

The LITIGATOR

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ISSUE 4



Our emphasis on education and providing essential resources needs your input and support

By: John N. Demas, CCTLA President

Our organization has spent a lot of time and resources taking advantage of the Internet to better serve our members. The two main Internet resources we have are our website and our list-serve.

Our website (www.cctla.com) has been completely rebuilt to provide essential resources for you. To access its true gems, you will need to login as a member. To do this you need to establish a user name and password by contacting our executive director, Debbie Keller (916-451-2366 or Debbie@cctla.com).

I have always felt very strongly that the strength of the plaintiffs bar depends on two things: education and sharing of information and resources. Here in Sacramento, we have been fortunate to have some exceptional trial lawyers who have given back to the organization through seminars and courses. However, gathering information about specific experts, defense attorneys, legal forms, etc., that could be vital to a case has been very difficult to obtain.

Our new website addresses some of these concerns and issues by making it easier to pool our resources and share information to help us prosecute our cases. Specifically, we have added two new sections.

First, we have created a section to post and search for forms, motions and

pleadings. Our goal is to have many of the commonly used letters, pleadings and motions available so our members do not have to re-invent the wheel. If you have any form you feel may be useful, please take the time to upload it on the website. It is very easy, quick and convenient.

Second, we have created a section to download and search expert witness depositions and reports. As you know, effective cross examination of defense experts often depends on confronting them with prior inconsistent testimony and establishing a clear defense bias. With the exception of those members who work for large plaintiff firms with a bank of hundreds of prior expert depositions, most of us do not have access to such resources. We hope this new website feature will help all our members easily access this crucial information at no cost.

Ideally, we would like to have all of you post every single defense expert deposition you take as a matter of course. You can order the transcripts on disk and take a few minutes to download them. Not only will you have your own depositions at a safe and secure place that you can always reference, but your colleagues can access them to improve their deposition and cross examination skills. The website allows you to search for depositions and reports using a number of different criteria.

Again, to make this work, we need your contributions.

We are currently making an effort to collect all the expert depositions you have taken in the last five years. We will make arrangements to pick them up from your office, scan them, upload them to the website and return the originals. Please contact Debbie Keller, myself, or CCTLA board member Kyle Tambornini (kyle@capcitylaw.com or 916-438-1819) and we will make all the necessary arrangements.

Finally, our list serve continues to be a vital real-time resource for our members. By now, you should have received a letter from me outlining our new list serve membership criteria, along with a new list serve agreement to execute. I strongly believe this new policy will create a better and more effective list-serve with greater participation and exchange of ideas and information. Please contact me if you continue to have questions or concerns regarding our new policy.

With our new website and list serve, we have a great opportunity to share information easily, effectively and at no expense. These services will hopefully assist you in all your cases.

Please do your part and contribute to this collective effort.



Allan's CORNER

By: Allan J. Owen

Here are some recent important cases culled from the *Daily Journal*. Remember, these summaries do not come from the Official Reports so, before citing, be sure to check that they were published without change.

Judgment after plaintiff dies:

In Cadlow v. Metalclad Insulation Corporation, 2007 DJDAR 8602, plaintiff died after jury rendered a verdict including future economic and past and future non economic damages. Trial Court, upon plaintiff's motion, entered judgment nunc pro tunc to the day before plaintiff died. Appellate Court affirms based upon CCP 669.

Premises Liability:

In Barber v. Chang, 2007 DJDAR 8751, there is a very good discussion of a landlord's duty to take steps to protect other tenants and guests against a dangerous tenant. These same principals would apply to dangerous animals.

Evidence of Medical Billings:

In Katiuzhinsky v. Perry, 2007DJDAR 9955, the Third DCA explored the Med Fin situation. Plaintiff contacts doctor, doctor contacts med fin to see if they will purchase the lien. If Med Fin agrees, the doctor then can decide to sell it to Med Fin at a discount or not sell it and

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keep it himself. Plaintiff is responsible for the whole bill whether Med Fin does or does not purchase the lien.

Trial Court ruled that plaintiff could not introduce the full amount of the bill and was entitled to introduce evidence only of the amount of the Med Fin payment to the doctor. Third DCA rules that the full amount of the bill should always be allowed into evidence based upon the Greer case.

