900 4th Street)
CCTLA Members Only.

Thursday, March 22

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

Friday, March 30

CCTLA Luncheon
Topic: TBA - Speaker: TBA
Location: Firehouse Restaurant
Time: 12 noon
CCTLA Members Only - \$25.
Friday/Saturday, March 23 & 24
CAOC & CCTLA TAHOE SKI SEMINAR
Location: Harvey's Lake Tahoe Resort & Casino

APRIL

Tuesday, April 10

Q&A Luncheon
Time: 12 noon - Vallejo's (1900 4th Street)
CCTLA Members Only.

Thursday, April 26

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

Friday, April 27

CCTLA Luncheon
Topic: TBA - Speaker: TBA
Location: Firehouse Restaurant
Time: 12 noon
CCTLA Members Only - \$25.

MAY

Tuesday, May 8

Q&A Luncheon
12 noon - Vallejo's (1900 4th Street)
CCTLA Members Only.

Thursday, May 17

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

Friday, May 18

CCTLA Luncheon
Topic: TBA - Speaker: TBA
Location: Firehouse Restaurant
Time: 12 noon
CCTLA Members Only - \$25.

Thursday, May 24

CCTLA's 5th Annual Spring Reception & Silent Auction
Location: Home of Allan Owen & Linda Whitney
Time: 5:30 to 7:30 p.m.

JUNE

Saturday, June 2

CCTLA & ACCTLA Seminar
Topic: TBA - Speaker: David A. Ball, Ph.D.
Location: Holiday Inn Time: TBA - Cost: TBA

Tuesday, June 12

Q&A Luncheon
12 noon - Vallejo's (1900 4th Street)
CCTLA Members Only.

Thursday, June 28

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

Friday, June 29

CCTLA Luncheon
Topic: TBA - Speaker: TBA
Location: Firehouse Restaurant
Time: 12 noon
CCTLA Members Only - \$25.

Contact Debbie Keller at CCTLA, 916/451-2366 for reservations or additional information regarding any of the seminars.

CCTLA COMPREHENSIVE MENTORING PROGRAM

The CCTLA Board has developed a program to assist new attorneys with their cases. If you would like to receive more information regarding this program or if you have a question with regard to one of your cases, please contact:
Jack Vetter: jvetter@vetterlawoffice.com
Chris Whelan: chwdefamation@aol.com
Cliff Carter: cliff@ccalawcorp.com

CCTLA CALENDAR OF EVENTS