The Court also holds that, since the plaintiff remains liable for the full amount of the bill under the Med Fin scenario, the defense should not get a reduction. The Third did not address the issue as to whether or not the defense can introduce evidence of Med Fin's purchase of the lien.

Thanks to past president Chris Kreeger for calling this case to everyone's attention.

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Save the Date!

"How to Evaluate and Prepare Your Next Premises Liability Case," with speaker Charles E. Turnbow, JD, PE

Friday, August 24, Noon
at the Firehouse Restaurant

* CCTLA Members Only *

"Pillah" Talk[®]

with Mort Friedman

An ongoing series of interview with pillars in the legal community

By: Joe Marman

Q. You were a former president of the Capitol City Trial Lawyers, isn't that correct? When was that?

A. Yes, I was in the 1970s. I was also vice president of the California Trial Lawyers Association for several years.

Q. Tell me about your career.

A. I have practiced for 50 years as a lawyer. I am now retired from the practice of law, since I am in my 70s, and I am focusing on assisting my son, who is also an attorney, in managing our real estate developments. My wife Marcy, who I have been married to for more than 50 years, and I volunteer for several organizations in Sacramento. I once had 15 attorneys working in my office at one time, but we are now down to three attorneys. I had several of the top lawyers in Sacramento get started in my law firm: Roger Dreyer, John Poswall, Parker White, Mike Virga, Brooks Cutter, John Panneton, Wade Thompson, Allen Owen, Joe Babich, Eric Ratnoff, and others. I was a good friend of Dean Gordon Schaber of McGeorge, he also being from South Dakota. He was a Superior Court judge in Sacramento and then quit to become dean of McGeorge Law School. I lectured several times at the law school, and served as a mock trial judge. Former Attorney General Bill Lockyer was one of the students presenting a case while I was serving as a mock trial judge.

Q. Can you tell me of some of your more interesting cases in your career?

A. Yes, in 1977, before Kaiser cases required arbitration, I represented a lawyer in a medical malpractice case against Kaiser. We won the case in the trial court in front of Judge Mike Virga, but the defense appealed several issues. We lost at the 3rd District Court of Appeal and then went to the California Supreme Court. The same judge who heard the appellate court case, and wrote the opinion, had in the interim period been appointed to the Supreme Court bench. He refused to be recused from hearing the matter but when the Supreme Court heard the argument he miraculously was not present, and another judge replaced him.

One of the issues of MICRA was the \$250,000 statutory limitation as the award that I had received in the superior court was \$1.5 million. The Supreme Court ruled that the limitations of the medical malpractice act were illegal and ruled in my favor on the \$1.5 million award. However, in the interim period, the defense had 30 days to ask for a re-hearing. One of the judges retired from the Supreme Court in the interim and the Supreme Court, eight months later, voted 4-3 in favor of the defense, limiting the recovery to \$250K and found that the MICRA act was constitutional.

I also represented 18 of the 22 victims when a jet crashed into the Farrell's Ice

Cream Parlor at the Sacramento Executive Airport. At that time, this case was the longest civil trial in Sacramento County history. The city had allowed a shopping center to be constructed and built at the end of the airport runway, after the airport had already been operating for many years. Suit was instituted against the City of Sacramento, the county, the architect, the shopping center owners, Sacramento Airport Authority, etc. on the theory of negligent planning and design. The case was settled before the jury came back with a verdict after seven months of trial.

Another interesting case was a wrongful death case, where the wife claimed to be married in a certain chapel in Nevada. There was good liability, but the defense refused to give any offer. The case was tried before Superior Court Judge White in Sacramento. My client claimed that they had three children during their marriage. A witness testified at trial that he was present at the wedding. The defense attorney then brought in evidence that there was no chapel where plaintiff claimed they were married, and in fact, the chapel was not even in existence at the time of the purported wedding. The woman was later prosecuted for perjury by the same trial judge. I did win a substantial award for the children, but she was found not to be the wife of the decedent. I also brought the first wrongful life case in the United States. I represented a couple where the wife gave birth to a Down's Syndrome baby. The physician did not do an amniocentesis test, as the pregnant mother was 32-1/2 years old, which would have revealed, in utero, that the baby was a Down's Syndrome baby. My clients' testified that they would have aborted the child, even though they were Catholic, if they had known. The jury awarded almost a million dollars for the care of the child.

I had one of the seminal cases concerning inter-family immunity. A father was pulling a boat on the road, when the boat came loose on the trailer and was sitting crooked on the roadway. The father sent his son to correct the crooked trailer. An uninsured drunk driver came by and struck the son, rendering him severely injured. I represented the mother of the boy against her husband. The insurance company argued that to allow a family member to sue one another promoted "fraud" and collusion. We argued that it is a far more important public policy to allow this type of lawsuit because of the necessity to have money to provide for the family's future. We won, and the California Supreme Court upheld the concept. At that time there was no inter-family immunity; however later, most insurance companies began to write inter-family immunity provisions into their insurance policies. I also hired Ralph Nader to be my expert in a case against General

Motors, when they were selling the Corvair. My client, a passenger who was asleep in the back seat of the Corvair, became a quadriplegic when the vehicle rolled over avoiding another vehicle merging into the roadway. The Corvair was defectively designed and was "Unsafe at Any Speed."

I sued Rancho Seco on behalf of adjacent landowners who claimed that their livestock were becoming genetically defective, having an abnormal number of legs due to the radioactive contamination near the nuclear power plant. This incident was shortly after the Russian Chernobyl disaster, so we had a vividly aware public at that time. Although we had experts from London and MIT, the trial judge granted the defendant's Motion for Summary Judgment on the contra affidavits of the defense, before trial, dismissing the lawsuit. John Poswall in our office subsequently lead the public interest movement to get voters to successfully shut down Rancho Seco...the only nuclear plant to be closed in the U.S. by public vote.

Q. Have there been changes to the civil practice that you can comment on, or changes that you would like to see?

A. I think our civil justice system is the best in the world. Juries are essential, to have the parties be judged by their peers, not judges who may become tainted over time. Plaintiff's attorneys are lucky to be able to pick and chose the cases and people they want to represent, while defense attorneys have to take the cases that are assigned to them.

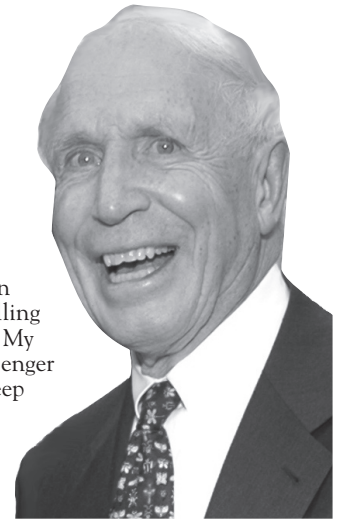
Q. Are there any heroes in life that you have admired?

A. Yes, Gordon Schaber was an outstanding individual. A clear thinking intellectual. After being a judge, he became dean of McGeorge Law School.

Q. What do you think of the US Supreme Court taking the vote away from the Florida voter when George Bush got placed into office?

A. That was a travesty. The US Supreme Court should have let the judicial process play itself out and let it be decided by the Florida State Supreme Court. There was no federal issue involved. It was purely a political move to over rule the Florida Supreme Court.

Q. Do you have any other thoughts on bad judicial decisions?



MORT FRIEDMAN

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Uninsured Motorist Primer

CREDITS — RELEASE & SUBROGATION

A FIVE PART SERIES: PART FIVE

BY: Allan J. Owen, CCTLA Past President

This is the last in a five part series. Past Litigator issues discussed “What is an Uninsured Motor Vehicle and an Underinsured Motorist”, “Who Is Covered”, “Hit and Runs-Special Considerations” and “Procedural Issues and Evidence.” 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.

CREDITS

The uninsured motorist carrier is entitled to a credit for any med-pay advances previously made. Under the old statutory language, carriers were entitled to write their policies so that this credit was a credit from the amount payable under the uninsured motorist policy and many carriers did so.

The new statutory language, however, seems to make it clear that the credit is from the damages recoverable from the uninsured motorist and not from the policy limits. If the carrier is going to request such an offset, the carrier has the burden of proof of the offset at the time of the hearing. The carrier must either get a stipulation from the claimant’s attorney or present evidence as to the amount of their credit and their entitlement to the credit under their own policy.

If the carrier fails to present such evidence, it may not request a modification of the arbitration award at the time of a petition to confirm the award. See Schumacher v. Ayerve, (1992) 9 Cal App

4th 1860; Fisher v. State Farm, (1966) 243 Cal App 2d 749.

In one case handled by the author of this article, the insurance carrier failed to present evidence of its med-pay credit at the time of the hearing.

By stipulation, the record was held open so that the carrier could present later evidence on this issue. The carrier failed to do so and the arbitrator issued his award in excess of the policy limits and the award included all medical bills even though these had previously been paid by the carrier.

At the petition to confirm the award, the carrier requested that the award be modified to reflect the med-pay offset. This request was denied and the result was a judgment against the insurance carrier in excess of their policy limits and a substantial settlement in the subsequent bad faith case (the med-pay issue was not the sole issue involved in the bad faith claim).

If this situation arises in one of your cases, the Fisher v. State Farm case provides excellent language to be cited

regarding this “colossal error” by the attorney representing the insurance carrier.

The uninsured motorist carrier is also entitled to a credit for any amount paid or payable under the workers’ compensation statutes. The carrier is also entitled to a credit for any amounts paid under the same policy on behalf of persons other than the uninsured motorist.

In an underinsured motorist situation, the carrier is entitled to these same credits plus a credit for the amount paid on behalf of the underinsured motorist.

RELEASE AND SUBROGATION

It is important to note that the carrier cannot, as a condition of payment, require the claimant to release any other rights. The standard release and subrogation agreement under the uninsured motorist policy would require the claimant to allow the carrier to have first rights of subrogation against any organizations found to be liable for the injury.

Such a release does not comply with the Insurance Code and should not be signed where your client has not been made whole by the uninsured motorist recovery.

Once signed, this contract is valid and binding and will preclude a later argument that the victim should be made whole prior to the carrier’s subrogation rights being satisfied.

The courts have held that the victim is entitled to be made whole prior to the carrier’s subrogation. Security National Insurance Company v. Hand, (1973) 31 Cal App 3d 227; Traveler’s v. Ingebretsen, (1974) 38 Cal App 3d 858.



Judge walks on fire, but not on water

Some may say that retired Judge, and now mediator, Darrel Lewis, walks on water because of his ability to settle difficult cases. Judge Lewis has to deny that ability, but he can now say that he does walk on fire. He recently walked bare-footed on a 20-foot-long bed of 1,200 degree coals.

Since retiring from the Sacramento Superior Court eight years ago, Judge Lewis has resolved hundreds of legal disputes, and he continues to take courses to enhance his mediation skills and his understanding of human nature. He says that research has shown that a mediator's experience in mediation and self-confidence are the most critical factors in a successful mediation. Recently, he decided that, if he could walk on fire, his confidence would be boosted even higher which would, in turn, result in an even greater success rate in his mediation.

In April, he contacted Tolly Burkan, of Twain Hart, CA, who has taught firewalking for the past 37 years. Unfortunately, Burkan no longer teaches typical firewalking seminars to the general public. He does, however, teach three-day long seminars to select groups of people from all over the world, teaching them to be firewalking instructors.

Judge Lewis decided if he was going to trust his safety to someone, he wanted the best in the world. Consequently, Judge Lewis is now a certified firewalking instructor.

The judge says one of the best things about the course was that his

son, Jeff Lewis, of Roseville, took the course with him.

The judge says that walking barefoot on 1,200-degree coals does not involve any "trick" or "illusion." The coals are actually that temperature, and will, in fact, severely burn one who is not mentally prepared and properly focused on the task.

Judge Lewis added that he walked on the coals multiple times each of the three nights of the course and that his experience differed each night, depending upon his degree of concentration. The first night he was very focused and felt no heat whatsoever each of the six or seven times he walked on the coals. The second night, he was distracted just before he walked, and it felt like walking on very hot sand, (later that night he discovered that he received a couple of minor blisters.) The sensation was the same each time he walked that night.

The third night, he was again very focused except for the last two steps of the 20-foot walk. He felt no warmth or discomfort for the majority of the walk on the third night, but he suddenly felt fairly intense heat on the last two steps. Each time he walked on the coals that third night, the sensation was the same: no feeling of heat until the last two steps.

Looking back on the experience, he concludes that he was probably prematurely relieved to reach the end of the walk and his concentration slipped a little. This variation from night to night confirmed his belief that the key to firewalking truly is state of mind because his degree of concentration was the only variable from one night to the next.

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Judge Darrel Lewis conquers a bed of 1,200-degree coals

The total course involved hours of classroom lectures and exercises, plus other "events" intended to overcome fears and anxieties or to simply teach you that you can do things that may seem impossible or dangerous if you simply focus on what you are doing and make up your mind that you are going to do it.

These activities included breaking boards and concrete blocks with his bare hand; walking bare footed on a bed of broken glass bottles; bending a 10-foot-long piece of steel rebar by having two people face each other, placing an end of the rebar at the base of their throats, then walking firmly toward each other until the bar bends into a "U" shape.

Other exercises included rappelling into a 200-foot-deep cavern; breaking the shaft of a target arrow by placing the metal tip against his throat and the feathered end against a wall, and then stepping firmly toward the wall until the shaft of the arrow snapped. The final exercise involved pushing a five-inch-long sewing needle through the web of skin between his thumb and first finger.

Judge Lewis said, "The entire event was very much a spiritual experience because we spent 12 hours a day with 30 people from all over the world, learning various forms of meditation, concentration and formation intention. Some of the events were very emotional for some people, depending on their specific fears or phobias. Some people would cry, whoop or just be extremely quiet after accomplishing a particular feat."

He said some of the events were very emotional for some participants, depending on their specific fears or phobias. Some people would cry, whoop or just be extremely quiet after accomplishing a particular feat.

For Judge Lewis, there was no great epiphany after any one specific event, but reflecting on the entire course, he says it was very empowering, and has made him realize that you can accomplish nearly any goal if you just focus your energy, believe in yourself and be persistent regardless of the pain, resistance or disbelief that you, or others, may have.

"This experience did, in fact, increase my self-confidence and persistence in achieving resolution in mediations," he said. "I know that my self-confidence and inner belief that resolution is possible will transfer to the parties and attorneys in a dispute and will result in more signed resolutions. I truly believe that my confidence and my strong intention to reach resolution is felt by the participants and, in turn, it increases their creativity, confidence and determination to reach resolution even in the most difficult of cases."

For more information on firewalking, visit Tolly Burkans's website www.firewalking.com. Judge Lewis' website is www.MediatorJudge.com.

A. The US Supreme Court has made many brilliant decisions over time. Stem cell research is not one. It is nice that California has led the way and should continue to lead the way to allow stem cell research and to allow a woman the right to choose. It is ironic that the federal government wants to restrict a woman's right to abort her baby; however the federal government will not help pay to support the child after it is born.

Q. Since you are retiring, what activities are you involved in?

A. My wife, Marcy, and I are co-chairs of an expansion of the Crocker Art Museum. It is currently only 45,000 square feet, and we are adding an additional 100,000 square feet. The museum can only display about 4% of the current art that they own. It is the oldest art museum west of the Mississippi. There will be an auditorium, and dining area. The new Crocker will have the capacity to seat over 1,000 people for a sit down function. It will cost about \$100 million to build this addition, and has been designed by the world renowned architectural firm of Gwathmey, Siegel & Associates of New York City.

Q. How did you raise that much money?

A. Hard work and diligence.

Q. Are there any other charities that you are involved in?

A. We are involved in building a Jewish day school here in Sacramento, which will open in August 2007. I was the former president of our Congregation here in Sacramento. We also started a Unity Center in Sacramento at 16th and N streets. It will be similar to the Wiesenthal Center in Los Angeles where the center will focus on promoting and supporting cultural diversity in our communities rather than divisiveness. It will be a showcase of the DNA or cultural makeup of California, and will promote the rights of all ethnic, religious, sexual orientation and disadvantaged groups in California. This project got started after the three synagogues were burned in Sacramento. A couple of young men from the Redding area did these horrible acts. They also murdered a gay couple near Redding, CA. One of those men later committed suicide in jail. State Senator Darrell Steinberg, and Dennis Mangers, who is the president of Comcast, are leading the project.

Q. You also own part of the Arden Fair Mall don't you? Tell me about your reasons for the remodeling that you did several years ago.

A. We invited Jim Nordstrom down here from Seattle to consider putting a new store in the mall. He told me that "you have the right location, but I will only come here if you tear it down and re-build it." Since we had just completed a remodel of the mall, we had to think a long time about it, but knew he was right, and remodeled it again about 1-1/2 years later. A second floor was added, Sears was moved and Broadway-Hale, which is now Macy's, was modernized

Q. Are you involved in any other activities?

A. I am a national director of the American-Israel Public Affairs Committee, (AIPAC), where I go to Washington DC to lobby for Jewish interests. AIPAC is the second most powerful lobbying group in the U.S. after the AARP. My wife and I are very concerned with the emerging growth of worldwide terrorism.

Q. Do you think Israel should give the Palestinians more land and rights to stop the violence in the Middle East?

A. That is a very difficult question. Until the Arab world says there will be peace in the Middle East, we will not have any, regardless of what Israel does.

Q. What do you think the US should do in Iran or Iraq?

A. Those are difficult questions. Iran has publicly stated that they will destroy the US and Israel. Iraq is now in a civil war. We are damned if we do, and damned if we don't, as far as our troops pulling out in Iraq. We should use United Nations sanctions against Iran and support divestiture.

Q. What do you think of the Bush Administration conducting warrant-less spying on American citizens?

A. That is bullshit. Americans should defend their rights to not have intrusions into one's personal affairs.

Q. What do you think of the constitutionality of detaining prisoners in Guantanamo without charges being raised against them?

A. We need to stop terrorists, but those prisoners should not be restricted from speaking to their lawyers.

Q. What do you think of President Bush's tax breaks to the wealthy?

A. I do not agree. Rich people owe a duty to society to help the disadvantaged, and often the only place to get money is from the rich.

Q. Do you have any advice to the future of the court system?

A. I do not think that celebrity cases should have so much publicity, like the OJ Simpson case, "if it doesn't fit, you must acquit." I think it lowers the esteem of the judicial process. Lawyers should be required to help the poor and needy through an expanded use of the pro bono requirements by the courts, or by the state or local bar organizations.

State Bar Trial Counsel gives advice on ethical pitfalls of our practice

By: Glenn Ehlers

CAVEAT: Pursuant to Supreme Court Case (Sheffield v. State Bar (1943) 22 Cal.2d 627) Employees of the State Bar cannot provide any binding advice as it relates to potential charges an attorney may actually face in a disciplinary proceeding. These citations and related discussion cannot be construed as the State Bar's position on any individual disciplinary case.

Avoiding Ethical Pitfalls in a Personal Injury Practice Agenda and Outline

I. **Introduction/Ethics Research Resources**

- Cal Rules of Professional Conduct ("RPC")/Business and Professions Code (State Bar Act, PP 6000, et seq.) (See website + annotated codes)
- Cal. Compendium on Professional Responsibility - State Bar, L.A., S.F., Orange County, San Diego plus exhaustive index to court opinions from all levels, as well as to ethics opinions (law libraries; State Bar COPRAC opinions on website; state and local bar opinions NOT binding)
- State Bar Court Review Department decisions (Lexis, Westlaw)
- California Supreme Court decisions
- Misc. appellate opinions not strictly related to ethics (usually fee related and conflicts/disqualifications)
- Ethics Hotline: 1- (800) 2-ETHICS (238-4427)
- State Bar Website: www.calbar.ca.gov
- NOT ABA Model Rules!!! (Only a secondary, non-binding source)

II. **Investigations; Who Initiates**

- clients
- courts
- med providers
- district attorney/police/other authorities
- State Bar may initiate its own, based on media reports, etc.

III. **Fee Agreements/Fee Arbitration/Quantum Meruit Recovery**

- B&P 6146, 6147 & 6148 [fee agreements], see samples on Bar's website
- Fee Arbitration governed by B&P 6200 et seq. Voluntary for client; mandatory for attorney if requested by client
- Unconscionability (RPC 4-200)
- Effect of Non-compliance (voidable at client's request)
- In the event of non-compliance or sub out, attorney entitled only to quantum meruit fees
***Consider keeping billing record!!

IV. **Be Good Service Providers! (Good business and ethically required)**

- Communication with clients (B&P 6068(m), RPC 3-500 & 3-510)
 - Respond to status inquiries
 - Inform of significant events
- ** Return phone calls!! (At least send brief letter, even to the "difficult" client)
- ** Sending an itemized bill is not a substitute!!

V. **Medical Lien & Client Trust Account ("CTA") Issues**

- Yes, you must honor liens. Particularly so if attorney has also signed on, but even when attorney hasn't but knows client has acknowledged, even if client later instructs attorney not to pay lienholder!! (RPC 4-100; Ethics Opinion 1988-101; Guzzetta v. State Bar (1987) 43 Cal.3d 962 [expands "client" as used in the CTA rule (RPC 4-100) to include 3rd parties and attendant fiduciary duties, and expressly includes lienholders and opposing parties!!]; In the Matter of Dyson (1990) 1 Cal. State Bar Ct. Rptr. 280; 1990 Calif. Op. LEXIS 144; and In the Matter of Sampson (1994) 3 Cal. State Bar Ct. Rptr. 119; 1994 Calif. Op. LEXIS 33, for more on responsibilities to lienholders)
**There are certainly exceptions to this, but the above applies to the main P.I. concerns about lienholders
- With consent, hold in your own trust account, clearly labeled -OR-
- * Interplead disputed funds with court

VI. **Miscellaneous**

- Running/Capping/UPL trap (RPC 1-400, 1-310, 2-200)
- Advertising (RPC 1-400)
- Terminate employment ethically, including file turnover, no cost to client if attorney retains copies; return of unearned fees, proper substitution, avoidance of prejudice (including cooperation with successor counsel) RPC 3-700

Tammy Albertsen-Murray, deputy trial counsel for enforcement of the State Bar, talked to 39 of our members at the CCTLA luncheon on July 27 about how to avoid becoming a file in her office.

She is very knowledgeable about our State Bar Rules of Ethics, which are primary over any others, such as the ABA Model Rules, which are not binding.

She does not need any more files in her office and is open to communication from our members before an ethics breach occurs. You may reach her at the State Bar office at 180 Howard Street, San Francisco 94105 or phone (415) 538-2527.

With her consent, we provide her presentation outline below. Refamiliarize yourself with the rules occasionally, keep the client informed, always place the client's interests first, and don't take or spend any money received until it is rightfully yours and your chances of staying off her desk will be good.

Also, keep an eye on third parties to whom we may also owe a duty, eg. medical reimbursement claimants.

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Capitol City Trial Lawyers Association
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AUGUST

Tuesday, August 14

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

Thursday, August 23

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

Friday, August 24

CCTLA Luncheon
Topic: "How to Evaluate and Prepare Your Next Premises Liability Case"
Speaker: Charles E. Turnbow, JD, PE
Location: Firehouse Restaurant
Time: Noon
CCTLA Members Only - \$25

SEPTEMBER

Tuesday, September 11

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

Thursday, September 27

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

Friday, September 28

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

Saturday, September 29

CCTLA Seminar
Topic: TBA
Location: Holiday Inn
Time: 9 am to 4 pm - Cost: TBA

OCTOBER

Tuesday, October 9

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

Thursday, October 25

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, October 26

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

NOVEMBER

Tuesday, November 13

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

DECEMBER

Tuesday, December 11

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

Thursday, December 13

CCTLA Annual Meeting & Holiday Reception
Time: 5:30 to 7:30 p.m.
Location: TBA.

JANUARY

Wednesday, January 16

CCTLA Seminar
Topic: What's New in Tort & Trial: 2007 in Review
Speakers: Patrick Becherer, Esq. & Craig Needham, Esq.
Location: TBA
Cost: TBA

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@cctalawcorp.com

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

CCTLA CALENDAR OF EVENTS